

FAQs on Yale Law School Rights and Duties and Yale University Free Speech Policies

All students are expected to have read Rights and Duties, the recording policy, and the free expression policy thoroughly. The following are student generated questions submitted by student representatives regarding these policies with answers from the administration.

Q: What prompted the faculty to begin reviewing and proposing revisions to the Rights and Duties?

A: Rights and Duties had not undergone a substantial update in nearly 50 years. In the fall of 2021, Dean Gerken and the faculty discussed the need to update the document and decided to create a committee to thoroughly review it and propose changes to help support and improve the intellectual climate on campus. The changes were sent to the student representatives, the entire faculty, and key administrators to review in advance and a meeting was set to discuss any questions or concerns. The updated version was approved by the faculty, with students and administrators present, in the fall of 2022.

Q: What does this policy mean for free speech or protests? In what ways do the revised Rights and Duties interact with broader University policies, such as the University's policies regarding free speech?

A: Yale Law School follows Yale University's Free Expression Policy. Violations of the University's policy on free expression are punishable through Yale Law School's Rights and Duties and can subject students to penalties up to and including probation, suspension, or expulsion. A student's involvement in an academic disciplinary process is a required disclosure on most state bar applications. The revised Right and Duties makes clear, however, that an unsubstantiated complaint (one that does not become a "charge") will not be placed in a respondent's official file. Students, faculty, and the Dean or the Dean's designate can bring disciplinary action directly against students for violating the free speech policy.

Q: What are some of the most fundamental ways that this version of the Rights and Duties differs from the last?

A: Perhaps most importantly, the revisions incorporate opportunities and incentives for non-adversarial dispute resolution (which may include restorative justice mechanisms as well as traditional alternative dispute resolution practices) at several stages in the process. When a complaint is filed, for example, generally there will first be an effort to resolve the dispute non-adversarially. The appropriate form of dispute settlement will be determined by consultation with the parties and will proceed only if all parties voluntarily participate. Where possible, the goal is to encourage effective, creative, and community-affirming ways to resolve conflict.

The updated Rights and Duties also expands and clarifies the scope of major offenses. For example, it now includes "Harassing, abusing, coercing, or injuring" any member (or members) of the Law School (II) (A)(3) or "any member of the University who is not a member of the Law School or any employee (or employees) of, or any visitor (or visitors) to, the Law School or University" (II) (A)(4)." The Rights and Duties also clarifies how members of the Law School community harmed by certain offenses can initiate disciplinary action. This is particularly important where violations of Sections II(A)(3) and (8) are alleged, as the Dean or Dean's representative will file a complaint only in exceptional circumstances. This supports a general shift away from a "criminal" law model and toward a "tort" law model. Once a Complaint is filed, the onus shifts to the Complaint Panel to consider and, if appropriate, investigate the situation. The revisions make clear that the Law School will provide support and resources throughout the process. The revisions also clarify the category of "minor offenses" to make explicit that no substantial or permanent penalty can be imposed by the Dean for a minor offense.

Finally, the updates bring the Rights and Duties in line with current University policies and otherwise update the document for the current era. This included removing gendered references and revising references to University processes and rules that have changed. It also entails making hearings private, per the Office of General Counsel's interpretation of FERPA (III (16)). While the Committee aimed to retain the existing structure of the Rights and Duties, a

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few additional revisions were necessary to remove internal contradictions, grammatical errors, and imprecise or dated language.

Q: How / in what ways do the revised Rights and Duties interact with the new recording policy?

A: The recording policy, like any other policy at the Law School, is expected to be followed by all members of the community. Violations of the policy are subject to discipline under the Rights and Duties.

Q: What does the new non-adversarial dispute resolution process look like? How is the process initiated?

A: The Law School will work with a neutral third-party service to facilitate non-adversarial dispute resolution. This will be a valuable resource for the community in navigating conflict in a constructive way. Students who wish to learn more about the process or initiate the process should reach out to the Dean of Students, the Dean, or the Deputy Dean.

As the Rights and Duties states, “It is the Faculty’s hope that members of the community will seek in times of conflict to maintain, heal, and even strengthen community bonds.”

Q: A lot of the definitions are undefined in the revised Rights and Duties — how is that going to be developed? What kind of awareness will students have so we know whether certain provisions apply to our situations?

A: These terms should be considered terms of art as they are used throughout the University. Our expectation is that the interpretation of these terms will also be informed by interpretations of the same and related concepts in Titles VI and VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments Act of 1972. Over time, our own understandings of these terms will be developed by the Complaint and Hearing Committees.

To the extent that definitions or provisions are formalized or expanded upon, future revisions or updates to this FAQ may occur. The Yale Law School community would be informed of such clarifications.

Q: Section III(2) of the revised Rights and Duties states that students shall serve on the Complaint and Hearing committees. How will students be selected/appointed to those committees?

A: Each summer, the Office of Student Affairs works with the IT Department to generate a randomized list of students to contact about serving on these two committees. OSA reaches out to students in the autogenerated order until there are enough student volunteers to serve on each committee. This process repeats each year. There is no obligation to serve on the committees, and students are welcome to decline for any reason. Further questions on this process should be directed to the Dean of Students.