



YALE LAW SCHOOL

THE RIGHTS AND DUTIES OF MEMBERS OF THE YALE LAW SCHOOL

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The Yale Law School is a community of men and women devoted to the study and improvement of law. It is thus part of two rich traditions-- those of the University and of the legal profession. As an institution, the Law School has a history of self-government whose sole purpose is to assure each student and each faculty member an equal opportunity to fulfill his or her potential as a student of law at the highest university standard of excellence.

We recognize, and we reaffirm, that every member of the Law School has rights, and owes correlative duties, which flow from the nature of the School, and of that member's relationship to it.

Those rights include the rights of personal and intellectual freedom which are the essence of the idea of the university. The principles of academic freedom are a precious achievement, won and maintained with difficulty by a long line of devoted women and men. We have no wish but to protect and strengthen them.

The duties, which are the necessary predicate of these rights, include a scrupulous respect for the equal rights of others, and an obligation, owed to every other member of the community, and to the Law School itself, of fealty to its scholarly and educational purpose, and to its ideal.

Unless these rights are protected, and these duties met, the Law School cannot hope to restore and deepen the climate of calm, of mutual respect, and of confident good faith which are necessary conditions of its life as a house of reason.

In view of the processes which are changing the code of social morality of our society- -changes in which the law has played and should continue to play a leading part- -and of the stresses to which these processes of change have given rise in recent years, the Faculty has adopted a code to particularize these rights and duties, in the following terms:

Adopted: 1970; Amended: 2015, 2016

I.

The Basic Rights of Members of the Law School

1. In the discharge of her or his duties- -whether as a student or as member of the faculty- - each member of the School shall enjoy the rights of intellectual freedom which are fundamental to the University tradition generally, and to the traditions of the Law School in particular.
2. Membership in the Law School does not qualify any person's freedom to exercise his or her constitutional rights, including the rights of freedom of speech, of the press, and of peaceable assembly.

II.

- A. Offenses against the academic community for which students are subject to the penalties of probation, suspension for not more than two years, or expulsion, depending upon the gravity of the offense, are limited to the following major offenses:
- Violations of the Academic Integrity Policy (*see appendix*).
 - Knowingly furnishing false information of a substantial character to an office or official of the Law School, or to a properly identified University official.
 - Using physical force or violence to harass, abuse, intimidate, coerce or injure any member of or visitor to the Law School or University.
 - Threatening the use of physical force or violence to harass, abuse, intimidate, coerce or injure any member of or visitor to the Law School or University, in circumstances which, in the judgment of the trier of the facts, create a reasonable fear that force might be used.
 - Using physical force or violence to cause significant damage to, or loss of, property owned by or in the custody of the Law School, University, or any member of or visitor to the Law School or University.
 - Taking property owned by or in the custody of the Law School, the University, or any member of or visitor to the Law School or University without authorization.
 - Intentionally and substantially interfering with the conduct of classes, the administration of the Law School, or other University activities or functions, or with the freedom of movement, freedom of peaceable assembly, freedom to learn, or other rights of any member of or visitor to the Law School or University.

- B. Minor offenses not specifically mentioned in Part A, shall be governed by the procedure set forth in Section IV.

III.

Procedure with Respect to Alleged Violations of the Code

1. The provisions of Section III of this Code shall govern except in situations (a) where jurisdiction is transferred to or assumed by a University disciplinary panel, pursuant to its rules¹, or (b) which involve the minor offenses referred to in Section II (B), supra, which will be governed by Section IV. At the discretion of the Dean, the procedures of this Section and associated time constraints may be postponed during times when the Law School is in recess until the following regular session of the Law School.
2. Any member of the Law School may refer an alleged violation of the Law School Code to the Complaint Committee in writing. This Committee shall be composed of two members of the faculty, selected by lot from a list of five appointed by the Dean at the commencement of the academic year; and one student, selected by lot from a list of five appointed by the Dean at the commencement of the academic year. This Committee shall be constituted at the commencement of the academic year, and the faculty and student members shall be rotated at such time as a new alleged violation is referred to the Committee. The individual against whom allegations of a violation of the Code have been made may elect to have students excluded from service on the Committee; in such cases the Committee shall consist of three faculty members, selected in the same way.
3. The Complaint Committee shall consider and investigate any charges referred to it; such investigation shall, where practicable, include an interview with the individual charged. If the Committee finds reasonable cause to believe that a member of the Law School has committed an offense which calls for disciplinary action, it shall refer the charge and its findings to the Dean. The Committee shall make its decisions by majority vote.
4. The Dean or the Dean's representative shall seek an informal settlement of the complaint through consultation with the individual charged or the individual's representative. With the written consent of the individual charged, the Dean or the Dean's representative may dispose of the charge, imposing appropriate penalties. If the individual charged prefers to have the charge considered by the Hearing Panel, the Dean shall refer the charge and the findings of the Complaint Committee to that body. If after the consultation, the Dean

¹ All formal complaints of sexual misconduct must be pursued in accordance with the procedures of the University-Wide Committee on Sexual Misconduct. If a matter resulting from a complaint of sexual misconduct against a student is brought for final decision to the Law School Dean by the University-Wide Committee on Sexual Misconduct, the Dean may convene a Discipline Advisory Panel consisting of three faculty members of the Discipline Committee Hearing Panel. The Dean may consult the Discipline Advisory Panel as to whether the Dean should request that the UWC panel re-examine or clarify findings of fact and/or whether the Dean should accept, reject, or modify the UWC panel's conclusions as to violation(s) and the UWC panel's recommendations as to penalty, in whole or in part. The Law School and other University Title IX Coordinators are available to assist with informal (non-disciplinary) responses to such complaints and to provide guidance regarding the resources available to students. For more information see smr.yale.edu.

concludes that in the best interests of the School the charges should be considered by the Hearing Panel, the Dean shall refer the charge and findings of the Complaint Committee to that body.

5. The Hearing Panel shall consist of three faculty members, selected by lot from a list of ten appointed by the Dean at the commencement of the academic year; and two students, selected by lot from a list of ten appointed by the Dean at the commencement of the academic year. Persons on the Complaint Committee and members of the faculty who have been involved in the investigation of the charges under consideration may not serve on the Hearing Panel.

Where practicable, the Hearing Panel shall be constituted anew for each charge or series of related charges referred to it. After its formation, its members shall select a Presiding Officer from among their number. The individual charged may elect to have students excluded from service on the Panel; in such an instance, the Panel shall consist of five faculty members. A maximum of three challenges to the composition of the panel may be made by the individual charged. Panel members so challenged shall be replaced in the manner in which they were originally appointed or selected.

6. The Complaint Committee shall act on charges referred to it within seven working days of the date on which charges were preferred, except that the Complaint Committee may fix a longer period of time for its action if it decides that such a step would best serve the interest of fairness to the individual charged. The Dean's Office shall take action on charges referred to it under Para. 4 within seven working days of the date on which charges are conveyed to it by the Complaint Committee. Upon the referral of charges to the Hearing Panel, it shall serve written notice on the individual charged within three working days. Such written notice shall contain the charges, detailed with sufficient particularity to afford the individual charged a fair opportunity to prepare a defense. Written notice may be served on the individual charged in person or by registered or certified mail.
7. In exceptional situations, the Dean may propose to the Hearing Panel the reference of disputed questions of fact to an independent hearing examiner or tribunal acceptable to the Panel and to the individual charged. With the written agreement of the individual charged, the Hearing Panel may make such a reference for the purpose of obtaining a determination as to facts.
8. The Hearing Panel shall name a hearing date and notify the individual charged, concurrently with service of written notice of charges. Such a hearing shall normally be set seven to fourteen working days from the date on which written notice was served on the individual charged. A hearing may be set more than fourteen days from the serving of the notice if the Hearing Panel determines such action would best serve the interest of fairness to the individual charged.
9. Hearings shall be conducted in private unless the individual charged requests in writing that the hearing be held in public. In such instances, the hearing shall be conducted in

public. During the course of public hearings, the Hearing Panel may set such conditions on public attendance, including rules limiting attendance to members of the Law School, as it deems necessary to guarantee and orderly and fair hearing.

10. The Dean shall appoint a member of the faculty to present the evidence with respect to the complaint in any proceeding before the Hearing Panel, or in proceedings under Para. 7, to the hearing examiner or tribunal. The individual charged may select anyone to represent her or him at such proceedings. A faculty member shall be appointed by the Dean to represent any individual charged who requests such an appointment.
11. In determining the admissibility of evidence, the Panel (and, in proceedings under Para. 7, the hearing examiner or tribunal) shall be guided by the standard of fairness to the individual charged. Except under unusual circumstances recognized by the law of evidence, evidence of prior offenses shall not be admitted on the issue of determining whether the person charged has committed the offense. In making its determinations, the Panel (and, in proceedings under Para. 7, the hearing examiner or tribunal) will consider only evidence presented at the hearing. The Panel (and, in proceedings under Para. 7, the hearing examiner or tribunal) shall be persuaded by clear and convincing evidence before it may find against the individual charged, who shall have the benefit of the presumption of innocence.
12. The individual charged has the right to present witnesses on his or her own behalf; to remain silent; to cross-examine witnesses appearing against him or her; and to present a concluding argument when the taking of evidence has been concluded.
13. If an individual charged does not appear before the Hearing Panel (or, in proceedings under Para. 7, the hearing examiner or tribunal) on the date scheduled for the hearing, the Panel shall determine whether such non-attendance is justifiable. If it determines that the absence of the individual charged is not justifiable, the Panel (or, in proceedings under Para. 7, the hearing examiner or tribunal) shall proceed and pass upon the charge nonetheless. All witnesses called by the Hearing Panel or the individual charged have a moral duty to appear and testify truthfully, except that no witness is under a duty to give testimony which may incriminate him or her.
14. A verbatim record shall be kept of all proceedings before the Hearing Panel (and, in proceedings under Para. 7, the hearing examiner or tribunal). Such record may be a tape recording or stenographic transcription, and shall be available to the individual charged in any proceeding. Records will be treated as confidential, and kept in the custody of the Dean, who will make them available (1) to the person charged, upon request; and (2) to other persons involved in the proceeding, for good reason, and upon their request.
15. The Hearing Panel shall reach its conclusions by a majority vote, except that suspension for more than a year or expulsion cannot be recommended by a vote of less than four to one. In recommending penalties, the Panel shall be guided by the principle stated in the preamble to this Code, namely, that of primary concern for the educational mission of the School.

16. The findings and recommendation of the Hearing Panel shall become final unless the individual against whom the Hearing Panel has made an adverse finding, and recommended a penalty, requests the Dean to review the record and decision of the Hearing Panel within ten days of its decision. The Dean may in her or his discretion modify but not increase the penalties recommended by the Hearing Panel. In such instances, the Dean shall where practicable act within a week of receiving the request.

In cases where the Dean is requested to review the decision of the Hearing Panel, the findings and recommendations of that Panel, and the Dean's disposition of the request, shall be deemed laid on the table before the Faculty for a week from the day of the Dean's decision, and the Faculty may, at the request of five members, assume appellate jurisdiction within that period.

17. In cases of appellate review of a decision of the Hearing Panel by the Faculty, the individual against whom the Hearing Panel has made an adverse finding, and recommended a penalty, may elect to have student representatives excluded from attendance at the Faculty meetings at which the appeal is considered. The Faculty may affirm, modify, or reverse and remand the findings or recommendations of the Hearing Panel, but it may not increase the penalties recommended by the Hearing Panel. It shall consider the records of the Hearing Panel, and may hear oral argument. It may reverse and remand when it concludes that new evidence likely to alter the outcome of the case has been uncovered or that there was substantial and prejudicial error in the conduct of the hearing, the determination of facts, or the interpretation or application of the Law School Code. An appeal on the grounds of new evidence may be made at any time. The faculty shall hear an appeal within ten working days of the date on which it decides to undertake appellate review, and make its determination as soon as may be thereafter.
18. In situations of emergency, the Dean may, after appropriate warning, summarily suspend an individual when, in the Dean's judgment, the conduct of that individual constitutes a flagrant and continuing violation of the Code, or seriously threatens harm to the individual student or to any other person, or to the property of the Law School or the University, or of members or visitors to the Law School or the University. Without prejudice to the rights under the first two sentences of Para. 4, an individual suspended under this paragraph may have his or her case brought before the Hearing Panel within 48 hours of the suspension.

At the commencement of the hearing, the suspension shall be lifted by the Hearing Panel, unless it concludes that a continuation of the suspension is necessary. The Hearing Panel has jurisdiction to revive a suspension which has been lifted at any time until the final disposition of the charge.

IV.

In the case of minor offenses not specifically mentioned in Section II (A), the Dean may take such measures as he or she deems appropriate, including, but not limited to, oral reprimand, demand for apology, letter of reprimand, and placing the offender on probation for not more than 30 days, but excluding expulsion or suspension (except as provided in Section III (18) of the Code).

In the case of minor measures which do not become part of the offender's personal record (e.g. oral reprimand, apology) the action of the Dean shall be final. In all other cases, the offender shall have the right to appeal within one week in the manner provided in Section III (17) of the Code.

In any case the Dean shall have discretion to refer the matter to the minor offenses tribunal without taking action. The minor offenses tribunal shall consist of two faculty members and one student chosen by lot from the lists for Hearing Panels provided for in Section III (5) of the Code. In such cases, the tribunal shall have authority to impose as an appropriate sanction any which the Dean is authorized to impose.

The offender may appeal from a decision of the minor offenses tribunal in the manner provided in Section III (16) and (17) of the Code.

If an individual on probation violates probation the individual may be suspended or expelled if, but only if, the Hearing Tribunal, provided for in Section III (5) of the Code, determines that the cumulative offenses merit such penalty.

V.

A Committee on Disciplinary Policy shall be a standing committee of the Faculty. It shall, among its responsibilities, review the operation of this Code, and propose amendments when in its judgment such amendments are desirable.

APPENDIX

Academic Integrity Policy

Academic integrity is a core value of the Law School. All members of the community are expected to demonstrate the highest degree of ethics and honesty.

Violations of academic integrity include but are not limited to:

- Cheating or assisting another student to cheat through the use of unauthorized materials or information before, during, or after an examination or other written exercise.
- Participating in unauthorized collaboration on graded course work such as take-home examinations.
- Falsifying data in any work product.
- Plagiarizing or otherwise failing to give proper attribution or credit to ideas or text from another source, including published works, another person's work, data collection services, or materials on the Internet.
- Submitting for academic credit work procured or purchased from another person or source without permission of the instructor and the Deputy Dean.
- Submitting the same work, or a substantial portion of work, in more than one course without permission of the instructors involved and the Deputy Dean.
- Submitting for academic credit work done for compensation or as uncompensated work done in a professional setting, without disclosing to the instructor the compensated or professional circumstances under which the work was performed. Students submitting such work would be well advised also to seek the permission of the individual or entity for whom the work was done.

Law School community members should comply with the University's Human Research Protection Program (HRPP), which sets forth ethical standards, policies, and procedures for research that involves human subjects. Researchers should consult the HRPP Policies and Procedures to determine whether a project requires advance review and approval by an Institutional Review Board. <http://www.yale.edu/hrpp/responsibility/start.html>.