

# SOUTHWESTERN

## LAW SCHOOL Los Angeles, CA

### Academic Freedom Policy

Board of Trustees policy approved March 27, 2025; approved by the faculty on February 21, 2025. Effective immediately.

**Revision history:** This policy replaces Section I(c) of the Rules Related to Rank, Tenure, and Academic Freedom (Section 2-03 of the Faculty Handbook).

**Related policies:** Free Expression Policy; Conflicts of Interest and Commitment Policy; Faculty Manual Section 2-02 (AAUP Statement on Professional Ethics); Code of Student Professionalism and Conduct.

**Scheduled Review Date:** March 2028 (Office of the President and Dean)

#### A. Purpose and Scope

This policy describes academic freedom at Southwestern Law School. Academic freedom applies to all full- and part-time faculty members and others teaching law school courses, including librarians, adjuncts, visiting professors, and guest lecturers. Academic freedom applies to conducting research, publishing scholarship, engaging in law school governance, participating in law-related public service activities, curating library collections, providing information services, and exercising teaching responsibilities, including those related to client representation in clinical programs. Academic freedom enables faculty members to advance knowledge and to transmit it effectively to students and the public.

Faculty speech and the freedom to engage in the expression of ideas are also protected by Southwestern's Free Expression Policy, which encourages robust debate and responsible restraint from infringing on others' right to do the same.

Academic freedom, like all freedoms, is not absolute. It must be exercised within the framework of the law school's mission and goals, the academic environment, and with a commitment to integrity, professionalism, and mutual respect. Faculty and students are expected to uphold the highest standards of scholarly rigor, ethical conduct, and civility, ensuring that the pursuit of knowledge and the exchange of ideas remain aligned with the objectives of legal education and the broader responsibilities of the legal profession.

- B. Research and Publication:** A faculty member is entitled to full freedom in research and in publishing the results, subject to the adequate performance of their other academic duties. Before engaging in research for pecuniary return, faculty must disclose those activities in accordance with Southwestern's Conflicts of Interest and Commitment Policy.
- C. Teaching:** A faculty member is entitled to freedom in the classroom in discussing their subject, which includes the right to engage in free inquiry and exchange of ideas and the ability to present controversial material relevant to the course of instruction. Faculty should seek to foster in students an ability to understand, analyze, and debate positions that may differ from their own while adhering to the professionalism standards we expect of our students. Faculty should strive not to introduce material that has no relation to the course subject matter. Faculty are also free to engage in the intellectual life of the law school and their respective fields, including organizing and participating in symposia, lectures, and similar events.
- D. Commitment to Professionalism:** Southwestern is committed to fostering professionalism as an essential component of legal education and practice. Faculty are encouraged to model and cultivate professional behavior in classroom discussions, ensuring that students engage with ideas and one another respectfully, thoughtfully, and in alignment with the standards expected of the legal profession. Professionalism includes, but is not limited to:
- Respect for diverse viewpoints and a willingness to engage in constructive dialogue.
  - Adherence to the rules of civil discourse, including avoiding personal attacks or discriminatory behavior.
  - Demonstrating integrity, accountability, and preparation in academic settings.
- However, the concept of professionalism must not be used to discourage discussion of controversial, but pedagogically relevant, matters. Consistent with Southwestern's policies, faculty retain discretion to manage classroom dynamics in a manner that promotes these values.
- E. Governance Activities:** Faculty members and others within the academic community are entitled to freedom from institutional censorship or discipline when speaking or writing as participants in law school governance activities. This protection ensures that members can engage openly in debates, discussions, and decision-making processes related to institutional policies and practices, fostering a robust and inclusive academic environment.
- F. Extramural Speech:** Faculty members, when they write or speak in an individual capacity outside the classroom, are free to express their personal views without censorship or discipline from Southwestern. However, to avoid misunderstandings in public discourse and preserve institutional credibility, faculty members should make reasonable efforts to distinguish personal statements from institutional positions.
- G. Responsibilities:** While Southwestern values open and diverse expression, faculty, students, and others should strive to be accurate, exercise appropriate restraint and

judgment, foster and defend intellectual honesty and freedom of inquiry, show respect for the rights of others to express divergent ideas and opinions, refrain from discrimination and harassment, and avoid representing themselves as an official spokesperson for the law school unless expressly designated to serve in that capacity.

- H. Institutional Independence:** Southwestern is committed to safeguarding the independence of its academic community. While the law school complies with applicable legal, regulatory, and accreditation requirements, it retains the sole authority to determine the academic content, research priorities, pedagogical approaches, and intellectual projects pursued within its programs. This protection ensures that faculty and students can engage in the free exploration of ideas and knowledge, preserving the institution's autonomy and integrity within the framework of its obligations to accrediting bodies and governing authorities.
- I. Institutional Obligation:** Law school administrators, in exercising their discretion to distribute law school resources, course assignments, opportunities for professional advancement, benefits, and privileges (including but not limited to subjects taught, salary increases, faculty development funds, research and other stipends, sabbaticals, new or continued funding for centers, clinics, and similar programs, contract renewals, administrative roles for faculty, or other generally available resources or opportunities), should base their decisions on a faculty member's professional qualifications and performance and, where applicable, the professional merits of the faculty member's proposal. Southwestern may not use assessments, or the related distribution of law school resources, opportunities, benefits, and privileges to interfere with, limit, or sanction a faculty member's exercise of academic freedom. Nothing in this paragraph will prejudice Southwestern's ability to consider factors unrelated to the exercise of academic freedom when making administrative decisions, including, but not limited to, available resources, institutional and student needs, and curricular goals.
- J. Resolving Disputes and Concerns:**
- 1. Informal resolution:** Members of the Southwestern community with concerns related to academic freedom are encouraged to seek an informal resolution by discussing the issue directly with the involved party, if appropriate, or consulting with the Dean or Vice Deans for guidance or informal mediation.
  - 2. Submitting a formal concern about a student or non-faculty employee:** Formal concerns involving students but not a faculty member should be referred to the Associate Dean for Student Affairs, who will proceed using the Code of Student Professionalism and Conduct. Formal concerns involving an employee who is neither a student nor a faculty member should be submitted directly to the Dean, who will proceed using this policy and the Employee Handbook; the Dean may delegate any investigation or discipline to the Chief Operating Officer.
  - 3. Submitting a formal concern about a faculty member:** If informal resolution is not feasible or successful, an individual may submit a formal concern regarding a faculty member to the faculty Academic Freedom Committee. The submission

should be in writing and addressed to the committee chair. It should summarize the issue and provide relevant details, including the date and individuals involved, attach supporting materials, and describe any attempt at informal resolution. Formal concerns typically should be submitted within 30 calendar days of the incident, discovery of the issue, or completing informal resolution attempts.

- a. **Notification and conflicts:** The committee chair will promptly inform the Dean when a formal concern is submitted. Before proceeding, the chair will ensure that committee members are not involved in the matter. If any committee member has a conflict, the chair will appoint an elected alternate member to serve.
- b. **Committee review:** The committee will first review the concern to determine whether it falls within the scope of academic freedom. If it does not, the chair will promptly inform the person who raised the concern. If it does fall within the scope of academic freedom, the committee will determine its merit and recommend to the Dean an appropriate course of action. If necessary, the committee may request additional information or documentation and interview relevant individuals. All proceedings will be conducted confidentially to protect the privacy of the involved parties.
- c. **Committee recommendation:** The committee will endeavor to issue a recommendation within 30 to 45 calendar days of receiving a submission, with allowances for extensions in complex cases or during periods when classes are not in session. The committee will submit its written recommendation only to the Dean. The recommendation may include no action (if the concern is unfounded) or a formal resolution, such as a policy clarification, corrective action, or other remedy consistent with other Southwestern policies.
- d. **Dean's decision:** The Dean will review the committee's recommendation and issue a decision in writing within 10 business days. The Dean may take additional time if needed to resolve a complex matter. The decision will be communicated in writing to all parties involved and the Academic Freedom Committee chair, with an explanation of the outcome and any next steps.
- e. **Appeal:** If any party disagrees with the Dean's decision, they may appeal to the Dean within 15 calendar days. The Dean will review the appeal and, within 10 days, issue a new written decision or, if the Dean believes the original decision should stand, refer the appeal to the Academic Oversight Subcommittee, a three-person subcommittee of the Board Academic Affairs Committee appointed by the Academic Affairs Committee chair or co-chairs. The subcommittee will review the materials submitted and endeavor to issue a decision within 30 to 45 calendar days of receiving

the appeal, but may extend that time if necessary. The subcommittee will decide the appeal using an abuse of discretion standard and based on the record before the Academic Freedom Committee, plus the Dean's decision. The subcommittee's decision is final.

**K. Selecting the Academic Freedom Committee**

- a. Composition and term:** The Academic Freedom Committee will consist of three members and two alternate members; the alternate members will be asked to serve in case of a conflict or if a member is otherwise unavailable to participate (e.g., sabbatical, leave, health issue, etc.). Members and alternate members will serve for three consecutive years and may not concurrently serve on the Dean's Advisory Committee or as a Vice Dean or Associate Dean.<sup>1</sup> Members and alternates may serve consecutive terms without limit. Each member and alternate member must be a member of the Senior Faculty and have served on Southwestern's full-time faculty for at least one academic year at the time of election.
  - b. Elections:** When needed, elections will be held by May 15, and new members' and alternates' terms will start immediately. This election will be held after the election for the Dean's Advisory Committee. Each active (as opposed to emeritus) member of the full-time faculty, regardless of status or years of service, may vote in the election. Each election will be administered by the Academic Administration Office and held in a confidential manner that preserves anonymity. The initial ballot will list all eligible faculty members. A second ballot will be circulated with the 10 faculty members who received the highest number of votes in the first round. After the second ballot, the faculty member(s) with the highest number of votes will be the new committee members. If also electing alternates in the year the election is held, those receiving the next highest number of votes will be the alternate members. Additional run-off ballots may be circulated if needed to break one or more tie votes.
- L. Dean Named in Formal Concern:** Should the Dean be named in the initial formal concern, the Academic Freedom Committee's report will be submitted directly to the Academic Oversight Subcommittee for the decision, and the full Academic Affairs Committee (minus those who served on the Academic Oversight Subcommittee) will resolve any appeal. Any Academic Affairs Committee member with a conflict will recuse from participating and voting.

**M. Right to Revise:** The law school reserves the right to revise this policy for any reason, with reasonable notice to the law school community.

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<sup>1</sup> For the initial election in 2025, to establish a stagger, two members will be selected for three-year terms and one for a two-year term. The alternates will be selected for three-year terms but are eligible to be elected as a member when a position opens.