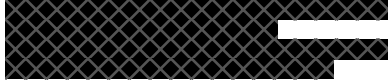


From: [REDACTED]
Subject: Fwd: Community Update on Recent Events
Date: November 17, 2021 at 5:56 PM
To: [REDACTED]



----- Forwarded message -----



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From: Dean Heather K. Gerken [REDACTED]
Sent: Wednesday, November 17, 2021 5:52:40 PM
To: [REDACTED]
Subject: Community Update on Recent Events

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Office of the Dean

To the Members of the Community:

Recent events at the Law School have been the subject of controversy both on campus and in the national media. While the past several weeks have been difficult, they present an important opportunity for us to reflect on our values and renew the commitments necessary to maintain a vibrant intellectual environment.

Let me start with first principles. Free speech is the touchstone of every academic community. It is essential that we can all speak on — and disagree about — the most challenging issues of the day. The long-standing “Report of the Committee on Freedom of Expression at Yale” emphasizes “the need for unfettered freedom, the right to think the unthinkable, discuss the unmentionable, and challenge the unchallengeable.” A thriving learning community depends on wide-ranging conversation that includes people with very different points of view and from all parts of our society.

Conversations in such a diverse community should take place in an environment where everyone is treated with respect and where we hold ourselves accountable to one another. That is why “The Rights and Duties of Members of the Yale Law School” require a “scrupulous respect for the equal rights of others.” Moreover, Title VI of the Civil Rights Act of 1964 and University policy oblige the Law School to ensure a learning environment free of discrimination on the basis of race, color, or national origin.

I asked Deputy Dean Ian Ayres to review the events of the last few weeks. This process enabled us to see the full context of this situation, to reflect on our mistakes, and to identify next steps.

Dean Ayres found the following: (1) Several students raised concerns with the Law School and alleged that the email invitation in question constituted racial discrimination. Students who raised those concerns were told by administrators that the University’s free speech policy precluded disciplinary action of any sort. (2) The boards of the Federalist Society and NALSA — both groups whose presence on campus we value — were entirely unaware of the email invitation before it was sent. (3) The administrators involved, acting in their roles as the Law School’s designated “[Discrimination and Harassment Resource Coordinators](#),” were attempting to carry out their obligations under University policy whenever discrimination complaints are filed. While protected speech will never be the subject of discipline, staff are asked to help facilitate informal resolution where possible.

Much of the remaining information Dean Ayres shared with me concerned personnel matters, which I will not discuss in a community-wide email.

There are things the Law School administration should have done differently, and for that I take full responsibility. I am immediately taking the following actions:

First, I will ensure that my administration has the right team in place with the proper support and training to navigate challenging conflicts that arise within our community.

Second, when a complaint regarding protected speech is filed, we will ensure that all parties involved are informed with absolute clarity that the University’s free speech policy precludes disciplinary action.

Third, while we will offer students assistance in resolving disagreements consistent with the University’s process, we will be

clear that students must make their own decisions regarding their level of engagement. A forced conversation cannot achieve the goals the University's process sets out.

Fourth, I have spent every year of my deanship trying to foster an inclusive community and create an environment where students feel called into the community rather than called out. The email message from administrators to members of the 2L class did not strike the appropriate balance between those two goals. I take responsibility for that failure, and I am sorry for it. Our future communications will better conform to our values.

Fifth, we will be sure that all students and student groups are treated professionally, fairly, and impartially. No student or student group should ever have reason to believe that administrators are acting in a biased or unfair manner, and I deeply regret that this impression was given in this instance.

Finally, I have asked a small group of faculty members to think about how to maintain our cherished intellectual environment and warm community. I am grateful to Professors Justin Driver, Oona Hathaway, Tracey Meares, Nick Parrillo, and Claire Priest for leading this effort. Their work will help identify institutional practices that support a robust intellectual environment. As part of this work, I expect the committee will address steps we can take as a community to create an environment in which people can disagree as well as our norms surrounding secretly recorded conversations and the sharing of private correspondence without permission.

In the face of challenging times, the grace, empathy, and intelligence of this community has always been a source of strength as we push forward our critical mission of teaching, scholarship, and service. Those values center me, and they also give me confidence in our ability to move ahead and advance the vital work of this school.

Sincerely,

Heather K. Gerken
Dean and Sol & Lillian Goldman Professor of Law

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