

USING **HAVE TO** TO EXPRESS LEGAL *DUTY* OR *NECESSITY*

The most typical and the most uniformed way to express **duty** or **necessity to act** is to use:

have to + simple verb

I **have to leave** within the next ten minutes. It's getting late.

The above example demonstrates the every day use of "have to" when expressing a requirement, or a necessity.

Use "**have to**" when expressing the **legal obligation or duty** to perform an act, or the **required conduct** necessary to obtain a license or fulfill a stipulation.

He **has to file** the complaint before the 10th of the month.
That's when the statute of limitation tolls.

You may use must to express the same legal obligation or duty:

He **must file** the complaint before the 10th of the month.
That's when the statute of limitation tolls.

Have to is much more useful than must for expressing legal duty. **Why?**

- ❑ Because you can use **have to** in the past – **had to** - to express legal duty in the past.
- ❑ You cannot use must have in this sense. *Must have* does **not** express past-tense legal duty. It expresses past-tense probability.¹
- ❑ Have to is also the preferred form in the interrogative (questions).

For example :

Do you have to go?

Must you go? sounds theatrical – use it for love and drama; not the law.

Note

- In the interrogative and the negative, use the **do-auxiliary** with **have to**.
- For third-person singular, present tense, use **has to**.
- To express past tense *duty* or *necessity*, use **had to**.

¹ For example: "Joe didn't come to class on Tuesday. **He must have been sick**. Joe never misses class, so I am almost certain that he was sick."

Examples:

Do you have to work this weekend?

Yes, **I do**. I **have to work** every weekend this month.

Does John have to work all weekend, too?

No, **he doesn't**. He **has to work** late tonight, but that's all.

Why didn't Sara come with you?

She **had to go** to court and **argue** a motion.

Did you have to submit an affidavit?

Yes, **we did**. The rules in that court require sworn stipulation of all facts to which the parties agree.

Why did you file for an injunction?

I had to. The defendants refused to stop infringing the trademark even though we were about to go to court to seek damages on their past infringement.

Note the tag question:

You **don't have to** plead facts in that court, **do you?**

To explain that there is **no legal duty** to act or to conform your conduct to the law, use **do not have to**.

For example:

Lawyers **do not have to join** the bar associations² of the legal profession in the United States. They only **have to pay** their annual registration fees to the State Bar where they are licensed to practice.

² E.g. *American Bar Association (ABA)*; *Illinois State Bar Association (ISBA)*; *Chicago Bar Association (CBA)*. The *associations* are similar to "industry or trade organizations" such as the Association of Automobile Tire Manufacturers. About half of American lawyers are members of the ABA.

USING “HAVE TO” TO EXPRESS DUTY OR NECESSITY EXERCISES

Directions: **Make a comment** about the following situations showing what action needs to be taken. No specific answer is right. Just make a relevant comment.

Example -

Joe: English is very important for my career advancement.

Mary: **You have to practice more.** – or - **You have to study harder.**

1. I want to study in the United States.
2. I'd like to work in international trade law.
3. The law requires you to answer a complaint within 30 days.
4. There is a legal obligation to have a driver's license in order to drive.
5. There is a legal obligation to obtain driver's insurance before you drive.
6. There is no legal obligation to have an identity card in the United States.
7. There is a legal obligation to have an identity card in many European countries.
8. There is no requirement that a corporate lawyer be a certified public accountant (CPA). It's a very good idea, however, to be a CPA if you hope to work at a major U.S. law firm and do corporate, securities or bankruptcy work.

9. There is no legal requirement to disclose the names of shareholders of any corporation in any of the states of the United States. There is a requirement to disclose the names of the officers and directors, however.

10. A law student does not have a legal duty to take the bar exam of the state where she went to law school.

11. A lawyer has a legal duty to take and pass the bar exam of any state where he wants to practice law.

12. A corporate insider of a publicly traded corporation is legally obligated to disclose information obtained as an insider or to refrain from trading his shares.

**USING “HAVE TO” TO EXPRESS DUTY OR NECESSITY
ANSWERS TO EXERCISES**

Directions: **Make a comment** about the following situations showing what action needs to be taken. No specific answer is right. Just make a relevant comment.

Example -

Joe: English is very important for my career advancement.

Mary: **You have to practice more.** – *or* - **You have to study harder.**

1. I want to study in the United States.

**You have to improve your English.
You have to take the TOEFL exam.**³

2. I'd like to work in international trade law.

You should⁴ **think about doing an LL.M. You don't have to**⁵ **have one (you don't have to get one) in order to practice, but it's the only way to learn the basics, in my experience.**

3. The law requires you to answer a complaint within 30 days.

**You have to respond within 30 days.
You have to answer a complaint within 30 days.**

4. There is a legal obligation to have a driver's license in order to drive.

You have to have a driver's license in order to drive.

5. There is a legal obligation to have car insurance before you drive.

You have to have car insurance before you drive.

6. There is no legal obligation to have an identity card in the United States.

You don't have to have an identity card in the United States.

³ Test of English as a Foreign Language

⁴ Use **should** to give advice (it is a good idea to get an LL.M.)

⁵ Use **not have to** in order to demonstrate no duty / no requirement.

7. There is a legal obligation to have a national identity card in many European countries, however.

You have to have a national identity card in many European countries, however.

8. There is no requirement that a corporate lawyer be a certified public accountant (CPA). It's a very good idea, however, to be a CPA if you hope to work at a major U.S. law firm and do corporate, securities or bankruptcy work.

You don't have to be a CPA in order to be a corporate lawyer.

You should think about doing it (you should think about getting your CPA – you should think about becoming a CPA) if you hope to work at a major U.S. law firm and do corporate, securities or bankruptcy work.

9. There is no legal requirement to disclose the names of shareholders of any corporation in any of the states of the United States. There is a requirement to disclose the names of the officers and directors, however.

**You don't have to disclose the names of shareholders of any corporation in the states of the United States. – OR –
A corporation does not have to disclose the name of its shareholders in any state of the United States.**

You have to disclose the names of the officers and directors, however. – OR –

A corporation has to disclose the name of its officers and directors, however.

10. A law student does not have a legal duty to take the bar exam of the state where she went to law school.

A law student does not have to take the bar exam of the state where she went to law school.

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A corporate insider of a publicly traded corporation has to disclose information obtained as an insider to his fellow shareholders, or refrain from trading his shares. ⁶

⁶ If corporate insider breaches his duty he has committed a potential crime. It is called insider trader and the cause of action comes under Rule 10(b)(5) of the Securities Exchange Act of 1934.