

**Report of the University-Wide Ad Hoc Committee
on Procedures for Resolving Complaints of Faculty Misconduct**
November 15, 2017

In fall 2014, the Provost appointed a university-wide faculty committee, chaired by Professor Margaret Clark, to develop standards of faculty conduct. This committee posted draft standards of conduct for faculty comment, revised the standards in response to those comments, and presented the standards for review by the University Cabinet. These standards of faculty conduct were accepted by the President and Provost as policy on September 18, 2015. They currently appear as section II.B of the [Faculty Handbook](#). The same *ad hoc* committee proposed draft procedures for responding to alleged violations of these standards. A copy of those draft procedures, which are now superseded by the procedures below, can be found [here](#).

During the 2015-2016 academic year, faculty members raised objections to both the existing standards and to the proposed procedures. On March 20, 2016, a “Report on Faculty Conduct Standards and Procedures” was approved by the FAS Senate. A copy of this report can be found [here](#). This FAS Senate report summarized many faculty concerns from across the University and suggested substantive revisions to the existing standards and draft procedures.

In September 2016, the Provost appointed a second university-wide faculty committee to review the existing standards and the draft procedures. The Committee, chaired by Professor Kathryn Lofton, researched the policies of peer institutions and met with scores of faculty to learn about the need for standards and the best policies regarding procedures for the adjudication of complaints of misconduct.

In April 2017, after a year of work, this second Committee circulated to the faculty a revised set of standards and procedures, and Professor Lofton made presentations on these documents to the FAS Senate and the deans of the professional schools. In order to ensure the widest possible opportunity for comment, a [web site](#) was established to receive faculty feedback. On August 21, 2017, the faculty was notified by e-mail of the web site and the opportunity to comment. The comment period lasted until October 6, 2017. During that time, twenty comments were posted either publicly (available [here](#)) or confidentially, and several other university leaders offered comment on the documents.

Based on their review of faculty comments, the Committee made revisions to the standards and procedures. These changes ranged from underscoring the role of the Department Chair in the informal resolution of complaints to requiring that the Faculty Standards Review Committee chair join the Provost in determining jurisdiction over formal complaints. Other changes include specifying the appeal procedures, requiring that the vote tally be disclosed in the hearing panel report, and elaborating the content of the Annual Report to the faculty. The Committee is grateful for the many principled recommendations made by the faculty.

The Committee hereby submits the revised standards and procedures to the President and Provost in their final form for acceptance into the Faculty Handbook.

The Committee recommends that in three years (2020-2021) the Provost appoint a faculty committee to review the university’s experience under these standards and procedures. The three-year record of faculty comment (2014-2017) on these materials will be forwarded to this review committee.

Revised Standards of Faculty Conduct
November 15, 2017

B. Standards of Faculty Conduct

Yale University's mission is to create, disseminate, and preserve knowledge through research and teaching. The Yale faculty¹ bears primary responsibility for preserving the conditions necessary to advance this mission, including protection of the freedom of inquiry; participation in the governance of the University; the application of fair and consistent standards and processes in matters of promotion and tenure; and adherence to a shared set of principles governing faculty members in relation to each other, to their students and trainees, and to the University and its staff members. Yale faculty members understand the common-sense and reasonable responsibilities that arise from:

Their Role as Educators. The integrity of the teacher-student relationship is crucial to the University's educational mission. This relationship vests considerable trust in the faculty member, who, in turn, bears authority and accountability as mentor, educator, and evaluator. When acting in their role as teachers, members of the Yale faculty treat students and trainees with respect.² They set an example of academic integrity and educate their students and trainees in the requirements of honest scholarship. They evaluate their students' and trainees' work solely on the basis of its intellectual merit and adherence to course or program requirements. They maintain proper professional boundaries and never exploit the unequal institutional power inherent in the relationship between faculty member and student or trainee.

Their Role as Scholars. As scholars, members of the Yale faculty devote their professional lives to seeking and disseminating knowledge, using the tools and resources provided by the University and the larger community. To protect their colleagues, their students, the University, and the record of knowledge in their field, and to preserve respect for scholarship in the larger community, members of the Yale faculty conduct and publish their research and writing with scrupulous honesty, and they do not allow pecuniary or other improper influences to compromise the integrity of their scholarship.

Their Role as Members of the Yale Community. The overriding professional obligation of all full-time faculty members is to Yale and to its mission of creating, disseminating, and preserving knowledge. Faculty members recognize that the preservation of the University as a self-sustaining community of scholars requires that they accept their share of responsibility for University governance and that they comply with University policies. Faculty members participate constructively and without discrimination in hiring and promotion decisions. By freely associating themselves with the University, members of the faculty affirm their

¹ The Yale faculty includes all University administrators with faculty appointments.

² For the purposes of this document, a student is a person enrolled in any Yale educational or training program. A trainee is a type of student, but the term is used separately here to emphasize the responsibilities that faculty members have toward post-doctoral fellows, medical residents, and persons in similar post-graduate positions. A teacher is anyone who holds a faculty position described in the Faculty Handbook and who teaches students or supervises trainees.

commitment to a philosophy of mutual tolerance and respect. In furtherance of Yale's mission, they have the right and obligation to criticize their colleagues, staff members, and the University, but they endeavor to do so without personal animus and without seeking to intimidate or coerce. Faculty members act as stewards of Yale's resources and treat Yale property and funds with care and prudence.

Faculty members should seek in good faith to fulfill the responsibilities that arise from their various roles. These responsibilities form the overarching aspirations for our common work. They do not replace or supersede any other established Yale policies, such as those pertaining to academic misconduct, conflict of interest, discrimination, or sexual misconduct.

Responsibility for addressing a complaint that a faculty member has failed to comply with the Standards of Faculty Conduct normally lies with the faculty member's Dean. Deans may create and apply informal processes to resolve complaints of faculty misconduct, which may include the designation of a particular faculty member, such as a department chair, to receive and facilitate the resolution of complaints. Those who believe that a faculty member has violated the Standards of Faculty Conduct are encouraged to seek an informal resolution of the matter through the faculty member's Dean. Such informal processes may result in sanctions beyond the inherent administrative authority of the Dean only with the consent of the parties to the dispute.

If an alleged violation of the Standards of Faculty Conduct has not been resolved informally, or if the Dean was significantly involved in the matter under dispute, a member of the University community may ask the Provost to submit a complaint for formal faculty review under the procedures described in Section III.N. Such complaints will be considered only if the alleged violation is reckless or intentional and has caused serious harm to the University or to a member of the University community.

Review Procedures for Complaints about Violations of the Standards
November 15, 2017

N. Review Procedures for Complaints about Violations of the Standards of Faculty Conduct

A person who wishes to complain that a faculty member has committed academic or sexual misconduct or has engaged in other behavior that is addressed by specific University procedures must follow those procedures.

Other allegations that a faculty member has violated the Standards of Faculty Conduct normally will be resolved by the Dean of the faculty member against whom the allegation is made, in keeping with the Dean's authority to administer his or her school. Deans may create and apply informal processes to resolve complaints of faculty misconduct, which may include the designation of a particular faculty member, such as a department chair, to receive and facilitate the resolution of complaints. Such informal processes may result in sanctions beyond the inherent administrative authority of the Dean³ only with the consent of the parties to the dispute.

If an alleged violation of the Standards of Faculty Conduct has not been resolved by the Dean using the Dean's administrative authority or an informal process, or if the Dean was significantly involved in the matter under dispute,⁴ a complaint may be submitted by the Provost for formal faculty review under the procedures described below.

1. The Faculty Standards Review Committee

The Faculty Standards Review Committee ("the Committee") consists of faculty members elected for three-year terms. The Faculty of Arts and Sciences and the School of Medicine shall each elect five members, and the other professional schools shall each elect two members. The Faculty of Arts and Sciences and each professional school shall determine how it wishes to elect its Committee members. The elected members shall elect a Committee Chair.

2. Jurisdiction of the Committee

The Provost⁵ may submit a complaint to the Committee on the Provost's own initiative or at the request of the cognizant Dean⁶ or the Dean's designee. The Provost will submit a complaint to

³ If a Dean imposes a sanction that the affected faculty member believes exceeds the Dean's inherent administrative authority, the faculty member may write a letter of complaint to the Provost within seven days after being informed of the sanction. If the Provost, in the Provost's sole discretion, concludes that the sanction exceeded the Dean's authority, the Provost will return the matter to the Dean, who may impose a lesser sanction or request that the matter be referred for formal faculty review under the procedures described below.

⁴ If the Dean was significantly involved in the matter under dispute, the Provost may designate a member of the Provost's office to attempt to resolve the matter informally, before invoking these procedures.

⁵ If the Provost was significantly involved in the matter under dispute, the President will assume the Provost's role in these review procedures.

the Committee only if the Provost and the Committee Chair determine that the complaint provides a reasonable basis to believe that (i) a faculty member's actions were substantially inconsistent with the Standards of Faculty Conduct; (ii) the actions were reckless or intentional; (iii) the actions caused serious harm to the University⁷ or to an identified member of the University community; and (iv) no other process or procedure is available to address the matter.⁸ Complaints must be submitted to the Committee within one year after the most recent action complained of, unless the Provost and the Committee Chair agree that extenuating circumstances warrant a waiver of the time limit. The Provost and the Chair shall not submit a complaint to the Committee if the Committee has previously reviewed a complaint based substantially on the same set of facts or if the respondent faculty member is no longer employed by Yale.

3. Faculty Standards Review Panel Procedures

Once a complaint has been submitted to the Committee, the Committee Chair will appoint five members from the Committee to serve as a hearing panel and will designate one of those members as panel chair. Whenever possible, the panel shall include a member of the FAS division or the professional school in which the respondent has his or her primary appointment. No faculty member who is directly involved in the complaint or who has any other significant conflict of interest may serve as a member of the panel hearing the complaint.

In cases where the University has suffered an alleged harm, the Provost or the Dean who requested that the complaint be heard will appoint a representative to act as the complainant. In cases brought to address harm specific to an identified member of the University community, that person shall act as the complainant.⁹ In order to protect the University or an individual complainant or other members of the Yale community, the Provost may impose interim measures while the matter is pending.

The Committee Chair will provide the names of the panel members to the respondent faculty member and the complainant ("the parties"). If a party objects to the participation of any panel member, the party must notify the Committee Chair and provide the basis for the objection

⁶ For complaints against faculty members whose primary appointment is in FAS, the cognizant Dean is the Dean of FAS. The Deans of the professional schools are the cognizant Deans for complaints against members of their faculties.

⁷ For example, the University may suffer serious harm when funds are misappropriated, legally protected information is improperly disclosed, or essential teaching obligations are ignored.

⁸ If the Provost decides that a matter can be resolved by a responsible administrator or through another University process, the Provost may refer the matter for appropriate disposition. If the Provost believes that a faculty member's conduct, if proven, might warrant the faculty member's dismissal from the University or another sanction that is beyond those provided by Section III.N.3, the Provost will refer the matter to the President, who will consider whether it should be heard by the University Tribunal, rather than through the process described here.

⁹ If a complaint is based on an allegation that a faculty member's actions harmed a person, the complaint must name the person allegedly harmed.

within five business days after receiving the panel list. The Committee Chair, in the Committee Chair's sole discretion, will decide whether an objection justifies the removal of a panel member. If the Committee Chair denies an objection, the Committee Chair will explain the decision to the parties. When a member is excused because of a conflict of interest or is otherwise unable to participate, the Committee Chair may designate a substitute.

During its inquiry, the panel may ask any office of the University to provide documents that are relevant to the underlying complaint and that were prepared prior to the most recent event complained of. However, the panel may not review documents covered by a legal privilege (for example, psychiatric patient records and attorney-client communications). It is expected that all members of the Yale community will cooperate fully with the panel in its inquiry.¹⁰

The parties must meet with the panel and each may be accompanied by an adviser when doing so. The parties will have the opportunity to present information and to propose that the panel interview relevant witnesses. The parties shall be permitted to inspect documents or parts of documents that the panel has identified as directly relevant to the specific complaint and that were not written under a presumption of confidentiality. As its inquiry proceeds, the panel may interview the witnesses proposed by the parties, and it may also interview any other person it believes may have relevant information. Both parties will have the opportunity to hear the testimony of all witnesses. The panel may not consult separately with a party's adviser.

The panel, having conducted its inquiry, will deliberate in closed session to determine whether the respondent has violated the Standards of Faculty Conduct. In order to determine that a violation has occurred, the panel must find by clear and convincing evidence that (i) the respondent's actions were substantially inconsistent with the Standards of Faculty Conduct; (ii) the actions were taken recklessly or intentionally; and (iii) the actions caused serious harm to the University or to an individual complainant.

The panel will present to the Provost a written report stating its findings of fact and its conclusions.¹¹ All of the panel's findings of fact and conclusions must be based on clear and convincing evidence. If the panel concludes that the respondent has violated the Standards of Faculty Conduct, it will state its recommendations, if any, regarding further action by the University. The actions that a panel may recommend, alone or in combination, include, but are not limited to, loss of eligibility for leave for one leave cycle, temporary limitations on work with students or trainees, limitations on eligibility for grant funding, reduction in salary, financial restitution, and suspension without pay. If the panel believes that more severe penalties are justified, it may recommend that the Provost forward the matter to the President, who may convoke the University Tribunal.

¹⁰ Where a complaint alleges sex discrimination or discrimination on the basis of disability, the panel shall also inform, respectively, the Title IX Coordinator of the University or the Director of the Office for Equal Opportunity Programs. (Sex discrimination in the form of sexual misconduct must be addressed by the University-Wide Committee on Sexual Misconduct, not the Faculty Standards Review Committee.)

¹¹ A "finding of fact" is a relevant event, action, or statement that has been proven to the panel by clear and convincing evidence. A "conclusion" is the panel's determination as to whether or not its findings of fact amount to a violation of the Standards of Faculty Conduct.

The panel's report, including its conclusions and recommendations, must be adopted by a majority vote of all panel members, and abstentions are not permitted. The Committee's report will include the vote tally, but it will not identify the positions of individual panel members.

4. Decision by the Provost

The panel will submit its report within a reasonable period of time, normally within 90 days of its receipt of a complaint. The Provost will furnish copies of the report to the parties. If the complainant or the respondent wishes to provide a written response, this response must be submitted to the Provost within 14 days of the party's receipt of the report.

On the basis of the Provost's own concerns or concerns raised in response to the panel's report, the Provost may ask the panel to re-examine or clarify findings of fact or conclusions. If necessary, the panel may submit a revised report to the Provost. The Provost will then accept the panel's findings of fact. The Provost may accept, modify, or reject the conclusions of the panel or any of its recommendations. However, in any case where the Provost has reservations about the panel's conclusions or recommendations, the Provost will discuss the matter with the panel in advance of a final decision and explain his or her reasons for disagreement. The Provost will then decide the matter and convey a written decision to the parties and the panel. The Provost's decision ordinarily should be rendered within 14 days after receiving the responses of the parties.

5. Appeals

Either party may appeal the Provost's decision by submitting a letter to the President¹² within seven days after receiving the decision. The only grounds for an appeal are (i) a procedural error that prevented the panel or the Provost from judging the matter fairly; (ii) the discovery of material facts that were reasonably unavailable to the appealing party prior to the Provost's decision; or (iii) the imposition of a penalty grossly disproportionate to the behavior found by the panel. The President ordinarily will issue a written decision to the parties and the panel within 14 days after receiving an appeal. If the appeal is granted, the matter will be returned to the panel for reconsideration. In the appeal decision, the President may give the panel instructions regarding the nature and extent of its reconsideration. The panel will act promptly to reconsider the matter and will issue a revised report to the Provost. The Provost will promptly issue a new decision, which is not subject to appeal.

6. Retaliation

Retaliation against a person for participating in the process provided in this Section is a violation of the Standards of Faculty Conduct. For the purposes of these procedures, "retaliation" shall mean an act that is intended to cause a person significant harm and to punish or deter participation in the Faculty Standards Review Committee process.

7. Time Periods

¹² If the President has assumed the role of the Provost as discussed in Section III.N.2, the General Counsel will appoint a person to hear the appeal.

In instances where additional time may be required during the review process – for example, delays caused by the absence of faculty members over the summer months – the Provost may extend the time periods set out above. If a time period is extended, the parties will be informed.

8. Annual Report

For each academic year, the Committee will issue a report to the faculty stating the number of matters that were received by the Provost and the number of matters that were heard by a panel. The report shall also include the number of matters that concluded with a finding of a violation of the Standards of Faculty Conduct and the standards that were violated in each case.