

YALE UNIVERSITY

GRADUATE SCHOOL



GRIEVANCE PROCEDURE

THE GRADUATE SCHOOL PROCEDURE FOR STUDENT COMPLAINTS

DISCIPLINARY PROCEDURE

DISCIPLINARY PROCEDURES OF THE
GRADUATE SCHOOL COMMITTEE ON REGULATIONS AND DISCIPLINE

Revised, Spring 2013

TABLE OF CONTENTS

The Graduate School Procedure for Student Complaints	Pages 1-8
Disciplinary Procedures of the Graduate School Committee on Regulations and Discipline	Pages 9-15

THE GRADUATE SCHOOL PROCEDURE FOR STUDENT COMPLAINTS

Following is the text of the Graduate School's procedure for student complaints. This text is a revision of the procedure in use from 1981 to 1994; the revision was approved by vote of the faculty on 19 May 1994. Students are asked to retain this copy of the procedure for future reference.

I. THE SCOPE OF THE PROCEDURE

This procedure governs any case in which a student has a complaint, including but not limited to a complaint of discrimination on the basis of race, sex, sexual orientation, color, religion, national or ethnic origin or handicap, against a member of the faculty or administration of the Graduate School.¹ Complaints that involve a mis-application of Graduate School policy are also appropriate for consideration by the Dean's Advisory Committee on Student Grievances (hereafter the grievance committee). Complaints that would require an emendation of policy will be referred to the Graduate School Executive Committee (hereafter the EC)

Since an instructor's evaluation of the quality of a student's work is final, this procedure does not apply in any dispute about a grade assigned to a student by a member of the faculty, unless it is alleged that the determination of the grade resulted from discrimination based on race, sex, color, religion, national or ethnic origin or handicap. Similarly, this procedure does not apply to any matter inherent in the academic freedom of an instructor, such as, for example, in regard to the syllabus or contents of a course of instruction. It is also not a procedure that may be used when there is a complaint about the quality of a course or the quality of instruction in a course; such concerns may be addressed directly to the department in question. If a student believes that he or she has been retaliated against as a result of filing a grievance under this procedure, a separate complaint charging retaliation can be pursued by means of this Procedure.

II. INITIAL REVIEW OF STUDENT COMPLAINTS

It is an important working principle at Yale that student complaints are resolved informally whenever possible through the student's department and the Graduate School. If the problem cannot be resolved by informal discussion or if the student has chosen not to discuss the matter informally, the student should submit a letter

to the Dean of the Graduate School or the Dean's designee describing the complaint and the facts upon which it is based (insofar as the facts are known to the complainant), specifying the issue or issues in question, and indicating what redress or resolution of the grievance is sought. The complaint should be brought to the attention of the Dean or the Dean's designee as soon as possible after the action giving rise to it, but in no case may the complaint be submitted later than 45 days after the action upon which it is based. If a complaint is in some manner associated with the conduct of a course, the complaint must also be submitted within 45 days after the action upon which it is based but the student may request that no action be taken on the complaint until after the conclusion of the term in which the course has been offered.

If the complainant is not registered in residence during the term in which the complaint comes to the grievance committee, the committee will ordinarily defer review of the complaint until the complainant either returns to register in residence or is able to return to New Haven temporarily for committee proceedings. Notwithstanding the foregoing, in case of a complainant who has graduated or otherwise separated from the University and for whom in the committee's judgement it would be impractical or unnecessary to return to New Haven, the committee will allow the complainant to participate in the proceedings by other means, for example by telephone or in writing.

The Dean or the Dean's designee will refer all complaints to a grievance steering committee of three persons: the Dean, the Chair of the grievance committee, and a student member of the EC. The student will be chosen by the EC, normally by consensus, if necessary by majority vote. The steering committee may ask for advice from a member of the General Counsel's Office.

The decisions of the steering committee will normally be made by consensus, if necessary by majority vote. The steering committee will normally refer complaints onward to either the grievance committee or, in those cases that would require emendation of policy, to the EC. It may, however, with the agreement of the complainant, remand a complaint to the relevant department or office for further informal consideration when the committee believes,

- (1) the case has not received sufficient informal study and discussion, or
- (2) there is already ample precedent for resolving the complaint.

With the agreement of the complainant, one or more members of the steering committee itself may also assist the department and the Graduate School in that further informal resolution of the complaint.

In cases remanded to departments and Graduate School under (1) above, if the complainants are not satisfied by the result of informal consideration, the steering committee will refer the complaint on for review to either the grievance committee or the EC.

In all cases, the steering committee will inform the complainant promptly of its decision about the appropriate committee to hear the complaint and give an explanation for the decision in writing.

When a complaint is sent on to the grievance committee, the grievance committee will normally appoint an investigator. The investigator will be a member of the Yale community, normally a faculty member.² As soon as possible and normally within the first three weeks after the receipt of the complaint by the grievance committee the investigator will prepare for the grievance committee a written brief pertaining to the facts of the case.

After the brief is received by the chair of the committee, a copy should be provided to the complainant and the person complained against.

If during its deliberations on a grievance, the grievance committee finds that the case would require emendation of policy, the committee will refer the case back to the grievance steering committee for re-evaluation.

When a complaint is referred to the EC, it will appear on the agenda of the next EC meeting.

III. REVIEW BY THE DEAN'S ADVISORY COMMITTEE ON STUDENT GRIEVANCES

A. Composition of the Grievance Committee

The grievance committee will be a standing committee of the Graduate School and the members appointed annually.

The grievance committee will be composed as follows:

- (a) three faculty members, one from each division, namely humanities, social sciences, natural sciences.
- (b) three graduate students, one from each division.
- (c) one Graduate School administrator.

The student and faculty members of the grievance committee shall be selected by the EC, normally by consensus, if necessary by majority vote. The Graduate School administrator shall be appointed by the Dean.

The members of the grievance committee shall elect from among themselves a faculty chair who will serve for a minimum of one term.

If the grievance committee so desires, the investigator chosen in a particular case will serve as an ex officio non-voting member of the committee and may then participate in the committee's deliberations to the extent that the chair and the committee deem appropriate. For example, the investigator will then be available to conduct any further investigation the committee believes necessary.

Members of the committee who may be directly involved in the subject matter of any complaint are to excuse themselves during the review of that complaint. The complainant and the person against whom the complaint is lodged will have the right to challenge individual members of the grievance committee where such challenge is based on cause (e.g., close personal contact with one of the parties), but peremptory challenges will not be entertained. Challenges must be presented to the chair of the committee prior to the commencement of the committee's review of the case. The committee, excluding that person being challenged, will decide the disputed issues in cases of challenge, and its decision will not be subject to appeal. When members are excused or are otherwise unavailable to participate in the deliberations or have been successfully challenged for cause, the Dean will designate appropriate substitutes to serve for the duration of the pending case.

B. Deliberations of the Grievance Committee

The grievance committee will inform both parties in writing that it is reviewing a complaint. The person against whom the complaint has been lodged will be given a copy of the letter to the Dean describing the complaint if this has not already been done. Reasonable time (at least one week but ordinarily not more than two weeks)

is to be allowed between the receipt of the written notification and the date of the commencement of the review in order to provide the participants time to prepare for a meeting with the committee if either of the parties or the committee wish it.

In meetings with the grievance committee, the complainant and the person complained against may each be accompanied by a member of the Yale community (i.e., student, faculty, dean, administrator, or other employee of the University) who can provide advice, counsel, and guidance during the meetings. The proceedings are in their nature non-adversarial, and the role of the adviser is to counsel the individual he or she accompanies and not to interrogate, challenge, or debate the other party and/or any witness presented by that party. However, either or both advisers may, if requested by the party they accompany, make a brief concluding statement.

The student and the person complained of will have the opportunity to present information and witnesses, but the names of witnesses and copies of documents must be presented to the chair in advance of the commencement of the review. The grievance committee, however, will determine which witnesses it will hear and which evidence it will consider. The usual expectation is that the committee will hear all witnesses and consider all evidence that is presented to it. The committee, however, reserves the right to restrict witnesses and evidence, as it sees appropriate.

All documents considered by the grievance committee that relate to the actions of the person against whom the complaint has been filed may be inspected by that person; and the student bringing the complaint will be permitted to inspect those documents or parts of documents directly relating to the student's specific complaint that the committee deems relevant and concludes were not written under a presumption of confidentiality. Ordinarily both parties may be present when either party or any witness is being interviewed; however, the committee may enter into closed session with or without one or both parties upon the vote of a majority of the members of the committee (except that when any witness is being interviewed either both or none of the parties will be present as the committee deems appropriate).

The student may challenge the appropriateness of the Dean as the final arbiter of the complaint but must do so before the committee's investigation has concluded. If it is shown by the complainant to the committee's satisfaction that the Dean cannot fairly decide the matter, then the committee shall so inform both the parties and the Dean, and the committee shall submit its Report to the Provost, who will substitute

for the Dean in the resolution of the complaint. If it is shown by the complainant to the committee's satisfaction that neither the Dean nor the Provost can fairly decide the matter, then the case shall be referred to the President, who will substitute for the Dean in the resolution of the complaint.

The grievance committee having thus conducted its inquiry and having interviewed whatever further witnesses it deems necessary, will then deliberate without the presence of the parties and will prepare a written report (i) stating its findings of fact and the conclusion, if any, it has drawn from these facts and (ii) including a summary of the substance of testimony that the committee has relied on in reaching its conclusions and that was heard in closed session. In a separate section of the report, the grievance committee may outline what actions, if any, it would recommend that the Dean undertake. The report of the committee will be adopted only upon the majority vote of the members of the committee who participated in the committee's inquiry.

IV. FINAL RESOLUTION OF THE COMPLAINT BY THE DEAN

The grievance committee will submit its report to the Dean ordinarily within two months of the receipt of the complaint by the committee. The Dean will permit the complainant and the person complained against to inspect the committee's findings of fact, conclusions and summary of testimony in the report and to indicate in writing to the Dean what clarifications each party believes appropriate. At the Dean's discretion the grievance committee's recommendations for action, if any, may be revealed to the two parties in the complaint. Since the report is a confidential document advisory to the Dean, only the Dean and neither of the parties is entitled to a copy of it.

The Dean shall accept the committee's findings of fact unless the Dean believes that the findings are not substantiated by the evidence presented to the committee. The Dean may accept, modify or reject the conclusions of the committee and any recommendations it might have made.

If the Dean disagrees with the committee's conclusions or recommendations for action, the Dean will discuss his or her objections with the grievance committee in the hope of reaching a resolution. If no resolution is possible, then the case will be brought to the EC. The EC will consider the conclusions and recommendations of the grievance committee and the information it has gathered as well as the Dean's objections. After collaborative consultation with the EC, the Dean will make the final resolution of the case.

The Dean will convey his or her decision in writing to the complainant, the person against whom the grievance was lodged, and the committee; the Dean's decision will include his or her conclusions about the issues raised in the complaint and the remedies and sanctions, if any, to be imposed.

The Dean's decision shall be final. The Dean's decision may be to take any actions as may be within his or her authority (e.g., issue an oral or written warning or reprimand to the individual against whom the complaint was lodged; permit a student to participate in an educational program or activity; institute academically appropriate procedures whereby a student's grade may be reviewed). If the remedy deemed appropriate by the Dean is beyond the authority of the Dean, the Dean will recommend the initiation of such action (disciplinary or otherwise) in accordance with applicable University practices and procedures.

The Dean's decision should ordinarily be rendered within one month after the Dean receives the committee's report.

V. TIME GUIDELINES

If the School is not in session during part of these proceedings or in instances where additional time may be required because of the complexity of the case or unavailability of the parties or witnesses, any of the time periods specified herein may be extended by the Dean. If a period is extended, the complainant and the person against whom the complaint has been filed will be so informed.

¹ A complaint of racial or ethnic harassment can, alternatively, be lodged in accordance with the President's Procedure for Addressing Student's Complaints of Racial or Ethnic Harassment. In a case where more than one procedure is available, a student may pursue his or her complaint by means of only one procedure; that is, procedures for redress of a complaint may not be used simultaneously or *seriatim*.

Complaints of sex discrimination or discrimination on the basis of a handicap will be addressed in accordance with the requirements of Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973, respectively. The federal regulations implementing these two laws are published in Title 34 of the Code of Federal Regulations, Parts 104 and 106.

A complaint of sexual harassment by a student in the Graduate School against an administrator or faculty member in the Graduate School must be pursued in accordance with the procedure for complaints of sexual harassment adopted by that School

² For a complaint of sex discrimination, the investigator will be one of the Title IX Coordinators and for a complaint of discrimination on the basis of handicap, the investigator will be the 504 Coordinator for the University.

DISCIPLINARY PROCEDURES OF THE GRADUATE SCHOOL COMMITTEE ON REGULATIONS AND DISCIPLINE

All graduate students are governed by the “Regulations for Academic and Personal Conduct” (“The Regulations”) laid out in the Graduate School Programs and Policies. These procedures will be used whenever there appears to have been a breach of these regulations, with the one exception of cases where there is an allegation that the graduate student has committed academic fraud (including falsification or fabrication of data and plagiarism) in the course of proposing, conducting, or reporting research supported by the Federal Government. In such cases, the allegation will instead be addressed under the “Policies and Procedures for Dealing with Allegations of Academic Fraud at Yale University.”¹

A student accused of a breach of the Regulations will be presumed innocent unless and until found, pursuant to these procedures, to have breached the Regulations.

1. REPORT

The process begins when the Dean of the Graduate School is informed of any conduct by a graduate student that appears to be in breach of the Regulations. This information shall come in the form of a report, in writing, by a member of faculty, administration or staff, by another graduate or undergraduate student, or by a member of the public.

2. EVALUATION OF THE REPORT

The Dean will determine whether the conduct reported, if true, would violate the Regulations and, in his or her judgment, warrants referral to the Committee on Regulations and Discipline. The Dean will ordinarily make his/her determination within two weeks of receiving the initial report. In making that determination, the Dean may consult with the Chair of the Committee on Regulations and Discipline, the Director of Graduate Studies of the student’s department, or other officials of the Graduate School or the University, provided that in the interest of confidentiality the Dean will not consult more widely than he or she deems it necessary. The Dean may also obtain other information and/or documentation that the Dean thinks may be useful.

3. NOTICE TO THE STUDENT

¹ Copies of this procedure are available in the Office of the Dean of the Graduate School and on the World Wide Web (<http://www.cis.yale.edu/grants/acadfraud.html>).

When the Dean receives a formal complaint he or she will promptly inform the student in writing that a complaint has been made, the nature of the charge, and ask for a response and/or explanation. This notification shall contain a statement of the conduct reported, the regulation(s) it appears to contravene, all documents obtained by the Dean that are relevant to the report, and a printed copy of these procedures and the possible penalties, as indicated in Programs & Policies. If the Dean decides not to refer charges to the Committee on Regulations and Discipline, he or she will promptly notify in writing all individuals with whom he discussed the case that the charges have been dropped.

A former member of the Committee on Regulations and Discipline shall be available for consultation with the student charged. A list of former members and other informed people will be made available to the student.

4. THE STUDENT'S INITIAL RESPONSE

The student will have two weeks after the notification to respond initially to the charge. The student may, for example, admit the violation; deny the violation entirely; admit part but not all of the violation; or assert extenuating circumstances. If the student admits the violation (with or without extenuating circumstances) and requests a disposition without a formal hearing, the Dean will proceed as in 5 below. Otherwise the Dean will consider the student's initial response, if any, and either withdraw the charge or forward it to the Committee on Regulations and Discipline for a formal hearing.

5. DISPOSITION WITHOUT A FORMAL HEARING

When a student admits a violation and requests a disposition without a formal hearing, the Dean, usually in consultation with the relevant Associate Dean and/or Director of Graduate Studies, will decide whether to grant the request, and if it is granted, will decide on the appropriate penalty for the violation and notify the student in writing. The Dean will normally talk to the student before making such decisions. In any event, if the student desires, he or she will have an opportunity to talk with the Dean before the Dean makes a decision about the appropriate penalty. If the student is dissatisfied with the penalty assigned by the Dean, he or she may, within seven days after receiving notice of the penalty, request a formal hearing before the Committee on Regulations and Discipline, solely on the issue of the penalty. At such a hearing, the Committee on Regulations and Discipline may uphold the Dean's decision or assign a lesser penalty, but not a more severe one. In

the absence of such a request for a formal hearing on the penalty, the Dean's decision will be final.

6. PROCEDURES FOR FORMAL HEARINGS

A. Membership of the Committee

The Committee on Regulations and Discipline, a standing committee on the University, will consist of THREE students (appointed by the Graduate Student Assembly), THREE faculty, normally one from each Division (appointed by the Dean of the Graduate School), and the Associate Dean of the Graduate School responsible for the department or program in which the student is enrolled. The Dean will appoint two alternates from the faculty. The Graduate Student Assembly will be asked to appoint two alternates for the student members. A quorum will consist of FIVE persons, including at least one student and one faculty member other than the Associate Dean. If a quorum is not available, the hearing will be delayed. If a quorum cannot reliably be achieved within two weeks, the Dean of the Graduate School will appoint temporary members in either the student or faculty category.

B. Notice to the Student

Immediately after a case has been forwarded to the Committee, the student shall be informed of its membership, and of the expected date of the hearing. The Dean of the Graduate School will encourage the student to seek advice, especially from the Chair of the Committee. If the student believes that any member of the Committee might not be impartial in this case, he or she may so inform the Chair of the Committee, giving specific reasons, at least one week before the hearing. If the charge of lack of impartiality be made against the Chair, the decision (whether to excuse the Chair from this hearing and temporarily place another faculty member of the Committee in the Chair) will be made by the Dean of the Graduate School.

C. Timing of the Hearing

Hearings will take place only during regular sessions of the University, not during intersessions, and must take place no later than the end of the semester after the one in which the student is notified of the charge. Any additional documents or information that will be presented to the Committee shall also be given to the student at least one week before the hearing. No new charges or categories of charge may be added during this week or at the hearing itself.

D. Conduct of the Hearing

All persons attending the hearing will address the group only after being recognized by the Chair. Questions regarding points of order and procedure will be decided by the Chair.

E. Counsel for the Student

i. non-legal advice and assistance:

Any student who elects a hearing may be accompanied by an advisor, who may be any member of the university community without legal training. The role of the non-legal advisor may include answering questions addressed to the advisor by the Committee. The non-legal advisor may also assist the student in making a presentation in those unusual circumstances where the student is unable to do so.

ii. legal advice:

In a case where the student feels that his/her alleged conduct may have legal ramifications (for example, when a criminal charge is pending against the student for the alleged conduct that is the subject of the case) the student may have a legal advisor present at the hearing. In such cases, the student must notify the Chair of the Committee in advance so that a representative of the Office of the General Counsel may be present. The legal advisor and representative of the General Counsel's Office may under no circumstances address the Committee. The role of the legal advisor to the student may not go beyond quietly advising the student about his/her legal situation.

F. Persons Present

The student has a right to be present at all times during the hearing. It is expected that the person who reported the facts (if disputed) and/or the person who brought the charge of irregular behavior will be present at the hearing, to answer questions put by the student and the Committee.

G. Witnesses

The student, having given the Chair of the Committee prior notice, may bring witnesses. The Committee can also call witnesses. The chair shall determine what

is a reasonable number of witnesses, but the student shall be allowed at least two witnesses.

H. Determination

At the conclusion of the hearing the Committee shall meet in executive session to decide whether the conduct reported in fact occurred and whether it contravened the regulation(s) cited in the charge. The Committee's decision shall be made by a vote of at least five of its seven members, or by a simple majority if fewer than seven members are present. This decision shall be made by a preponderance of the evidence, voted on by secret ballot, and shall be final. In the event that the Committee decides that the conduct reported occurred and that it contravened the regulations(s) cited in the charge, based on the seriousness of the contravention, the Committee shall also recommend the penalty, if any, to the Dean. The Dean may either impose the recommended penalty or a lesser one at his or her discretion. The Chair shall promptly inform the student, orally if possible, and also certainly in writing, of the Committee's decision and any penalty recommended.

I. Penalties

The range of penalties that may be imposed is as specified in the Regulations.

J. Record-Keeping

At the close of proceedings, the Chair of the Committee will prepare an abstract of the proceedings, including the decision and the penalty, if any. The abstract should include no names. The abstract and any correspondence with the student shall be kept in the student's file; except that if the student is exonerated, he or she may choose to have no record in the file. A copy of the abstract shall be kept in the Committee's files for use in determining precedents in future cases. One copy of all documents in the case should be kept in the Office of the General Counsel.

7. RECONSIDERATION OF DISCIPLINARY DECISIONS

Disciplinary decisions made by the Dean of the Graduate School are final. Although students may request review of the decisions as described in these procedures, the decisions will remain in effect unless and until changed by the Dean.

A. The Committee of Review

There shall be a Committee of Review, which may review and, when appropriate, request reconsideration of disciplinary decisions made by the Dean after a formal hearing by the Committee on Regulations and Discipline. The Committee of Review will be composed of three persons, two of them members of the Graduate School Faculty, appointed by the President for a term of five years, one of whom shall be designated by the President as Chair of the Committee. When deemed prudent by the President, the same faculty members will serve on both the Graduate School's and Yale College's Committees of Review. Each year, the Graduate Student Assembly will select a student member to serve on the Committee of Review.

B. Request for Review

A student who has been assigned a penalty by the Dean after a hearing by the Committee on Regulations and Discipline and who believes that the decision, in matters of fact or the assignment of penalties, is inconsistent with precedent or otherwise in error may submit a written request for review to the Chair of the Committee of Review. The request must be received by the Committee of Review no later than sixty days after the student receives the decision of the Dean. In order to review such requests, the Committee of Review will have access to all the written records of the Committee on Regulations and Discipline.

C. Possible Actions by the Committee of Review

In response to such a request, the Committee of Review will have the right (1) to decline to take action; (2) to request in writing a reconsideration by the Committee on Regulations and Discipline; or (3) to publish commentary on the case which, while maintaining the confidentiality of the Committee on Regulations and Discipline hearings, seeks to clarify the principles involved in the case and to offer useful counsel for future decisions.

D. Possible Reasons for Requesting Reconsideration of a Decision

It is anticipated that in the large majority of cases, the Committee of Review will decline to take action. It will request reconsideration by the Committee on Regulations and Discipline only in cases where it believes that (1) some pertinent evidence was not taken into account; (2) long-standing precedents, in decisions of culpability and the assignment of penalties, were ignored; (3) errors in procedure

may have substantially affected the decisions; (4) certain key principles of the University were not sufficiently considered in the original decision.

E. Response by the Committee on Regulations and Discipline

The Committee on Regulations and Discipline will have the authority to grant or deny a request for reconsideration. It is anticipated, however, that such requests will be rare and that in most instances the Committee on Regulations and Discipline will give them the most serious consideration. In the case where the Committee on Regulations and Discipline has granted the request to reconsider, the Chairs of the Committee on Regulations and Discipline and the Committee of Review will discuss appropriate procedures for the Committee on Regulations and Discipline's reconsideration. At a reconsideration of a case by the Committee on Regulations and Discipline, the Chair of the Committee of Review will appear before the Committee on Regulations and Discipline in order to make clear what motivated the call for reconsideration. The accused student and his or her adviser will have the right to be present during the appearance of the Chair of the Committee of Review and during any presentation of witnesses or other evidence. The Committee on Regulations and Discipline will be free either to alter or to confirm its original recommendations. In no case, however, may it make a finding of culpability where it had previously exonerated a student. In matters concerning culpability, the Committee on Regulations and Discipline's decisions will be final. The Committee shall recommend a penalty, if any, to the Dean, but may not recommend a greater penalty than that assigned originally. The Dean, at his or her discretion, may either impose the newly recommended penalty or a lesser one.

F. Reporting

The Committee of Review will be empowered to issue *ad hoc* reports on individual cases, and may publish an Annual Report in which it makes clear the principles and circumstances that led it to request reconsideration of certain cases, if in fact it has done so during the course of the year. In the Annual Report, it may also reflect on general principles and precedents guiding the administration of discipline in the Graduate School.