

Grievance Procedures
for Complaints of Sexual Harassment Brought By
Faculty, Students & Postdoctoral Fellows at the
Yale University School of Medicine

The Yale University School of Medicine is committed to maintaining a workplace, research, learning and teaching environment free of sexual harassment.

I. General Considerations

A. Yale University-wide Definition

Sexual harassment is antithetical to academic values and to a work environment free from the fact or appearance of coercion. It is a violation of University policy and may result in serious disciplinary action. Sexual harassment consists of nonconsensual sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature on or off campus, when: (1) submission to such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing; or (2) submission to or rejection of such conduct is used as the basis for employment decisions or for academic evaluation, grades, or advancement; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating or hostile academic or work environment. Sexual harassment may be found in a single episode, as well as in persistent behavior. Conduct that occurs in the processes of application for admission to a program or selection for employment is covered by this policy, as well as conduct directed toward University students, faculty or staff members.

B. Policy on Teacher-Student Consensual Relations

This year the University's policy regarding faculty-student consensual relationships was revised to describe more fully those persons who are covered by this policy. The revised policy is printed below.

The integrity of the teacher-student relationship is the foundation of the University's educational mission. This relationship vests considerable trust in the teacher, who, in turn, bears authority and accountability as a mentor, educator, and evaluator. The unequal institutional power inherent in this relationship heightens the vulnerability of the student and the potential for coercion. The pedagogical relationship between teacher and student must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the University. Whenever a teacher is responsible for directly supervising a student, a sexual relationship with them is inappropriate. Any such relationship jeopardizes the integrity of the educational process by creating a conflict of interest and may lead to an inhospitable learning environment for other students.

Therefore, no teacher shall have a sexual relationship with a student over whom he or she has directly supervisory responsibilities regardless of whether the relationship is consensual. Teachers must avoid sexual relationships with their students, including those for whom they are likely to have future supervisory responsibility. Conversely, teachers must not directly supervise any student with whom they have a sexual relationship. Violations or failure to correct violations of these conflict of interest principles by the teacher will be grounds for disciplinary action.

Teachers or students with questions about this conflict of interest policy are advised to consult with the department chair, the appropriate dean, the Provost, or one of their designates. If the issue cannot be resolved informally, a student may lodge a conflict of interest complaint with the dean of the school in which the student is enrolled or where the teacher exercises his or her supervisory responsibilities.

For purposes of this policy, “direct supervision” includes the following activities (on or off campus): course teaching, examining, grading, advising for a formal project such as a thesis or research, supervising required research or other academic activities, and recommending in an institutional capacity for employment fellowships or awards. “Teachers” includes, but is not limited to, ladder and non-ladder faculty as well as graduate and professional students and post-doctoral fellows and associates serving as teaching fellows or in similar institutional roles. “Students” refers to those enrolled in any and all educational and training programs of the University. Additionally, this policy applies to people in the Yale community who are not teachers as defined above, but have authority over students. Therefore, athletic coaches, supervisors of student employees, advisors and directors of student organizations, as well as others who advise, mentor or evaluate students, are covered by this policy.

1/28/2000

C. Defining Sexual Harassment

Title VII of the Civil Rights Act of 1964 and the Federal regulations adopted under the Act prohibit discrimination in employment based on race, color, religion, sex and national origin. The regulations define sexual harassment in the workplace as a distinct type of employment discrimination on the basis of sex. Connecticut law similarly prohibits sex discrimination in employment generally, and sexual harassment in particular. The Federal statute known as Title IX prohibits sex discrimination, including sexual harassment, in any education program or activity receiving federal funds. Title IX thus prohibits sexual harassment of students and other non-employees.

Two types of sexual harassment have been recognized by the courts, quid pro quo and hostile environment. Quid pro quo harassment may be found where decisions or expectations (e.g. hiring decisions, promotions, salary increases, grades or academic evaluations) are based on an employee's or student's willingness to grant or deny sexual favors. Hostile environment sexual harassment may be found where unwanted conduct of a sexual nature has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating or hostile academic or work environment. Sexual harassment frequently involves an expression of sexual conduct that seeks to exploit a relationship in which there is an imbalance of power, it may also occur in other situations including relationships between individuals of equal status or rank within the University. Sexual harassment may occur between males and females and between persons of the same gender.

II. Dean's Board on Sexual Harassment and its Charge

A. Scope of Inquiry

The Dean of the Yale University School of Medicine shall appoint a standing Grievance Board on Sexual Harassment to address complaints of sexual harassment as defined in Section IA above. Complaints arising out of appointment or promotion matters are not addressed by this procedure, but will be reviewed in accordance with the appropriate University procedure. In addition, complaints other than those dealing with sexual harassment must be pursued according to applicable University grievance or disciplinary practice and procedure. If the complaint involves allegations of both sexual harassment and other claims, including sex discrimination, it may be heard by the Board.

The Sexual Harassment Grievance Board may receive a complaint brought by a faculty member, student or postdoctoral fellow against any member of the school (e.g., faculty member, student, administrator, staff member, etc.). Should the Board decide that the case does not involve sexual harassment, it will be referred to the Dean of the School of Medicine for action in accordance with University procedures.

A faculty-to-faculty complaint may informally be heard by the Board or a Board member. However, a formal complaint will be referred to the Office of the Provost and may be pursued in accordance with the review procedures set out in the Faculty Handbook. For these procedures, a faculty member will be considered someone with rank of Assistant Professor and above in the Teaching faculty and Associate Research Scientist and above in the Research faculty.

B. Informal and Formal Review

Complaints may be pursued informally through consultation with a member or members of the Grievance Board; when informally pursued, no written complaint is required. (For additional information see Section III B). The formal grievance procedure, which provides for a hearing before the Board, is available for a complainant who desires the formal review and when a written complaint has been filed; the Board will preliminarily determine whether the substance of the complaint would constitute sexual harassment if the allegations were proved. In the case of formal review, the individual against whom the complaint has been made is entitled to certain procedural protections and the review process is more explicitly delineated as set forth in Section IV of this procedure.

For all cases, the Board will emphasize mediation and conciliation; it will also rely on confidentiality, discreet inquiry, persuasion and trust in dealing with complaints that are brought for its consideration. Full cooperation with the Grievance Board is to be expected from all members of the community in its reviews.

C. Composition of the Board

The Board will be composed of nine members. At least five of the members must participate in hearing a complaint and considering a decision and, at the discretion of the chair, she/he may waive a quorum requirement. It will include at least two faculty members and at least one administrator, one person with counseling experience, one student and one postdoctoral fellow or associate research scientist, as well as the Director of the Office for Women in Medicine, who will serve ex officio as Board Convenor. In cases involving a faculty member

making a complaint against an administrator, or staff member, the Dean will substitute two members of the faculty or administration for the student and postdoctoral members of the Board. The Dean will invite recommendations for membership on the Board from the Committee on the Status of Women and from the Medical School Council Steering Committee. The Dean's appointments will be guided by considerations of continuity, experience and sensitivity to the concerns of those most likely to be affected by sexual harassment. Every effort will be made to include minority membership on the Board, as well as a balanced representation of the sexes. The Board members will be appointed for three-year terms. The Board Chair will be designated by the Dean. The Convenor will convene the Board and act as reference source for Board members on matters of procedure, policy, history and education regarding the issue of sexual harassment.

III. General Guidelines

A. Treatment of Complaints Generally

The Board's treatment of complaints will be guided by the following principles, which are intended to protect the interests of all persons concerned.

1) All members of the Board will treat as confidential, to the extent permitted by law, the information that is disclosed to them in their capacity as Board members, although records of the Board may be made available for confidential review by the responsible committee or administrator in any resulting disciplinary or complaint procedure arising out of the same incident. Such disclosure will be permitted only if deemed appropriate by the majority of the Board. At every step the Board will endeavor to respect the wishes of the complainant regarding further investigation. It will not carry forward an informal grievance without the complainant's explicit permission or instruction. The Board will make every attempt to establish the veracity of a complaint, while respecting the confidentiality and protecting the rights of both the complainant and respondent. The complainant and respondent will also be bound to respect the confidentiality of the case and exercise the utmost discretion throughout the proceedings.

2) No written records will be kept of discussions between complainants, respondents, and members of the Board at the informal stage of review. Any written records of a formal complaint in the possession of the Board will be destroyed at a time not to exceed seven years after initiation of the complaint. The Chair of the Committee will maintain all records of the meetings. There should be one official set of notes maintained by the Chair.

3) Those individuals immediately and directly involved will be kept informed of the status of the complaint. Any attempt to penalize a complainant for initiating an inquiry or complaint through any form of retaliation is strictly prohibited and will be treated as a separate incident subject to review by the Board. (See Protection from Retaliation, Section VI.)

4) The optimal time for the lodging of a complaint is close to the time that the alleged event occurs. As time goes by, memories may become unreliable and information and witnesses may become unavailable. An investigation becomes increasingly difficult as the event becomes more remote.

In general, a complaint may be brought to the Board up to one year after the date of the last incident of alleged sexual harassment. The Board may take formal action on a complaint that is filed later if there are extenuating circumstances.

A former faculty member, student or fellow may bring a complaint of sexual harassment up to one year after leaving Yale if the date of filing this complaint is within one year of the incident giving rise to the complaint.

B. Informal Consultation

A faculty member, student or postdoctoral fellow may bring questions about procedure, seek informal advice, or present a complaint to any member of the Board, either verbally or in writing. If a person does not express a preference to speak with a specific Board member, the Chair will assign this role to one of the Board members in such a way as to distribute the responsibility as evenly as possible, taking into consideration whichever Board member she or he feels most appropriate to receive the complaint. An individual may also obtain assistance from any other member of the Yale community in presenting a complaint or concern. It will sometimes be appropriate for the Board member to offer assistance in mediating the complaint, whether or not it is lodged formally. The Board will also be generally available to consult with any member of the Yale community on the issue of sexual harassment.

It is recognized that there may be times when individuals, for various reasons, will want to protect their own identities and yet initiate action against someone who has subjected them to verbal or physical sexual harassment. While this desire may be understandable, fairness requires that the complainant identify herself or himself in a signed, written complaint before any investigation can be made or any process begun which might lead to the recommendation of sanctions.

There are, however, two kinds of circumstances in which these conflicting considerations can be mediated: 1) when a person wishes to postpone, rather than to refuse altogether, such identification, and 2) when a person, although unidentified to the respondent, wishes only to obtain the Board's assistance in informing the respondent that a problem has been raised concerning that person's conduct.

Complaints Which Are Not Fully Identified

1) A complaint in which the complainant asks not to be identified to the respondent until a later date (e.g., until after a promotions review or until the end of a course). In general, the request of such a person will be honored. The complaint will be held without action until the date requested by the complainant. At that time, it will be acted on as a fully identified complaint. If the person making the complaint withdraws it before the designated date, no further action will be taken and no record kept.

2) A complaint with request for limited identification. In this instance, the complainant may identify herself or himself to the Board, but ask to remain unidentified to the respondent. In this difficult type of complaint, the Board might advise the respondent as to the existence of a complaint without identifying the complainant. Further inquiry will normally be curtailed until the complainant is ready to be identified.

IV. Formal Procedures

A. Formal Complaint Statement

An informal complaint can become a formal complaint only after the complainant indicates in writing that she or he wishes to have a formal grievance procedure initiated. The circumstances must be described, the complainant named and the signed statement delivered to a member of the Grievance Board.

B. A Fully Identified Complaint

When a complainant is willing to be identified to the respondent, the Board will proceed as follows:

1) Direct resolution. After the initial discussion(s) between complainant and Board member(s), if it is deemed appropriate the Board member contacted by the complainant may suggest that she or he speak or write directly to the respondent. The Board member may or may not accompany or aid the complainant in so doing.

2) Disclosure to the Board. The Board member who is first contacted, after initial discussion with the complainant, and only with that person's consent, will describe the incident to the full Board without disclosing the identity of those involved. At this time the Board will decide whether the case falls within its jurisdiction and whether the allegation, if sustained, would represent an incident of sexual harassment. After this step, no Board member may take action on any complaint without approval of the Board by majority vote. One member of the Board, usually the person originally contacted, will be in communication with the complainant until the complaint is resolved. One person will be in communication with the respondent. Throughout the review the complainant will be informed in general of the Board's actions, although not with regard to the content of specific conversations held with the respondent, except insofar as those conversations include testimony regarding the complaint's actions or the incidents that gave rise to the complaints, in which case the complainant must be given the opportunity to respond.

3) Initial Review. At its initial meeting, the Board will consider whether or not the complaint falls under its general mandate.

- a) If the Board concludes that the complaint does not fall within its mandate, the Board member first contacted will inform the complainant and explain what other courses of action, if any, the complainant might follow (e.g., the Review Procedure Initiated by Faculty Members or the Dean's or Provost's Student Complaint Procedures if applicable).
- b) If the Board decides that the complaint is one which it can properly consider, the persons who are involved in the complaint will be identified to the Board. The Board will be furnished with the formal signed complaint statement described in Section IV, paragraph A, above.

Any member of the Board who believes there to be a conflict of interest with his or her participation in a special case will withdraw from the Board during the investigation and hearing of that case. The complainant and the respondent will have the right to challenge the participation of individual members of the Board when the challenge is based on a conflict of

interest or possible bias (e.g., close personal contact with one of the parties). The Board, excluding the person being challenged, will make a determination on the challenge by a majority vote.

4) Initial investigation. Once the formal complaint has been made and accepted, one or more Board members will undertake an initial investigation, talking to the persons directly involved in the complaint in order to determine the circumstances and to clarify the allegations. A faculty member or administrator from the Board will speak to the respondent and, as part of these discussions, will verbally inform that person of the name of the complainant, the substance of the complaint and the fact that the complaint is being reviewed by the Board. Also to be discussed will be 1) the names of current Board members, 2) the respondent's right to challenge individual Board members and 3) the respondent's right to both an adviser and the option of meeting with either an individual member or with the complete Board. This information will also be given in writing to the respondent, with a copy to the complainant, within five days following the initial meeting. A copy of the complaint's written statement will also be furnished to the respondent. Copies of the Grievance Procedures will be furnished to both parties. The respondent will be entitled to provide the Board with a written statement in response to the complaint; if such a written response is made, the respondent will deliver it to the Convenor of the Board at least four days in advance of the Board's hearing; however, in any event, the respondent will be given a minimum of five days to prepare a response. He or she will be informed of his or her rights to meet with the Board, as well as the possibility that the Board may wish to request a meeting with both complainant and respondent. A copy of any statement prepared by the respondent will be provided to the complainant.

The Board will attempt to limit its investigation to discussion with persons directly involved in the complaint. If it deems it necessary to speak to individuals other than those directly involved, the Board will do so only after informing the complainant and respondent. The complainant at this stage may withdraw the complaint.

5) The Board's Deliberation Without a Formal Hearing. If neither party requests a formal Board meeting with either party or with any other persons having relevant information -- and if the Board reaches a decision not to request such a meeting -- the Board will conclude its informal investigation of the complaint without such a meeting.

6) Meeting with the Full Board. Either the complainant or respondent may request that the Board meet in the presence of the other party, including additional persons who may provide relevant information. This request may be made by notifying the Board within five days of having sent or received the notice described in Section IV, paragraph A. The Board itself may also request such a meeting. At least one week, but no more than two, will elapse from the date the request for a meeting is either received or made by the Board, before the meeting is held in order to provide the participants with sufficient time to prepare.

At the meeting with the Board, the complainant and the respondent may each be accompanied by a member of the Yale community (i.e., faculty member, student, dean, administrator, or other employee of the University). These proceedings are in their nature non-adversarial and the advisers, while they may counsel the individual whom they are accompanying, may not act as legal counsel or participate directly in the proceedings. All communication regarding the complaint will be directly between the respondent and the Board or the complainant and the Board, and not with their designated representatives, if any. Although both the complainant and the respondent may request to be present when either party or any other individual is being interviewed, neither complainant or respondent will be required to participate in a meeting or

interview while the other is present. It will be the responsibility of the persons chosen to be in communication with the complainant and respondent to be certain that each has an opportunity to respond to any testimony regarding the actions of the other or the incidents that gave rise to the complaint. The Board may enter into a meeting with either party, or a single witness upon a favorable vote by the majority of the members of the Board.

The complainant and the respondent will have the opportunity to present information as will other persons with knowledge deemed relevant to the Board. Certain documents considered by the Board that relate to the case may be reviewed by both complainant and respondent if the Board considers them relevant and not written under a presumption of confidentiality. However, the Board, at its discretion, may withhold documents from the complainant, respondent and witnesses except for the complainant's and respondent's written statements.

The Board, having conducted its review and having interviewed any additional individuals it believes necessary to consult, will then consider the grievance in private without the presence of either the complainant or the respondent.

7) Resolution of a Complaint. The Board will report in writing to the Dean about each written, formal complaint, whether or not sanctions have been recommended. Included in the report must be the Board's determination of whether or not sexual harassment took place. Upon concluding its review, the Board will:

- a) determine there is no basis on which to pursue the complaint;
- b) determine whether or not sexual harassment has taken place, and, in either case, suggest a resolution that is accepted by complainant and respondent and submit a written summary to the Dean;
- c) determine that sexual harassment has taken place and refer the complaint with written findings and recommendations (including recommended sanctions) to the Dean within two weeks of the final meeting of the Board.

8) Conflict of interest. The complainant may challenge the appropriateness of the Dean to act on the matter for reasons of conflict of interest or possible bias, but such a challenge must be brought to the Board before its deliberations have concluded. If the Board determines that the Dean could not fairly decide the matter, then the Board will so inform the complainant, the respondent and the Dean. The Board will then submit any report that would have gone to the Dean to the Provost; in such case the Provost will substitute for the Dean in the resolution of the complaint.

9) Board's Written Report. The written report will consist of three separate sections which will: 1) describe the facts the Board has found, and a determination of whether sexual harassment has taken place and other conclusions, if any, it has drawn from the facts, 2) summarize the testimony that the Board has relied on in reaching its conclusion and that was heard in closed sessions and 3) outline what actions, if any, it recommends that the Dean undertake. The report of the Board will be adopted upon vote of the majority of the members of the Board.

10) Dean's Review. The Dean will review the Board's report, and will permit the complainant and the respondent to review the Board's findings of fact (Section I of the report). Complainant and respondent will be permitted to comment upon it, but, since the report is a

confidential document advisory to the Dean, only the Dean and neither the complainant nor the respondent is entitled to a copy of it.

The Dean will accept the Board's findings unless he or she believes that the findings are not substantiated by the information presented to the Board. It is within the rights of the Dean to accept or reject conclusions or recommendations of the Board. However, in any case where the Dean does not believe it appropriate to follow the actions recommended by the Board, the Dean will discuss the matter with the Board and explain the reasons for not doing so. The Dean will then make a decision on the matter and convey his or her decision in writing to the complainant, the respondent and the Board. The Dean's decision will include whatever conclusions he or she may have about the issues raised in the complaint and action, if any, to be taken. The Dean's decision shall be final. The Dean may decide to take any action that may be within his or her authority. In the case of action beyond the Dean's authority, the Dean will recommend to the appropriate person or committee the initiation of such action (disciplinary or otherwise) in accordance with appropriate University practices and procedures. In particular, in those cases in which, according to the judgment of both the Board and the Dean, formal disciplinary action against a faculty member or administrator is called for, the Dean will make such a recommendation to the Provost.

The Dean's decision should ordinarily be made within two weeks after the Dean receives the Board's report. 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 persons relevant to the Board's review, the time periods specified in this report may be extended by the Dean.

V. Possible Sanctions

If it is determined that the respondent has sexually harassed the complainant, the Grievance Board may recommend sanctions based on the severity of the offense. It is recognized that referral of a particular case to the Dean may in itself represent a sanction.

Sanctions may include, but are not limited to, the following:

- 1) Verbal warning/reprimand
- 2) Written warning/reprimand
- 3) Report included in permanent personnel or academic record of respondent
- 4) Change in job responsibilities (e.g., lower status or horizontal movement)
- 5) Invocation or continuation of probationary period
- 6) Withholding of salary increment (no merit increase)
- 7) Suspension with or without pay
- 8) Academic suspension
- 9) Discharge/expulsion

The Board may also recommend that the respondent be psychologically evaluated or that the respondent initiate counseling. Such recommendations are not to be understood as sanctions.

VI. Protection from Retaliation

All individuals involved in registering a complaint, serving as a representative for a complainant, serving as a member of the Board, appearing as a witness or seeking information will be free from any and all retaliation or reprisal. This principle applies with equal force after a complaint has been adjudicated. Should the principle be violated, upon submission of a complaint of retaliation, the Board will review the facts and recommend appropriate action. A complaint of retaliation may be included along with the original complaint or files as an additional complaint later.

Any threats or retaliation against members of the Board will be brought to the Dean's attention immediately.

VII. Re-evaluation

These Grievance Procedures will be reviewed by the Board periodically. Proposed changes, as passed by a majority vote of the Board, will be recommended to the Dean who will review them with the Office of the General Counsel. The Grievance Procedures will be distributed to Deans, Directors, Department Heads, Section Chiefs, Business Managers and to the Sexual Harassment Grievance Board within the first semester of each academic year.

VIII. Alternative Redress

Nothing in this grievance procedure precludes a complainant from filing an official complaint of discrimination with the Connecticut Commission on Human Rights and Opportunities, the United States Equal Employment Opportunity Commission, the Office of Civil Rights of the United States Department of Education, or any other appropriate state or federal agency without first having sought relief under this procedure. Individuals considering using these agencies should investigate specific requirements and note that they generally have strict deadlines for filing.

N.B. Time periods noted throughout this report in terms of days refer to working days.

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