

REPORT OF AN AD HOC COMMITTEE

ON THE

YALE COLLEGE EXECUTIVE COMMITTEE

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CONTENTS

Introduction	2
Recommendations--Part I	6
The Yale College Executive Committee	
I. Composition of the Executive Committee	7
II. Submission of Complaints	9
A. Complaints of Academic Offenses against the <u>Undergraduate Regulations</u>	
B. Complaints of Non-Academic Offenses against the <u>Undergraduate Regulations</u>	
C. Initial Disposition and Referral of Complaints	
III. Procedures for Consideration of a Complaint by the Executive Committee	12
A. Informing the Student	
B. The Adviser to the Student	
C. Consideration of the Complaint by the Committee	
1. Disposition without a Formal Hearing	
2. Complaints before the Executive Committee Respecting Matters before the Courts (See Section IV.)	
3. Disposition before the Committee	
a. Inspection of Records	
b. Excuse for Conflict of Interest	
c. Procedures during the Student's Meeting with the Committee	
d. Deliberative Session of the Committee	
e. Assignment of the Penalty	
D. Reconsideration of Decisions of the Executive Committee	
E. Time Limit on Disposition of Complaints	

IV. Complaints before the Executive Committee Respecting Matters Before the Courts	20
V. Procedures for Complaints of Alleged Sexual Harassment	21
VI. Complaints Related to Misuse of Computers	22
VII. Conflict of Interest	23
VIII. Records and Minutes of the Executive Committee	25
XI. Statement of Rights of Students Meeting with the Executive Committee	26
Recommendations--Part II	29
I. Standard Executive Committee Forms	29
II. Orientation Session(s) for the Executive Committee	29
III. Report of the Executive Committee Chairman to the Faculty	30
IV. Revision of <u>Undergraduate Regulations</u> , "Appendix D: Plagiarism and Documentation"	30
V. Publicizing of Information about the <u>Undergraduate Regulations</u>	32
VI. Policies Relating to the Administering of Examinations and the Returning of Written Assignments to Students	32
VII. Policies Relating to Computer Facilities	33
Considerations Leading to the Recommendations	34

N. B. Recognizing the complexity of many of the issues addressed in the Recommendations, the Ad Hoc Committee believes some readers of this report may wish to read the Introduction and Considerations Leading to the Recommendations before studying the Recommendations themselves.

Report of an Ad Hoc Committee on the Yale College Executive Committee

February, 1984

In the late spring of 1983 President Giamatti and Dean Lamar appointed an Ad Hoc Committee to examine and evaluate the role and procedures of the Yale College Executive Committee. They were motivated by an awareness of changes that had occurred in Yale College during the thirteen years since a previous report on the Executive Committee and by a conviction that a Committee so important for the life of the College should receive periodic review. The President and the Dean specifically charged the Ad Hoc Committee to recommend procedures that would protect the integrity of academic instruction, secure fair treatment of students, and provide for an atmosphere of decency and civility within the Yale College community.

To pursue its mandate, the Ad Hoc Committee sought to conduct a thorough investigation of the recent practices and problems of the Yale College Executive Committee. Our members either collectively or individually consulted formally with the two most recent chairmen of the Executive Committee and with a large number of faculty members who have served on the Committee, the Residential College Masters, the Residential College Deans, members of the Yale College Sexual Harassment Board, representatives of the Computer Science Department and the Yale Computer Center, members of the Yale Law School faculty with particular expertise in procedure, as well as with members of the Yale College faculty who had brought complaints to the Executive Committee and who wished to discuss their experiences. The Chairman of the Ad Hoc Committee wrote to all the Directors of Undergraduate Studies in Yale College to request their response to specific queries and to invite their comments about the role of the Executive Committee in the academic life of the College. The Chairman of the Ad Hoc Committee interviewed the deans in charge of similar disciplinary bodies at Harvard, Brown, Princeton, Columbia, and Dartmouth. The Ad Hoc Committee reviewed the published procedures of those institutions and also familiarized itself with

recent judicial opinions and legal scholarship relating to disciplinary procedures in private undergraduate institutions. This report and its recommendations are the result of these consultations and of more than twenty meetings of the entire Ad Hoc Committee as well as numerous meetings of subcommittees.

Introduction

The Executive Committee is the standing committee of Yale College that serves as the primary disciplinary authority for undergraduates. As such, it is a formal agency of the University and acts on behalf of the Faculty of the College and the Administration of the University. In this role the Executive Committee must fulfill responsibilities flowing on the one hand from the Yale College community and on the other from the law and courts. The courts have made clear that private universities have a wide latitude in fashioning procedures for review of alleged infractions of institutional rules. In particular, private universities are not expected to replicate courtroom procedures for their disciplinary cases. Nor is there a judicially or legislatively imposed set of guidelines that must be incorporated into a private institution's disciplinary procedures. Unlike state universities and other public educational institutions, private universities are not required to comply with the Constitutional provisions of legal due process. Rather in recent judicial decisions, courts, whether viewing the student-private university relationship as contractual or as involving the principle of private associations, have sought to assure themselves that the disciplinary procedures of the private college or university are fundamentally fair and that the institution has followed its own rules.

Yale University and Yale College seek to do no less. In our proposed recommendations, the Ad Hoc Committee have gone well beyond what we believe to be the minimum legal requirements by expanding and specifically stating the rights of students appearing before the Executive Committee, by articulating more fully the procedures and time schedules to be followed by the

Committee, by providing for conflict-of-interest situations, and by clarifying the roles of the various members of the community who administer the Undergraduate Regulations.

Within Yale College the Executive Committee is responsible to the Faculty for overseeing the fair, even-handed, and consistent implementation of the Undergraduate Regulations. In this capacity the Executive Committee stands at the nexus of a number of interrelated academic and administrative entities within the college community.

The Executive Committee bears the major responsibility for protecting the integrity of academic instruction from the efforts of those few students who prove themselves dishonest in academic matters. In this role the Executive Committee supports the Faculty in its effort to provide honest instruction and examination and also stands as the chief institution working to ensure that honest students are put at no personal academic disadvantage by students who are less than honest.

Through its enforcement of the non-academic portion of the Undergraduate Regulations dealing with offenses against persons and property, the Executive Committee supports the University Administration, the Residential College Masters and Deans, the Campus Police, the staff of physical plant, and all other persons charged in one way or another with protecting the lives and physical safety of undergraduates and the reasonable security of their personal property. These duties of the Executive Committee further extend to the protection of the physical fabric and property of the University from theft, willful destruction, or any other actions that may prevent students from having fair and equitable access to the educational facilities of the University, such as the Library, laboratories, and the various computer facilities. Here again, as with the protection of the integrity of academic instruction, the Executive Committee bears a fundamental responsibility to the institution and to all those undergraduates who display regard and respect for each other and for the physical and educational resources of the University.

Because of these responsibilities to various constituencies in the College and University community, virtually every decision of the Executive Committee produces consequences of a significant nature for persons in the University other than the student against whom a complaint has been lodged. For that reason almost every decision potentially may disappoint one or more persons. The Ad Hoc Committee realizes that it is impossible for the actions and decisions of the Executive Committee to please everyone who either brings a complaint to its attention or who appears before it. However, we no less firmly believe that it is possible for all parties involved to have confidence in the fairness and thoroughness of the procedures. It is possible for all persons involved in a complaint to be fully informed of their rights and appropriate roles, to be satisfied that the Committee will receive adequate information either to sustain a complaint or to exonerate a student, to be assured that the information received by the Committee has been gathered impartially, to be assured that the Committee has had adequate time to review relevant information, to be assured that penalties are assigned with consistency, to be certain that if at a later time new relevant information becomes available, the Committee will seriously consider rehearing the complaint, and to be assured that the Committee will be in possession of adequate records of the complaints it has considered. Our recommended procedures seek to achieve these ends and thereby the ongoing confidence of the Yale College community in the Executive Committee.

The achievement and sustaining of such confidence are both worthy and necessary ends. Either the procedures and functioning of the Executive Committee will command the respect of the community and provide the vehicle for addressing alleged infractions of the Undergraduate Regulations or that enforcement will occur outside the framework of the Executive Committee in an unsystematic, piecemeal, and ad hoc fashion. The latter situation is procedurally unacceptable because it invites potential litigation. It is morally unacceptable because it exposes both students and faculty to inevitable unfairness, potential personal

coercion and harassment, arbitrary penalties, and the absence of procedural recourse.

In our recommendations the Ad Hoc Committee has attempted to claim a reasonable middle ground between those of our colleagues who advocate little organizational and procedural modification and those who urge structures and procedures that would largely replicate the civil courts. We strongly believe some revisions necessary and advisable, but we have eschewed an explicitly adversarial model in preference for one that provides for investigation and gathering of information when facts are contested while preserving a deliberative Committee structure which is more appropriate for an educational institution such as Yale.

As we submit our report, we wish to make an important closing observation. Our review of the Yale College Executive Committee has deeply impressed us with the immense demands placed upon its past members and chairmen. The problems they have confronted are complex; the human situations, often difficult; and the hours, very long. Because of the confidential character of much Executive-Committee activity, their work has received little notice or formal commendation. Their efforts have served the Yale Community well. Many of the procedures we recommend simply represent a committing to writing of actions already routinely followed by the Executive Committee in its quest for fair treatment of students. We see all of our recommendations as building upon the excellence of past practice while looking to future contingencies.

In the future as in the past the Executive Committee of Yale College stands as the chief guarantor of the promise pledged implicitly by the University to all entering students of an academic program fairly administered, of a degree honestly achieved, and of a social and residential climate in which physical safety, security of property, and mutual civility are promoted to the best ability of the institution. To protect that promise is to defend all those members of the University whether students, faculty, administrators, or staff who seek to foster the life of the mind and the formation of integrity of character.

Recommendations

The recommendations presented in Part I are a unified statement of the mandate, structure, and procedures for the Yale College Executive Committee. If adopted by the Faculty, this portion of the report will provide the ongoing prescribed rules of operation for the Committee. The recommendations in Part II in most instances assign consideration of particular subsidiary policies or problems to appropriate Yale College committees which will then in turn report either to the Faculty or to the Executive Committee.

Part I

The Ad Hoc Committee on the Yale College Executive Committee recommends that the Faculty adopt the following statement of the mandate, organization, and procedures for the Executive Committee.

The Yale College Executive Committee

The Yale College Executive Committee is responsible for the fair, consistent, and uniform enforcement of the Undergraduate Regulations. It receives complaints of alleged infractions of those regulations whether academic or nonacademic. Its jurisdiction also includes other actions on the part of undergraduates that may in the judgment of the Committee warrant disciplinary action because they may imperil the integrity and values of the academic community or the safety of its members. The Executive Committee is the sole authority that may assign penalties as provided in the Undergraduate Regulations, though in some cases that authority is delegated to other University officials such as the Masters of the Residential Colleges, the University Librarian, the directors of the Yale computer facilities, and the Director of the Division of University Dining Halls who may summarily impose certain penalties for violations of Dormitory, Library, computer facility, and Dining Hall regulations.

As an institution, the Executive Committee is responsible to the Yale College Faculty and ultimately to the University. The Committee is charged with protecting the Yale College community so as to assure the integrity of academic instruction, the physical security of students, and the preservation of the property and educational resources of the University. The Committee is bound at all times to consider the manner in which its actions and decisions may affect the persons and groups-- faculty, student body, administration, and staff--whose activities carry and foster the intellectual and residential life of Yale College.

I. Composition of the Executive Committee

A. The Executive Committee of Yale College is appointed by the Dean of Yale College. The Committee shall have ten regular voting members: three tenured members of the Yale College faculty, three untenured members of the Yale College faculty, three undergraduates, and the Dean of Yale College or the Dean's designated representative. The presence of seven of these members shall constitute a quorum. A majority vote of those present shall be required for any decision. Should an occasion arise when as a result of the conflict-of-interest provisions of these procedures or other unavailability of members, a quorum cannot be gathered from regular voting members, the Dean of Yale College shall appoint a member or members from the Faculty ad hoc to participate in the business then before the Committee.

B. In addition to the regular voting members there shall be three officers of the Executive Committee who are also members: Chairman, Secretary, and Factfinder. They shall be appointed annually by the Dean of Yale College and shall be charged with particular responsibilities.

1. The Chairman shall be a tenured member of the Yale College faculty. The Chairman shall coordinate all activities of the Committee, shall preside at all meetings, shall organize the conduct of meetings, and shall be the person through whom faculty and students communicate to the Committee. The chairmanship

should be regarded as a position of active and vigorous Committee leadership. The Chairman shall vote only to break a tie, and shall not vote in any capacity when the Committee considers an appeal from a complaint initially settled by disposition without formal hearing. (See Section III. C.1 below)

2. The Secretary shall normally be an Assistant or Associate Dean of Yale College. This person shall keep the records relating to committee business, handle official correspondence, assist the Chairman in the daily details of Committee business, and assure that all required procedural steps have been taken by the Committee. The Secretary shall be responsible for taking the minutes during the meetings and shall assure that minutes are prepared in good time, ordinarily within two weeks after the Committee has concluded its deliberations on a matter. The Secretary shall not vote in the Executive Committee.

3. The Factfinder ordinarily shall be a tenured member of the Yale College Faculty or an assistant or associate Dean of Yale College, but may also be a tenured member of one of the other faculties or schools in the University. In situations where there is need to inquire into disputed matters of fact, to locate documents, or to gather relevant information that the Committee cannot pursue collectively or that it would be improper or undesirable for a faculty member or other member of the University to seek individually, the Factfinder shall be responsible for gathering the information in an impartial and thorough manner. The Factfinder is not to be regarded as a prosecutor and is specifically charged to be alert to information that may exonerate a student. The Factfinder shall have the responsibility to interview students, faculty, and other persons whom he may reasonably believe have information relevant to the business of the Committee. All members of the Yale community should recognize their responsibility to cooperate fully and truthfully with the Factfinder. Normally, it is at the request of the Chairman that the Factfinder will undertake an investigation. The student involved in the complaint may also request the Factfinder to pursue particular information; the Factfinder shall consider

seriously any such request but the decision of how to proceed is the responsibility of the Factfinder. While the Factfinder will ordinarily conclude his or her review prior to the Committee's deliberation (see Section III. C. 2. below), the Factfinder shall, at the request of the Chairman of the Executive Committee or of three or more other members, gather or seek further information after the full Committee has begun its formal consideration of a complaint. The Factfinder shall make a written report of the findings of his or her inquiry to the Chairman. The Factfinder shall not vote in the Executive Committee.

4. The Chairman, Secretary, and Factfinder shall constitute the Coordinating Group of the Executive Committee. The Coordinating Group shall prepare and organize all matters coming before the Executive Committee. A majority vote, if necessary, shall decide matters within the Coordinating Group.

II. Submission of Complaints

All complaints of alleged infractions of the Undergraduate Regulations, academic or nonacademic, shall initially be referred to the Chairman of the Executive Committee or, in the Chairman's absence, to the Secretary. Although the person lodging the complaint may first do so verbally, the formal complaint must be made in writing and must describe in specific detail the complaint and the information upon which it is based insofar as the facts are known to the person lodging the complaint.

A. Complaints of Academic Offenses against the Undergraduate Regulations.

1. A member of the faculty finding evidence of academic dishonesty on a class assignment or examination will bring the matter to the Chairman. The faculty member will be expected to provide copies of the examination or assignment, the paper or papers allegedly in violation of the academic regulations, and any alleged source materials. The faculty member must provide a written statement explaining the details of the cheating that has allegedly taken place.

2. If a member of the faculty discovers materials that suggest academic dishonesty has occurred, but for which full evidence is not available, the faculty member should report his or her initial concerns to the Chairman. If the Chairman agrees that there are substantial grounds for suspicion of academic dishonesty, the Chairman shall request the Factfinder to undertake a more complete investigation in accordance with the procedure outlined in Section C below and shall give notice to that effect to the student against whom the complaint has been lodged. The Faculty member remains responsible for furnishing copies of alleged source materials.

3. If a student becomes aware of academic dishonesty, he or she should normally report the matter to the instructor. If this procedure is not feasible, the student may report the matter to the Chairman. The latter will then inform the instructor of the complaint (without identifying the complaining student) and seek the instructor's advice on the matter. After that consultation, the Chairman shall decide whether to pursue the complaint further.

B. Complaints of Non-Academic Offenses against the Undergraduate Regulations.

1. Any member of the faculty, Residential College Master, Residential College Dean, or member of the University administration or staff may bring to the attention of the Chairman an alleged infraction of the non-academic Undergraduate Regulations.

2. An undergraduate student may bring a complaint of a non-academic infraction to the attention of the Chairman only in conjunction with his or her Residential College Master, Residential College Dean, a member of the Yale College Sexual Harassment Board, or the Campus Police.

3. In addition, the Chairman shall review weekly the reports of student misconduct lodged by the Campus Police. The Chairman shall take note of those alleged infractions of the Undergraduate Regulations that might appear to warrant probable action by the Executive Committee and shall refer them to the

full Coordinating Group for action under Section C below.

C. Initial Disposition and Referral of Complaints

Each week the Coordinating Group shall review all complaints received by the Chairman and shall make one of the following judgments in regard to each complaint:

1. All complaints for which sufficient information is available and which, if substantiated, would constitute a violation of the Undergraduate Regulations shall be submitted to the Executive Committee or may be settled by disposition without a formal hearing (see III. C.1 below).

2. If there is need to locate documents, inquire further into matters of fact, or pursue additional information before an informed judgment may be made by the Coordinating Group, the Chairman shall request the Factfinder to undertake the necessary investigation. It remains the responsibility of the faculty member to furnish copies of any alleged source materials.

3. Complaints that should have been directed to an administrative official, such as infractions of Library or Dining Hall Regulations, shall be referred to the proper authority.

4. See Section V for complaints in regard to Sexual Harassment.

5. See Section VI for complaints in regard to Computer Misuse.

6. If after such investigation as is deemed feasible has been made, the Coordinating Group determines that insufficient information will be available or that the act complained of does not amount to a violation of the Undergraduate Regulations and that no further action is warranted, the Coordinating Group will close the matter.

The Coordinating Group shall make a monthly report to the Executive Committee summarizing statistically its decisions in regard to all complaints brought to its attention.

Throughout these and subsequent consultations the complaints shall not be discussed publicly. All complaints shall be part of the permanent record of the Executive Committee.

III. Procedures for Consideration of a Complaint by the Executive Committee

A. Informing the Student

If the Coordinating Group decides that a complaint is to be referred to the Executive Committee or further investigated by the Factfinder, the Secretary shall, in writing, inform the student or students of this fact and indicate the regulation that has been allegedly violated. The letter to the student shall include a full statement of the procedures and membership of the Executive Committee and of the rights of students appearing before the Committee. (See Section IX below.) The General Secretary shall simultaneously inform the relevant Residential College Master(s) and Residential College Dean(s) of the complaint and the status of the review by the Executive Committee. Letters to the Masters and Deans normally should be hand delivered.

The student is strongly urged to request a meeting with the Chairman or the Secretary to clarify the student's understanding of the complaint and the procedures of the Executive Committee prior to the student's meeting with the Committee.

B. The Adviser to the Student

In regard to all complaints referred to the Executive Committee for consideration, the student shall have the right to choose an Adviser. Normally, the Adviser will be the student's Residential College Dean, but the Adviser may also be the Residential College Master, a freshman or sophomore academic adviser, a Yale College faculty member, a Yale College administrator, a coach, or any other member of the University community who is not a member of the Executive Committee or the office of the University General Counsel. Should a student find him or herself unable to locate an Adviser, the Dean of Yale College shall furnish the student with a list of persons willing to aid students in these situations.

The Adviser is not an advocate, but rather a source of

personal and moral support to the student. The Adviser may aid the student in preparing to appear before the Executive Committee. The Adviser may also accompany the student to the Committee meeting and counsel him or her. During the meeting the Adviser may quietly and unobtrusively or in writing suggest questions for the student to pose to witnesses or issues for the student to raise with the Committee. The Adviser may not participate directly in the proceedings except for making a brief concluding statement if the student so desires.

When a complaint is lodged involving alleged offenses against persons and/or property, the student may choose an attorney as a second Adviser. The Legal Adviser may counsel the person whom he or she is accompanying but has no right to speak to the Committee or otherwise participate directly in the proceeding. The Legal Adviser may unobtrusively suggest questions to be asked and at the meeting may in writing request the Chairman to pursue a particular direction of questioning. It shall be the Chairman's decision whether such a question or line of questioning is followed.

On all occasions when a student has requested the presence of an attorney in the meeting with the Executive Committee, the Chairman will as a matter of course request the presence of the University General Counsel or a representative of that office.

C. Consideration of the Complaint by the Committee

The Chairman shall prepare for the Committee a written statement of the alleged infraction to which shall be attached any statement prepared by the Factfinder and copies of all other relevant documents. These materials should be made available to the student no less than seven days prior to the Committee meeting, except when the student requests that less time be allowed to elapse prior to a regularly scheduled meeting. The student shall have the right to submit, at least forty-eight hours in advance of the meeting, a written statement in response to these materials; the statement will also be circulated to the Committee.

1. Disposition Without a Formal Hearing

After reviewing the materials to be circulated, the student has the right to request in writing the disposition of the complaint by the Coordinating Group without a formal hearing before the entire Committee. Request for disposition without a hearing will be considered as the admission by the student of the validity of the complaint. That admission governs all further Committee action in regard to the complaint.

If the student is dissatisfied with the penalty imposed by the Coordinating Group, he or she may then request a formal penalty hearing before the entire Committee, as provided in Section III. C. 3. e., with the understanding that the full Committee may sustain the original penalty or impose either a more or a less severe penalty. The Chairman shall preside at this penalty hearing but shall not vote.

2. See Section IV governing complaints that come before the Executive Committee when criminal charges either are or may be pending before the courts.

3. Disposition before the Committee

Unless the student requests a Disposition Without a Formal Hearing, all complaints referred by the Coordinating Group will be reviewed by the Executive Committee.

a. Inspection of records

The documents relating to the complaint, including the initial complaint, any report of the Factfinder, the statement by the student, and any other materials deemed relevant by the Coordinating Group shall be made available to the Committee for inspection in the Yale College Dean's Office no less than forty-eight hours before the time of the meeting. These documents are confidential.

Documents ordinarily shall not be submitted to the Committee less than forty-eight hours before the meeting to consider the complaint.

If between the time of notification of the student and the Committee meeting new information regarding the complaint becomes

available, either the student or the Chairman may request a postponement of the consideration of the complaint until a subsequent meeting.

b. Excuse for Conflicts of Interest

When the members of the Committee have become familiar with the details of the complaint, the Chairman shall ascertain if any members should be excused because of a conflict of interest in accordance with Section VII below.

c. Procedures during the Student's Meeting with the Committee.

The purpose of the meeting between the student and the Committee is to vent fully all sides of the issue or issues raised by the complaint.

While students are expected to tell the truth in all their dealings with the Executive Committee, the members of the Executive Committee will give such credence and weight to the student's statements as they believe appropriate. Every student shall be put on notice that lying to the Factfinder or to the Executive Committee, which subverts the assumptions of community, will be taken into account in fixing the penalty and is a matter for an independent complaint as provided in the Undergraduate Regulations (General Conduct, Regulations E, Misconduct at a Formal Hearing).

When the Committee meets with the student, the Chairman shall explain the substance of the complaint and the specific undergraduate regulation allegedly violated or the other alleged action that in the Committee's judgment may warrant disciplinary action. The student may make a statement of reasonable length to the Committee. If the Factfinder has conducted a review, the student or members of the Committee may request the Factfinder to explain his or her report.

The Coordinating Group may arrange for the appearance of witnesses. If it does so, their names shall be made available to the student no less than forty-eight hours before the meeting.

If the complaint is one of academic dishonesty, the faculty member may request from the Chairman permission to make a brief explanatory statement to the Committee in the presence of the student. The Coordinating Group shall assure that any witnesses providing expert information are disinterested parties. The student may also present a reasonable number of witnesses, whose names shall likewise be submitted to the Chairman forty-eight hours before the meeting, to provide information to the Committee about the details of the complaint or about his or her character. All questions addressed to witnesses shall be so addressed with the permission of the Chairman, who shall have the right to rule questions irrelevant or out of order.

If during the meeting any voting member of the Committee, or the Chairman, believes additional information not immediately available is necessary to reach a decision, the consideration of the complaint may be postponed by majority vote of the Committee or by the Chairman until the Factfinder has prepared a report on the matter.

The student may make a concluding statement of reasonable length after all witnesses have been heard and all information has been presented. With the permission of the student, the student's Adviser may also make a concluding statement of reasonable length to the Committee.

Throughout the meeting the student has the right to remain silent. The Committee is not to draw a negative inference from the student's silence, but the student by that silence forfeits an opportunity to present his or her side of the matter. The Committee will base its decision on the information presented to it.

d. Deliberative Session of the Committee

Upon completion of the discussion of the complaint, the student, the Adviser, the Factfinder, and all other persons but the Chairman, the Secretary and the regular voting members of the Committee shall withdraw. The Committee under the leadership of the Chairman shall then address the question whether or not the

student has violated the Undergraduate Regulations, and shall give an affirmative answer only if it is satisfied that a violation has been shown by a clear preponderance of the evidence.

After a full consideration, the Committee shall reach its decision, through a secret ballot, by majority vote. Should the initial ballot result in a tie, a second ballot shall be taken after further discussion. Should the result again be a tie, the Chairman shall cast the deciding vote. The actual vote shall not be indicated to the student and shall remain a part of the confidential record. The Chairman shall inform the student of the decision of the Committee.

Should the meeting of the Committee to consider the complaint have been particularly lengthy, the Chairman on his own responsibility or a majority of the Committee present may postpone the assigning of a penalty for a period no longer than forty-eight hours. If the meeting is so adjourned, the same Committee members must be present for the reconvened meeting at which the penalty will be assigned.

e. Assignment of a Penalty

The Yale College Faculty believes it is proper for the Executive Committee to view a particular infraction of the Undergraduate Regulations in the context of the total personal and academic record of the student involved. It is possible that the disciplinary action against a student whose record to date has been in all regards positive and indicates contribution to Yale College may be less severe than in the case of a student whose record has been to the contrary.

When the Executive Committee proceeds to consider assigning a penalty, it shall permit the student to present a statement of reasonable length relevant to the determination of the penalty and to furnish further information about his or her character. With the permission of the student, the Adviser may also make a statement of reasonable length. The Factfinder will inform the Committee of any previous infractions of the Undergraduate Regulations on the part of the student and of any relevant matters

contained in the student's file in the Residential College Dean's Office or the Yale College Dean's Office. The Executive Committee may take all this information into consideration in establishing the penalty.

The Chairman or the Secretary shall inform the student of this opportunity to make a statement and of matters in his or her record that the Executive Committee is likely to deem significant no less than seven days prior to the Committee meeting to consider the complaint.

After these statements the student, the Adviser, and the Factfinder shall withdraw. The Chairman will inform the Committee about the nature of previous penalties assessed for similar offenses. The Committee will discuss what penalty it should impose. If the Committee has found that the student purposely misled the Committee during its deliberations, the Committee may consider that factor as grounds for imposing a more severe penalty. The Chairman will propose a penalty upon which the regular voting members of the Committee will vote by secret ballot. The Committee shall continue to ballot secretly on proposed penalties until a decision has been reached by a majority of the members present. The Chairman shall vote on a penalty only if the regular voting members have reached tied votes on three proposed penalties. The Secretary shall not vote.

Should the Committee under extraordinary circumstances propose a penalty other than one of those specifically listed in the Undergraduate Regulations (e.g., some form of work service or repair of damaged property), the Chairman shall first ascertain that the persons upon whom would rest responsibility for overseeing enforcement of the penalty are willing to accept that responsibility.

The penalty of suspension must apply to periods of time when Yale College is in regular session.

When the Committee has reached its decision about the penalty, the Chairman shall inform the student of the sanction and summarize the reasons that led the Committee to assess it.

The Secretary shall inform the relevant Residential College Master(s) and Dean(s) of the decisions of the Committee

in regard to the penalty and action required to enforce it. The Secretary shall inform the Residential College Dean of the exact manner in which the infraction is to be indicated in the record and recommendations of the student. This communication should ordinarily take place in writing within two weeks of the disposition of the complaint. Copies of those letters shall form part of the permanent record of the Executive Committee.

The Secretary shall also send written notice of the decisions of the Committee to the person originally lodging the complaint.

D. Reconsideration of Decisions of the Executive Committee

Decisions of the Executive Committee are final. They shall not be opened except when substantial new evidence that may exonerate the student becomes available. In such situations, the Chairman may request the Committee to reconsider the complaint. The Committee itself shall be the sole judge of whether the new information is sufficient to require reconsideration of the complaint. A majority vote shall be required for this decision. If the decision is affirmative, the Committee shall reconsider the complaint according to its standard procedures and without prejudice in any direction.

E. Time Limit on Disposition of Complaints

The process of factfinding, Coordinating Group consideration, and Executive Committee action is to be completed by the end of the academic semester after the semester in which a complaint has been initiated. Otherwise the inquiry will be terminated without prejudice to the student at that time unless a majority of the Committee formally authorizes the Coordinating Group to pursue the investigation beyond this time span.

Complaints made subject to the provisions of the Administrative Suspension shall be governed by the time limits provided for that procedure in Section IV.

IV. Complaints before the Executive Committee Respecting Matters before the Courts

When a complaint alleging an infraction of the Undergraduate Regulations relates to a case that either will be or is in process of adjudication by the courts, the Executive Committee may address the complaint by one of the following procedures:

a. If in the judgment of the Coordinating Group and a majority of the Committee sufficient information is available to consider the complaint, the Committee may consider it in the normal manner.

b. The Executive Committee may decide to defer its consideration of the complaint until after the matter has been adjudicated by the courts. When the Committee so defers consideration, it shall decide by a majority vote through secret ballot (so long as the student is in good academic standing) either to permit the student to continue in regular enrollment and residence in his or her Residential College or to permit the student to enroll in classes but not to live in the Residential College. Before the Committee makes this decision, the Chairman shall request the written opinion of the student's Residential College Master. The student may also present a written statement in regard to his ongoing residence in the Residential College.

c. The student may request in writing that the Executive Committee defer its consideration of the complaint and that he or she receive an administrative suspension. This provision is intended for use by the Executive Committee very rarely and only in situations in which the criminal charges are very serious and in which action by the Executive Committee might irreparably prejudice the student's cause before the courts.

An administrative suspension suspends the student from Yale College in the same manner as any suspension by the Executive Committee; however, the administrative suspension is without prejudice to the review of the complaint against the student. In effect, an administrative suspension means that the student facing a criminal hearing voluntarily withdraws from enrollment and residence in Yale College with the understanding that he or

she may re-enroll only after the standing complaint has been considered in the normal manner by the Executive Committee. The decision to provide an administrative suspension resides solely in the authority of the Executive Committee; even when a student requests an administrative suspension, the Committee may decide to consider the complaint immediately.

The administrative suspension may remain in effect for no longer than one year at the end of which time it must be reviewed by the Executive Committee. The student may then request in writing an extension of the administrative suspension for another period not to exceed one year. However, an extension of an administrative suspension may not remain in effect longer than one month past the date on which the matter has been adjudicated by the courts or settled otherwise or longer than one month beyond the opening of the academic term if determination by the courts has occurred when the College is not in session.

When the complaint comes for consideration by the Executive Committee after the period of administrative suspension, the Committee will consider the complaint in the normal manner and without prejudice due to the fact that the student has received an administrative suspension.

A decision favorable to the student in the courts will not necessarily exonerate him or her from having committed the alleged infraction of the Undergraduate Regulations.

V. Procedures for Complaints of Alleged Sexual Harassment

a. Complaints of alleged sexual harassment by an undergraduate may be brought to the Executive Committee in the manner provided for other complaints of offenses against persons.

b. When the Chairman receives a complaint of sexual harassment by an undergraduate, the Chairman shall request the Chairman of the Yale College Sexual Harassment Board and the senior faculty member of that Board to join the deliberations of the regular Executive Committee Coordinating Group. The expanded Coordinating Group shall instruct the Factfinder, where necessary, to gather further information, and shall decide whether the

complaint should be forwarded to the Committee for consideration. The two persons from the Sexual Harassment Board will participate only in this stage of the deliberations unless the Chairman of the Executive Committee asks them to testify before or advise the Committee during its formal consideration of the complaint.

c. It shall be the duty of the Chairman to explain to all parties involved in a complaint of sexual harassment that Executive Committee disposition of the complaint does not constitute the equivalent of action or redress at law. The Chairman shall also explain that the extent of the jurisdiction of the Yale College Executive Committee stands limited to the enforcement of the Undergraduate Regulations by means of the penalties provided therein.

d. Should the complaint of sexual harassment be simultaneously pursued in the courts, the procedures of Section IV regulating such situations shall be in effect.

e. The Chairman shall make particular efforts to assure that any expert interpretation of evidence, information, or medical reports is presented to the Committee by disinterested persons.

f. The Chairman shall assure that all parties involved in sexual harassment complaints receive lists of witnesses and copies of all documents to be submitted to the Committee no less than forty-eight hours before the meeting to consider the complaint. Any new or additional information that is received by the Committee at any point in its consideration of the complaint, its assessment of the penalty, or its possible reconsideration of the complaint should be made available to all parties involved with the complaint.

VI. Complaints Related to Misuse of Computers

Each year the Dean of Yale College shall appoint a Computer Adviser to serve as a consultant to the Coordinating Group and the Executive Committee when they consider any complaint, academic or nonacademic, relating to the misuse of computers. The Computer Adviser should be present whenever requested by the Chairman except during the deliberative sessions of the Committee.

Direct conflict of interest on the part of the Computer Adviser may be avoided by drawing upon the Department of Computer Science for complaints from the Yale University Computer Center or vice versa. If both the Department and the Center are involved in bringing the complaint, the Dean should seek another Computer Adviser.

In general academic dishonesty or misconduct carried out through the use of or in conjunction with university or privately owned computer facilities differs neither in kind nor in gravity from other more familiar modes of academic dishonesty or misconduct. The Executive Committee should recognize this fact and should also regard any and all forms of damage to computer facilities and/or damage to or invasion of the privacy of information stored within computers, as a serious offense against property and privacy. All computer facilities owned, leased, or sponsored by the University are educational and administrative resources, the security and the fair, private use of which must be vigorously protected in the same manner as laboratories, library resources, and traditional record-keeping and filing systems.

Penalties assigned in relation to computer offenses should take into account the actual cost of damage to equipment, the cost of replacement or retrieval of file information, and the value of legitimate use of an educational and research resource lost to authorized members of the Yale Community.

VII. Conflict of Interest

Members of the Executive Committee should be alert to potential conflicts of interest between themselves and the persons bringing complaints to the Committee or the student against whom a complaint has been lodged.

a. Committee members having past or present ties of kinship, marriage, or other very close personal relationship to any of the parties involved in the complaint should notify the Chairman that a conflict of interest exists and should be automatically excused from participation. The nature of the

relationship need not be disclosed to the Chairman.

b. Committee members having some form of close professional relationship to one or more of the parties involved in the complaint (e.g., collaboration or cooperation in research, writing, or teaching with a colleague or service as an ongoing academic adviser or instructor to the student in a very small class) should notify the Chairman that a potential conflict of interest exists and may request to be excused from participation.

c. A Committee member should inform the Chairman that he or she is in some manner involved in the specific details of the complaint and may request to be excused from participation.

d. A member of the Committee should inform the Chairman that the nature of the complaint creates an occasion for a conflict of interest and may request to be excused from participation.

e. The student against whom a complaint has been lodged may request that a Committee member be excused because of a proven conflict of interest as provided in the foregoing provisions.

f. Should one of the members of the Coordinating Group be excused for a conflict of interest, the tenured faculty member of the Committee with the longest time of University service shall carry out the responsibilities of that member of the Coordinating Group in regard to the complaint under consideration. In regard to the consideration of that particular complaint, this person shall have the voting rights of the member of the Coordinating Group for whom substitution has been made.

g. Should the Chairman deny a request to be excused, the member or the student may appeal the request to the full Committee or quorum thereof. The vote of a majority, taken by secret ballot, will decide the matter. Although no member should be compelled to participate in considering a complaint when he or she anticipates deep personal discomfort, no member should be excused simply for the sake of convenience or to avoid consideration of complaints that are difficult or unpleasant.

h. All matters relating to conflict of interest should be raised and settled after the Committee has received the written materials about the complaint and before the Committee meets to undertake consideration of the complaint. Questions relating to conflict-of-interest may not be raised after the Committee has reached decisions, nor may they be grounds for reconsideration of Committee decisions.

i. The foregoing provisions are intended not to be inclusive of all possible situations of conflict of interest, but rather to provide guidance. It is the intention of these provisions to enable the Committee to avoid both the appearance and the reality of conflict of interest, so that the community will have confidence in the fairness of the proceedings. In case of doubt, the Chairman and Committee members should assume that a potential conflict of interest exists.

VIII. Records and Minutes of the Executive Committee

The records of the Executive Committee are of three types. All are unavailable to the public unless subpoenaed by the courts or other government agency and should be stored in a locked file in the office of the Dean of Yale College.

a. The Secretary shall maintain a record of all complaints received by the Coordinating Group and forwarded to the full Committee. This record shall include the original written complaint and a log of all Coordinating Group consultation or correspondence in regard to the complaint. This record should also include any forms or statements signed or submitted by the student and all materials submitted to the Committee prior to the meeting including the report of the Factfinder.

b. The Secretary shall keep a full record of minutes from each meeting of the Executive Committee. These need not be a verbatim transcript, but they should reflect a full and faithful record of the statements of witnesses and substance of the discussions and decisions of the Committee. Minutes shall not be kept of the private Committee discussion prior to reaching a decision by vote on the substance of the complaint or the

assessment of the penalty. The minutes will contain only the decisions of the majority. Any written materials submitted to the Committee at any time in the course of the consideration of the complaint or the penalty shall be part of the minutes.

c. The Secretary shall keep a careful, ongoing written record of the complaints sustained by the Executive Committee and the particular penalties assigned. The purpose of this record shall be to aid the Committee in equitably addressing complaints of a similar character.

IX. Statement of Rights of Students Meeting with the Executive Committee

A statement of the following rights should be furnished to all students being informed that a complaint has been lodged against them:

Students in Yale College requested to meet with the Executive Committee in regard to a complaint of their having violated one or more of the Undergraduate Regulations or in regard to other actions that in the Committee's judgment may warrant disciplinary action should be aware of their following rights:

a. The student shall receive written notification of the complaint and of the specific alleged infraction of the Under-graduation Regulations.

b. The student will be furnished with a statement of the procedures including the conflict-of-interest provisions and a list of the members of the Executive Committee.

c. The student should understand that while the Factfinder, other officers, and members of the Executive Committee expect students will tell them the truth, the members of the Executive Committee will give such credence and weight to the student's statements as they believe appropriate. Every student should understand that lying to the Factfinder or to the Executive Committee will be taken into account in fixing penalties and may be matter for an independent complaint.

d. The student may choose an Adviser from the Yale community as provided in the procedures. If the complaint involves an offense against persons and/or property, the student may also bring an attorney to the meeting of the Executive Committee as provided in the procedures.

e. The student may request in writing disposition of the complaint without formal hearing and will retain the right to appeal the penalty so assigned. Students choosing such disposition should carefully read the relevant portion of the procedures.

f. Normally one week must elapse between notification of the student and the meeting of the Committee at which the complaint is to be considered, but upon written request of the student a briefer interval may suffice.

g. The student may request the Factfinder to make reasonable efforts to locate particular documents or to gather relevant information.

h. The student may see all written materials, including the report of the Factfinder, to be submitted to the Committee at least one week before the meeting. The student shall also be furnished with a list of all persons who have been requested to be witnesses at the meeting.

i. The student may ask persons to be witnesses on his or her behalf.

j. During the meeting the student has the right to remain silent, but should understand that by doing so he or she forfeits an opportunity to present verbally his or her side of the matter. The student should also understand that the Committee will base its decision on the information presented to it.

k. In the circumstances outlined in Section IV of the procedures the student has the right to request an Administrative Suspension, but the granting of such a suspension is entirely at the discretion of the Committee.

l. If subsequently substantial new information of an exonerating nature becomes available, the student has the right to request a reconsideration of the complaint.

m. The student should understand that the records of the Executive Committee may be subject to subpoena by the courts, but that in the absence of a court order or government inquiry the records of the Committee will not be publicly disclosed.

This statement of student rights does not supplant other rights and protections of students within the procedures of the Executive Committee.

The Yale College Faculty or the Executive Committee may amend or modify this statement without necessarily making revisions in the procedures of the Committee.

Part II

The following recommendations address matters of policy or procedure that the Ad Hoc Committee believes require revision or formulation to assure the efficient administration of the proposed procedures of the Executive Committee. It would be desirable for these policies to be in place by September of 1984 so that the entire set of revised procedures could become effective for the academic year commencing that month.

I. In order to facilitate uniform treatment of complaints and fair consideration of students, we recommend that after its initial organization the Coordinating Group devise standard printed forms outlining required procedural steps for dealing with a complaint brought to the Committee and such other forms as may normally be required for addressing a complaint.

II. We recommend that each autumn prior to the consideration of any complaints against students the Executive Committee hold an extensive orientation session. We particularly urge that among other matters the Chairman lead a very full discussion of the Undergraduate Regulations and the prescribed procedures for the activity of the Committee. We believe this discussion should emphasize the wisdom of restraint and judiciousness on the part of Committee members when questioning the student against whom a complaint has been lodged and any witnesses providing information. All Committee members should realize that under the prescribed procedures the conduct of meetings including the questioning is intended to be led and guided by the Chairman.

During the orientation meeting(s) the Chairman should review the most frequent varieties of complaints that have come before the Committee and the penalties that have ordinarily been assigned. We believe that by reviewing this record and through their own discussion the Executive Committee should attempt to determine informal guidelines for appropriate penalties. Although we eschew any mechanical imposition of penalties and believe the Committee should consider the whole record of the

student, we feel the establishment of informal guidelines will aid the achievement of uniformity and equity.

We also urge that during this orientation the Chairman of the Committee arrange for the members to meet with persons whose advice and concerns, communicated before consideration of any specific complaints, may prove useful to the later deliberations of the Committee. A noninclusive list of such persons would include the University General Counsel, the Chairman of the Council of Masters, the Computer Adviser to the Committee, the Chairman of the Yale College Sexual Harassment Board, and the Chief of the Campus Police.

III. We recommend that in October and February the Chairman of the Executive Committee report to the faculty of Yale College on the actions of the Executive Committee during the previous twelve months. The report, which must not include either the names or the Residential Colleges of any students, should include a summary of the complaints brought to the Coordinating Group, those settled by disposition without formal hearing, those forwarded to the full Committee, the decisions rendered, and the penalties assigned. The Dean of Yale College may at his discretion provide for the wider publicizing of this report.

IV. We recommend that the Dean of Yale College appoint a committee to undertake a very full review and revision of "Appendix D: Plagiarism and Documentation" in the Undergraduate Regulations and report their conclusions to the Executive Committee. In particular, we urge consideration of the following general revisions; but we do not regard them as adequately exhaustive.

a. Appendix D should discuss all four types of academic dishonesty cited in Chapter One, paragraph A of the Undergraduate Regulations. Those include cheating on examinations, plagiarism, improper acknowledgement of sources in essays, and the use of a single essay in more than one course except in academically appropriate circumstances with the prior permission of the instructors. Each type of academic dishonesty should be explained

under separate headings so that no one subject becomes confused with or "lost" within another.

b. The discussion and explanation of plagiarism should be distinct from the consideration of proper or improper documentation. Plagiarism ought not to be cast as a kind of writing error but rather as a form of academic dishonesty, as likely as not to be premeditated, and customarily viewed in those terms. The borrowing of an argument and/or language from published or unpublished sources should be addressed. In particular, the borrowing or appropriation of the work of other students should receive consideration in the context of plagiarism.

In regard to this offense, the Ad Hoc Committee believes consideration should be given to the publication of examples of plagiarized writing such as Princeton University furnishes to its undergraduates.

c. The section on improper acknowledgement of sources should be expanded to cover areas of study outside the humanities. It should also probably direct students to the standard writing guides for the various disciplines which offer far more information than the Undergraduate Regulations can provide.

d. The discussion of the inappropriate use of work prepared by another person either within or without the University should be expanded and the seriousness of the offense emphasized.

e. The section on cheating on examinations should list some examples of such cheating that typically, when detected, lead to further investigation and the lodging of complaints with the Executive Committee. This section should warn students of those practices in examination-writing that, no matter how innocently pursued, may lead to investigation of their academic honesty. In particular two issues should be cited: (1) substantial instances of identical argument and/or language on two or more examination papers, and (2) substantial reproduction of passages from secondary source materials, with or without citation, when such reproduction has not been requested by the instructor and is not intrinsic to the character of the answer required.

f. The results of this revision of Appendix D should be circulated widely in coordination with the more extensive publicizing of the Undergraduate Regulations, that is recommended below.

V. We recommend that an appropriate standing committee of the Yale College Faculty consider the most efficacious manner for providing wider publicity for the Undergraduate Regulations within the student body and the faculty. We hope that, among various devices, the committee will consider (i) a separate pamphlet highlighting the academic regulations, which would be mailed to all new students separately from other opening-of-term materials, (ii) one or more required orientation meetings for entering freshmen, (iii) fuller instruction about both the Undergraduate Regulations and the Executive committee for the Residential College Deans and Freshman Counsellors, (iv) an annual reminder about the academic section of the Undergraduate Regulations to be mailed to all upper classmen, and (v) periodic reminders about those regulations and Executive Committee procedures to be sent to the faculty.

VI. We recommend that an appropriate standing committee of the Yale College faculty formulate policies relating to the following areas of academic life:

a. Uniform administration of in-class examinations with adequate proctoring, seating, and other relevant accommodations to minimize opportunities for cheating.

b. A uniform policy governing the character of take-home examinations and the expectation of independent completion of those examinations.

c. A uniform system for returning graded essays, examinations, and other class assignments that will insure student privacy and that will minimize opportunities for stealing papers or examinations.

VII. We recommend that the following steps be taken in regard to the use of computer facilities.

a. Access to University computer facilities is through computer accounts which are given to individual students for various purposes. We recommend that the Executive Committee regard the use of such an account by any other person than the specific student to whom it was given, or for any purpose not explicitly authorized by the person giving out the account as theft of services analogous to the misappropriation of University telephone services and that policies to that effect be appropriately incorporated into the Undergraduate Regulations.

b. The orientation session(s) for the Executive Committee should include a very full briefing about the character of potential and probable computer-related offenses.

c. The instructor of any undergraduate course requiring the use of computers should formulate a clear statement outlining the character of appropriate and inappropriate student-to-student consultation in that course. This statement should be widely distributed to all students in the course and perhaps attached to the syllabus and, where appropriate, to specific assignment and examination papers.

d. The Yale Computer Center should review its rules and regulations for use of its facilities and assure that those rules, as revised, are widely publicized.

Considerations Leading to the Recommendations

Our recommendations for the structure and procedures of the Yale College Executive Committee are more elaborate than those in place at present. In part this elaboration is a matter of appearance because we commit to writing various procedural steps already normally taken by the Executive Committee. Other parts are new, but none have been recommended for the sake of novelty or complexity. They are proposed so that students, faculty, administrators, and other interested persons may have confidence in the fairness of the procedures and the uniformity of the enforcement of the Undergraduate Regulations. It is to that end that we urge a centralization of administrative responsibility, careful preparation and examination of complaints and related materials prior to Committee meetings, Committee access to more information, clarification of the rights of students and of the appropriate roles of all parties involved in considering a complaint, the alleviation of the necessity for the Committee to make significant procedural decisions while hearing a complaint, and the establishment of a more consistent and predictable policy for reaching decisions on and assigning penalties.

Our recommendation for the normal voting membership of the Executive Committee continues existing practice, but our proposal that three officers serve as a Coordinating Group in addition to the other ten members is an innovation and, we believe, an improvement.

We believe the objectives of attaining fairness, thoroughness, and consistency in procedures and of protecting the institutional concerns of the University mandate stronger leadership structures for the Committee. We recommend that a tenured member of the Yale College Faculty chair the Executive Committee. At present, with one exception, the Executive Committee is the only major standing committee of Yale College not to be chaired by a faculty member. Because any part of the Undergraduate Regulations concerning student discipline falls under the jurisdiction of the Faculty, it seems appropriate that a member of the Faculty should lead the Committee. Faculty leadership will differentiate the Yale College

Executive Committee from its equivalent in other institutions, some of which are chaired by associate deans without formal faculty appointment and others by faculty members serving as Dean of the College. Under the revised procedures the Chairmanship of the Executive Committee will become a position of more active leadership and direction than at present. The Dean of Yale College should appoint chairmen of the Executive Committee in the expectation that those persons will serve a term of no fewer than four semesters. The nature of Executive Committee business would also seem to require the Chairman to be particularly available for consultation with faculty during the latter part of each semester. Because of the character of its responsibilities, the Chairmanship of the Committee should be regarded as the administrative equivalent of a department chairmanship and should carry a substantial remission of teaching duties and/or a provision for leave of absence.

Our recommendation for a Factfinder to be associated with the Executive Committee arises from several considerations. On numerous past occasions, in order to render an informed decision, the Committee has required more factual information than was initially available. On other occasions, certain matters of fact, clearly subject to verification, stood in dispute during a meeting. Furthermore, at present there exists neither administrative apparatus nor authorized procedures to address situations where there is substantial but initially incomplete evidence of cheating or inappropriate collusion on an examination paper or other written assignment. This difficulty is compounded by the very strong feeling within the community that the faculty member discovering such possible academic dishonesty in his or her course should not personally investigate the matter. Consequently instances of complex academic dishonesty involving two or more students are less likely to come before the Executive Committee than instances where only one person is involved. A Factfinder working on behalf of the Committee for the impartial gathering of information would begin to remedy these problems. The presence of such an officer on the Committee may also tend to encourage

faculty to bring matters to the Committee rather than dealing with them in an ad hoc manner. Conversely, students appearing before the Committee would know that the Factfinder stood ready to gather information on their behalf with no less vigor than for a member of the Faculty or Administration.

The Ad Hoc Committee strongly believes that the objectives of fairness to and protection of the various parts of the Yale College community will be fostered by the activity of the Factfinder. We recognize that this task will be one that requires good judgment and a capacity to function in an impartial manner. By the definition clearly set forth in the recommended procedures, the Factfinder is an investigator and a gatherer of information, not a prosecutor. Other disciplinary or grievance structures of the University have employed such an officer. Consequently, this institution is new only in the context of the Yale College Executive Committee.

Although in time it may make little or no difference whether the Factfinder is drawn from the tenured faculty or the administrative personnel in the office of the Dean of Yale College, we believe the initial appointment should be a tenured faculty member. Once the role of the Factfinder has been firmly established and the character of the pursuit of information rendered more nearly routine, it may be possible to turn the task over to a member of the Yale College Dean's Office. To do so immediately would add new administrative tasks to an already heavily burdened staff. The Factfinder should receive an appropriate remission of teaching responsibilities.

The Secretary, who is to be an assistant or associate Dean of Yale College, will provide an ongoing decanal presence within the Committee leadership as well as be responsible for the enlarged record keeping tasks of the Committee.

In addition to their individual duties, the three officers will comprise the Coordinating Group which will oversee the general work of the Executive Committee. At present there is no formal administrative structure to decide which complaints do or do not come before the Executive Committee. To achieve fairness

to all parties and consistency of responses, we believe all complaints both academic and non-academic should be reported directly to the Chairman. We also believe the decisions as to the disposition of those complaints should benefit from the judgment of more than one person, hence the role of the Coordinating Group. In this manner we hope to temper centralized leadership for the Committee with a mode of collective responsibility. We believe the guidelines in the procedures and the requirement that the Coordinating Group report its activities to the full Committee will provide sufficient oversight of the Coordinating Group itself.

The Ad Hoc Committee believes the thorough preparation of materials prior to full Committee consideration is among the most important steps to insure fair and equitable consideration of a complaint. The role of the Coordinating Group in preparing these materials is intended to permit the full Committee to address the issues of the complaint rather than procedural questions. Consideration of procedural issues in the course of evaluating a complaint tends to confuse the process and to associate decisions on procedures with those relating to the complaint itself.

Three of the recommended provisions for disposition and consideration of complaints forwarded to the Committee are new. Each is intended to clarify existing procedures or to provide for more careful evaluation of complaints.

The recommendation that the student choose his or her Adviser attempts to clarify certain present ambiguities and to permit the student a wider range of possible advisers. At present, the Residential College Dean accompanies the student to the Executive Committee meeting. The role of the Residential College Dean at the meeting has remained somewhat ill-defined. Furthermore, in some instances the Dean may have been involved with lodging the complaint or providing information for the investigation of the complaint. Sometimes the student is not well-acquainted with the Dean. In these and other imaginable situations, the Residential College Dean may not be the most appropriate adviser. Allowing the student to choose someone from the Yale College community to

be designated as the Adviser should assure that the student will have confidence in the Adviser. More often than not, the Residential College Dean will probably act in this role, but the new procedure would allow the Residential College Master, a faculty adviser, a trusted instructor, a coach, or other person in the Yale College Community with whom the student feels comfortable to provide advice. The definition of the role of Adviser emphasizes the advisory rather than the advocacy function to be played by this person. Various other grievance procedures within the University provide similarly for such Advisers serving in a strictly advisory and nonintrusive manner.

The Ad Hoc Committee believes that it is also proper to state formally that the student may request the presence of an attorney if the complaint involves an offense against persons and/or property. The function of the attorney is clearly circumscribed to an advisory one. The presence of the University General Counsel or representative of that office on such occasions is new, but seems desirable.

Second, the time-frame for the notification of the student and the availability of materials to the Committee is new. At present, the Committee normally receives materials about a complaint less than one hour prior to the meeting. Everyone with whom the Ad Hoc Committee spoke urged modification of the present practice.

Third, in a relatively small community such as Yale there inevitably exist real or apparent conflicts of interest between Committee members and either the persons bringing a complaint or the student against whom a complaint has been lodged. At present there are few provisions or even exhortatory injunctions to require or permit a Committee member to be excused for conflict of interest. We believe this situation should be clarified. We have stated our proposed conflict-of-interest provisions in rather broad terms, but we believe their intention is clear. We have not attempted to anticipate every possible mode of conflict of interest. For example, we have refrained from recommending that a member of the Committee not hear complaints lodged by a

colleague in the same department. But we would expect a Committee member from a very small department or one having a close professional or personal relationship to any of the persons involved in the complaint to disqualify him or herself. Such close professional relationships might include collaboration in research, writing, or teaching, some form of business partnership with a colleague, mutual involvement in review for promotion, serving as a long-term adviser to the student, teaching the student in a very small class, or other relationships that are closer than average between colleagues or between instructors and students. We would emphasize that we seek to establish the framework for a genuinely good faith effort to avoid both the appearance and the reality of conflict of interest. In cases of doubt, a conflict should be assumed to exist.

We believe the general procedures recommended for initial disposition and preparation of complaints will provide the Committee with much more information than it receives at present, allow all interested parties to discuss their views more fully, and assure to students better advice and more systematic consideration of complaints lodged against them. We also believe the Committee will be better able to concentrate on reaching a decision about the substance of the complaint rather than being diverted into decisions on peripheral matters.

The meeting of the Executive Committee to consider a complaint against a student is not to be confused with a trial in a court of law. The purpose of the meeting is to vent very fully and completely all sides of the issue or issues raised by the complaint as they relate to the educational experience of the student and to his or her role in the life of the Yale community.

The specific provisions for the character of the meeting to consider the complaint attempt to clarify several matters that at present seem confused. First, the faculty member bringing a complaint of academic dishonesty may request permission to explain the complaint more fully. At present such faculty members normally do not appear before the Committee. It seems only fair to the faculty that they be permitted to make a statement.

We believe this revision in the procedures will increase faculty confidence in the Executive Committee and encourage faculty to bring complaints to the Committee rather than handling them in an individual manner.

Second, we have intended to sustain the presumption of student truthfulness before the Committee while permitting the members to exercise normal common sense and reasonable skepticism. The Ad Hoc Committee was concerned that some members of the Executive Committee believed they were required to believe all statements and explanations offered by the student even when they were implausible on their face or in light of other facts presented to the Executive Committee. The Ad Hoc Committee wants to clarify that members of the Executive Committee are not so constrained. While students are expected to tell the truth in all their dealings with the Committee, members of the Executive Committee are entitled to accord the weight and credence to statements by the student as they believe appropriate. At present a student who chooses to lie consistently to the Committee is more likely to be exonerated than one who is truthful. We find that situation intolerable and believe our recommendation will begin to address the problem.

Third, students have always, presumably, had the right to remain silent, but it seemed proper to specify that right.

It is the intent of both the committee structure and the procedures that the Chairman shall keep the discussion centered on the question of the complaint itself and whether or not an infraction of the Undergraduate Regulations has occurred. The provision for the withdrawal of all parties but the voting members of the Committee, the Chairman, and the secretary is designed to permit the fullest possible confidential consideration of the information brought before the Committee. The decision to sustain or not to sustain the complaint will occur by secret ballot.

We believe that a separate ballot should be held to assign penalties. We believe that if the meeting on the complaint has been very long, the Committee should have the right to postpone

assigning the penalty. Should a second meeting be held for that purpose, the same Committee members should be present.

The penalties available to the Yale College Executive Committee or the disciplinary body of any private institution are rather narrow in scope. This situation is a cause of some inevitable dissatisfaction because the same penalty may be assigned for offenses of varying degrees of seriousness. We see no way to avoid this particular difficulty. Normally, we believe the Committee should assign those penalties specified in the Undergraduate Regulations. Should the Committee decide, as it is permitted by those regulations, on extraordinary occasions to devise an ad hoc penalty, we believe that it must be careful not to shift the burden of the enforcement of that penalty to a person or persons unwilling or unable to accept the responsibility of enforcement. In particular Residential College Masters should not be required to oversee or to assign work-service unless they have indicated their prior agreement to provide such supervision.

We would emphasize the importance of a careful set of records to assure some measure of consistency in the actions and penalties of the Committee. We believe that after the adoption of revised procedures the Executive Committee should primarily refer to its assignment of penalties under the new procedures rather than to its previous record of assessing penalties. We also believe that in the autumn prior to hearing complaints the Committee should attempt to decide the character of penalties it will normally assign to the large number of predictable complaints brought to its attention. We believe penalties should not be assigned mechanically, but we also feel enforcement of the Undergraduate Regulations and community confidence in the Committee would be fostered by a general understanding of what penalties may be normally expected when the Committee finds particular kinds of complaints substantiated.

Three unrelated but predictably difficult varieties of complaints require certain special procedures prior to their consideration before the full Committee. These are complaints of sexual harassment, complaints falling simultaneously in the

jurisdiction of the Executive Committee and the courts, and complaints relating to misuse of computer facilities. The recommended procedures are intended to alleviate some of the problems inherent in addressing these complaints.

The most predictably complex and sensitive complaints brought to the attention of the Executive Committee are those involving sexual harassment between two undergraduates or the harassment of a non-student by an undergraduate. (Other instances of sexual harassment are covered by procedures outside the purview of the Yale College Executive Committee.) There are an exceedingly small number of such complaints reported, but they present particular problems to the Committee as they do also to the courts. These difficulties arise because of the desire to assure privacy, the sometimes conflicting or uncertain character of information, and the absence of consensus within Yale and the larger society on some aspects of potential sexual harassment. These complaints also raise the prospect that the student lodging the complaint may be attempting to use the Committee to settle a personal dispute that does not involve sexual harassment. All of these particular problems have actually confronted the Executive Committee in recent years when it has addressed sexual harassment complaints.

The Ad Hoc Committee believes the existing language in the Undergraduate Regulations relating to "physical restriction, assault, coercion, or intimidation" covers instances of sexual harassment. We also believe that the existing penalties in the Undergraduate Regulations constitute the full extent of possible institutional response to complaints of sexual harassment which the Executive Committee may find to have occurred. Most important, in regard to these and other instances of physical violence of one student toward another, the response of the University cannot serve as an equivalent substitute for redress through the courts.

Complaints of sexual harassment should be brought to the Chairman in the same fashion as provided for other complaints of non-academic infractions of the Undergraduate Regulations. However, we believe the decision about the disposition of this

kind of complaint requires the expansion of the Coordinating Group to include the Chairman and senior faculty member of the Yale College Sexual Harassment Board. The presence of these two persons would bring experience and expertise in dealing with such complaints into the decision-making process. The two members of the Sexual Harassment Board would formally participate only in the decision regarding the disposition of the complaint though the Chairman of the Executive Committee may very well wish them to give information to the full Committee if the complaint is so forwarded. We also specifically urge particular care to assure that any expert medical information or interpretation thereof is provided by disinterested parties.

On certain occasions an infraction of the Undergraduate Regulations coincides with the commission of an act that may make the student the object of a criminal investigation or subject to a review before the courts. In such situations the Committee must decide if its consideration of the complaint will prejudice the student's cause before the courts. The Committee must also attend to the protection of the Yale community. We propose three possible courses of action by the Committee. First if there is sufficient information to proceed, the Executive Committee can consider the complaint as it currently does. Second, if the Committee decides to defer consideration, it should do so by a formal decision and then decide whether the student may or may not continue to live in his or her Residential College while continuing to attend classes. Third, it is possible for a situation to arise in which the student may wish all Executive Committee proceedings to be deferred because they may in some manner irreparably injure his or her cause before the courts; on such rare instances, the proposed procedures provide for an administrative suspension which the student may request and which the Committee at its discretion may grant subject to periodic review. In effect, the administrative suspension means the student facing a criminal hearing voluntarily withdraws from enrollment and residence in Yale College with the understanding that he or she may re-enroll only after the standing complaint

has been considered by the Executive Committee. We would note and emphasize here as in the procedures themselves that exoneration before the courts would not necessarily mean exoneration before the Executive Committee since the questions before the courts and the Committee more often than not are overlapping rather than congruent.

Very complex modes of academic dishonesty and offenses against property have come to be associated with the use of computers generally and the Yale Computer Center in particular. At this time, many faculty are unfamiliar with the nature of the computer facilities and with the nuances of possible dishonesty in computer programming courses and use of computer facilities. For this reason, we recommend that the Dean of Yale College appoint a computer adviser to serve as a consultant to the Committee. This person would stand ready to provide expert advice when a computer-related complaint is brought to the Committee.

In addition to our recommendations for revised procedures for the Executive Committee, we make several recommendations relating to auxiliary matters. Several of these are self-explanatory, but we would make the following brief observations.

First, the Ad Hoc Committee has come to believe that the role and functioning of the Executive Committee require much wider publicity within the community. To this end, we recommend that the Chairman report to the faculty each semester on the actions of the Executive Committee and that, at the discretion of the Dean of Yale College, this report receive wider circulation.

Second, one of the most frequent arguments presented by students accused of academic dishonesty is ignorance either of the academic regulations or the actual character of plagiarism or other modes of cheating. We offer no opinion as to the validity of these claims, but we do believe the specific explanations of academic dishonesty in the Undergraduate Regulations should be expanded. We urge a standing committee undertake a very full revision of the relevant section of the Undergraduate Regulations. We also urge consideration of ways in which the various

regulations can receive more efficacious publicity among both students and faculty.

Third, we believe that the college policies regarding the administration of examinations and the returning of graded papers to students require formal review. In many departments the manner in which essays, term papers, and examinations are returned to students (e.g., leaving them in public hallways) creates situations in which the stealing of papers is relatively easy and the protection of student privacy is unguarded. These situations potentially compromise the integrity of academic instruction and make difficult the sustaining of valid complaints of academic dishonesty. We believe these matters should receive formal faculty attention.