

Recommendations of the Gift Policy Review Committee

Submitted to President Peter Salovey

May 31, 2022

Gift Policy Review Committee Members

Julia Adams, Margaret H. Marshall Professor of Sociology, *chair*

Cynthia Carr, Deputy General Counsel, Office of the General Counsel

Eugénie Gentry, Associate Vice President and Campaign Director for Development, Office of Development

Erica Herzog, Professor of Medicine (Pulmonary) and Pathology

Lloyd Suttle, Vice Provost for Academic Resources, Office of the Provost

Paul Turner, Rachel Carson Professor of Ecology and Evolutionary Biology

Amy Wrzesniewski, Michael H. Jordan Professor of Management

Julie Zimmerman, Professor of Chemical and Environmental Engineering, Environment, and Epidemiology

Liz Quercia, Senior Project Manager for Strategic Initiatives, Office of the Provost, *staff liaison*

Preamble

In tandem with an emphasis on Yale's unwavering commitment to free inquiry and academic freedom, President Salovey charged the Gift Policy Review Committee with "reviewing Yale's current gift acceptance procedures and recommending any modifications to them." The charge also included the committee's making "recommendations on how best to communicate relevant policies to the faculty, as well as how a faculty member can share with the administration any concerns about the acceptance of a gift."

In fulfillment of its charge, the committee reviewed both formal and informal Yale procedures, as well as those of peer institutions. The committee interviewed relevant officers from a range of those institutions and met with the Executive Committee of the Yale FAS Senate. Its general research surveyed the historical evolution of gift acceptance policies, both at Yale and other universities. Finally, the committee benefited from President Salovey's call to the Yale community to contribute signed or anonymous feedback via a webform.

Throughout its work, the committee relied on several touchstones. First, the University's mission statement, which emphasizes its commitment to research, scholarship, education, preservation, and practice, underlines the importance of at least one dimension of academic freedom in its concluding sentence: "We carry out this mission through the free exchange of ideas in an ethical, interdependent, and diverse community of faculty, staff, students, and alumni." The Yale Faculty Handbook has little to say about academic freedom, perhaps because it assumes its existence so that it need not be more clearly articulated. But the Handbook is a living document, and one of the committee's recommendations is that the character and function of and commitment to academic freedom be made more explicit therein. It is implied in some of the mission statements of Yale's professional schools, including the School of Medicine's emphasis on "critical inquiry," and foundational to the stated mission of the Faculty of Arts and Sciences "to preserve, advance, and transmit knowledge through inspiring research, teaching, and art."

In the University's 1974 "Report of the Committee on Freedom of Expression at Yale," typically referred to as The Woodward Report, it is noted that:

The primary function of a university is to discover and disseminate knowledge by means of research and teaching. To fulfill this function a free interchange of ideas is necessary not only within its walls but with the world beyond as well. It follows that the university must do everything possible to ensure within it the fullest degree of intellectual freedom.

The Woodward Report is predominantly focused on freedom of expression, however, and its historical period of composition means that it has little to say about the potential impact of the evolving landscape of financial and other forms of university support, including government and foundation grants, private corporate support, and individual and family donations, on free inquiry and academic freedom. In many instances, these forms of support, some of which are of a magnitude unimaginable when the Woodward Report was written, undoubtedly provide valued resources which enable the pursuit of knowledge to flourish unimpeded. But such gifts and sponsorships also pose uniquely new questions for any institution committed to unwavering academic freedom, inasmuch as generous benefaction can sometimes give rise to unwelcome expectations. The committee understands its charge to be to suggest ways to mitigate if not prevent such transactions from coming into conflict with the overarching principles under which the

University functions. All gifts no matter how small or large are to be governed by these principles, at the point of acceptance as well as ongoing administration.

With respect to the specific charge to reexamine gift policy, the committee found particularly useful the explicit point made in the Woodward Report that there are many important features and interactions in the University, some valuable on their own account, but that the fundamental function of the University to ensure “the fullest degree of intellectual freedom” must and should eclipse them. The Report sums this up succinctly in the following phrase: “But it will never let these values, important as they are, override its central purpose.” The committee took that as its watchword. A system of checks and balances must ensure that the normal engagements between donors and the University do not come into conflict with the core institutional commitment to academic freedom. To that end, the committee has made a series of recommendations, documented in the following attachments.

These include:

clarifying the overarching principles under which gifts may be made and accepted (Attachment A – “Recommended changes to the Gift Acceptance and Review Policy”);

codifying protocol for University advisory bodies (Attachment B);

devising reporting mechanisms for the resolution of faculty concerns (Attachment C);

adding relevant language to the Faculty Handbook (Attachment D);

proposing approaches to communication and education regarding gift policies (Attachment E); and

specifying related issues that would benefit from further attention (Attachment F).

With respect to the final item above, the committee’s charge was in some sense limited, explicitly foregrounding procedures surrounding gifts, and focusing on the triangular relation among faculty, staff, and donors. Yet there were other areas against which the committee’s charge necessarily abutted, in addition to the under-specification in the Faculty Handbook of the institutionalization and protection of academic freedom. Most important, although the committee’s charge is limited to presenting mechanisms for faculty to bring forward concerns, it is important that the University allow any member of the community – faculty, staff, trainee, student, or other members of the Yale community – to seek resolution or report a matter through official university channels.

The committee expresses its gratitude for the opportunity to examine current university policies and practices and to provide counsel on these timely and important issues. In addition, the committee wishes to thank the individuals who made themselves available to be interviewed, those who shared their opinions and perspectives, and those who supported its work.

Gift Acceptance and Review Policy

Policy Statement: This policy sets out core principles and considerations that guide Yale's decisions regarding whether to accept a gift, return a gift, or redirect or modify the terms of an accepted gift; and it describes Yale's gift acceptance review process.

Scope: This policy applies to any staff or faculty member who solicits, accepts, or manages gifts on behalf of the university.

Policy:

A. Acceptance, Return, and Redirection of Gifts

1. Acceptance of Gifts

The university accepts gifts in support of its mission that do not infringe academic freedom; present a conflict of interest; impose undue risks or burdens of a financial, reputational or other nature; or violate the law.

- 1.1 *Academic Freedom*. All gifts must align with the university's mission. Gifts and gift conditions will not be accepted that interfere with the university's decision-making autonomy, including in admissions, appointments and promotions, the conduct of research, the construction and use of facilities, curriculum development, or financial aid; ~~or the construction of facilities~~; or that otherwise infringe a faculty member's academic freedom in teaching, scholarship, ~~or~~ research, or practice.
- 1.2 *Conflict of Interest*. Gifts will not be accepted that the university determines could appear to be made for the primary purpose of personally benefiting the donor or could unduly influence or undermine the integrity of a university admission, employment, or purchasing decision.
- 1.3 *Undue Burden or Risk*. Gifts will not be accepted that impose a disproportionate burden on the university with respect to financial, administrative, and other costs; or that are likely to have a significant negative impact on the university community that would frustrate the purpose of the gift.
- 1.4 *Lawfully Obtained*. Gifts of property must have documented provenance, and the source of gift funds must be lawful.

2. Return of Gifts

There is a strong presumption that the university will not return an accepted gift. This presumption respects donor intent and expectations. In exceptional circumstances, the university may return a gift if, based on information not known when the gift was accepted, it determines that the gift would have violated its gift acceptance principles.

Before accepting a gift, the university thoroughly considers these principles. Therefore, any after-acquired information must be of such a nature that a violation of those principles has become demonstrably clear.

3. Redirection of Gifts

In exceptional circumstances, the university may decide to redirect the use or modify the terms of a gift. Such circumstances may exist when, due to circumstances beyond the university's control, it is impossible or impracticable to continue to use the gift as designated without significantly frustrating its intended purpose. The university makes such decisions in consultation with the donor if possible, and in accordance with law governing the management of institutional funds, which may require legal process and approval.

B. Review and Approval of Proposed Gifts

1. Preapproved Gift Opportunities

The Office of Development maintains a comprehensive catalogue of [approved giving opportunities](#). This catalogue includes gifts to support financial aid, faculty research, libraries and collections, and identified programmatic priorities. The provost or the relevant dean approves all gift opportunities in the catalogue.

2. Endowed or Substantial Spendable Gifts

Proposed endowed gifts, and proposed spendable gifts in an amount greater than \$100,000, to a centrally supported school or unit are reviewed and approved by the provost or provost's designee, who may consult with the office of the general counsel. Proposed gifts to self-support schools are reviewed and may be approved by the school's dean, provided that they are consistent with this policy and the school's long-term programmatic and financial plan approved by the provost.

3. Gifts for Facilities

Proposed named gifts related to facilities are reviewed and approved by the president and the provost. Approved facilities naming opportunities and the required funding levels are listed in the catalogue of approved giving opportunities.

4. Gifts for New Programs or Centers

Proposed gifts that would fund a new program or center are reviewed and approved by the provost and, in appropriate circumstances the president, after close consultation with any appropriate dean.

5. Additional Review and Consultation

When the decision whether to accept a proposed gift may require additional consideration, such as when a donor has no prior relationship with the university or the gift is of a nonstandard property interest, additional analysis and advice will be sought as appropriate from the offices of development, finance, general counsel and/or the provost.

The committee recommends that the following statement and clause be adopted for use in a) conversations between development officers and donors and b) gift agreements. This language codifies many existing practices.

1) A statement to add to the guidelines used by development officers in their discussions with donors:

The university welcomes the input of its generous supporters, including via advisory committees created by the university. It is important that donors understand that university faculty and staff retain the authority to make all decisions regarding the use of gifts, including teaching and curriculum, research pursuits and the publication of results, and the design and pursuit of other educational and scholarly activities; and that donors understand that university faculty and staff determine and manage the processes and policies for selecting any students, faculty, staff, and postdocs and other trainees associated with gifts. The scope of any committee activity must be described as advisory or consultative. In addition, any ability of the donor to propose members must require the approval of the relevant university leader or governing body; and the number of any such recommended members must be limited to a minority of the advisory body.

2) A clause for use in all gift agreements with advisory bodies:

The donor understands that it is the university's faculty and staff who have the authority to make all decisions regarding the use of this generous gift, including but not limited to research and the publication of results; teaching; the design and implementation of the curriculum; the selection of fellowship and scholarship recipients, and the design and pursuit of other scholarly and educational activities. The donor also understands that the university's faculty and staff determine and manage the processes and policies for selecting students, faculty, staff, and postdocs and other trainees associated with the gift.

Attachment C

Reporting mechanisms for the resolution of faculty concerns

Included in President Salovey's charge to the committee was the call to identify and recommend a mechanism by which faculty "can share with the administration any concerns about the acceptance of a gift."

The committee acknowledges Yale's subject-specific mechanisms for discussing, reporting, filing, and resolving complaints and concerns from members of the university community, including faculty. In general, the university's approach to complaint resolution relies on individuals or entities with subject-area expertise to address issues ranging from Title IX violations to grievances regarding equal opportunity and discrimination and harassment.

In keeping with Yale's general model for complaint and grievance procedures, and with an eye to employing existing structures and resources as far as possible, the committee recommends that the complaint procedure currently available to faculty at the university and published in [Section III.M. of the Yale Faculty Handbook](#) serve as a mechanism by which faculty may express concerns related to violations of the university's policies and principles regarding gifts and gift acceptance. It is also possible to express concerns anonymously through the University Hotline (see below).

Informal Resolution

The review procedures articulated in the Faculty Handbook encourage informal consultation and resolution and direct faculty with concerns to "initially . . . seek an equitable solution to the problem through direct discussion with the responsible persons." In cases specific to concerns about the purpose or administration of intended or accepted gifts, the committee recommends that, in concert with these procedures, faculty first attempt to seek resolution by bringing concerns to the attention of faculty who might have relevant knowledge or experience¹; the relevant department or program chair or head of unit; the relevant dean or deans; or the provost.

The Office of the Provost maintains a webform through which any member of the Yale community, faculty included, may contact the office, available at <https://provost.yale.edu/contact-us>. Questions, issues, concerns, and requests for consultation submitted through this form are triaged to the provost or to the provost's office representative who is best suited to provide assistance.

In some cases, it may be necessary for questions or concerns raised through informal mechanisms to be addressed through more formal channels. (See "Submission to the Provost," below.)

Submission to the Provost

When possible, faculty should seek help in resolving concerns through informal mechanisms as described above. When informal consultation is not possible or does not result in resolution, the committee recommends that the review procedures as outlined in Section III.M. of the Yale Faculty Handbook be available to any member of the university's faculty.² The review procedures allow the provost to appoint either a panel of the Faculty Review Committee or an *ad hoc* panel of no fewer than three [faculty] members. In keeping with Yale's emphasis on subject-area expertise, it is

¹ For example, junior faculty might consult with senior colleagues.

² The Faculty Handbook states, "These procedures are available to all members of the faculty, with the exception of the voluntary clinical faculty of the School of Medicine and the School of Nursing" (pp. 23). If the Faculty Handbook is not revised to eliminate this exception, it is still important to point out that voluntary clinical faculty may utilize the other reporting mechanisms outlined here, including directly contacting the provost's office or the University Hotline.

strongly recommended that individuals with such expertise be appointed in the examination of complaints related to gifts.

Anonymous Reporting Mechanism

The Yale University Hotline is a resource available to all members of the Yale community, including faculty. Faculty who do not feel comfortable speaking with one of the resources above, or who desire anonymity, can either call the toll-free number at 877-360-YALE, or file a report online. Users of the University Hotline may provide their name and contact information or may choose to remain anonymous.

More information is available on the [University Hotline webpage](#).

Academic Freedom of the Faculty

In its research, the committee observed that the Yale Faculty Handbook lacks an explicit statement codifying the university's protection of the academic freedom of the faculty. Section II ("Academic Freedom and Faculty Standards of Conduct"), copied below, addresses the principles of the Woodward Report and the educational, scholarly, and community standards all faculty are expected to uphold; however, it fails to address the university's commitment to preserving and safeguarding the academic freedom of the institution's faculty. The committee recommends an addition to the Handbook to make visible and evident to the faculty the importance of this bedrock principle.

Clarifying Section III.M.

In addition to its recommendations regarding the use of Section III.M. as a mechanism for the resolution of faculty concerns (see Attachment C), the committee suggests further clarifying revisions to Section III.M. of the Handbook.

For reference, the text of Section III.M. (page 23 of the Handbook) appears below, followed by the committee's recommendations.

M. Review Procedure for Complaints about Issues Other than Reappointment or Promotion

Members of the teaching or research faculty who believe that they have suffered as a result of a breach of University policy by a committee, department, or other unit of the University in a matter not involving reappointment or promotion and who seeks a review of the matter may request a review in accordance with the procedure set forth above.¹³ If the complaint is submitted to a committee for review, the Provost, at their discretion, may submit the complaint either to the Faculty Review Committee composed as described above or to an *ad hoc* panel of no fewer than three members appointed by the Provost. A decision of the Provost regarding a complaint brought under this section shall be final.

13 These procedures are available to all members of the faculty, with the exception of the voluntary clinical faculty of the School of Medicine and the School of Nursing.

Recommendations:

- 1) Clarify whether the *ad hoc* panel should be composed of three members of the Faculty Review Committee or three faculty members of the provost's choosing from anywhere within the university.
- 2) The first sentence of Section III.M. implies that the procedure should be utilized by individuals who believe they have been personally impacted by a breach of policy. This language should be broadened so that it is inclusive of any member of the faculty who has a concern, regardless of whether they have been personally affected.
- 3) The first sentence also conveys that a breach of policy would happen due to an action taken by a "committee, department or other unit of the university." The committee suggests that

this phrase be struck; breaches may occur at the hands of any individual (including a fellow faculty member) or entity, and reporting should not be constrained based on the identity of the respondent.

- 4) The phrase “as set forth above” should be specified as Section III.L.3.b.
- 5) Clarify mechanisms available to the voluntary clinical faculty of the School of Medicine and the School of Nursing.

Attachment E
Communication and education
regarding gift policies

With regard to initial communications and education, we recommend that:

The policy and related materials be communicated to the University community by the President and/or be presented in a University Cabinet meeting, in which case deans and directors would communicate directly with their faculties and staff.

There be a communique to the FAS/SEAS Senate Executive Committee.

Pathways be laid out to widely and proactively release key information regarding policies and new procedures to the Yale community, as well as addressing inquiries from the press, including the *Yale Daily News*.

With regard to ongoing education, we recommend that:

The Gift Acceptance and Review Policy and related resources ‘live’ on the provost’s office website (under “Policies”).

The above information be readily locatable by means of University webpage search, Google, and so forth.

The Policy and related language be disseminated to new faculty administrators; department and program chairs, and be included in faculty onboarding programs, perhaps in the portions dealing with the requisites of and challenges to academic freedom.

The Gift Acceptance and Review Policy regarding advisory bodies for use in gift agreements, and the excerpt for gift officers to use in conversations with donors, ‘live’ in the Office of Alumni Affairs and Development’s repository of guidelines for all staff.

The Policy and related provisions and language be disseminated to relevant staff annually and included in staff onboarding programs.

The University follow up on the longer run results of this committee’s work to ensure that our collective institutional response has been adequate.

Attachment F
Related issues that would
benefit from further attention

The committee's charge inevitably touched on related areas that would benefit from attention.

The committee therefore also recommends:

Explicitly attending to and more expansively documenting the academic freedom of the faculty in the Faculty Handbook. This reframing could occur by means of a University committee, and could also draw on the contributions of the FAS/SEAS Senate.

Developing additional mechanisms that would empower staff, students, trainees, and other community members—i.e., not only faculty—to benefit from the widest possible avenues to report concerns about gift acceptance and ongoing administration.

Educating faculty benefiting from donor-funded gifts, including faculty who interact with donors or potential donors, in a fashion parallel to the one-hour training offered by the Office of Cooperative Research to all faculty performing sponsored research with industry.

Creating an additional mechanism for reporting that bypasses the Office of the Provost in the event of concerns relating directly to that office.

More deeply exploring the implications of restrictions on academic and other forms of intellectual freedom experienced by faculty in temporary “on loan” roles. (For whom do such faculty work, and does that calculus change when time periods are extended?) An additional complication is that some members of the University community or the University itself may feel beholden to the company or organization given their potential to become a source of major funds.

Clarifying whether voluntary clinical faculty in the Schools of Medicine and Nursing may utilize all reporting mechanisms outlined in Section III.M. of the Faculty Handbook to report concerns regarding gift acceptance or administration (at present, certain formal procedures are not available to them).