

Cornell University
University Assembly

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Agenda

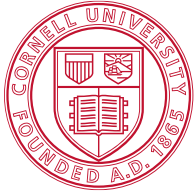
Codes and Judicial Committee
University Assembly
September 13th, 2017
4:30pm - 5:45pm
163 Day Hall

- I. Call to Order (Chair)**
 - i. Call to Order (2 minutes)
- II. Approval of Minutes (Chair)**
 - i. April 25, 2017 (1 minute)
 - ii. September 6, 2017 (1 minute)
- III. Business of the Day**
 - i. For Vote: UA Resolution # X: Appointment of University Hearing Board and University Review Board Members for Academic Year 2017-2018 (10 minutes)^[1]
 - ii. For Discussion: Addressing housekeeping code changes (25 minutes)^[2]
 - iii. For Discussion: Transcript Notation Policy Draft (25 minutes)^[3]
 - iv. For Discussion: Clarification of the definition of "Student" in the Campus Code of Conduct (5 minutes)^[4]
- IV. Executive Session**
 - i. Executive Session (5 minutes)
- V. Adjournment**
 - i. Adjournment (1 minute)

Attachments

1. UA Resolution # X: Appointment of University Hearing Board and University Review Board Members for Academic Year 2017-2018
2. Draft language from the Judicial Administrator to address housekeeping issues.
3. Transcript Notation Draft (annotated) – Updated 9.13.2017
4. U.A. Resolution # X: Amending the Definition of Term "Student" in the Campus Code of Conduct

If you are in need of special accommodations, contact Office of the Assemblies at (607) 255-3715 or Student Disability Services at (607) 254-4545 prior to the meeting.



U.A. Resolution # X

Amending the Definition of Term "Student" in the Campus Code of Conduct

March 14, 2017

1 **Sponsored by: Rebecca Herz, Undergraduate; Member, University Assembly**

2
3 **On Behalf Of: UA Codes & Judicial Committee (M. Battaglia, N. Chovanec, R. Herz, C.**
4 **Hodges, J. Kruser, R. Lieberwitz, L. Munguia, D. Putnam, N. Rogers, T. Shapiro, K.**
5 **Zoner)**

6
7 **Whereas,** according to the University Assembly's Charter, "By delegation from the [University]
8 Assembly, the [Codes and Judicial] Committee will review any proposed motion related
9 to Campus Code of Conduct; and

10
11 **Whereas,** the Office of Risk Management has highlighted incongruities with the current
12 definition of "student" in the Campus Code of Conduct; and

13
14 **Whereas,** such incongruities create unrealistic expectations on the part of all those involved with
15 and responsible for managing the disciplinary process; and

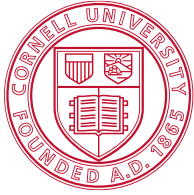
16
17 **Whereas,** the Codes and Judicial Committee has discussed and explored alternative options to
18 this proposed change; therefore

19
20 **Be it resolved,** that the Campus Code of Conduct, Title Two, Article I, Section. B, Subsection 2,
21 Subpart a. be amended to read:

22
23 *B. Jurisdiction over Students*

24 2. The term student shall be interpreted to mean also persons not officially
25 registered, and not faculty members or other University employees, if they are:

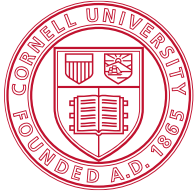
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27 a. currently enrolled in or taking classes at the University, with the exclusion
28 of any individual enrolled in or taking classes at the University while still an
29 elementary, middle, high school student, or foreign equivalent, so long as
30 such individuals are subject to written behavioral expectations, policies or
31 procedures.
32



Cornell University University Assembly

33 b. currently using University facilities or property, or the property of a
34 University-related residential organization, in connection with academic
35 activities, with the exclusion of any individual enrolled in or taking classes at
36 the University while still an elementary, middle, high school student, or
37 foreign equivalent, so long as such individuals are subject to written
38 behavioral expectations, policies or procedures.
39

No signature block is present until the resolution has been disposed of by the Assembly (Passed, Failed, Withdrawn, etc.) Then a block with the certifying member (customarily Chair/Vice-Chair) verifying the authenticity and vote tally of the resolution.



U.A. Resolution #X

**Appointment of University Hearing Board and
University Review Board Members for Academic Year
2017-2018**

September 6, 2017

1 **Sponsored by: Matthew Battaglia, Graduate and Professional; Chair, Codes & Judicial**
2 **Committee**

3
4 **On Behalf Of: The 2016 – 2017 UA Codes & Judicial Committee (M. Battaglia, N.**
5 **Chovanec, R. Herz, C. Hodges, J. Kruser, R. Lieberwitz, L. Munguia, D. Putnam, N.**
6 **Rogers, T. Shapiro, K. Zoner)**

7
8 **Whereas,** the 2016 – 2017 Codes and Judicial Committee received and reviewed applications for
9 service on the University Hearing and University Review Boards (UHRB) from students and
10 employees and made recommendations on appointments; and

11
12 **Whereas,** with a larger than anticipated turnover on the UHRB the Executive Committee of the
13 University Assembly authorized the appointment of individuals on a temporary basis to the
14 UHRB when insufficient numbers of regular appointees were available; and

15
16 **Whereas,** the students temporarily appointed were formally vetted and recommended by the
17 Codes and Judicial Committee during the 2016 – 2017 academic year; and

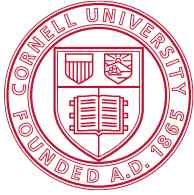
18
19 **Whereas,** the staff temporarily appointed were members of the UHRB during 2016-2017 year
20 who wished to continue their service; and

21
22 **Whereas,** the faculty temporarily appointed were formally nominated by the Dean of the
23 University Faculty during the 2016 – 2017 academic year; and

24
25 **Whereas,** all individuals appointed to serve on the University Hearing and Review Boards must
26 be confirmed by the University Assembly; therefore

27
28 **Be it Resolved,** the following student members are appointed to the UHRB for a term beginning
29 retroactively June 1, 2017 lasting until their graduation from the University or May 31, 2019,
30 whichever is sooner:

31
32 Austin Boyle
33 Zoe Kohl



Cornell University University Assembly

34
35 **Resolved**, the following current employee member of the UHRB is reappointed for a two-year
36 term beginning retroactively June 1, 2017 lasting until May 31, 2019 or their separation from the
37 University, whichever is sooner:

38
39 Adidi Etim-Hunting

40
41 **Resolved**, the following faculty member is appointed to the UHRB for a two-year term
42 beginning retroactively from June 1, 2017 lasting until May 31, 2019 or their separation from the
43 University, whichever is sooner:

44
45 Michelle Cox

No signature block is present until the resolution has been disposed of by the Assembly (Passed, Failed, Withdrawn, etc.) Then a block with the certifying member (customarily Chair/Vice-Chair) verifying the authenticity and vote tally of the resolution.

Greenline is current language being changed/stricken

Purpleline is new language being proposed

Redline is new language changed in response to the discussion of the CJC from this past semester (obvious typos excluded)

Title III, Article IV

(Section) A. Penalties

The green stricken language below in Subsection 8 (enclosed by red brackets) will be handled through a separate resolution (likely our "low hanging fruit" efforts)

(8) Suspension from the University for a stated period not to exceed five years [~~or indefinitely with the right to petition the University Hearing Board in writing at any time for readmission after the academic term following the academic term in which the suspension occurred. Such petition shall be submitted no later than April 1 if the petition is for readmission for the fall semester and by November 1 if the petition is for readmission for the spring semester. If the Judicial Administrator agrees with the petition of the accused, he or she may permit the readmission without the petition being considered by the University Hearing Board, after consulting with appropriate professional colleagues and receiving approval of a Hearing Board Chair. If the University Hearing Board denies the petition, the accused may not petition again until the next semester and, in any event, may not petition for readmission for the same semester denied by the University Hearing Board.~~] While on such suspension, the student may not obtain academic credit at Cornell or elsewhere toward the completion of a Cornell degree. A student who is suspended may have a notation placed on their transcript stating, "Suspended after a finding of responsibility for a code of conduct violation" consistent with Section C of this article.

(9) Dismissal, i.e., expulsion from the University. A student who is expelled shall have a notation placed on their transcript stating, "Expelled after a finding of responsibility for a code of conduct violation" consistent with Section C of this article.

(10) An official university transcript notation is considered to be an additional penalty above simply suspending or expelling an individual and is a means to help protect public safety though providing notice of serious infractions. Such transcript notations are appropriate only when so required by law or when an individual's conduct demonstrates an egregious departure from acceptable behavior expected from a member of the Cornell Community, as outlined in this Code and consistent with the following provisions:

a) Official University transcripts must be annotated if the offender has been:

- i. Suspended or expelled for an offense falling within the scope of New York State Education Law section 6444, the Cleary Act, or other applicable federal or state law including but not limited to:
 1. Murder
 2. Forcible or non-forcible sex offenses [insert footnote that this offense is subject to Appendix A]
 3. Robbery
 4. Aggravated assault
 5. Burglary
 6. Motor vehicle theft
 7. Manslaughter
 8. Arson
 - ii. Suspended or expelled for one of the following offenses: [This list includes offenses as discussed last year]
 1. Assault
 2. False imprisonment
 3. Violence or threats of violence resulting in damage to property
 4. Violent/Unsafe hazing
 5. "Grave Misconduct" (a specific term of art defined in the code – Pg. 4 (2)(b))
 6. Criminal Possession of an unauthorized deadly weapon on university grounds
 - iii. Previously suspended for a separate offense
 - iv. Expelled from the University for an offense other than those listed under 2.B [immediately below]
- b) Official University transcripts will not be annotated with if the offender has been suspended or ~~expelled~~ for the following offenses provided this is that individuals first suspension:
- i. Alcohol, Marijuana, or other controlled substance use
 - ii. Alcohol, Marijuana, or other controlled substance possession without the intent to supply to others

(Section) C. Procedure for Annotation of Academic Documents and Compliance
(Also amend relevant Table of Contents)

1. An official transcript issued during the pendency of charges shall indicate that charges are pending, ~~accompanied by a complete recitation of the pending charges~~. The University, upon request of the person seeking the transcript, shall notify that person of the final judgment in the

case. The University may withhold awarding a degree otherwise earned until the completion of proceedings, including compliance with a prescribed penalty or remedy. Should an individual against whom charges are pending withdraw from the University prior to the resolution of those charges and the individual declines to complete the disciplinary process, the individual's official transcript shall be noted as "Withdrew with conduct charges pending."

2. If an offender has not complied with the prescribed penalty or remedy within the specified time, the Judicial Administrator shall notify the University Registrar, Office of the Dean of Students, and other offices on a need-to-know basis that the individual or organization is suspended, and the suspension shall have immediate effect and continue until the offender has complied. For any violation of the terms of probation committed during the probationary period, the Judicial Administrator may impose on the offender additional penalties, including suspension or dismissal. The offender may request an appearance before the Judicial Administrator in order to show the fact of compliance, to contest the violation of probation, or to argue for a lesser penalty. The offender may petition the University Hearing Board in writing for a review of the penalty imposed by the Judicial Administrator for noncompliance or for violating probation.

3. No official transcript or degree will be granted to any person who has been found in violation of this Code and who has not fulfilled any condition or requirement fixed as a penalty or remedy, but such official transcript or degree shall be granted upon fulfillment of all such outstanding obligations.

4. Official transcripts issued to offenders who have been suspended or expelled for violations of this Code will be annotated with a notation on their transcript stating "[suspended/expelled] after a finding of responsibility for a code of conduct violation" consistent with the following provisions:

- a) The University Hearing Boards may, at their discretion, consider and impose transcript notations as a separate, additional penalty above simply suspending or expelling an individual found to have violated this Code, except where notations are mandated by law or under Section A.10.a.i.
- b) Except where required by law and for offenses covered under Section A.10.a.i, in exceptional circumstances, transcript notations may be omitted if doing so would more appropriately serve the interests of justice at the discretion of the Judicial Administrator or University Hearing Board when determining appropriate sanctions.
- c) An individual whose transcript contains a notation may petition a University Review Board in writing to remove the transcript notation only if all of the following conditions are satisfied:

- i. The offense for which the transcript notation was issued is not expulsion for an offense under Title 3, Article 4, Section A, Subsection 10, Bullet A, Sub-bullet I of this Code [129B violations]
 - ii. The transcript notation has been in place for at least one year
 - iii. The individual has not petitioned for the removal of the transcript notation in the past 2 years

- d) A University Review Board will review the petition within ninety days of receiving it. The notation will be removed immediately if at least one of the following conditions is satisfied:
 - i. Both the Judicial Administrator **and** the Hearing Board Chair concur with the petition; or
 - ii. The University Review Board determines to remove the notation

- e) Any transcript notation related to a suspension or expulsion that is later reversed shall be removed.

Proposed language to address to the suspension length, definition, and reporting date for organizations

Current Language (Title Three, Art. III, Sec. D.4 (pg. 24, 2017).	Proposed Language (Title Three, Art. III, Sec. D.4 (pg. 24, 2017).
<p>4. Limitations Period Any charge of a violation of this Code must be initiated by the filing of charges by the Judicial Administrator within one calendar year of the date of the alleged violation. Exceptions to this policy that extend the period beyond one year are:</p> <ul style="list-style-type: none"> a. In cases where the charge involves fraud, the period shall be one calendar year from the alleged fraud or 60 calendar days from the filing of a complaint alleging fraud, whichever is longer, but in any event no more than three calendar years from the alleged fraud. b. In cases where the individual to be charged is absent from the University because of either (1) a leave of absence, (2) a termination of employment, or (3) a withdrawal as a student, a charge may be brought within one calendar year of the alleged violation or within 60 calendar days of his or her return to the jurisdiction of the University judicial system, whichever is later. c. In cases where the individual to be charged is facing public prosecution involving the same matters, a charge may be brought within 60 calendar days of the final disposition of such prosecution. Should it appear that the individual will leave the University before such time, the President or his or her designee may cause the individual's degree 	<p>4. Limitations Period Any charge of a violation of this Code must be initiated by the filing of charges by the Judicial Administrator within one calendar year of the date of the alleged violation. Exceptions to this policy that extend the period beyond one year are:</p> <ul style="list-style-type: none"> a. In cases where the charge involves fraud, the period shall be one calendar year from the alleged fraud or 60 calendar days from the filing of a complaint alleging fraud, whichever is longer, but in any event no more than three calendar years from the alleged fraud. b. In cases where the individual to be charged is absent from the University because of either (1) a leave of absence, (2) a termination of employment, or (3) a withdrawal as a student, a charge may be brought within one calendar year of the alleged violation or within 60 calendar days of his or her return to the jurisdiction of the University judicial system, whichever is later. c. In cases where the individual to be charged is facing public prosecution involving the same matters, a charge may be brought within 60 calendar days of the final disposition of such prosecution. Should it appear that the individual will leave the University before such time, the President or his or her designee may cause the individual's degree

<p>to be withheld for the period in which the Judicial Administrator may file charges.</p> <p>d. The Judicial Administrator may request a Hearing Board Chair to extend any limitations period by up to an additional six calendar months, without required notice to any other person but upon a showing of special circumstances justifying such an extension, provided that the Judicial Administrator delivers such written request to a Hearing Board Chair prior to the expiration of that period.</p>	<p>to be withheld for the period in which the Judicial Administrator may file charges.</p> <p>d. In cases where the Respondent is a University-Registered Organization the period shall be no more than three calendar years from the alleged violation.</p> <p>e.-d. The Judicial Administrator may request a Hearing Board Chair to extend any limitations period by up to an additional six calendar months, without required notice to any other person but upon a showing of special circumstances justifying such an extension, provided that the Judicial Administrator delivers such written request to a Hearing Board Chair prior to the expiration of that period.</p>
<p>(Title Three, Art. IV, Sec. A.1.c.6 (pg. 25, 2017)).</p> <p>(6) Suspension of all privileges for a stated period not to exceed one year.</p>	<p>(Title Three, Art. IV, Sec. A.1.c.6 (pg. 25, 2017)).</p> <p>(6) Suspension of all privileges for a stated period not to exceed one year five years.</p>

Proposed language to address to immediate suspension for non-compliance of sanctions

<p>Current Language (Title Three, Art. IV, Sec. C.2 (pg. 36, 2017)).</p> <p>2. If an offender has not complied with the prescribed penalty or remedy within the specified time, the Judicial Administrator shall notify the University Registrar, Office of the Dean of</p>	<p>Proposed Language (Title Three, Art. III, Sec. D.4 (pg. 24, 2017)).</p> <p>2. If an offender has not complied with the prescribed penalty or remedy within the specified time, the Judicial Administrator shall may¹ notify the University Registrar, Office of the Dean of</p>
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¹ The term “may” will preserve the rare instances of addressing, for example, serious violations of NCDs.

<p>Students, and other offices on a need-to-know basis that the individual or organization is suspended, and the suspension shall have immediate effect and continue until the offender has complied. For any violation of the terms of probation committed during the probationary period, the Judicial Administrator may impose on the offender additional penalties, including suspension or dismissal. The offender may request an appearance before the Judicial Administrator in order to show the fact of compliance, to contest the violation of probation, or to argue for a lesser penalty. The offender may petition the University Hearing Board in writing for a review of the penalty imposed by the Judicial Administrator for noncompliance or for violating probation.</p>	<p>Students, and other offices on a need-to-know basis that the individual or organization is suspended, and the suspension shall have immediate effect and continue until the offender has complied. For any violation of the terms of probation committed during the probationary period, the Judicial Administrator may impose on the offender additional penalties, including suspension or dismissal. The offender may request an appearance before the Judicial Administrator in order to show the fact of compliance, to contest the violation of probation, or to argue for a lesser penalty. The offender may petition the University Hearing Board in writing for a review of the penalty imposed by the Judicial Administrator for noncompliance or for violating probation.</p>
<p>N/A</p>	<p>(Title Three, Art. II, Sec. A.3 (pg. 18, 2017)).</p> <p>(m) To refuse to comply with any lawful order of a clearly identifiable University official acting in the performance of his or her duties, or with a policy that has been duly promulgated by the University or any college, department, or unit thereof, whether or not the policy has been issued in the standardized University format.²</p>

Proposed language to role of non-matriculated minors

<p>Current Language (Title Two, Art. I, Sec. B.2 (pg. 10, 2017)).</p>	<p>Proposed Language (Title Two, Art. I, Sec. B.2 (pg. 10, 2017)).</p>
<p>1. The term student shall be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with the University as:</p>	<p>1. The term student shall be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with the University as:</p>

² Same language as Title IV; some language from peer-institutions will be shared.

- a. a degree candidate in any of Cornell's undergraduate or graduate divisions;
- b. a special student in the undergraduate divisions; or
- c. a non-degree-candidate in the graduate school.

2. The term student shall be interpreted to mean also persons not officially registered, and not faculty members or other University employees, if they are:

- a. currently enrolled in or taking classes at the University;
- b. currently using University facilities or property, or the property of a University-related residential organization, in connection with academic activities; or
- c. currently on leave of absence or under suspension from being a student of the University.

- a. a degree candidate in any of Cornell's undergraduate or graduate divisions;
- b. a special student in the undergraduate divisions; or
- c. a non-degree-candidate in the graduate school.

2. The term student shall be interpreted to mean also persons not officially registered, and not faculty members or other University employees, if they are:

- a. currently enrolled in or taking classes at the University, with the exclusion of any individual enrolled in or taking classes at the University while still an elementary, middle, high school student, or foreign equivalent;
- b. currently using University facilities or property, or the property of a University-related residential organization, in connection with academic activities; or
- c. currently on leave of absence or under suspension from being a student of the University.

DRAFT