

Cornell University
University Assembly

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Agenda

Codes and Judicial Committee
University Assembly
October 18th, 2017
4:30pm - 5:45pm
305 Day Hall

I. Call to Order (Chair)

- i. Call to Order (1 minutes)

II. Approval of Minutes (Chair)

- i. April 25, 2017 (1 minute) ^[1]
- ii. September 6, 2017 (1 minute)
- iii. September 13, 2017 (1 minute) ^[2]
- iv. September 20, 2017 (1 minute) ^[3]
- v. September 27, 2017 (1 minute)
- vi. October 4, 2017 (1 minute) ^[4]

III. Business of the Day

- i. Update on previously passed Code amendments (Chair) (5 minutes)
- ii. For Discussion: Examining Hate Speech and the Campus Code of Conduct (10 minutes)
- iii. For Discussion: Beginning the process of a holistic evaluation of the Code (25 minutes)
- iv. For Discussion: Beginning the process for staffing the University Hearing and Review Boards and increasing contact with the Hearing and Review Board Chairs (15 minutes)
- v. For Discussion: Discussing recent Department of Education policy shifts, our Quantum of Proof, and Policy 6.4 (12 minutes)

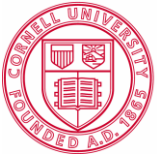
IV. Adjournment (Chair)

- i. Adjournment (1 minute)

Attachments

1. CJC Meeting Minutes 4.25.2017
2. CJC Meeting Minutes 9.13.2017
3. CJC Meeting Minutes 9.20.2017
4. CJC Meeting Minutes 10.4.2017

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.



Cornell University
University Assembly

Minutes

Codes and Judicial Committee
University Assembly
April 25, 2017
4:30pm - 6:00pm
316 Day Hall

I. Call to Order

M. Battaglia called the meeting to order at 4:30 PM.

Attendance:

Present: M. Battaglia, N. Chovanec, G. Kaufman, J. Kruser, L. Munguia, N. Rogers, T. Shapiro

Absent: R. Herz, R. Lieberwitz, D. Putnam, K. Zoner

Others Present: V. Bhaya

II. Approval of Minutes

- i. March 28, 2017
 - a. There was a motion to table the minutes from March 28, 2017. The motion passed by unanimous consent.
- ii. April 17, 2017
 - a. There was a motion to table the minutes from April 17, 2017. The motion passed by unanimous consent.

III. Business of the Day

- i. Brief Recap
 - a. M. Battaglia thanked the Committee for their service during the year and provided a brief recap of the Committee's activities during the year.
- ii. Applicant evaluation for the University Hearing and Review Boards
 - a. The Committee entered Executive Session for the purpose of evaluating applicants to the University Hearing and Review Boards. The Clerk departed and the recorder was stopped. The Committee also thanked V. Bhaya for his service as Clerk over the preceding years and congratulated him on his coming graduation.

Compiled from notes, papers, and recollection of events,

Matthew Battaglia
Chair, Codes and Judicial Committee (AY 2016 – 2017)



Minutes

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

I. Call to Order (Chair)

- a. M. Battaglia called the meeting to order at 4:36pm.
- b. Roll Call:
 - i. *Present*: M. Battaglia, R. Bensel, M. Horvath, G. Kaufman, J. Kruser
 - ii. *Absent*: K. Karr, S. Park, D. Putnam
 - iii. *Others Present*: T. Malone
 - iv. *Late Arrivals*: N. Jaisinghani (4:37pm), R. Lieberwitz (4:37pm)
- c. Due to the fact that there were not enough members to reach a quorum, the committee moved into Committee of the Whole, until the two late arrivals, N. Jaisinghani and R. Lieberwitz, arrived to the meeting at 4:37pm, at which time a quorum was achieved.
- d. In the Committee of the Whole, the committee spoke about permanent meeting times, University Hearing and Review Board vacancies (2 students and 1 staff), the Campus Code of Conduct language regarding the appointment terms of the Judicial Administrator, and Campus Code of Conduct housekeeping regarding the dense and ambiguous language in the Campus Code of Conduct.

II. Approval of Minutes (Chair)

- a. No minutes were approved at this meeting.

III. Business of the Day

- a. For Vote: UA Resolution X: Appointment of University Hearing Board and University Review Board Members for Academic Year 2017-2018
 - i. UA Resolution X **passed** with a vote of 4-0-1
- b. For Discussion: Addressing housekeeping code changes
 - i. M. Battaglia said that there was a lot to discuss regarding Campus Code of Conduct amendments, specifically in the language of the appointment of the Judicial Administrator, the language in Title 3 regarding the discretion of the Judicial Administrator, and further explanation of terms in the Campus Code of Conduct.
 - ii. M. Horvath said that Title 3 needs to be changed because there is only mention of "non-compliance" in Title 4, although it was once in both Title 3 and Title 4, however, not that it is only found in Title 4, she said that the Office of the Judicial Administrator cannot act accordingly on an individual basis without the discretion given by the wording in Title 3.
 - iii. M. Battaglia said that there must be an avoidance of being too far-reaching and vague.

- iv. R. Bensel said that the matter of changing code language in Title 3 is not “low-hanging fruit,” and needs to be handled.
- v. M. Battaglia said that this provision is to amend the Campus Code of Conduct to add more discretion in Title 3 to give to the Office of the Judicial Administrator.
- vi. R. Lieberwitz asked for clarification of what was being discussed.
- vii. M. Horvath said that she asks that there be language in Title 3 to charge Non-Compliance for appropriate violations, as necessary, in accordance with the Campus Code of Conduct.
- viii. R. Bensel said that he was uncomfortable with changing the language because of the connection with the McBride case, and because the it is too broad
- ix. M. Battaglia said that the Committee had discussed narrowing the language of this proposed amendment.
- x. R. Bensel discussed the McBride Case and said that if the amendments of the Campus Code of Conduct are proposed to bring the McBride Case under the Campus Code of Conduct, then he is opposed the idea. He said that the proposed amendments are broad and need regularity.
- xi. M. Battaglia said that he has heard concerns from a number of groups and individuals concerning regulations for public order. He said based upon the prior discussion of the committee, the proposed language would be narrowed to only include the violation of sanctions given under the Code to avoid being broad.
- xii. R. Bensel asked about standardized University Campus Code of Conduct formats.
- xiii. M. Battaglia mentioned Policy 1.1, which is the Policy on Policies.
- xiv. J. Kruser said that along with the format changes, the definition of term “University Official” is unclear and vague, and has different meaning throughout its various occurrences in the Campus Code of Conduct.
- xv. M. Battaglia said that additional board and administration approval would be needed to amend the specific language regarding the term “University Official.”
- xvi. R. Lieberwitz said that there is wording of a violation of Title 3 in Title 3, which is odd.
- xvii. M. Horvath said that Title 4 is odd, but it is required of New York State Law.
- xviii. R. Lieberwitz said that it would be useful to see the implementation and applicability of the Campus Code of Conduct throughout history, specifically how amendments were brought in.
- xix. M. Horvath questioned if there was anything that the Office of the Judicial Administrator could provide.
- xx. R. Lieberwitz asked about the three-year provision in the Campus Code of Conduct.

- xxi. M. Horvath said that there are exceptions to the one-year extension rule.
- xxii. R. Lieberwitz said that she was not comfortable with a five-year suspension because she doesn't agree with the idea of cleaning out an organization entirely.
- xxiii. The Chair asked for the unanimous consent to extend the conversation and move off the Agenda. There was no dissent.**
- xxiv. M. Horvath said that a five-year suspension is sometimes used because of the turnover of membership and university perceptions, and to dismiss the stigma surrounding a group or organization.
- xxv. M. Battaglia asked the Codes and Judicial Committee to consider that language and meaning of the term "Student" for discussion for the next meeting.
- xxvi. The Chair moved the meeting into an Executive Session at 4:34pm.**

IV. Adjournment

- a. The recorder was turned off and no further minutes were recorded.

Respectfully submitted,

Terrill D. Malone
Codes and Judicial Committee Clerk



Cornell University
Codes and Judicial Committee

Minutes

Codes and Judicial Committee
University Assembly
September 20, 2017
4:30pm-5:45pm
Claudy Casual Conference Room

- a. Roll Call:
 - i. *Present:* M. Battaglia, R. Bense, K. Karr, G. Kaufman, J. Kruser, S. Park,
 - ii. *Absent:* M. Horvath, N. Jaisinghani, R. Lieberwitz, D. Putnam, K. Zoner
 - iii. *Others Present:* T. Malone
- b. As there were not enough voting members present to reach a quorum, the committee moved into Committee of the Whole and proceeded to discuss the proposed amendments to the Campus Code of Conduct as well as potential revisions of the Campus Code of Conduct regarding "Hate Speech."

Respectfully submitted,

Terrill D. Malone
Codes and Judicial Committee Clerk



Minutes

Codes and Judicial Committee
University Assembly
September 27, 2017
4:30pm-5:45pm
163 Day Hall

I. Call to Order (Chair)

- a. M. Battaglia called the meeting to order at 4:38pm.
- b. Roll Call:
 - i. *Present:* M. Battaglia, R. Bensel, M. Horvath, G. Kaufman, J. Kruser, S. Park, D. Putnam, A. Waymack, K. Zoner
 - ii. *Absent:* N. Jaisinghani, K. Karr, R. Lieberwitz
 - iii. *Others Present:* D. Barbaria, T. Malone, V. Price, N. Stetson

II. Approval of Minutes (Chair)

- a. April 25, 2017 Minutes
 - i. **Tabled** to the next meeting
- b. September 6, 2017
 - i. **Tabled** to the next meeting
- c. September 13, 2017
 - i. **Tabled** to the next meeting
- d. September 20, 2017
 - i. **Tabled** to the next meeting

III. Business of the Day

- a. For Discussion/Vote: Housekeeping Changes to the Campus Code of Conduct
 - i. M. Battaglia said that he hopes to go through the Campus Code of Conduct to make it more clear and understandable.
 - ii. M. Battaglia explained the first proposed language change in the Campus Code of Conduct, which addresses the suspension length, definition, and reporting date for organizations in Title Three, Art. III, Sec. D.4 (pg. 24, 2017) of the Campus Code of Conduct.
 1. M. Horvath said that she is in full support of the proposed language change.
 2. R. Bensel made a motion to approve the first proposed language change. By a vote of 4-0-1, the motion was **adopted**.
 - iii. M. Battaglia explained the second proposed language change in the Campus Code of Conduct, which addresses immediate suspension for non-compliance of sanctions in Title Three, Art. II, Sec. A.3 (pg. 18, 2017).
 1. M. Horvath questioned the use of “valid” in the context of the language of the proposed language change.

2. J. Kruser made a motion to amend the proposed language to read: “To refuse to comply with any penalty or remedy given pursuant to the Campus Code of Conduct.”
 - a. The motion was seconded by M. Horvath
 - b. By a vote of 4-0-1, the motion was adopted.
3. M. Battaglia called the question to adopt the proposed language change to the Campus Code of Conduct.
 - a. By a vote of 4-0-1, the motion was adopted.
- iv. M. Battaglia explained the third proposed language change in the Campus Code of Conduct, which more specifically defines the term “Student,” and the role of non-matriculated minors in the Campus Code of Conduct.
 1. K. Zoner said that it is understandable to protect free speech, however, she said that she finds it hard to agree with R. Lieberwitz’s wording of the proposed language change.
 2. J. Kruser asked why is anyone being carved out of protections if they are taking classes at the University? And what is the risk to the University by leaving provisions in the Campus Code of Conduct?
 3. Point of Information-S. Park asked whose jurisdiction are they [meaning students not fully and officially registered with the University] are under?
 4. M. Horvath said that the language is distinct to take into account the different special cases and to not overstep the boundaries of parents and school jurisdictions to not open up the University to liability.
 5. K. Zoner said in special cases for atypical students, to have things in place. She said the Campus Code of Conduct provides resources that they have not earned, as opposed to other fully registered students.
 6. R. Bense mentioned the freedom of expression for students.
 7. J. Kruser said that there needs to be something to access the terms for third-parties to make sure that they don’t offend the University.
 8. G. Kaufman said that they are written out of the Campus Code of Conduct, and that there should be something in place to ensure that their rules are held to standard, and that the Codes and Judicial Committee has power the power to oversee and ensure that.
 9. M. Horvath said that there is a need to look at whether the

- Campus Code of Conduct is the place to remove the students, and therefore, action must be taken to demonstrate flexibility.
10. K. Zoner said that most high school students have codes that apply to them, so how far with the University go to access those codes? She said that it might be worth looking at a “person’s bill of rights.”
 11. J. Kruser said that there are already things in place within the University Assembly to take a look into policies.
 12. R. Bensel said that there is a strong suggestion to revisit a bill of rights.
 13. M. Battaglia said that the language that gives the University Assembly power to look at policies should be brought forward.
 14. D. Barbaria questioned the placement of the proposed language change.
 15. M. Battaglia moved to move the proposed language highlighted in yellow to before the phrase “if they are:”
 - a. By a vote of 5-0-1, the motion was adopted.
 16. M. Battaglia called the question to adopt the third proposed language change to the Campus Code of Conduct.
 - a. Point of Information-M. Horvath said that there is an issue with having the proposed language change because it raises an issue.
 - b. R. Bensel asked, why not move the proposed language to subsection D.?
 - c. R. Bensel recommended considering a making a section 3 that says “No provision of 1 and 2 shall not apply to...”
 17. K. Zoner proposed that the language reads: “The term student should not be defined as...etc.”
 18. M. Battaglia called the question to amend the proposed language by moving the language highlighted in yellow to after “University employees” and before “if they are:”
 - a. By a vote of 5-0-1, the amendment to the proposed language was adopted.
 - v. M. Battaglia explained the fourth proposed language change in the Campus Code of Conduct, which removes indefinite suspension.
 1. M. Horvath said that students currently on indefinite suspension would currently follow the Campus Code of Conduct that they were suspended under.
 2. D. Putnam asked if credits can be transferred out if they cannot

- be transferred in while on indefinite suspension?
- a. M. Battaglia said that it is left up to other institution on whether or not they accept the credits.
3. M. Battaglia called the question to adopt the proposed language change to the Campus Code of Conduct.
 - a. By a vote of 5-0-1, the proposed language was adopted.
- vi. M. Battaglia explained the fifth proposed language change in the Campus Code of Conduct, in regards to the misuse of confidential information.
1. Point of Information-M. Horvath asked whether this, and the next proposed language changes were able to be voted on, since they were introduced in a working session.
 - a. M. Battaglia said yes, they technically can be voted on.
 2. M. Battaglia said the goal of the Campus Code of Conduct is to be more specific and clear.
 3. D. Barbaria said that it must be denoted as to what it means to assent to described terms of “confidentiality.”
 4. R. Bensel said that it should include the term “explicitly.”
 5. M. Horvath said that this language seems a bit rushed, and that it should be tabled. She recommended that the University Assembly talk with its different constituencies on how this language impacts their work.
 6. J. Kruser said that the Codes and Judicial Committee is trying to out in a protection to make it blatant as to what is confidential, and to not make it overly broad.
 7. G. Kaufman said that it would be okay to pass language now and have it discussed later by the University Assembly, and hopefully, further by its respective constituencies.
 8. R. Bensel said that postponing the adoption of this proposed language might be a good idea so that it can be thought out.
 9. K. Zoner said that she agrees with tabling the proposed language, however, she disagrees with narrowing it, and disagrees with the fact that it restricts free speech because it she says it allows people to have a frank conversation.
 10. M. Battaglia motioned to extend the meeting by 15 minutes. There was no dissent. The motion was adopted.
 11. J. Kruser said that there are good reasons to keep things confidential for courtesy.
 12. R. Bensel said that, if there is a written form, it is good, however, it should include the term “explicit.”

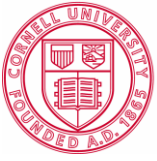
13. M. Horvath motioned to table the proposed language change until the next meeting. R. Bensel seconded the motion.
 - a. By a vote of 4-0-1, the proposed language was **tabled** until the next meeting.
- vii. M. Battaglia explained the sixth proposed language change in the Campus Code of Conduct, which clarifies University Hearing and Review Board appointment procedures.
 1. R. Bensel moved to approve the proposed language change to the Campus Code of Conduct. K. Zoner seconded the motion.
 - a. By a vote of 4-0-1, the motion was **adopted**.
- viii. M. Battaglia explained the seventh proposed language change in the Campus Code of Conduct, which clarifies Judicial Administrator appointment procedures.
 1. M. Horvath said that she is excluding herself from this conversation, and mentioned the change in the University Assembly's Charter and how it conflicts with the proposed language change.
 2. G. Kaufman said that there is no conflict with the Campus Code of Conduct because the Campus Code of Conduct takes precedence.
 3. K. Zoner said that she agrees with documenting the procedures in the Campus Code of Conduct, however, she said that she is unclear about what the proposed language means. She also said that she is concerned with the timeline.
 4. K. Zoner said that there are more simple ways to prevent reappointment issues, and that it shouldn't be taken lightly. She said that a six-person committee does not represent the University well.
 5. M. Battaglia motioned to table the proposed language.
 - a. By a vote of 4-0-1, the proposed language was **tabled**.
- ix. M. Battaglia explained the fifth proposed language change in the Campus Code of Conduct, which adds discretion to No Contact Directive procedures.
 1. R. Bensel motioned to approve the proposed language change to the Campus Code of Conduct.
 - a. By a vote of 4-0-1, the proposed language was **adopted**.
 - b. M. Battaglia motioned to adjourn the meeting. There was no dissent. The motion was **adopted** by unanimous consent.

IV. Adjournment

- a. The meeting was adjourned at 6:07pm.

Respectfully submitted,

Terrill D. Malone
Codes and Judicial Committee Clerk



Minutes

Codes and Judicial Committee
University Assembly
October 4, 2017
5:00pm - 5:45pm
305 Day Hall

I. Call to Order

M. Battaglia called the meeting to order at 5:00 PM.

Attendance:

Present: M. Battaglia, R. Bensel, M. Horvath, G. Kaufman, K. Karr, J. Kruser, R. Lieberwitz D. Putnam

Absent: C. Hodges, N. Jaisinghani, S. Park, K. Zoner

II. Approval of Minutes

- i. March 28, 2017
- ii. September 6, 2017
- iii. September 13, 2017
- iv. September 20, 2017
- v. September 27, 2017
 - a. There was a motion to table the minutes from previous meetings as a group as copies had not been provided by the Office of the Assemblies. The motion passed by unanimous consent.

III. Business of the Day

- i. For Discussion: Examining Hate Speech and the Campus Code of Conduct
 - a. M. Battaglia provided an overview of the actions taken thus far. They included a review of the prior decisions of the Hearing and Review Boards in the Office of the Judicial Administrator to examine how “harassment” as an offense had been applied in the past in this area, an examination of the various policies/codes from other universities, consultation with student groups, etc.
 - b. M. Battaglia also discussed the composition of a working group and their plan to examine this topic in more depth. C. Hodges had been asked and agreed to serve as Chair of the working group and N. Stetson had also agreed to serve.
 - c. R. Lieberwitz raised a point about faculty involvement with the Working Group.
 - d. General discussion among Members present followed until the time allotted was exhausted.
- ii. For Wrap-up: Housekeeping Changes to the Campus Code of Conduct

- a. M. Battaglia provided an update on the previous changes and their discussion in front of the University Assembly.
- b. M. Battaglia noted that there were three remaining items for the Committee to resolve:
 - i. A proposed provision to add disclosure of confidential information as a violation of the Code.
 - ii. A proposed provision to address the reappointment process of the Judicial Administrator.
 - iii. A proposed provision to add an appeals provision to interim No-Contact directives.
- c. The Committee then proceeded into discussion about these three items.
 - i. Regarding the proposed provision about confidential information:
 - 1. The Committee felt that the provision merited additional discussion and was best suited being withdrawn from the omnibus changes to facilitate that discussion.
 - 2. By a motion and vote of 5-0-1 the provision was withdrawn.
 - ii. Regarding the proposed provision about the Judicial Administrator reappointment process:
 - 1. The Committee discussed the language and heard feedback brought forward by the Judicial Administrator prior to her departing.
 - 2. The Committee discussed that the current language represented a step forward and an appropriate balancing between advance notice and feedback and a two-year appointment.
 - 3. By a motion and vote of 5-0-1 the provision was approved by the Committee.
 - iii. Regarding the proposed provision about adding an appeals provision to interim No-Contact directives:
 - 1. M. Battaglia noted that the appeals process was modeled after the other processes utilized to appeal interim measures.
 - 2. After discussion, the speakers list was exhausted and the Chair put the question.
 - 3. By a motion and vote of 5-0-1 the provision was approved by the Committee.
- iii. For Discussion: Discussing recent Department of Education policy shifts, our Quantum of Proof, and Policy 6.4
 - a. The meeting time expired prior to the topic being reached.

IV. Adjournment

M. Battaglia adjourned the meeting at 6:07 PM.

Compiled from notes, papers, and recollection of events,

Matthew Battaglia

Chair, Codes and Judicial Committee