

Cornell University
University Assembly

109 Day Hall
Ithaca, NY 14853
p. 607.255.3175
f. 607.255.2182
e. assembly@cornell.edu
w. <http://assembly.cornell.edu>

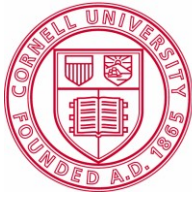
Agenda

Codes and Judicial Committee
University Assembly
February 5th, 2019
4:45pm – 6:00pm
Day Hall Room 316

- I. Call to Order (Chair)**
 - i. Call to Order (1 minutes)
- II. Approval of Minutes (Chair)**
 - i. November 7, 2018 (2 minutes)
 - ii. November 28, 2018 (2 minutes)
- III. Business of the Day**
 - i. For Discussion: Campus Code of Conduct Progress (45 minutes)
 - ii. For Discussion: UHRB Applicant Questions (20 minutes)
- IV. Adjournment**
 - i. Adjournment (5 minutes)

Attachments

1. CJC Meeting Minutes 11.07.2018
2. CJC Meeting Minutes 11.28.2018
3. President Pollack's September 2018 Letter to the UA
4. UHRB 2018 Application Questions



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Minutes

Codes and Judicial Committee
University Assembly
November 7th, 2018
4:45pm – 6:00pm
Day Hall Room 163

I. Call to Order

- a. Call to Order
 - i. D. Barbaria called the meeting to order at 4:51pm.
- b. Roll Call
 - i. *Present:* K. Ashford, D. Barbaria, R. Bensel, K. Kebbeh, L. Kenney, R. Lieberwitz, A. Viswanathan, S. Vura, K. Zoner
 - ii. *Absent:* T. Onabajo
 - iii. *Others Present:* J. Anderson, M. Battaglia, M. Horvath, M. Lee, R. Parker

II. Approval of Minutes

- a. September 26, 2018
 - i. A. Viswanathan motioned to approve the minutes.
 1. Minutes **approved** by unanimous consent.
- b. October 10, 2018
 - i. M. Battaglia motioned to approve the minutes.
 1. Minutes **approved** by unanimous consent.
- c. October 24, 2018
 - i. M. Battaglia motioned to approve the minutes.
 1. Minutes **approved** by unanimous consent.

III. Business of the Day

- a. Presentation: Judicial Administrator's Annual Report
 - i. M. Horvath provided an overview of the Judicial Administrator's Annual Report for the Academic Year of 2018. She said that the report includes every code that has been reviewed. She also said that there has been a lot of leadership change in the university this past year.
 - ii. M. Horvath said that the new Cornell Tech campus has imposed two major challenges in terms of issues of conduct. She said that the non-traditional

residence hall model at the Tech campus results in a lack of behavioral monitoring by Resident Advisors, while Cornell Health does not cover alcohol-related issues of the students. She also said that possession of marijuana in New York City is a citation offense, which complicates cases of employees who are bound by their Cornell contract. She said that the Judicial Administrator's office has provided various means for students at the Tech campus to have the full opportunity to work with the office, including Zoom, Skype, or expense-paid visits to the Ithaca campus to attend hearings.

- iii. M. Horvath said that her office saw an increase in number of complex hazing cases. She said that these cases take a substantial amount of time and effort; approximately 200 to 250 hours are spent interviewing everyone involved.
- iv. M. Horvath said that there has been a nearly 20% increase in number of materials sent to the Office of the Judicial Administrator (OJA). She said that this appears to be a sign of trust-building with the community. She also said that the office has remained stable over the year, with no personnel changes. She said that Cornell is being seen as a place in which policies concerning student conduct are properly administered.
- v. M. Horvath said that with regard to speech, the OJA's role is to educate community members on ways to combat speech they disagree with in ways that would not violate the Code. She also said that one of her greatest challenges as the JA is knowing that there is inaccurate information, but not responding to those in order to maintain integrity of the process.
- vi. M. Horvath said that the hazing model created overlays moral development theory over a public health approach. She said that Cornell has partnered with other campuses on this issue, and that it is becoming a leader in this realm.
- vii. M. Horvath said that there has been a drop in recidivism in that there are fewer students being referred to the OJA more than once. She also said that there has been a reduced number of calendar days between adjudication and report.
- viii. M. Horvath said that uncooperative witnesses who did not want to be interviewed or provided false information delayed several cases. She said that she seeks support from the broader campus on changing such a culture of aversion to approaching the JA.
- ix. M. Horvath said that her office has continued its partnership with the Scheinman Institute on Conflict Resolution and is creating a JA Advisory Council.
- x. M. Horvath said that in terms of statistics, number of referrals have expanded by almost 20%, and cases are being turned around at quicker rates, which ensures better educational intervention. She also said that in

approximately 30% of cases respondents were not found responsible, which demonstrates Cornell's emphasis on standard of proof.

- xi. M. Horvath said that the report does not fully represent all accounts, and that adjudicators from both sides provide a fuller picture. She said that the OJA always gives the benefit of the doubt to the respondent.
- xii. M. Horvath said that a noteworthy change in the past academic year was a 3% increase in the number of cases involving seniors and hazing cases. She also expressed gratitude to the athletic department for their deference to the OJA.
- xiii. M. Horvath said that with regard to Greek organizations, Sigma Nu and Delta Phi are no longer recognized by the university. She said that the number of cases concerning Greek chapters is low, but she believes that this reflects incidents that take place in annexes and off campus, outside of the realm of the Code.
- xiv. M. Horvath asked committee members for any questions or concerns.
- xv. M. Battaglia asked when the report will be posted onto the website of the JA.
 1. M. Horvath said that she will make sure that the report is posted on the website.
- xvi. M. Battaglia asked whether there is an area in which the JA believes another part or full-time Associate Judicial Administrator may be needed, noting the significant uptake in cases recently.
 1. M. Horvath said that she believes the best avenue to report these concerns is through human resources.
- xvii. M. Battaglia asked if M. Horvath could provide more context on the JA Advisory Council.
 1. M. Horvath said that the Advisory Council addresses the concern that the decentralized nature of the university has resulted in the lack of an adequate venue for members of the community who are merely interested in the work of the OJA to provide feedback. She said that the JA Advisory Council has been modeled based on other advisory councils such as that of the Office of Student Life.
 2. M. Battaglia said that the Committee hopes to be able to help with this as well.
- xviii. K. Ashford asked whether there is a downward trend in number of hazing cases over the years in the longer term.
 1. M. Horvath said that hazing cases began to gain recognition on a national scope at around 2008. She said that hazing has been an issue on this campus for a long time as there are reports from as far back as 1890. She said that she hopes for a downward trend, but a major challenge with hazing is that it is enriched with alumni traditions.

She said that working on changing alumni involvement and challenging the systemized nature of hazing is the most difficult part of reducing the number of hazing cases. She also said that she hopes the presidential mandates will increase awareness of the consequences of hazing.

- xix. R. Bensel asked what the increase was for the different categories on page 10 of the report concerning statistics.
 - 1. M. Horvath said that the increase is most likely proportionate to the increase in number of cases.
- xx. R. Bensel asked what “endangered persons” denotes.
 - 1. M. Horvath said that she believes endangerment is the broadest category in the Code and that the vague word choice and language disserves the community in that it leaves room for misinterpretation.
- xxi. R. Bensel asked in what respects M. Horvath views deterrence as more important, considering the controversy between concepts of behavior modification and deterrence.
 - 1. M. Horvath said that she believes that the best deterrence is education. She said that she could use the help of the University Assembly (UA) to implement orientation programs on behavioral expectations. She said that there is not much research on what is deterrent, but the OJA focuses on educational aspects of deterrence.
- xxii. L. Kenney asked whether sanctions are any less severe now with changes in New York laws concerning marijuana.
 - 1. M. Horvath said that federal law remains the same regardless of changes in New York law. She said that Cornell is still obligated to abide by federal law as an institution that receives federal funding. She also said that other campuses have looked for reasonable accommodation for medical marijuana use, but this accommodation is not meant to surpass federal law.
 - 2. M. Horvath said that sanctions for alcohol and drug use remain consistent, and they are reflective in all sanctions. She said that they focus on allowing individuals to choose what to do, while understanding the consequences associated with behaviors.
- xxiii. L. Kenney asked what the process would be when a student is caught smoking marijuana but the police prefer not to be involved.
 - 1. M. Horvath said that Cornell’s protocols on the Ithaca campus remain consistent, and that changes only affect the Tech campus.
- xxiv. A. Viswanathan asked if students on the Tech campus would also receive citations like students in Ithaca.
 - 1. M. Horvath said that the Code covers all students including those on

the Tech campus.

- xxv. A. Viswanathan asked if there are any adjudication or policy changes that account for the increase in number of cases in which respondents were found not responsible, referring to page 11 of the report.
 - 1. M. Horvath said that this is most likely reflective of the increase in number of referrals to the office. She said that some referrals are not enough for the office to substantiate.
 - xxvi. D. Barbaria asked if there is a particular reason for the increase in number of senior cases.
 - 1. M. Horvath said that some of the graduating seniors this year may have disregarded the fact that they were still held responsible under the Code even toward the end of the year.
 - xxvii. J. Anderson asked if there is a general narrative that may account for why there has been a leap in number of incidents in the Cornell Store.
 - 1. M. Horvath said that almost every referral from Cornell Store concerned thefts, most of which were petty larceny.
 - xxviii. J. Anderson asked if the OJA could perhaps conduct outreach on north campus residential halls.
 - 1. M. Horvath said that the Office continues to work towards hosting robust training programs for Residential Advisors and Residence Hall Directors. She also said that she is open to going to anywhere invited for outreach.
 - 2. M. Battaglia said that the UA and other Assemblies could help with improving orientation programs to cover issues regarding the Code.
 - xxix. R. Bensel asked if the classification of respondents by year includes those living off campus.
 - 1. M. Horvath said that this is reflective of what any campus would see. She said more cases arise for members in the freshman class who are younger. She also said that the culture of students moving off-campus in sophomore year reduces the number of incidents covered, while many juniors or seniors are over 21 and hence there are fewer underage drinking cases for upperclassmen.
 - xxx. J. Anderson asked if future reports would include gender classifications beyond male or female for those who identify differently.
 - 1. M. Horvath said that in the footnotes she has indicated that the data was gathered from PeopleSoft. She said she would be happy to change classifications based on whether individuals change their designation on PeopleSoft.
- b. For Discussion: Assigning Sections to Review in the Code
- i. D. Barbaria said that Committee members discussed ideas on how to move forward with the Code of Conduct in a working meeting held last week. He

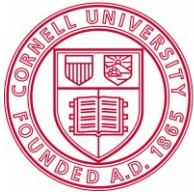
- said that tasks will be assigned to each member at today's meeting.
- ii. M. Battaglia said that it would be best to take the current Code and make it the best version it can be internally before engaging with the community and garnering feedback. He said that the Code is poorly organized and wordy as of now. He proposed to break up the existing code into four different parts: Part 1 – Values, Part 2.A. – Rights, Part 2.B. – Offenses, Part 3.B. – Sanctions, Part 4 – Administration. M. Battaglia said that once the Code is in the best shape it can be, the Committee could decide whether rewriting would be necessary. He also said that he has benchmarked other model Codes of Conduct to understand ways to better articulate our Code.
 - iii. D. Barbaria said that the overall plan for the Committee is to spend the next few weeks looking at changes made by M. Battaglia and work on the different sections in smaller groups. He said that Committee members should note parts that lack clarity, compare with other Codes of Conduct, and look over all of the input that the Committee has been provided with. He said that he hopes that the Committee could begin the spring semester with a reorganized and streamlined Code. He also said that he aims to present a complete draft that includes all of the proposed amendments when meeting with the President in February.
 - iv. M. Battaglia said that the intent is to hue as closely to the current Code.
 - v. R. Bensel said that he supports the plan in that it is a moderate simplification of the Code rather than a radical reworking of the contents. He thanked M. Battaglia for his efforts.
 - vi. M. Horvath said that the Committee should build in time for community feedback.
 1. D. Barbaria said that the Committee will be garnering community feedback once it makes internal adjustments and devises a complete draft. He said that this will be at around the same time he intends to present the draft to the President, in mid to late February.
 - vii. M. Battaglia said that simplifying the language of the existing Code removes political aspects. He said that the process focuses on clarifying the Code instead of making large substantive changes.
 - viii. D. Barbaria said that he hopes Committee members will endorse the revised Code in their respective committees.
 - ix. M. Battaglia said that there should be least changes made to Part 4 because it is intended to provide explanations to make the Code more understandable.
 - x. D. Barbaria said that there should be at least two people assigned to each proposed part of the Code.
 - xi. K. Kebbeh suggested that “Part 1 – Values” should be assigned to everyone in the Committee.
 1. R. Bensel said that there should still be a lead person for Part 1.

- xii. Sections were assigned as follows.
 - 1. Part 1: Values (Everyone, R. Bensel)
 - 2. Part 2.A.: Rights (L. Kenney, K. Zoner)
 - 3. Part 2.B.: Offenses (K. Kebbeh, R. Lieberwitz, R. Parker)
 - 4. Part 3.A.: Procedures (A. Viswanathan, M. Horvath)
 - 5. Part 3.B.: Sanctions (S. Vura, K. Ashford)
 - 6. Part 4: Administration (D. Barbaria, R. Bensel)
- xiii. D. Barbaria said that Committee members should bring suggestions to the next meeting on November 28th. He also said that they should make note of any redundancies in the Code.
- xiv. R. Lieberwitz asked for clarification on what members are expected to do by the next meeting.
 - 1. D. Barbaria said that members of the Committee should review their section, look over the current Code, and ensure everything that belongs to that section is included. He said that members should ensure that everything is logical, and that the Code sections themselves also make sense.
- xv. R. Lieberwitz said that once the Committee discusses these sections, the next step over winter break would be to make suggested rewrites.

IV. Adjournment

- a. Adjournment
 - i. The meeting was adjourned at 6:00pm.

Respectfully submitted,
Dongyeon (Margaret) Lee
Codes and Judicial Committee Clerk



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Minutes

Codes and Judicial Committee
University Assembly
November 28th, 2018
4:45pm – 6:00pm
Day Hall Room 163

I. Call to Order

- a. Call to Order
 - i. D. Barbaria called the meeting to order at 4:48pm.
- b. Roll Call
 - i. *Present:* D. Barbaria, R. Bensel, D. Geisler, K. Kebbeh, L. Kenney, R. Lieberwitz, A. Viswanathan, S. Vura, K. Zoner
 - ii. *Absent:* K. Ashford, T. Onabajo
 - iii. *Others Present:* M. Battaglia, M. Lee, C. Liang, R. Parker

II. Approval of Minutes

- a. November 7, 2018
 - i. M. Battaglia moved to postpone approval of the minutes
 1. Minutes **tabled** by unanimous consent.

III. Business of the Day

- a. Discussion on the Sorority and Fraternity Life Accountability Committee
 - i. D. Barbaria said that the President had gathered an informal committee earlier in the semester to suggest possible changes to the fraternity and sorority life system. He said that the said committee is not officially a part of shared governance, but includes members such as the Dean of Faculty, Associate Dean of Faculty, and Student Assembly Vice President J. Anderson. He also said that it is uncertain what the next steps are for the Committee, because there is no document that oversees these processes.
 - ii. M. Battaglia said that the committee is chaired by the former Judicial Administrator and was convened in May to review the Greek system. He said that many parties recommend Greek organizations to be placed under the Code, and that the committee is focusing on possible short-term fixes. He said that concerns were raised regarding why fraternities and sororities

- were not placed under the Code when every other student organization is held accountable under the Code.
- iii. C. Liang identified herself as a member of the Sorority and Fraternity Life Accountability Committee, which is charged with reviewing the review board process in the Greek judicial system. She said that she is happy to answer any questions about issues and where they are arising from.
 - iv. R. Lieberwitz said a question was raised in the Faculty Senate meeting regarding why a separate system would be necessary instead of having the Hearing Boards review the process. She said that such a separation may be seen as an appeasement to alumni who are connected to the Greek system and prefer not to be placed under the Code.
 - v. C. Liang said that this issue has been raised in discussions. She said that one of the main reasons is to mitigate disruptions to the current process of revamping the Code. She added that there is an understanding that Greek organizations should ultimately be included under the Code.
 1. R. Lieberwitz said that was not how the matter was presented at the Faculty Senate meeting.
 2. C. Liang said that there are short and long-term fixes presented. She said that based on conversations from within the committee, Greek organizations are viewed as separate until the Code fixes take place.
 - vi. M. Battaglia said that it was a Board decision to take Greek organizations outside of the Code, but that it would make sense to put them back under the Code. He said that short term fixes are great, but that these organizations should be placed back under the Code in the longer term for simplification of processes. He said that doing so still allows Greek organizations to retain an internal board that takes care of minor issues. He added that the CJC's role is beyond the scope of the Code – it monitors academic integrity issues and its members are stakeholders of Policy 6.4.
 - vii. R. Bensel said that passing a resolution that endorses bringing fraternities and sororities back under the Code may be helpful at some point. He said that the resolution would originate from within the CJC and be sent to the UA.
 1. D. Barbaria said that he believes the said resolution would be beneficial in making the Committee's position clear.
 2. M. Battaglia said that the resolution could be passed through email.
 3. D. Barbaria said that this could be added to the Spring 2019 Committee work to be discussed. He added that this would be a resolution to be passed in person.
 - viii. D. Barbaria asked if the Committee has any recommendations for a better meeting time for next semester.
 1. R. Bensel said that the Faculty Senate has a meeting once a month that overlaps with the current CJC meeting time. He said that there

should be no issues if the Committee meets every other week.

ix. D. Barbaria said that he hopes to fill the vacant employee representative seat for the Committee.

b. For Discussion: UA Chair Battaglia's Reorganized Document

i. M. Battaglia apologized for the delay.

ii. M. Battaglia directed members to the document. He said that the document is a general sketch of what a reorganization of the Code would look like. He said that details of hearings may be placed into the appendix section of the Code, which helps readers understand the workings of the Hearing Board.

iii. D. Barbaria noted that M. Horvath had sent out an email to the Committee because she was unable to attend today's meeting.

iv. R. Bensel asked how Hearing Board chairs report.

1. M. Battaglia said that Hearing Board chairs report upon request.

2. R. Bensel said that inviting the chairs for a discussion on why procedural changes were made would be helpful for the Committee.

3. M. Battaglia said that the language passed last year allows Hearing Boards to amend procedures, but this needs to pass through the Committee if it is at odds with Code, which gives the Committee authority. He said that the language in the Code requires Hearing Board chairs to report to the Committee at least 30 days in advance.

v. D. Barbaria said that the plan for Committee members is to review the assigned sections over break and to make sure that it is coherent and retains everything from the Code.

vi. M. Battaglia said that he is available via email over the break. He noted that the terms "will", "shall", and "should" are used interchangeably in Code, which should be reorganized. He said that a better organized Code is better to work with.

vii. D. Barbaria said that the Committee may have further discussions of specific issues in the Code next semester. He said that he hopes that the Committee can begin the Spring semester with a reorganized draft of the Code that includes everything that should be included.

viii. R. Lieberwitz thanked M. Battaglia for his work and said that the document helps direct attention to issues of greatest importance. She said that based on an observation of the model codes that M. Horvath has sent via email, Truman State University's incorporation of a narrative outlining the rights, obligations, and procedures at the beginning of its Code could be helpful in providing an overview for the general public.

ix. R. Lieberwitz said that the current Code requires an elimination of redundancies especially in the "violations" section. She also said that the Code's current ambiguity in its treatment of faculty coverage calls for clarity, especially in its references to due process procedures that exist for

- faculty.
- x. M. Battaglia said that through reorganizing the Code, the Committee could devise a pamphlet that summarizes the workings of the Code which could be given to first year students.
 - xi. R. Lieberwitz said that she believes that a pamphlet is a good idea, but also having an overview at the beginning of the Code that provides a general outline in plain English would be beneficial.
 - xii. R. Bensel said that the values section of the Code is important and that the Committee should begin work on that early on.
 - xiii. M. Battaglia said that he welcomes any feedback, comments, or suggestions.
- c. Proceeding on Code Reorganization and Revision over Break
- i. D. Barbaria said that Committee members should review the document to ensure that it contains everything that it should. He said that he hopes that the Committee can begin the first meeting of the next semester with all of notes and recommendations.
 - ii. M. Battaglia said that the University Hearing and Review Board (UHRB) nominations will take place soon. He said that the President is concerned that the Committee may be overstepping its authority, but that he is working to clarify with the President in terms of faculty nominations. He also said that he hopes there will be no issues regarding the decoder key for this round of UHRB nominations.
 - iii. D. Barbaria provided clarification to new members of the committee. He said that the Committee nominates UHRB members and then sends those nominations to the UA for approval. He said that the Committee needs to be on the same page with the Office of the Assemblies which handles much of the administrative process of the UHRB nominations.
- d. Planning Spring 2019 Committee Work
- i. D. Barbaria asked if there is anything else that Committee members believe should be dealt in the next semester.
 - ii. D. Barbaria said that he hopes that the Committee can send a draft of the reorganized Code of Conduct to the university administration by the second meeting.
 - iii. A. Viswanathan said that he hopes the Committee could look into developing a Code of Conduct web application or a simpler way in which the Code could be accessed by members of the public.
 - 1. D. Barbaria asked whether this would be an official application endorsed by the university or an informal one distributed among students.
 - 2. R. Parker said that Policy 6.4 may be a good model for this, which has pdf search and click-through options.

3. M. Battaglia said that there is currently a version of the Code on the Dean of Faculty website that can be navigated more easily.
4. D. Barbaria asked if this proposed web application would have other functionalities or mainly for finding information.
5. A. Viswanathan said that given the language of the Code, it is difficult to find the exact section for specific issues. He said that he hopes for a more simplified version of the Code that promotes readability.
 - a. M. Battaglia proposed discussing offline for more ideas regarding this matter.
- iv. R. Lieberwitz said that the federal Department of Education proposed changes through regulations of Title IX and that there is a public comment period that will begin soon. She said that she anticipates new rules and regulations under Title IX that deals specifically with sexual harassment issues on university campuses. She said that because this issue is closely related to the work of the Committee, it may be necessary to revisit the way in which Policy 6.4 was created as an entity separate from the Code. She said that the Committee should be involved in discussions that will take place regarding Policy 6.4.
- v. M. Battaglia said that the UA is a stakeholder in Policy 6.4.
- vi. D. Barbaria provided an overview of the items for next semester: a reorganization of the Code of Conduct, a resolution on the Committee's stance on fraternities and sororities' involvement with the Code, a possible creation of a web application, ensuring that the committee is involved with Policy 6.4 discussions, UHRB staffing, evaluation of UHRB chairs and ensuring that the Committee maintains oversight over appropriate procedures.
- vii. K. Kebbeh asked about community input regarding the Code.
 1. D. Barbaria said that when the Committee sends a draft to the UA, it would be sent publicly to the administration and to the community. He said that this will hopefully take place during the first half of February.
 2. M. Battaglia said that the current draft is public.
- viii. D. Barbaria said that he will be sending out assignments via email.
- ix. M. Battaglia thanked everyone as UA Chair and said that he looks forward to continue working with Committee members to uphold principles of shared governance.

IV. Adjournment

- a. Adjournment
 - i. The meeting was adjourned at 5:47pm.

Respectfully submitted,
Dongyeon (Margaret) Lee
Codes and Judicial Committee Clerk



Cornell University

Martha E. Pollack
President

September 2018

Dear Members of the University Assembly:

Since my arrival at Cornell in the spring of 2017, one topic that has come up regularly in my discussions with faculty, staff, and especially students, is Cornell's Campus Code of Conduct. It is frequently viewed as complex, legalistic, and "quasi-criminal," with more of a punitive than an educational or aspirational tone. One particular aspect of the code—its treatment of speech and harassment—became especially salient after the student altercation in Collegetown in September 2017, and thus, as part of the imperative to take a broad look at issues of diversity and equity on campus, I asked a subcommittee of the Presidential Task Force on Campus Climate to consider whether changes to the code were needed and, if so, what changes would reflect the sentiment of the campus community. The members of the subcommittee (and indeed, of the entire Task Force) were selected by a process independent of the Office of the President, and they deliberated on their own after they engaged broadly with the campus community.

The report submitted by the subcommittee included many recommendations pertaining to the Code, including on issues of tone, complexity, and scope. The report also made suggestions directly concerning issues of racial harassment and other problems that originally led to the Task Force's creation.

I am thus requesting that you (the University Assembly), as the body with responsibility over the process for amending the Campus Code of Conduct, engage in a thorough process of reviewing and revising it, building on the recommendations of the subcommittee. It is my understanding that you have been planning a code revision and so I hope that this request will align with your own goals.

The full report of the subcommittee of the Presidential Task Force is available online, and below is a summary of recommendations made in the subcommittee report. In my view, it would be of enormous benefit to the entire university to engage in a nearly wholesale rewrite of the code that addresses these recommendations as well as other concerns that you may have. My colleagues and I stand ready to provide support in the process in whatever manner you believe would be helpful; we would value a collaborative process that results in a code revision that can be embraced by all parties.

Subcommittee recommendations:

1. Significantly simplify the code: Make it less legalistic and with more use of "plain English." Look at the codes of other universities for examples. Reorient it to focus on the university's educational mission; give it a tone that is educational and aspirational rather than punitive. As part of these revisions, consider focusing the code on establishing substantive standards of conduct, re-structuring the Office of the JA, and addressing high-level issues. *NOTE that cleanly separating the portions of the code that describe standards of behavior from those that detail disciplinary procedures*

would greatly simplify its message and usefulness. Here are a few examples of codes that appear to be clear and "in plain English", and that separate standards of conduct from procedures for enforcement:

Brown:

<https://www.brown.edu/offices/student-conduct/sites/student-conduct/files/docs/Final%20Code%20of%20Student%20Conduct%202018-2019.pdf>

MIT:

Standards: <http://handbook.mit.edu>

Procedures: <http://cod.mit.edu/>

UCLA:

https://www.deanofstudents.ucla.edu/portals/16/documents/uclacodeofconduct_rev030416.pdf

UVa:

Standards: <http://scs.student.virginia.edu/~judic/about-the-ujc/standards-of-conduct/>

Procedures: <http://scs.student.virginia.edu/~judic/about-the-ujc/>

2. Narrow the focus: Have the code apply to student conduct only. The task force report notes that "the limited function that the code performs with regard to non-employment related misconduct by faculty and staff can and should be reproduced through university personnel and other policies." NOTE that very few cases involving employees (on the order of 1-3 a year on average) are handled by the JA under the code. Focusing the code on student conduct would enable it to be simpler and clearer, would align it with what other institutions do, and would allow a concentration on what is already essentially the vast majority of the JA's work.
3. Simplify and change the process for administration of the code: Retain the current structure of an independent JA and formal investigative process for cases in which serious sanctions –at the level of suspension or expulsion— are sought; move other cases to the Office of the Dean of Students. Encourage the Office of the Dean of Students to use less formal processes for fact-finding and enforcement, focus on more educationally focused management of lower-level student conduct issues, and employ Alternative Dispute Resolution when appropriate. *NOTE that these are intriguing suggestions that I hope you will thoughtfully consider.*
4. Review and enhance language in the code making clear that students must comply with the reasonable requests of a university official within the course of his/her duties, while also making clear that this does not authorize the university to punish the free expression of ideas. *NOTE that the subcommittee suggests that existing code language is essentially nullified in actual adjudication of cases, making it easy for students to ignore reasonable directives from campus officials.*
5. Modify the discussion of penalties in the code to permit enhanced penalties for harassment or assault violations that are motivated by bias (defined appropriately). *NOTE that this suggestion essentially suggests a "hate crimes escalator" approach validated in the criminal context to sanctioning in such cases.*

6. Expand the code's treatment of harassment to: (a) include all the categories that are protected under New York State's Human Rights Law; and (b) harmonize the definitions of harassment across the code to align with the way in which harassment is defined under Policy 6.4. *NOTE that the subcommittee also recommended that its suggested definition of harassment should be adopted for Policy 6.4 cases as well as for the code. We will stay in touch with you on this issue should changes be implemented under Policy 6.4. Further, the subcommittee suggested that the standard for assessing harassment should be contextualized to take into account the subjective impact of behavior on persons of color or other marginalized groups. My recommendation is that the Office of the JA and hearing panels should receive appropriate training so that assessment of harassment and assault violations is handled fairly and rigorously, and in a culturally appropriate and sensitive manner.*

There are a few additional recommendations in the subcommittee report that are being handled in other ways:

- Have the code begin by pointing to the university's core values. *NOTE that a statement of core university values will be created over the next year through a "comprehensive and inclusive conversation that engages the broader university and alumni communities," that will take place in parallel with your anticipated work to modify the code. Once this values statement has been crafted, it can be referenced in the code.*
- Either bring adjudication and management of the Greek letter organizations into the scope of the code, or move the adjudication and management of other student groups out of the code and into the Office of the Vice President for Student and Campus Life. *NOTE that the Division of Student and Campus Life is currently conducting an extensive review of Greek letter organization adjudication processes. After this review is complete, it will make sense to consider whether or not to align all student organization misconduct proceedings under one umbrella.*
- Rationalize bias reporting and ADR systems/programs, move the latter to the Division of Student and Campus Life. *NOTE that both bias reporting and ADR programs are already under active review by appropriate leadership in the University's HR Division and the Division of Student and Campus Life.*

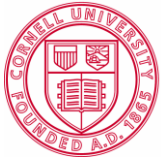
I understand from your chair that you are also interested in the issues of adjudication of Greek letter organizations and the coordination of ADR programs, and I'd encourage you to consult with our Division of Student and Campus Life if you move forward in these areas, since, as I mentioned, there is already work being done there on them.

Thank you again for your attention to this important matter. I look forward to hearing from you and to working with you to implement these code revisions over the coming months.

Sincerely,



Martha E. Pollack



Cornell University
University Assembly

UHRB Application Questions - 2018 Cycle:

1. For Students, please provide the expected semester and year of your graduation.
2. There are only a few hearings each year, but when they occur they often happen at night and can go late or span across multiple dates. Are you able to commit to complete a hearing once you start?
3. Hearings often, but do not always, occur after 5:30 PM on Tuesdays and after 3:00 PM on Fridays. What is your general availability on those days/times?
4. If selected to be a member of the University Hearing and Review Boards, you would be expected to undergo a couple of hours of training at the start of the academic year. Can you commit to undergo that training?
5. Please describe in your own words what the University Hearing and Review Boards are and the role they play in Cornell's judicial system.
6. Hearing panels must occasionally convene in the summer months. Although you are not expected to be available in the summer it is helpful for us to know. Do you anticipate being available in the summer months?
7. How often do you check email and how long does it take you to respond on average?
8. If you were subject to discipline either at Cornell or elsewhere, please explain how this experience will serve to make you a more conscientious board member. We expect you to

share all instances of discipline, but having been disciplined does not automatically exclude you from service on the boards. Such disclosures will be treated confidentially.

9. For this question, assume the Code requires the Judicial Administrator's office (JAO) to provide notice of a hearing to the accused individual at least one week before a hearing. Further, at least three days before a hearing, the JAO must provide a list of witnesses and exhibits that will be presented at the hearing.

Suppose you are on a panel hearing a case in which you believe the accused individual violated the Code. However, the JAO provided notice to the accused five days prior to the hearing, and the list of witnesses one day in advance. The advisor representing the accused individual has not raised these procedural flaws as problematic. What would you do?

10. Assume that you are asked to serve on a hearing panel concerning a provision of the Code with which you personally disagree. How would you respond? Would you recuse yourself from the hearing panel, potentially penalize an individual for a violation of the Code with which you disagree, or take a different course of action? Please explain your reasoning.
11. Discuss which violations of the Campus Code of Conduct, if any, you believe to potentially warrant suspension, expulsion, and/or transcript annotation as penalties. Please explain your reasoning.
12. How do you believe the Campus Code of Conduct should be applied when an ambiguity arises?
13. As a member of the University Hearing and Review Boards, you would be expected to recuse yourself from a particular panel if you doubt your ability to assess the case fairly. If asked to serve on a hearing panel, under which potential cases, if any, would you recuse yourself and why?
 - a. a case involving an alleged Code infraction that you had witnessed?
 - b. a case involving an acquaintance of yours?
 - c. a case which you had read or heard a fair amount?

14. If there is anything else you wish to discuss, please do so below (250-word limit).