

Cornell University
University Assembly

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Agenda

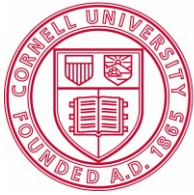
Codes and Judicial Committee
University Assembly
February 27th, 2019
4:45pm – 6:00pm
Day Hall Room 163

- I. Call to Order (Chair)**
 - i. Call to Order (1 minute)
- II. Approval of Minutes (Chair)**
 - i. February 5th, 2019 (1 minute)
 - ii. February 20th, 2019 (1 minute)
- III. Review of Minutes (Chair)**
 - i. February 6, 2019 (1 minute)
- IV. Business of the Day**
 - i. Approval of UHRB Applicant Questions (15 minutes)
 - ii. For Discussion: Individual amendments contained in reorganized Campus Code of Conduct (51 minutes)
- V. Adjournment**
 - i. Adjournment (5 minutes)

Attachments

1. CJC Meeting Minutes 2.05.2019
2. CJC Meeting Minutes 2.06.2019
3. CJC Meeting Minutes 2.20.2019
4. UHRB 2019 Draft Application Questions – Copy Edited at 2.20 Meeting

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.



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Minutes

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

I. Call to Order

- a. Call to Order
 - i. D. Barbaria called the meeting to order at 4:52pm.
- b. Roll Call
 - i. *Present:* D. Barbaria, R. Bensel, D. Geisler, K. Kebbeh, A. Viswanathan, S. Vura, K. Zoner
 - ii. *Absent:* K. Ashford, A. Brooks, L. Kenney, R. Lieberwitz
 - iii. *Others Present:* M. Battaglia, M. Horvath, M. Lee

II. Approval of Minutes

- a. November 7, 2018
 - i. M. Battaglia moved to postpone approval of the minutes.
 1. Minutes **tabled** by unanimous consent.
- b. November 28, 2018
 - i. M. Horvath motioned to postpone approval of the minutes.
 1. Minutes **tabled** by unanimous consent.

III. Business of the Day

- a. For Discussion: Campus Code of Conduct Progress
 - i. R. Bensel said that he made revisions to the first section of the draft Code of Conduct for increased clarity. He said that he has distinguished between locations for the section on freedom of speech, but the Committee is free to decide on whether to keep those distinctions. He also said that he attempted to improve existing language in this revised draft.
 - ii. M. Battaglia said that the Working Group on Hate Speech and Harassment explicitly mentioned that the values in the Code need more clarity and that he personally would not foreclose upon any proposals immediately. He said that the main reason for Code revisions is to simplify and make it easier to

- understand.
- iii. D. Barbaria said that the Committee should discuss prioritizing amendments directly proposed or requested by the Working Group.
 - iv. M. Horvath made a point of information on whether there are updates to what the values are.
 - v. D. Barbaria said that it is in the early stages and has not been presented to the assemblies and it will not be done before the end of the semester.
 - vi. R. Bensel said that the discussion of core values is a major issue and thus should be discussed with the public. He said that the values section should not be set aside for reasons of engagement and meaningful debates.
 - vii. D. Barbaria said that he merely suggested to set aside the language proposed to amend the Code but it needs to be part of the larger discussion on core values.
 - viii. R. Bensel said that most of the revisions are already in M. Battaglia's draft and that the Committee should have more discussion on core values.
 - ix. M. Horvath said that there are discussions that need to take place as a Committee before sending the draft to the University Assembly (UA). She said that the Committee should address the underlying core issues that the President has asked to be examined.
 - x. D. Geisler said that he is concerned that the Committee should integrate some of the other work on core values.
 - xi. D. Barbaria said that the draft will be brought to the Office of the President before the UA for initial recommendations from the President. He said that it is impossible to make all the necessary changes and so the work should be portioned by specific rules and codes. He also said that it is for the Committee to decide on whether it agrees with the proposals made by the Working Group.
 - xii. M. Battaglia said that he believes the draft includes most of the recommendations from the Working Group. He said that in terms of values, the UA will also be working on its own accord while working with the CJC. He also noted that President Pollack was flexible in her letter in that she asks for considerations and reasoning instead of demands. He said that the Committee needs to clarify the language and reorganize the arrangement instead of looking to drastically change behavior on campus.
 - xiii. D. Barbaria asked if there are any other comments or questions on the first section on values.
 - xiv. M. Battaglia said that he is willing to work with everyone to ensure that the Committee can meet the semester deadline.
 - xv. D. Barbaria asked which sections in the draft have been amended.
 1. M. Battaglia said that any section amended is noted as a red line, comment, or color change. He also said that the draft has been

reorganized since some items are better suited in the appendix.

- xvi. R. Bensel asked how the Committee is looking to divide up the Code.
 - 1. D. Barbaria said that he is hoping to take the individual amendments proposed by Committee members and informally send them to the UA at the next meeting. He said that this will allow for the Committee to explain why certain amendments have been left out. He also said that he will ensure that all members are kept in the loop through email communication.
- xvii. M. Battaglia said that much of what President Pollack intends is for the community to have a better sense of what their rights are and what they are prohibited from doing. He also said he believes that within this time frame, the Committee would be able to simplify definitions and provide a booklet that provides an overview of rights and procedures. He said that the Committee should first fully understand what the Code currently has, and then make changes based on that understanding.
- xviii. D. Barbaria said that this does not include issues discussed by the Working Group such as the quantum of proof or removing faculty or employees from the Code.
- xix. M. Horvath said that the Working Group and President has continuously expressed that the Code should only cover students, and that educational aspects do not necessarily apply to faculty or staff.
- xx. R. Bensel said that he strongly disagrees because the values should apply to everyone and not just students. He said that the sections in the Code that only apply to students are clearly demarcated that way. He said that this is a university community where every individual should be held to the same standards and set of values.
- xxi. K. Zoner said that she agrees that the values should be the same for the entire community, but there should be different processes by which those are managed. She said that the Code should be the process by which students are managed, and human resources should be the methodology for employees. She said that the Code should cover students that do not have employment obligations.
- xxii. R. Bensel said that there are many cases in which there are relationships between central administration and faculty that should be covered under the same values. He said that he wants the Code to reflect that.
- xxiii. D. Barbaria asked if R. Bensel would prefer to include values if they are codified outside of Campus Code of Conduct.
- xxiv. R. Bensel said that he would, since the values are so central to university values and this is the only way in which the Committee can participate in their crafting.
- xxv. M. Battaglia said that there was much discussion about the fact that everyone is covered under the same Code. He said that the Code is a shared

- item between the university and community, which can serve as a check on the administration. He said that those he spoke to preferred that there are values that are seen as a shared responsibility and part of shared governance.
- xxvi. A. Viswanathan said he agrees with R. Bensel's points. He said that keeping values elsewhere would take away the meaning of the Campus Code of Conduct, and would become a Student Code of Conduct. He also said that the central values and processes should be in the main document and should apply to everyone across campus while other sections are placed into the appendices.
- xxvii. M. Battaglia said that he agrees but hopes to find a balance through which the Committee will be able to respond to concerns raised by the Working Group.
- xxviii. D. Geisler asked if there will also be a separate document outlining conduct for faculty.
1. D. Barbaria said that the Code of Conduct is currently written so that everyone is included.
- xxix. D. Barbaria asked if members have any comments on the rights section.
- xxx. M. Horvath said that even with moving some items to footnotes, the Code is not necessarily easier to read. She said that the rights section needs to be as clear cut as possible since it is important for people to understand what their rights are under the Code. She said that having bullet points instead of footnotes may be more beneficial to readers.
- xxxi. A. Viswanathan asked where information would go if it is not placed under footnotes.
- xxxii. M. Horvath said that bullet points with explanations may be better instead of footnotes. He said that when the Office of the Judicial Administrator (OJA) sends notice letters to students, they list all the rights, but do so in plain English.
- xxxiii. A. Viswanathan said that could make it easier to understand components but not necessarily easier to understand the Code.
- xxxiv. R. Bensel said that currently the text seems to be focused on general principles while footnotes are a more technical explanation of how the process would be applied.
- xxxv. M. Battaglia said that aspects such as the role of the Judicial Codes Counselor (JCC) should be accessible but not in the main text. He said that he created footnotes for now, but is open to other ideas.
- xxxvi. M. Horvath said that creating processes that are so detailed may actually be restricting rights. She said that people's use of common sense should be given some deference.
- xxxvii. R. Bensel said that footnotes could be replaced with a glossary that defines terms and is placed at the end.

- xxxviii. A. Viswanathan said that the Code could be a 4 to 5-page document with 30 or more pages of detailed clarifications. He said that this addresses all the needs without taking away the aspect of clarification.
- xxxix. M. Horvath said that she will send the Committee a sample notice letter that demonstrates how plain English is used. She asked if there are any other items Committee members would like to see.
 - xl. R. Bensel said that he was curious to know what the statements regarding rights in the JA process are like.
 - xli. M. Battaglia said that he agrees with A. Viswanathan's point in that there could be a pamphlet that outlines exact rights and responsibilities and is given to the average student. He said that footnotes and detailed information could be placed somewhere else.
 - xl.ii. D. Barbaria invited members to take a look at the handbook version of Syracuse University's Code.
 - xl.iii. D. Barbaria asked if Committee members have any other questions or comments about the Code.
 - xl.iv. D. Geisler asked how the Committee will integrate discussions from today and incorporate reorganized proposals.
 - xl.v. D. Barbaria said that the document is merely for internal use as of now.
 - xl.vi. D. Geisler said that the Committee's comments should be toward extreme detail.
 - xl.vii. D. Barbaria said that he assumes that some form of this document will be approved by the end of the semester.
- b. For Discussion: UHRB Applicant Questions
 - i. R. Bensel asked how many University Hearing and Review Board (UHRB) applications came in last year.
 - 1. M. Battaglia said that there were around 50 applications for 15 or so vacancies. He said that most but not all vacancies were filled.
 - ii. R. Bensel asked if there are any other questions that may discourage people from applying.
 - iii. S. Vura said that question 11 from the 2018 list of UHRB Application Questions could be potentially limiting. He also said that questions 10 and 13 already seem to be measuring attitude, but he is not sure if question 11 helps the Committee learn about the candidate at hand.
 - 1. R. Bensel said that he believes it is an odd question that surveys a matter of logic. He proposed to strike the question.
 - 2. K. Zoner said that she believes that the question asks if the candidate is prepared to enact the Code in full force when the situation warrants it, but is not necessarily a good question.
 - 3. S. Vura said that he agrees with what has been said.
 - 4. A. Viswanathan proposed changing the language to "which

violations should be expanded to warrant expulsions that don't already.”

5. M. Horvath said that she will share language that has been used by Review Board Chair A. Mooney that could help the Committee rephrase question 11.
- iv. M. Horvath said that question 9 postures that the OJA has done wrong, and this is a matter that has been conveyed last year. She proposed rephrasing the language so that it does not specify a single entity. She said that question 8 is restrictive in that those who have been in violation of the Code often provide the best insight. She also said that there should be a question that asks about the candidate's ability to handle sensitive information.
- v. D. Geisler said that question 10 and 13 seem to overlap as they have some of the same reasoning. He also said that question 5 appears to be out of order in that it is located among questions that ask about availability.
- vi. M. Battaglia said that the language in question 8 has been tweaked last year and that many candidates use the question to explain how they learned from a personal experience for the reasons M. Horvath mentioned. He said that he has seen question 8 provoke many thoughtful responses. He noted that questions 10 and 13 are not meant to have concrete answers. He also said that question 11 is essentially asking the candidate whether they are willing to enforce an aspect of the Code that they disagree with.
- vii. S. Vura said he agrees with M. Horvath that those who are in good standing should not be required to share all of their experiences, but question 8 should be kept to provide students a chance to demonstrate what they have learned.
- viii. S. Vura said that he would prefer to keep the language in question 9 as it gives the student a better chance to demonstrate their thought process and is merely a hypothetical example.
- ix. R. Bensele said that the question could be posed in the form of jury questions instead of hypotheticals, which would help address procedures without addressing a particular office. He said that the question should be posed so that the Committee can see what the candidate would do in a particular circumstance.
- x. M. Battaglia said that question 3 was added last minute.
- xi. K. Zoner said she believes what example is used in question 9 makes a difference. She said that the question could be phrased in such a way that asks, “what is the influence of procedural flaws in the weighing of somebody's responsibility of actions.” She said that this provokes thought without referring to a specific example.
- xii. S. Vura said that he suggests maintaining the hypothetical but removing specific references.
- xiii. D. Barbaria said that question 9 could be replaced with a “what would you

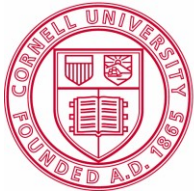
do” type of question without referring to any specific entity.

- xiv. D. Barbaria said that he will return to the next meeting on February 20 with new language. He also said that there will be another meeting tomorrow.
- xv. S. Vura asked who makes the selection decisions.
 - 1. D. Barbaria said that this body selects nominees from a pool of applicants, and then recommends them to the UA for approval.
- xvi. M. Horvath said that the full view of the Committee should be included in the UHRB nominating process.
 - 1. D. Barbaria said that he will ensure that the opinions of members of the Committee are incorporated.
- xvii. D. Barbaria said that there will be another meeting tomorrow for those who were not able to attend.

IV. Adjournment

- a. Adjournment
 - i. The meeting was adjourned at 6:20pm.

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



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Minutes

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

I. Call to Order

- a. Call to Order
 - i. There was no call to order. The following are an informal set of minutes.
- b. Roll Call
 - i. *Present:* D. Barbaria, A. Brooks, D. Geisler, R. Lieberwitz
 - ii. *Others Present:* M. Battaglia, M. Lee

II. Business of the Day

- a. For Discussion: Campus Code of Conduct Progress
 - i. D. Barbaria provided a recap of yesterday's meeting.
 - ii. R. Lieberwitz said that she was assigned to look at the offenses part and she has added comments to the document in the Box. She said she has been thinking about ways to condense M. Battaglia's work and is considering how much to have about maintenance of public order.
 1. M. Battaglia said that maintenance of public order was placed in titles 1, 2, and 3. He said title 4 is the only part that requires direct board authorization. He also said that offenses do not need to be in a different place – offenses are currently placed in diff parts of the Code which is convoluted.
 2. R. Lieberwitz said that New York State law requires every university to have certain provisions of maintenance of public order, but there is a question as to how specifically they dictate matters. She said it would be useful to include a footnote that says, "required by New York State law". She also said she would like for the Counsel's office to provide support for the Committee.
 - iii. R. Lieberwitz said it is a good idea to have actual subject headings for offenses, as was done in reorders, which is easier for people to navigate.
 - iv. R. Lieberwitz said that regarding whether employees or faculty should be

covered under the Code, the Committee should consider for what aspects of faculty work are faculty covered. She said that if faculty are kept in the Code, the purpose for doing so should be clarified. She also said they should be covered elsewhere as well, which can be written into the Code.

- v. M. Battaglia said that he agrees and that the Committee should have a more in-depth conversation while balancing time.
 - vi. R. Lieberwitz said that she agrees with M. Horvath in that some hearing procedures should not necessarily apply to faculty in tenure.
 - vii. D. Barbaria said that it is important for the Code to be clear to everyone who reads it, and that the question remains as to what degree faculty or staff should be included.
- b. For Discussion: UHRB Applicant Questions
- i. D. Barbaria provided a recap from yesterday's meeting.
 - ii. D. Geisler said that the wording in questions 10 and 13 were ambiguous.
 - 1. D. Barbaria suggested removing the aspect of recusal.
 - 2. R. Lieberwitz said that recusal seems to be the common thing to do as someone who knows less is more likely to recuse themselves.
 - 3. M. Battaglia said that this is meant to be more of a thought process. He said that in essence, it is asking what the applicant would do if they fundamentally disagree with something. He also said that the Committee could conduct interviews with finalists.
 - 4. D. Barbaria said that the questions need to be sent out in time.
 - iii. R. Lieberwitz said that she is leaning towards leaving out question 10. She said that the educational aspect of the question may not be appropriate here and that it could be done in a different way or not at all.
 - 1. M. Battaglia said that the question intends to ask if the candidate is willing to do their best enforce the rules as written.
 - iv. M. Battaglia said that question 14 has been added since 2017. He said that the Committee has received thoughtful answers for this question, and it serves as a nice summation for applicants.
 - v. M. Battaglia said that question 3 was added last year and that it was a logistical question that had been forgotten in the past. He said that it wasn't formally approved last year, but he wanted to raise it to members' attention.
 - vi. R. Lieberwitz asked if there is a general question that asks why candidates are applying for this position.
 - 1. D. Barbaria said that question 5 may play into that, but a specific question on why they would like to serve on the UHRB could be added in.
 - vii. R. Lieberwitz said that question 8 was written in the subjunctive, so it seems like a hypothetical.
 - 1. D. Barbaria said that he definitely hopes to rework question 8 and to

make it optional.

- viii. R. Lieberwitz said that regarding the Code, an ordinary person looking at it would not realize that refusal to comply to lawful order is limited to health and safety concerns. She said that it should be made clear that this is specific to health and safety in the rewrite. She said that this could go into the general Code if it is clearly defined.
- ix. M. Battaglia said that the Code has been modified many time and has a lot of commentary that should be moved to footnotes.
- x. D. Barbaria said that once reorganized, it will be easier to actually discuss issues with the Code.
 - 1. M. Battaglia said that many of the issues that have been brought up are already there, so it should be made clear what is there.
- xi. R. Lieberwitz asked if someone could place the pamphlet from 1980 introducing what is in the code into the Box.
 - a. M. Battaglia said that he will upload it onto box.
- xii. R. Lieberwitz asked if the Committee has a plan to create or update a short version to go with the Code.
 - a. D. Barbaria said that he hopes to get there.
 - b. R. Lieberwitz said that having a shorter version could be a good selling point and could be what people can refer to initially.
- xiii. D. Barbaria said that the Committee will vote whether to send the draft to the UA and administration for informal consideration.
- xiv. M. Battaglia said that he is happy to sit down and work collaboratively if anyone has comments or suggestions.
 - 1. R. Lieberwitz asked what will happen to the substantive pieces and whether the Committee will attempt to accomplish all of that by next meeting on the 20th.
 - 2. M. Battaglia said that matters such as whether to include faculty are larger issues that the Committee can return to after meeting with Counsel and having a discussion. He said that he hopes to have this meeting well in advance of the 20th.
 - 3. R. Lieberwitz said that it would be a good idea to ask M. Horvath about her standpoint on this matter as her understanding may be most relevant.
- xv. D. Barbaria asked about removal of non-student minors from the Code.
 - 1. M. Battaglia said that as of now, the Code of Conduct covers people broadly and that after talking to risk management, it is understood that they can be placed out of the Code as long as they are subject to other rules. He said, however, that the President has rejected this and

that the administration has complete discretion over whether or not this gets stripped.

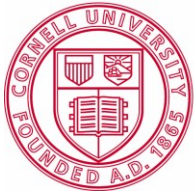
2. D. Barbaria asked where the matter will go forward.
3. M. Battaglia said that it will be brought up as an issue and that it may be a point that requires compromise.
4. D. Barbaria said that he does not want to re-propose Resolution 24 which was rejected last year.

III. Adjournment

a. Adjournment

- i. There was no adjournment of the meeting.

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



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Minutes

Codes and Judicial Committee
University Assembly
February 20th, 2019
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, A. Brooks, K. Kebbeh, L. Kenney, R. Lieberwitz, S. Vura
 - ii. *Absent:* D. Geisler, A. Viswanathan, K. Zoner
 - iii. *Others Present:* J. Anderson, M. Battaglia, J. Dominguez, M. Horvath, M. Lee

II. Approval of Minutes

- a. November 7, 2018
 - i. Minutes **approved** by unanimous consent.
- b. November 28, 2018
 - ii. Minutes **approved** by unanimous consent.
- c. February 5, 2019
 - i. Minutes **tabled** by unanimous consent.

III. Business of the Day

- a. Approval of UHRB Applicant Questions
 - i. D. Barbaria revised question 4 of the UHRB application questions to include tentative training session dates.
 - ii. M. Horvath said that question 9 could discourage potential applicants because it asks them to list whether they were subject to discipline even if they are currently in good standing, while question 10's reference to the Office of the Judicial Administrator is unwarranted. She said that she has voiced these concerns in previous meetings. She also objected to the use of the word "accuse" in the applicant questions because Cornell's disciplinary system is not a criminal judicial system.

1. M. Battaglia dissented to changing the word “accused” because he believes “accused” allows the applicant to best understand the question.
- iii. M. Horvath proposed to amend the language of question 12 to “As a board member are you able to find somebody not responsible all the way to dismissal”. She also proposed to strike “transcript annotation” from the question as the University Hearing and Review Boards (UHRB) have no right to transcript annotation.
- iv. M. Battaglia proposed to amend the language to “The Hearing Boards are called upon to adjudicate [...] As a member of a Board, are you comfortable finding someone not responsible? Alternatively, are you comfortable finding someone responsible, potentially imposing a sanction up to expulsion? Please explain.”
- v. R. Bensel asked what the purpose of the question is.
 1. D. Barbaria said that it is to ask individuals if they are comfortable in reaching the conclusion of expulsion if necessary.
 2. R. Bensel said that the question could simply ask that.
 3. D. Barbaria said that they hope to clearly ask whether the applicant is comfortable either finding an individual responsible or not responsible.
 4. R. Bensel said that the question may not be easily interpreted. He said that it should ask whether the applicant is comfortable reaching a conclusion of expulsion.
- vi. J. Dominguez said that the question is becoming unnecessarily complex. He proposed to ask if the applicant would be comfortable with finding somebody responsible if the facts suggest appropriate.
- vii. R. Lieberwitz said that “comfortable” and “able” retain different meanings. She suggested to make the language simple and ask whether the applicant is “able” rather than “comfortable”.
 1. D. Barbaria amended M. Battaglia’s proposed language from “comfortable” to “able”.
 2. S. Vura agreed with R. Lieberwitz.
 3. M. Horvath agreed and said that Board members need to be able to do the job. She said that the Committee should ensure they have knowledge that they can find somebody responsible or not responsible.
- viii. S. Vura said that question 13, which asks how the applicant would apply the Campus Code of Conduct when an ambiguity arises, is too obscure and open-ended.
- ix. M. Battaglia said that considering that the Code is not a perfect document, question 13 is asking how comfortable the applicant would be in operating

- in an area with uncertainties.
- x. L. Kenney said she believes that question 12 is important, but suggested adding “considering ambiguous evidence or circumstances” to the end of the question.
 - xi. K. Ashford said that she does not think that the question is too open-ended. She said that part of the reason is because there are several ways to approach the question.
 - xii. S. Vura said that he believes the question does not belong on the application unless it is absolutely necessary.
 - xiii. M. Horvath said that she would prefer to have a question that asks the candidate’s ability to deal with confidential matters. She said that she believes question 11 already deals with the issue of ambiguity.
 - xiv. R. Bensel proposed to replace “responsible” with “violate” in question 11.
 - xv. R. Bensel asked what “ambiguous evidence” refers to in question 13.
 - 1. D. Barbaria said that it refers to understanding that there is no right answer.
 - 2. R. Bensel said that he is unsure if applicants will understand the purpose of question 13.
 - xvi. M. Battaglia said that there is no right answer to question 13, and that he expects a wide range of responses. He said that assuming there is unclear or ambiguous language, the question is aiming to form a holistic picture and ask how the applicant would go about the situation.
 - xvii. D. Barbaria said that the question may not be clear to the regular applicant.
 - xviii. J. Anderson said that the question is an important one. He also said, however, that it is important that an applicant who has no experience with the Code may be wondering why it is there. He said that the question is important in terms of assessing how the applicant thinks more so than how they answer.
 - xix. K. Ashford said that she respectfully disagrees about asking to give a specific example.
 - xx. S. Vura said that he thinks the Committee would be able to evaluate the applicant’s thought process through other questions.
 - xxi. R. Lieberwitz suggested keeping the question as is, and then returning to the question next year after seeing the type of responses received.
 - xxii. J. Dominguez suggested amending the language to “How would you think about or manage ambiguity,” considering that the Committee aims to see how the candidate thinks about ambiguity.
 - xxiii. M. Battaglia said that he is concerned about the question being too broad and suggested amending the language to “How would you view and potentially resolve ambiguity”. He suggested asking how the applicant would think and react in the case of an ambiguous situation.

- xxiv. R. Bensel said that the question itself is subject to radically different interpretations.
- xxv. K. Ashford said that she thinks that M. Battaglia’s rephrased language resolves those issues.
- xxvi. M. Battaglia proposed to amend question 12 to “If in a case there is a question as to the meaning of a specific provision of the Code, how would you review and potentially resolve this ambiguity?”
- xxvii. R. Lieberwitz said that question 11 seems to educate the candidate about the concept of recusal, which does not seem appropriate for this application.
- xxviii. M. Battaglia proposed striking “recuse yourself from the hearing panel” from question 11.
- xxix. K. Ashford said that M. Horvath’s point about the lack of a question on the issue of confidentiality is important. She said that adding a question about the candidate’s ability to handle confidential matters would be appropriate towards the end of the application.
 - 1. M. Battaglia suggested adding a question about confidentiality towards the front since it would match with the “yes or no questions” in the front of the application.
 - 2. K. Ashford agreed and suggested adding a question about confidentiality after question 7.
 - 3. R. Bensel suggested the following language for question 8: “Would you be able to respect the confidentiality of all Hearing and Review Board proceedings?”
- xxx. R. Bensel proposed to strike the sentences following “How would you respond” in question 11.
- xxxi. R. Lieberwitz suggested replacing “were” with “have been” in question 9, as it is written in the subjunctive.
- xxxii. M. Battaglia said that question 9 has historically provided some of the best responses from applicants and that it gives an insight to how applicants see the process. He said that the question could be changed to a hypothetical to address some of M. Horvath’s concerns.
- xxxiii. M. Horvath said that there is nothing that requires an individual to have good standing to be a member of the UHRB. She said that it is important to understand that the Committee may be asking a question that has no criteria through this question.
- xxxiv. M. Battaglia said that he respectfully disagrees. He said that he has personally seen phenomenal responses to this question in terms of how their experience informed their perspective. He said that he believes it is of value to ask such a question.
- xxxv. R. Bensel suggested amending the third sentence of the question to “Any disclosures will be treated confidentially.”

- xxxvi. R. Lieberwitz said that she agrees with M. Horvath and that the entire question should be removed. She said that she believes disclosing a confidential matter is an invasion of privacy.
- xxxvii. M. Horvath said that there is no point in asking the question if the applicant is in good standing.
- xxxviii. S. Vura said that he believes the question has the potential to receive meaningful responses, but he is also concerned about violating privacy. He said that if he were a candidate, he would probably perceive this question as disqualifying. He also said that the Committee could strike the question to ensure that someone who is in good standing is not held against by their previous penalties.
- xxxix. R. BenseL said that he believes the question is a little odd, as it does not apply to everyone. He suggested amending the question to “If someone had been subject to discipline, please explain how this experience might make them a more conscientious member” to address this issue.
 - xl. K. Ashford said that the question could help draw in members with a wide range of experiences.
 - xli. S. Vura suggested including a phrase such as “the experience will not be held against you” so that it is clear that no candidates are excluded.
 - xlii. M. Horvath said that if a student is in good standing, there are no provisions in the Code that disallow them from serving on the UHRB. She urged the Committee not to include a question that defers candidates from the opportunity to serve on the Board.
 - xliii. S. Vura said that there should be a disclaimer in the question that having a previous penalty would not lower their chances of becoming a member of the Boards.
 - xliv. R. BenseL asked how many students were involved in cases last year.
 - 1. M. Horvath said that there were 625 cases last year, a figure that is not inclusive of Title IX cases.
 - 2. R. BenseL said that is a significant pool that cannot be ignored.
 - xlv. M. Horvath motioned to strike question 9.
 - 1. Motion **approved** by a vote of 4-2-2.
 - xlvi. M. Horvath suggested amending question 10 to an open-ended version such as the following: “The code has prescribed timelines for hearings. If either of the parties did not adhere to that, what would you do as a Board member?”
 - xlvii. M. Battaglia suggested amending the question so that it asks how the candidate would view a procedural defect.
 - xlviii. R. Lieberwitz said that the direction of the question is fitting, but it does not make sense.
 - xlix. R. BenseL said that the question is biased as M. Horvath indicates.

1. K. Ashford suggested amending the question to “If you notice a procedural irregularity, what do you do?”
- li. M. Battaglia said that the question is meant to help the Committee understand the candidate’s thoughts about how procedures or rules affect this case.
- lii. R. Bensel said that there are important and unimportant procedural irregularities. He said that it is irrelevant unless referring to a specific irregularity. He said that it would be beneficial to ask for an example of a serious procedural irregularity.
- liii. K. Ashford said that leaving the question as a more open-ended one would be useful.
- liv. R. Bensel proposed to strike the question as painting a specific scenario would make the question biased.
- lv. R. Lieberwitz suggested making the language of the question more concrete if the question were to be kept. She proposed the following: “For example, the accused did not receive a witness list one day before the hearing rather than the three days required.”
- lvi. M. Horvath said that she thinks the intention question may not be entirely necessary.
- lvii. M. Battaglia moved to extend the meeting by 15 mins.
 1. Motion **approved** by unanimous consent.
- lviii. D. Barbaria said that he hopes to finalize these questions and bring draft amendments to the next meeting.
- lix. M. Battaglia said that there are currently seven “yes or no” type of questions, one full response question, six or seven situational questions, and six or seven non-substantive questions.
- lx. M. Battaglia asked how often respondents submit materials late.
 1. M. Horvath said that respondents usually either submit their materials on time or refuse to make an appearance.
- lxi. R. Lieberwitz said that question 10 is asking what the candidate would do and how active they should be as a Hearing Board member, which are two different questions. She said that asking how active they would be as a Hearing Board member would be more relevant, since the question intends to ask what their role is and how much they should intervene.
- lxii. K. Ashford suggested to remove the question from the application, as it would be more suitable for the training.
- lxiii. R. Bensel said that he would like for Board members to have an incentive to follow procedures. He said that the question may be contradictory as it asks for the candidate’s judgment while also asking them to police the procedures.
- lxiv. M. Battaglia said that this question may be relevant to the revised question

12 that deals with ambiguities. He said that it may be more sensible to group this question with the one that involves ambiguity.

- lxv. M. Battaglia suggested amending question 12 to include three parts as follows: “Assume you are on a hearing board. How would you react if one of the following were to occur? A. A provision of the Code is ambiguous. B. There is a failure by one of the parties to follow hearing procedures as they are prescribed in the Code. C. An advisor to an individual charged with a violation of the Code does not raise an objection to a procedural error.”
- lxvi. K. Ashford said that this question would seem intimidating to an undergraduate student.
- lxvii. R. Bensel agreed.

IV. Adjournment

- a. Adjournment
 - i. The meeting was adjourned at 6:18pm. Members continued to have a discussion on the UHRB applicant questions.
 - ii. K. Ashford suggested adding “about” after “a case” to part c of question 14.
 - iii. R. Bensel proposed to replace “an acquaintance of yours” with “someone you know personally” in question 14.
 - iv. R. Lieberwitz said that members seem to agree upon having a reflective aspect to the applicant questions.
 - v. M. Battaglia said that he hopes that the Committee can conduct interviews with finalists this year.
 - vi. D. Barbaria asked if members have any requests.
 - 1. M. Battaglia requested a version of the applicant questions that includes amendments from today.
 - 2. R. Lieberwitz requested a version of the Code that is more easily readable.

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

UHRB Application Questions – 2019 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? Sessions are tentatively scheduled for the following dates and times (you would only need to attend one):

Tuesday, September 3, 2019	9:00 – 12:00 p.m.	B16
Wednesday, September 4, 2019	2:00 – 5:00 p.m.	B16
Friday, September 6, 2019	9:00 – 12:00 p.m.	B16
Saturday, September 7, 2019	9:00 – 12:00 p.m.	B16
Monday, September 9, 2019	5:00 – 8:00 p.m.	B16
Thursday, September 12, 2019	5:00 – 8:00 p.m.	B16

5. 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?
6. How often do you check email and how long does it take you to respond on average?
7. Would you be able to respect the required confidentiality of all Hearing and Review Board proceedings?
8. Please describe in your own words what the University Hearing and Review Boards are and the role they play in Cornell’s judicial system.
- ~~9. 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.~~
- ~~10. 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~~

37 ~~which you believe the accused individual violated the Code. However, the JAO provided~~
38 ~~notice to the accused five days prior to the hearing, and the list of witnesses one day in~~
39 ~~advance. The advisor representing the accused individual has not raised these procedural~~
40 ~~flaws as problematic. What would you do?~~

41
42 11. Assume that you are asked to serve on a hearing panel concerning a provision of the
43 Code with which you personally disagree. How would you respond? ~~Would you recuse~~
44 ~~yourself from the hearing panel, potentially penalize an individual for a violation of the~~
45 ~~Code with which you disagree, or take a different course of action?~~ Please explain your
46 reasoning.

47
48 12. ~~Discuss which violations of the Campus Code of Conduct, if any, you believe to~~
49 ~~potentially warrant suspension, expulsion, and/or transcript annotation as penalties.~~
50 ~~Please explain your reasoning.~~

51 Assume you are serving on a Hearing Board; how would you react if one of the following
52 were to occur?

- 53 a. the relevant provision of the Code is ambiguous
- 54 b. there is a failure by one of the parties to follow hearing procedures as they are
- 55 prescribed in the Code
- 56 c. [An advisor to an individual charged with a violation of the code does not raise
- 57 an objection to a procedural error]

58
59 13. ~~How do you believe the Campus Code of Conduct should be applied when an ambiguity~~
60 ~~arises?~~

61
62 14. As a member of the University Hearing and Review Boards, you would be expected to
63 recuse yourself from a particular panel if you doubt your ability to assess the case fairly.
64 If asked to serve on a hearing panel, under which potential cases, if any, would you
65 recuse yourself and why?

- 66 a. a case involving an alleged Code infraction that you had witnessed?
- 67 b. a case involving ~~an acquaintance of yours~~ someone you know personally?
- 68 c. a case about which you had read or heard a fair amount?

69
70 15. If there is anything else you wish to discuss, please do so below (250-word limit).