

Cornell University
University Assembly

Agenda

Codes and Judicial Committee

Cornell University Assembly

Agenda of the September 17, 2019 Meeting

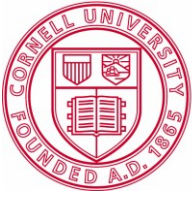
4:30 PM – 6:00 PM

316 Day Hall

- I. Call to Order (Chair)**
 - a. Call to Order
 - b. Welcome and Introduction
- II. Approval of the Minutes (Chair)**
 - a. April 29, 2019
- III. Business of the Day**
 - a. Discussion of the bylaws
 - i. The role of the CJC
 - ii. The public comment process
 - b. Campus Code of Conduct
 - i. University Assembly Suggestions
 - ii. Timeline for code revisions
 - iii. The CJC working draft and the University Counsel's working draft
 - 1. Values Section
 - 2. Reorganization discussion
 - c. UHRB Staffing Process
- IV. Adjournment**

Attachments

- 1. CJC Meeting Minutes 04/29/2019
- 2. CJC Bylaws
- 3. CJC Working Draft: V38
- 4. University Counsel Draft
- 5. Values Section



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University Assembly

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Minutes

Codes and Judicial Committee
University Assembly
April 30th, 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 4:48pm.
- b. Roll Call
 - i. *Present:* D. Barbaria, R. Bensel, A. Brooks, K. Kebbeh, L. Kenney, R. Lieberwitz, S. Vura
 - ii. *Absent:* K. Ashford, D. Geisler, A. Viswanathan
 - iii. *Others Present:* M. Battaglia, M. Horvath, M. Lee, R. Parker

II. Approval of Minutes

- a. February 20th, 2019
- b. February 27th, 2019
- c. March 6th, 2019
- d. March 20th, 2019
- e. April 10th, 2019
- f. April 16th, 2019
 - i. M. Battaglia motioned to approve the minutes.
 1. Minutes **approved** by unanimous consent.

III. Business of the Day

- a. For Discussion: Reorganized Campus Code of Conduct
 - i. D. Barbaria said that the Committee is not at the point where a formal reorganized Code of Conduct legislation can be sent to the administration. He said that the Codes and Judicial Committee (CJC) and University Assembly (UA) should publicly send the entire current draft version to move forward in passing amendments. He said that the Committee has not been at a place to go through the draft line by line. He added that he will personally recommend improving the structure of the committee to the UA so that it is conducive to reorganizing the Code.

- ii. A. Brooks asked whether anyone from the Committee responded to the email received from the President last week.
- iii. M. Battaglia said that he responded to her email, outlining where the Committee currently stands.
- iv. M. Horvath said that the UA realized that this was a substantial undertaking. She suggested that other committee members were included in M. Battaglia's discussions with the administration.
- v. M. Battaglia said the he would agree in hindsight. He noted that this is a learning experience for him and the Committee, and that he will make this clear for next year.
- vi. A. Brooks said that this was the first time the Committee had quorum in a month. He said that members of the Committee should take responsibility and attend meetings moving forward.
- vii. D. Barbaria said that the seat for a member of the police department also remains vacant.
- viii. R. Lieberwitz asked if there are places within the draft where the Committee should anticipate substantive changes, or if the Committee is more focused on streamlining and simplifying language.
- ix. D. Barbaria said that the UA would not accept a draft without substantive changes.
- x. R. Lieberwitz asked what M. Battaglia has been discussing with the administration.
- xi. M. Battaglia said that he clarified misunderstandings with President Pollack. He said that based on his one-on-one conversations with her, it is his understanding that she and the Board of Trustees are on board with the rest of this Committee regarding some matters, while other issues remain unsettled. He said that it seemed that the administration was willing to compromise in the middle, but the email exchanges indicated otherwise.
- xii. D. Barbaria said that the Committee should have been aware of all that was going on.
- xiii. M. Battaglia said that he specifically discussed the following items as points of discussion with the President: harassment, removing all faculty and staff from the Code, moving minor offenses out of Code. He said that his goal was to have less cooks in the kitchen, but it didn't work out as anticipated.
- xiv. R. Bensel asked if the main item for business today is sending the draft of the Code to the UA.
- xv. D. Barbaria said that the Committee should first settle on University Hearing and Review Boards staffing. He said that there were three more seats left to be filled, with two students and one staff member who received fairly low scores that could potentially be included in the UHRB member list for the upcoming term.
- xvi. R. Bensel asked why this discussion is necessary.
 1. D. Barbaria said that the two students and one staff member were not included in the UA resolution.
- xvii. R. Bensel motioned to add the three names to the UA resolution.

1. Motion **approved** by unanimous consent.
- xviii. D. Barbaria opened the floor for discussion on whether the Committee should send a draft of the Code for the administration to review over the summer.
- xix. M. Horvath asked whether there were suggestions on who the administration would be.
1. D. Barbaria said that this process would be more of a request than a formal order.
- xx. D. Barbaria asked if Committee members have suggestions on specific offices to share the draft with.
1. M. Battaglia suggested the Counsel's office. He said that the University Counsel has been involved with this process even though he is not necessarily in agreement with all of their work. He also suggested sending a draft to the President.
- xxi. M. Horvath said that one of the frustrations of this process is that the Office of the Judicial Administration (OJA) hasn't been consulted. She said that there appears to be a sense of fundamental distrust towards the OJA despite it following the Code exactly and ensuring that checks and balances are at work. She said that as the office that sees 600-700 cases a year and deals most closely with the Code, they were never consulted on the gaps in the Code.
1. M. Battaglia agreed that the JA should be included in the discussions. He said that regarding distrust of the office, members of the community seem to have a general distrust in authority.
 2. M. Horvath said that she has stressed the need to include all important information in the Code itself and not just in the footnotes. She said that in her conversations with M. Battaglia, they were general meetings without discussions on the specifics of Code changes.
 3. M. Battaglia said that he disagrees and that he remembers having detailed conversations about the Code.
 4. S. Vura motioned to have this conversation stricken from the record.
 - a. S. Vura **withdrew** his motion.
 5. R. Parker said that he agrees with M. Horvath that changes to the Code are necessary.
 6. D. Barbaria said that the Committee could be more effective if it were a review board rather than the actual drafters of the revisions. He said that the Committee is comprised of those who have expertise in identifying what is best for the community rather than dealing with legality.
 7. M. Horvath clarified that the point she brought up was in no way personal.
 8. S. Vura said that he felt the discussion was veering away from the main point.
- xxii. A. Brooks asked, in response to D. Barbaria's suggestion, whether this would mean that the CJC would not be the one that revises the Code moving forward.
1. D. Barbaria said that the CJC will still be finalizing the amendments to the Code. He said that going back and forth based on M. Battaglia's suggestions has made it impossible to amend the Code as the Committee

- did not have the language to have a formal debate.
- xxiii. D. Barbaria said that when the Committee returns in the Fall, it should be able to make decisions on revisions.
 - xxiv. M. Battaglia said that the Committee may require another working group moving forward. He recommended having a subset of committee review Code revisions in the next school year. In response to A. Brooks, he said that the letter to the administration would entail an outline of where the Committee is heading and what the Committee is asking from them in order to return to this discussion in the Fall.
 - xxv. R. Parker said that in the presence of a working group, he recommends that they are involved with the drafting of the Code.
 - 1. D. Barbaria said that the CJC would still be voting on the revisions, and that there will be community input but it would not be necessary at the drafting stage.
 - xxvi. D. Barbaria said that he will draft the letter to send to the administration and share with the Committee.
 - xxvii. M. Horvath asked how notifications will be sent out to new UHRB members, once approved by the UA.
 - 1. M. Battaglia said that they would be signed by D. Barbaria and himself.
 - 2. D. Barbaria said that some are one-year appointments while others' terms last two years.
 - xxviii. A. Brooks asked how much of the President's recommendations have been incorporated so far as revisions to the draft of the Code.
 - 1. D. Barbaria said that he would estimate that around 70% has been incorporated. He said that there are a couple items such as the question of removing faculty and staff from the Code that have been tabled for discussion at a later time. He said that there has not been much progress in terms of the actual reorganization of the Code as a whole.
 - xxix. R. Bensel said that the Committee should get a head start in the Fall. He said that the Committee should decide on whether to ask for community comment in the first meeting, and that this should take place while the Code is being revised.
 - xxx. D. Barbaria said that this Committee has never reached the point of having a full draft.
 - xxxi. R. Bensel said that if the revisions are halfway there with content to work with, they should be put up immediately for comment. He said that committee members should look at the responses that come back and work accordingly.
 - xxxii. A. Brooks agreed and said that the Committee should hit the ground running when committee it recongregates in the Fall.
 - xxxiii. M. Battaglia said that the Committee has a draft and an idea of the direction, although it is not perfect. He said that he trusts that the administration will provide necessary comments and that discussions will take place over to summer to move forward in the Fall.
 - xxxiv. M. Horvath noted the benefit of having an outside consultant look at the draft. She said that having an outside perspective with awareness of best practices and knowledge of student affairs would be beneficial.

- b. For Discussion: Campus Code of Conduct Section on Values
 - i. R. Bensel said that he sent the section on values to the President and has received a response in which she indicated that placing this section in the front of the Code would be appropriate. He said that this section should be one of the most important parts of document as it outlines the university's values.
 - ii. M. Battaglia said that he received feedback from some members of the community indicating their appreciation for this section.
 - iii. K. Kebbeh asked whether this section would be discussed as a part of the ongoing Code revisions.
 - 1. D. Barbaria said that the Committee should decide on whether to include the section in the draft of have it as a separate document.
 - iv. M. Battaglia said that he sees little harm in including it and that the university's values are important, although the language should be edited.
 - v. D. Barbaria asked whether the section should be included in the current draft of the revised Code.
 - 1. R. Bensel said that although the current language is imperfect, he would prefer that it is included as a part of the draft as a part of the introductory section of the code.
 - 2. D. Barbaria said that he will include it in the draft.
 - vi. D. Barbaria said that he will send the draft of the revised Code of Conduct as it currently stands with other ideas ready for the Committee to be able to vote on in the Fall.
 - vii. M. Battaglia said that hiring outside consultants should be done with caution as best practices are informative but not always most pertinent. He said that the university's Code and history are unique, and we should not be bound by what our peers do.
 - viii. R. Bensel asked when the UA's last meeting is.
 - 1. M. Battaglia said that the last one will be on the following Tuesday, but an additional meeting could be added.
- c. Closing Remarks
 - i. M. Battaglia thanked members of the committee for the rigorous discussions and their service to the community.
 - ii. D. Barbaria strongly encouraged members to serve again in the following term.
 - iii. R. Bensel thanked D. Barbaria for taking on the duty of chairing the CJC.

IV. Adjournment

- a. Adjournment
 - i. The meeting was adjourned at 5:49pm.

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



Bylaws

Cornell University Assembly

As amended on February 26th 2017

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ARTICLE I: EX-OFFICIO MEMBERSHIP

5 The following serve as members of the Assembly ex-officio without vote:

6 1. the chair of each associated committee of the Assembly.

7

ARTICLE II: PROCEDURES

8

Section 2.1: Meetings

9 At the first meeting of the academic year, the Assembly shall adopt a schedule of meetings for the
10 remainder of the year. These meetings shall be referred to as the regular meetings.

Section 2.2: Special Meetings

12 Special meetings of the Assembly may be convened to consider issues of immediate and pressing
13 concern. The Chair of the Assembly, the President or in the President's absence, the Acting President,
14 may call a special meeting of the Assembly. The Chair shall call a special meeting of the Assembly when
15 requested to do so by two-thirds of its seated members.

Section 2.3: Quorum

17 A majority of the seated members of the Assembly constitutes a quorum to do business.

Section 2.4: Robert's Rules of Order

19 The procedures for debate and general conduct of business of the Assembly in all matters not specifically
20 described in this document are Roberts Rules of Order, latest edition.

Section 2.5: Executive Session

22 With the concurrence of a majority of the voting members present, the Assembly or any of its committees
23 may enter executive session to discuss confidential matters. The Assembly must enter into its minutes the
24 purpose of an executive session. No policy decisions shall be made in executive session.



25 Section 2.6: Speaking Privileges

26 Any member of the Cornell community may request speaking privileges through the Chair, provided the
27 request is made at least 24 hours prior to a meeting. Consultants invited to a meeting by the Chair may
28 speak regarding the particular topic on which they were invited to present information or answer
29 questions. During the course of the meeting the Assembly may establish additional procedures for
30 granting speaking privileges.

31 Section 2.7: Agenda

32 The President of the University or any member of the Assembly may ask the Executive Vice Chair to
33 place of an item of business on the agenda. The Executive Board should place the item at the earliest
34 possible time that is practical or refer the item to appropriate committees for further review. The
35 Executive Vice Chair must make the agenda of the Assembly available to members no less than twenty-
36 four hours prior to a meeting of the Assembly.
37 Except where explicitly stated by the Executive Board, agendas and associated documents are presumed
38 to be public documents that may be shared with the campus community.

39 Section 2.8: Minutes

40 The minutes of Assembly meetings and those of its committees shall be available to all members of the
41 University, except for those meetings, or portions thereof, conducted in executive session.

42 Section 2.9: Annual Report

43 The Chair of the Assembly, in consultation with its members, presents an annual report to the President
44 of the University. The report includes a summary of the Assembly's work during the year and describes
45 any outstanding issues or items of business that are expected to arise in the future. The Assembly must
46 make the report available to all members of the University.

47 Section 2.10: Timing of Regular Meetings and Notice of All Meeting Times 48 and Locations

49 Regular meetings shall occur during the academic year only. The Executive Board must publicize and
50 allow the campus community to attend and observe all open meetings of the Assembly.

51 Section 2.11: Attendance Policy for Elected Members Not Yet Seated

52 Newly selected members of the Assembly must make every effort to attend any meetings that occur before
53 such members are seated.



54 **Section 2.12: Attendance Policy for Seated Members**

- 55 Seated and ex-officio members must attend all regular meetings of the Assembly. Members must:
- 56 A. notify the Chair of the Assembly at least twenty-four hours prior to any scheduled meeting they
- 57 are unable to attend, if possible; and,
- 58 B. not miss more than two regular meetings in any session of the Assembly.

62 If the Chair determines a member has failed to meet any of these requirements, the Chair must call for a

63 vote on unseating the member at the next regular meeting. If the Assembly votes to unseat the member,

64 the unseated member has not vacated the seat, but does not count for quorum and cannot vote until they

65 have been reseated. As soon as possible after a member has been unseated, the Chair must notify the

66 member and their constituent assembly that they have been unseated.

68 If an unseated member of the Assembly desires to be reseated, the member may call for a simple majority

69 vote of the Assembly to be reseated. The motion may not be postponed until after an agenda item

70 requiring a vote without the unseated member's consent. If the Assembly votes to reseat the member, the

71 member is reseated immediately with all rights restored.

72 **Section 2.13: Reporting Responsibilities of Members of the Assembly**

73 Presiding officers of each constituent assembly serve as liaisons between the Assembly and their

74 respective constituent assemblies, reporting the activities of the Assembly to their constituent assemblies

75 and the activities of their constituent assemblies to the Assembly.

76 **Section 2.14: Sense-of-the-Community Referendum**

- 77 The Assembly may call for a Sense-of-the-Community Referendum provided that it:
- 78 A. can be completed in the current session; and,
- 79 B. addresses a concern relevant to the entire University community in which all employees, faculty,
- 80 and students may vote.

81 **ARTICLE III: COMMITTEES**

82 **Section 3.1: Ad hoc Committees**

83 The Assembly, the Executive Board, and the Assembly's standing committees may establish such ad hoc

84 committees or subcommittees as are necessary for the proper performance of their functions. Any



85 alteration to the charge of such committees and subcommittees or to their membership must be reported
86 to the Vice Chair for Operations before being put into effect.

87 Sub-Section 3.1.1: Composition and Terms

- 88 A. The standing committee may recommend a specific prescription as to the membership of an ad
89 hoc subcommittee, including provisions for the appointment of members who are not
90 members of the standing committee or the Assembly.
91 B. No ad hoc committee may have fewer than three voting members. Each ad hoc committee
92 must disband at the end of a session of the Assembly.

93 Sub-Section 3.1.2: Appointment and removal of ad hoc committee members and chairs

94 Except where otherwise provided, the Vice Chair for Operations, in consultation with the Executive
95 Board, may appoint members. The Executive Board may remove members. A standing committee may
96 appoint members to or remove members from the subcommittees it establishes at its own discretion.

97 Section 3.2: Standing Committees

98 Sub-Section 3.2.1: Standing Committee Responsibilities

99 Each standing committee must:

- 100 A. hold and publicize at least one meeting per semester that is open to the campus community
101 where it receives and discusses items of business relevant to its charge;
102 B. submit, in a timely fashion, minutes of each meeting to the Vice Chair for Operations;
103 C. submit, before May 1, an annual report to the Vice Chair for Operations including a
104 summary of unfinished business of the committee;
105 D. make every reasonable attempt to ensure that members of the University community
106 affected by its recommendations are informed of the agenda of its meetings and of its
107 recommendations;
108 E. request that the Chair of the Assembly place on the agenda of the Assembly those matters,
109 which in its opinion require discussion by the Assembly; and,
110 F. respond to any requests from the Assembly for information or reconsideration of
111 recommendations.

112 Sub-Section 3.2.2: Standing committee composition and terms

113 Unless otherwise specified in its charge, each committee will consist of eleven voting members:

- 114 A. three appointed by and from the voting membership of the Assembly;
115 B. one appointed by each constituent assembly from its voting membership; and,



116 C. one appointed by each constituent assembly from the constituency it represents.
117 The officers of the assembly serve as non-voting, ex-officio members of the standing committees.

118 Sub-Section 3.2.3: Appointment and removal of standing committee members
119 and chairs

- 120 A. The Vice Chair for Operations, in consultation with the Executive Board, may appoint
121 members on behalf of the voting membership of the Assembly. The Executive Board may
122 remove members.
123 B. Except for compelling circumstances, no person should serve more than two consecutive
124 terms in a given committee.

125 Section 3.3: Procedures for policy development and legislative actions

126 The responsibilities articulated in this section apply only to committee business related to the Assembly's
127 authority in policy development or legislative actions.

128 Sub-Section 3.3.1: Mandatory Procedures

129 Each committee must:

- 130 A. issue a public notice on the Assembly's website of each motion related to a substantive
131 policy change, which includes:
132 1) a contact to whom inquiries and written comments may be directed,
133 2) period of time during which written comments will be accepted, and,
134 3) times and locations of any public hearings, if hearings are conducted; and,
135 B. issue a report based on its deliberations and any comments received, which the Assembly
136 will incorporate as supporting documentation into any related motion is subsequently
137 adopts.

138 Sub-Section 3.3.2: Normative Procedures

139 To the extent practical and appropriate, each committee must:

- 140 A. solicit written comments from campus constituencies for a public comment period of at
141 least two weeks in duration.

142 Sub-Section 3.3.3: Discretionary Procedures

143 Each committee may:

- 144 A. request reports and information from responsible administrative units;



- 145 B. extend, with public notice, the period of time when written comments are accepted; and,
146 C. conduct public hearings, in collaboration with responsible administrative units, to receive
147 oral comments from community members and experts.

148 **ARTICLE IV: CHARGES OF STANDING COMMITTEES**

149 **Section 4.1: Codes and Judicial Committee**

- 150 By delegation from the Assembly, the Committee will review any proposed motion related to:
- 151 Campus Code of Conduct; and
 - 152 recruitment and appointment of members to the University Hearing and Review Boards.
- 153 The Committee may propose, review, and amend resolutions as it deems appropriate. The Committee
154 must approve resolutions referred for its consideration before they can be advanced to the Assembly for a
155 vote and for debate. The Judicial Administrator and Judicial Codes Counselor serve as non-voting, ex-
156 officio members of the Committee.

157 **Section 4.1: Campus Welfare Committee**

- 158 By delegation from the Assembly, the Committee will review any proposed motion related to:
- 159 diversity and inclusion;
 - 160 family support;
 - 161 health services; and,
 - 162 any other topic deemed relevant to campus welfare by the Executive Board.
- 163 The Committee may propose, review, and amend resolutions as it deems appropriate. The Committee
164 must approve resolutions referred for its consideration before they can be advanced to the Assembly for a
165 vote and for debate.

166 **Section 4.1: Campus Infrastructure Committee**

- 167 By delegation from the Assembly, the Committee will review and approve any proposed motion related
168 to:
- 169 environmental impact and sustainability;
 - 170 information technology;
 - 171 transportation and commuter policies; and,
 - 172 any other topic deemed relevant to campus infrastructure by the Executive Board.
- 173 The Committee may propose, review, and amend resolutions as it deems appropriate. The Committee
174 must approve resolutions referred for its consideration before they can be advanced to the Assembly for a
175 vote and for debate.



176 **ARTICLE V: ASSOCIATED COMMITTEES**

177 **Section 5.1: Definition and General Specifications**

- 178 A. The Assembly may, with the approval of the responsible administrative unit, identify associated
179 committees of the Assembly. Such committees are chartered and managed by the responsible
180 administrative unit, but report additionally to the Assembly and possess the same responsibilities
181 as standing committees of the Assembly.
- 182 B. Each committee's charge must:
- 183 1) identify of the administrative unit responsible for the committee;
 - 184 2) specify responsibilities of the committee; and,
 - 185 3) specify composition and terms of the committee.
- 186 C. The following requirements hold except where otherwise provided:
- 187 1) Both the Assembly and the responsible administrative unit must approve changes to the
188 charges of associated committees.
 - 189 2) The chairs of associated committees serve ex-officio as non-voting members of the
190 Assembly and are expected to attend all regularly scheduled meetings of the Assembly.
- 191 D. Except where otherwise provided, the constituent assemblies may appoint and remove the
192 members of each associated committee assigned to represent their respective constituencies. The
193 Vice Chair for Operations, in consultation with the Executive Board, may appoint members to fill
194 any vacancies that remain after September 1 provided the term of appointment does not run
195 beyond the current session of the Assembly.

196 **Section 5.2: Campus Planning Committee**

197 The Campus Planning Committee (the "Committee") supports comprehensive and clear planning
198 processes across campus in stewardship of the physical plant at Ithaca.

199 **Sub-Section 5.2.1: Responsibilities**

- 200 A. The Committee's charge is to review and make recommendations to the President regarding
201 physical planning for the Ithaca campus including:
- 202 1) master planning;
 - 203 2) land use and physical development;
 - 204 3) landscape and environmental planning and design;
 - 205 4) transportation planning;
 - 206 5) circulation and parking;
 - 207 6) infrastructure;
 - 208 7) new construction; and;
 - 209 8) renovations as they relate to the overall planning and character of the Ithaca campus.



- 210 B. Among campus issues that the CPC shall review and advocate on behalf of, are 'university' and
211 'enabling' projects as identified in the Cornell Master Plan and other strategic planning
212 opportunities.
- 213 C. Furthermore, the CPC shall review in consultation with (and with the consultation of) the
214 appropriate committees of the University Assembly, all plans for alterations of or additions to
215 roads and parking lots on the Ithaca campus and all sustainability matters related to land and
216 campus development.
- 217 D. The CPC shall seek advice and comments from non-members including Cornell and non-
218 Cornell affiliates, while discussing a specific issue or design. The CPC strives to enhance
219 communications, social inclusion, and accountability regarding physical planning and
220 development of the Ithaca campus.

221 Sub-Section 5.2.2: Composition

- 222 A. The CPC shall consist of four Presidential appointments, eight position appointments, nine
223 additional at-large members, and ex-officio members.
- 224 B. The presidential appointments are made by the President of the University, and those
225 individuals are to serve three-year terms on a staggered basis.
- 226 C. The position appointments or designees should be individuals with professional and technical
227 expertise in a design or planning related field. These positions consist of the chairs of the
228 following departments or their designees: Department of Architecture, Department of Natural
229 Resources, Department of Landscape Architecture, Department of City and Regional
230 Planning, and the Art Department as well as the directors of the following units or their
231 designees: the Cornell Plantations, Graduate Program in Historic Preservation, and the Vice
232 President for Facilities Services.
- 233 D. The nine at large members consist of one University Assembly liaison, two
234 graduate/professional students, two undergraduate students, two employees, and two faculty
235 members, each named by his or her respective Assembly for a two-year term.
- 236 E. The ex-officio members are added by virtue of their administrative positions at the University
237 and their connection to planning at the University.

238 Section 5.3: Transportation Hearing and Appeals Board

239 The Transportation Hearing and Appeals Board (THAB) shall review decisions that have been denied in
240 whole or in part by Transportation and Mail Services administrative staff on matters relating to violation
241 appeals, requests for special parking grants for those claiming financial hardship, and exceptions to
242 parking rules and regulations and/or normal permit eligibility criteria.

243 Sub-Section 5.3.1: Responsibilities



244 Violation appeals must each be decisioned separately, considering all relevant facts and
245 circumstances brought to the board's attention. The board shall only review cases for which it is
246 deemed an error in judgment or procedure was made in the original decision. In cases of requests
247 for special parking grants based on financial hardship, appellants must fully explain why they are
248 unable to use the transportation options available. In cases of requests related to exceptions to
249 parking rules and regulations and/or normal permit eligibility criteria, the board's decision shall
250 be based on demonstrated need and are subject to space and other limitations.

251 Sub-Section 5.3.2: Composition

252 THAB shall consist of twelve members nominated by their respective Assemblies and approved by
253 those bodies and one ex-officio member representing the administrative staff of Transportation
254 and Mail Services. Members shall be constituted as follows: four students (two
255 graduate/professional, two undergraduate), four faculty, and four employees. No employee of
256 Transportation and Mail Services or Cornell Police may serve on THAB. The term of membership
257 shall be two years, except that initially, so that terms may be staggered, two faculty, two students
258 and two employees shall serve terms of one year. THAB shall annually elect its own chairperson.
259 Hearings shall require a quorum of three members. In case of a tie vote, the decision shall be
260 recorded in favor of the appellant.

261 ARTICLE VI: LIAISONS TO OTHER ORGANIZATIONS

262 Section 6.1: Liaisons

263 At its annual organizational meeting, as soon as is practical thereafter, or whenever a vacancy arises, the
264 Assembly will appoint a liaison, or liaisons, as appropriate to serve as its representative on the following
265 bodies:

- 266 Policy Advisory Group
- 267 Council on Sexual Violence Prevention
- 268 Student Insurance Advisory Committee Liaison
- 269 Student Health Fee Advisory Committee Liaison

270 Section 6.2: Appointment and Removal

271 Each liaison may be appointed or removed by the same procedure as for appointing or removing a
272 member of a standing committee.

General Notes:

This draft uses footnotes to streamline parts of the text. They are favored for commentary and general notes because they do not force someone to look elsewhere e.g. in an appendix/endnote or accompanying document.

This draft uses also appendices to handle procedures and text that would be of interest to certain individuals interested in a specific section (e.g. protest structures or how a hearing works in detail) and that we believe should remain in the Code and somewhere that is still highly visible but that does not clutter the main text and can be easily skipped by those not interested. As part of the final discussion, some text is likely to move back and forth from appendices depending on input received.

Track changes is enabled and all changes made (aside from just reordering) are should be marked as such. All provision headers have a note (generally in [brackets]) of where that provision lives in the current Code.

Headers from current Code provisions are (generally) currently still in place. They will be removed/updated in a final draft as needed, however we believe they make cross-referencing the existing Code within this draft easier.

There are comments throughout the draft, generally to provide clarity, context (e.g. to note where we have broken a single provision/line out of a current section to move it elsewhere), address concerns previously raised, or denote proposed changes from prior years.

Color Key (sometimes does not work fully with track changes):

Blue is Part 1 - Values

Purple is Part 2A - Rights

Green is Part 2B – Offenses (Highlight is text from Title 4)

Red is Part 3A – Sanctions (Highlight is text from Title 4)

Orange is Part 3B – General Procedures (Highlight is text from Title 4)

Black is Part 4 – Administration (Highlight is text from Title 4)

Track Changes is dull red with an underline (it also has the standard marks of track changes.)

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PART I:

SECTION ONE: STATEMENT OF PRINCIPLES AND POLICIES [Current Page 1]

Preamble. ~~This statement sets forth several fundamental principles that define core values and goals of the University. This statement recognizes, as well, that conduct of the members of the Cornell community is an appropriate area of concern for the University. This statement sets forth important principles and policies regarding rights of members of the Cornell community and the scope, manner, and standards of regulating community members' conduct.~~

This ~~Section~~ is necessarily general. Its purpose is to inform the Cornell community of the general principles and policies ~~to which Cornell adheres and upon which the Cornell judicial system operates, and to give general guidance to the judicial system as it handles specific cases arising under regulations authorized by the Board of Trustees, including legislation adopted by the University Assembly (or its successor) and approved by the President as representative of the Board.~~

Article I. Fundamental Principles [Current Page 1]

A. The Essential Purpose [Current Page 1]

The essential purpose of the University's governing of community conduct is to protect and promote the University community's pursuit of its educational, ~~research, and public service goals.~~ The University, as an educational institution, has a special set of interests and purposes, the protection and promotion of which are essential to its effective functioning. These interests, with respect to the governing of community conduct, include the following:

1. the opportunity of all members of the University community to attain their educational objectives;
2. the generation and maintenance of an intellectual and educational atmosphere throughout the University community; and
3. the protection of the health, safety, welfare, property, and human rights of all members of the University community, and the safety, property, and reputational interests of the University itself. These general interests, of course, are also the subject matter of the public laws of the state and nation.

B. The University's Role [Current Page 1]

The University's role in regulating community conduct is distinguishable from society's. Therefore, the powers of the University's judicial boards shall be limited to the enforcement of University conduct regulations and shall not extend to the enforcement of public laws, except to the coincidental extent that such University conduct regulations are similar to provisions of the public law.

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C. The Principle of Freedom with Responsibility [Current Page 2]

- A. The principle of freedom with responsibility is central to Cornell University. Freedoms to teach and to learn, to express oneself and to be heard, and to assemble and to protest peacefully and lawfully are essential to academic freedom and the continuing function of the University as an educational institution. Responsible enjoyment and exercise of these rights mean respect for the rights of all. As Cornell's motto—"I would found an institution where any person can find instruction in any study"—proclaims, we are a community that affirms and defends inclusion and diversity. Infringement upon the rights of others or interference with the peaceful and lawful use and enjoyment of University premises, facilities, and programs violates this principle.
- B. The Campus Code of Conduct is the University community's code, and hence is the responsibility of all community members. All members have a duty to cooperate with University officials in this Code's operation and enforcement.

C. Freedom of Speech and Expression [Page 5-6 Current Code]

Freedom of speech, within commonly accepted limits of safety and civility, is a paramount value in a university community. In a university community, as in society as a whole, freedom of speech cannot be absolute. Speech that is libelous, or that incites a crowd to riot, deserves no protection. Perhaps no one, in real life, has ever falsely shouted "Fire!" in a crowded theater, but surely no one has a right to do so. Within such commonly accepted limits, however, freedom of speech should be the paramount value in a university community. Because it is a special kind of community, whose purpose is the discovery of truth through the practice of free inquiry, a university has an essential dependence on a commitment to the values of unintimidated speech.

To curb speech on the grounds that an invited speaker is noxious, that a cause is evil, or that such ideas will offend some listeners is therefore inconsistent with a university's purpose. One may argue against inviting a speaker on the grounds that the speaker has nothing of importance to say. But once members of the university community extend an invitation, others may not disrupt the speech on the grounds that they find it stupid, immoral, or dangerous.

Those who dislike what an invited speaker is saying also have rights. The rights include distributing leaflets outside the meeting room, picketing peacefully, boycotting the speech, walking out, asking pointed questions, and, within limits set by the moderator, expressing displeasure with evasive answers. Those who oppose a speaker may thus make their views known, so long as they do not thereby interfere with the speaker's ability to be heard or the right of others to listen. Name-calling and the shouting of obscenities, even when they are not carried so far as to abridge freedom of speech, are nevertheless deplorable in a community devoted to rational persuasion and articulate controversy. Civility is a fragile virtue, but one upon which a university ultimately depends. At its core, everyone has the right to be heard and to listen to others.

The American conception of academic freedom includes the principle that professors may participate in political demonstrations and speak out on controversial issues without jeopardizing their employment. In a campus setting, however, academic freedom carries with

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it certain responsibilities. Scholars not only should respect the professional demands of their discipline and the pedagogical requirements of the teacher-student relationship, but also should not encourage efforts to abridge the free expression of controversial viewpoints. As citizens, professors may or may not be especially solicitous about freedom of speech; as scholars, they are morally bound to defend it. Professors traduce their calling by any deliberate action demonstrating contempt for freedom of speech.

Civil disobedience is not a ground for exonerating one from penalties for violating conduct regulations regarding free expression, nor should it be a circumstance mitigating the penalty. Although nonviolent civil disobedience can be an honorable way of expressing moral outrage, in a university community where the free flow of ideas is paramount, it is contradictory and misguided to employ it to deny that very right of expression to another.

D. Protests and Rallies

~~Outdoor picketing, marches, rallies, and other demonstrations are traditional and legitimate forms of self-expression and dissent on campus. The right to free expression at Cornell, as in other contexts, requires respect for the rights of others. Outdoor picketing, marches, rallies, and other demonstrations generally pose no threat of long-lasting exclusive use of University grounds or property. Moreover, those who oppose a speaker may thus make their views known. Everyone has the right to be heard and to listen to others.~~

~~As to indoor demonstrations such as sit-ins, owners of private property, and even the administrators of public property, are not required to permit the occupation of buildings by those who are not present to transact the business or pursue the other purposes that the offices in the building are intended to serve. Classrooms, libraries, laboratories, living units, and faculty and administrative offices are dedicated to specific purposes, which the University must be free to pursue without disruption. The law of trespass and the right of free speech are not mutually exclusive and, indeed, have always coexisted in our legal system.~~

~~However, when allocating University rooms set aside for the purpose of gatherings involving speech and expression, those rooms should shall not be licensed in a manner to deny access to groups sponsoring an unpopular point of view.~~

~~The right to express one's views should does not extend so far as to infringe upon another University community member's right to participate in a recruitment interview or information session with a recruiter who is on campus in accordance with ordinary University processes.~~

~~[Discussion and inclusion of Cornell's Core Values Statement once written and approved]~~

Part 2A – Rights

Article III. Responsible Speech and Expression [Page 5 Current Code]

A. Public Speaking Events on Campus [Page 5 Current Code]

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Definitions:

Recognized Campus Organization: Are registered student organizations, departments and units of the university, and university-sponsored organizations and offices (e.g., Dean of Faculty, Faculty Senate, University Assembly, etc.).

Lawful: Conduct or action that does not violate local, state, or federal law.

University Functions: Regular and special curricular activities, extracurricular activities, academic processions and events, conduct of University business, employment interviews, and other regular University operations without limitation.

1. Arrangements for Invited Speakers

Any Recognized Campus Organization is free to invite a speaker to address its own membership in a private, closed meeting under ground rules set by the inviting organization.

Any Recognized Campus Organization is free to invite a speaker in an event open to the University community.

Only members of the Cornell community may hold or host events on Cornell-owned property. External groups must be sponsored by a Recognized Campus Organization and the sponsor must have a representative present during the actual event.

B. Protests and Demonstrations on Campus [Page 6 Current Code]

1. Protected Expressive Conduct in General [Page 6-7 Current Code]

The University will treat as within the basic protection of a right to free expression such Lawful conduct as satisfies the following tests. The conduct should:

- (a) be intended for expressive purposes,
- (b) be reasonably understood as such by the University community, and

¹ A closed meeting can serve many legitimate purposes, including creation of a more informal atmosphere, maximizing the opportunity of organization members to ask questions, allowing the speaker to talk "off the record," and ensuring a particular kind of discussion because of advance preparation by the organization's membership. If a speaker is likely to attract widespread interest among nonmembers, however, the group would often be wise to open the meeting to nonmembers, including those with views contrary to those of the speaker. Nevertheless, the University does not insist that the group do so.

² In doing so, a group should seek to arrange adequate space to accommodate the reasonably expected audience. The inviting group may decide whether there is to be a question-and-answer period and, if so, its length and general format. The speaker or moderator should also be allowed reasonable discretion in requiring questioners to be concise, not to abuse the speaker, and not to monopolize the proceedings or otherwise interfere with their purpose. If a question-and-answer period is held, however, neither the speaker nor the moderator should be allowed in recognizing speakers to discriminate on such grounds as ethnicity, gender, national origin, political persuasion, race, religion, sexual orientation or affectional preference, or other suspect or invidious categories. By the same token, at a public event, the sponsoring organization should not be allowed to bar attendance or give preferred seating on the basis of such suspect or invidious categories.

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(c) comply with such reasonable time, place, and manner restrictions as are consistent with the other provisions of this Article and as may be authorized from time to time by the President.

The University may impose reasonable time, place, and manner restrictions on such expressive conduct to preserve other important values and interests of the University community.

All protection and regulation of expressive conduct shall be content-neutral. A group's persuasion or point of view shall have no bearing on the grant of permission or the conditions regulating that group's expressive conduct.

2. Symbolic Structures [Page 7 Current Code]

Symbolic structures shall be allowed in accordance with an express permit issued by the Vice President for Student and Campus Life or other presidential designee. Such structures must be temporary and must conform to the conditions contained in the permit.³ Guidelines governing the granting of permits are contained within Section [A] of Appendix [B].

3. Outdoor Demonstrations Not Involving Structures [Page 7-8 Current Code]

Outdoor picketing, marches, rallies, and other demonstrations do not require a university permit and are allowed so long as demonstrators do not disrupt other University Functions. The presence of a counter-protest does not itself constitute a disruption to a University function or authorized event, and those who oppose a speaker may make their views known.

Outdoor

The use of public address systems and amplified sound is permitted without prior approval during the hours of 12:00 p.m. and 1:00 p.m., at Ho Plaza and in front of Day Hall. Public address systems and amplified sound may be used in other outdoor locations only with prior approval.⁴

4. Indoor Demonstrations and Functions [Text is from Page 7-8 Current Code – proposed header is new]

The President may authorize regulations permitting the use of specific portions of University buildings.⁵ No such use shall be permitted beyond 5:00 p.m. or the close of normal business hours, whichever is earlier.

Deans, directors, or other heads of each college, school, or other academic unit described in Article I, section 7, of the University Bylaws may submit proposals to the President on the promulgation of such regulations for the use of University buildings assigned to the use of such

⁴ Approval may be obtained using the Event Registration Form located at: <https://activities.cornell.edu/EventReg/>.
⁵ Such regulations shall not permit the disruption of classrooms, libraries, laboratories, living units, or offices and shall ensure the continuing conduct of University business. Additionally, University rooms set aside for the purpose of gatherings involving speech and expression shall not be licensed in a manner to deny access to groups sponsoring an unpopular point of view.

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 - protecting health and safety;⁴
 - preventing damage and risk of damage to University grounds and property;⁴
 - preserving unimpeded mobility on pathways and streets, entrance to and departure from buildings, and unimpeded mobility within buildings;⁴
 - providing for competing uses of campus grounds and property;⁴
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- Commented [MB24]: Simplified operative language ... [3]
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college, school, or unit. No such regulation shall take effect or continue in effect without the approval of the President.

The President may promulgate regulations governing the use of Day Hall or any other University building not otherwise governed by such regulations.⁶

Part 2B – Offenses

TITLE THREE: REGULATIONS FOR MAINTENANCE OF EDUCATIONAL

Article II. Violations

A. Listing [Current Code Page 17 – 19]

Definitions:

Protected Status: ~~Actual or perceived age, ancestry or ethnicity, color, creed, disability, gender, gender identity or expression, height, immigration or citizenship status, marital status, national origin, political belief, race, religion, religious practice, sexual orientation, or socioeconomic status, veteran status, or weight.~~

Endanger: ~~Introducing a weapon into a fight, whether or not the weapon was used; using one's body parts as a weapon; violation of Life Safety regulations; theft or use of fire extinguishers; use of firecrackers or flares; or any other acts without limitation, whether reckless or intentional, that create a dangerous situation for the safety of another individual~~

Documents: ~~Computerized or noncomputerized records, parking permits, dining cards, identification cards, other permits or cards, reserve books, or other similar property.~~

Offenses against Persons

1. It shall be a violation of this Code,
 - a. To (1) rape, (2) sexually assault, or (3) sexually abuse another person, as those terms are defined in Cornell University Policy 6⁴.
 - b. To intentionally (1) expose a private or intimate part of one's body in a lewd manner

⁶ As a practical matter, although demonstrations inside virtually any University building would be disruptive, the working space within Day Hall is especially compact. Almost any assemblage of demonstrators inside the building could be disruptive to Day Hall staff and to others, especially students, seeking access to a Day Hall office for normal business purposes

⁷ This Code section is subject to the provisions in Appendix A, Article I.

Moved [3]: As a practical matter, although demonstrations inside virtually any University building would be disruptive, the working space within Day Hall is especially compact. Almost any assemblage of demonstrators inside the building could be disruptive to Day Hall staff and to others, especially students, seeking access to a Day Hall office for normal business purposes

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Article I. → Applicability [Current Code Page 16]

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Moved down [4]: This Title shall apply to all students, members of the University faculty, other employees of the University, and University-registered organizations, except that those of the Medical College and the Graduate School of Medical Sciences shall be governed by separate regulations with respect to property and facilities of the Medical College and the Graduate School of Medical Sciences.

This Title shall apply to conduct on any campus of the University, on any other property or facility used by it for educational purposes, or on the property of a University-related residential organization in the Ithaca or Geneva area.

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or (2) commit any other lewd act in a public place.

c. To harass another person in a manner that would violate Cornell University Policy 6.4 if it were applicable.⁸

~~To harass another person by acting toward that person in a manner that is unwelcome and sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual or group of individuals from participating in or benefiting from the University's education, research, and/or employment programs or activities.~~

d. ~~To engage in discriminatory hostile environment harassment directed against any person or group of persons based on Protected Status.~~⁹

e. ~~To assault or intentionally cause any physical injury to another person.~~

f. To assault or cause any physical injury to another person on the basis of a Protected Status.

~~To stalk another person by (1) intentionally engaging in a course of conduct directed at a specific person and (2) that would cause a reasonable person to feel threatened or frightened.~~¹⁰

g. To haze another person, regardless of the person's consent to participate. Hazing means an act that, as an explicit or implicit condition for initiation to, admission into, affiliation with, or continued membership in a group or organization,

- (1) could be seen by a reasonable person as endangering the physical health of an individual or as causing mental distress to an individual through, for example, humiliating, intimidating, or demeaning treatment
- (2) destroys or removes public or private property
- (3) involves the consumption of alcohol or drugs, or the consumption of other substances to excess, or
- (4) violates any University policy.

h. To (1) Endanger another person, or (2) threaten or use physical force or violence to endanger, injure, abuse, intimidate, or coerce another person.

i. To Endanger or to cause damage to or loss of property of another person.

j. To steal or knowingly possess stolen property, including by such acts as misappropriation of data or of copyrighted material or software.

k. To recklessly or maliciously damage, access, or interfere with, in a manner violating University technology regulations, computer or network resources, data, files, or other information.

⁸ This Code section is subject to the provisions in Appendix A, Article I in cases of sexual harassment.

⁹ A hostile environment is created by conduct (oral, written, graphic or physical) that is unwelcome and sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual or group of individuals from participating in or benefiting from the University's education, research, and/or employment programs or activities.

¹⁰ Course of conduct is defined as a pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct.

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l. To intentionally invade privacy or misappropriate property rights, by means of videotaping, photographing, audiotaping, or otherwise making any picture or sound recording.

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m. To prevent a person from leaving a location (including part of the location, such as one part of a room) or to force a person to go to a location against his or her will. This is a violation whether accomplished through physical or psychological means.

n. ~~To refuse to comply with any valid penalty or remedy dispensed by the Office of the Judicial Administrator, University Hearing or Review Board, or University President.~~

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B. Offenses against the University:

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a. To ~~Endanger~~ or to cause damage to or loss of property of the University.

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b. To misappropriate University funds.

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c. To bribe a University official.

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d. To

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- (1) forge, fraudulently alter, willfully falsify, or otherwise misuse University or non- University Documents, or
- (2) possess such forged, altered, or falsified Documents, or
- (3) ~~if an individual is not of a legal drinking age, unlawfully possess the identification of another person if that identification would allow an individual to use it to purchase or consume alcohol.~~

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e. To furnish false information to the University with the intent to deceive.

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f. To ~~falsely~~ claim to represent the University or a University-registered organization.

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g. To ~~trespass upon~~ or make use of University or private property or facilities without authorization.

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h. To fail to leave a University building after a fire alarm has sounded or other notice of fire has been given, whether or not a drill.

i. ~~To engage in disorderly conduct. Disorderly conduct means intentionally causing, or recklessly creating a risk of, disruption to the University community or local community, including by such acts as:~~

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<#>It shall also be a violation of this Title.¶

- (1) violent, tumultuous, or threatening behavior,
- (2) unreasonably loud or belligerent behavior, or
- (3) obstruction of vehicular or pedestrian traffic.

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j. To unlawfully manufacture, distribute, dispense, possess, use, or sell alcohol. This includes, for example:

- ~~providing alcohol to an individual who is under the age of 21,~~

- selling alcohol without a license, consuming alcohol while under the age of 21, or
- possessing alcohol with the intent to consume it while under the age of 21.

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k. ~~To traffic, for profit or otherwise, in goods or services in a manner incompatible with the interests of the University community or local community.~~

Commented [MB44]: This seems broad to the point of being unenforceable as being too vague.

l. To unlawfully manufacture, distribute, dispense, possess, use, or sell marijuana or any controlled substances as defined by state or federal law.

After discussion, either clarify and narrow language or strike entirely.

m. To defraud ~~the University or another individual~~, including by such acts as ~~writing a bad check~~.

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n. To publicly urinate or defecate.

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o. To destroy evidence or otherwise obstruct the application of this Code.

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p. To assist another person ~~in violating this Code~~.

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q. To incite another person toward a likely and imminent violation of this Code.

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r. To attempt to violate this Code.

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s. To refuse to participate, without a substantial reason, as a witness in the campus judicial system, as outlined in ~~Title Three, Article III.E.3.b(6)(c)~~.

Commented [MB46]: Cite would be updated

~~t. To enter any waters of Fall Creek, Cascadilla Creek, or Beebe Lake that are on or traverse the campus (within the City of Ithaca) for the purpose of swimming or bathing, unless those waters are specifically designated swimming or bathing.~~

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u. ~~To intentionally demonstrate or protest in such a manner as to unreasonably disrupt recruiters and recruitment activity being conducted in accordance with ordinary University procedure.~~

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Commented [MB47]: From page 8 – disruption of recruiters.

Commented [MB48]: Title 4 in current code – needs Board Approval to modify. University Counsel indicates we can merge into the Code.

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This Title shall apply

Offenses regarding the MAINTENANCE OF PUBLIC ORDER

Deleted: to all persons and organizations, including visitors and other licensees and invitees, on any campus of the University, on any other property or facility used by it for educational purposes, or on the property of a University-related residential organization in the Ithaca or Geneva area, except that students, members of the University faculty, other employees of the University, and University-registered organizations of the Medical College and the Graduate School of Medical Sciences shall be governed by separate regulations with respect to property and facilities of the Medical College and the Graduate School of Medical Sciences.¶

The following offenses shall apply to only conduct falling within the University's requirement to maintain public order on its property and campus:

Article II. – Violations [Page 38 – 39 Current Code]¶

I. To

A. disrupt or obstruct or attempt to disrupt or obstruct any instructional, research, service, judicial, or other University operation or function or

Listing¶

B. to interfere with or attempt to interfere with the lawful exercise of freedom of speech, freedom of movement, freedom of peaceable assembly, or other right of an individual, by any action including but not limited to the following:

It shall be a violation of this Title:¶

- by intentionally using or threatening physical force or violence to

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harass, ~~Endanger~~, injure, abuse, intimidate, or coerce another person, or

- to cause damage to or loss of property;
- by intentionally obstructing or causing to be obstructed the lawful use of, access to, or egress from University premises or portions thereof.

C. by making unauthorized entry upon or use of a University property or facility or by unlawfully remaining in or on the same;

D. by intentionally obstructing or restraining the lawful movement of another person or obstructing or restraining his or her lawful participation in an authorized activity or event¹¹; or

E. To refuse to comply with any lawful order of a clearly identifiable University official acting in the performance of his or her duties, or with a policy that has been duly promulgated by the University or any college, department, or unit thereof, whether or not the policy has been issued in the standardized University format.

F. To possess, carry, or use firearms (including rifles or shotguns), ammunition, explosives, or other dangerous weapons, instruments, or substances in or upon University premises, except by law enforcement officers or except as specifically authorized by the University.

G. To engage in any action or situation that intentionally or recklessly endangers mental or physical health or involves the forced consumption of alcohol or drugs, for the purpose of initiation into or affiliation with any group or organization.

H. To use ~~Protected Status~~ as a criterion for admission or seating at public speaking events advertised as open to the University community.

I. To disrupt or obstruct or attempt to disrupt or obstruct any speaker invited to appear on the campus by the University or a University-recognized organization.

J. To build a structure on the campus without a permit or in violation of the conditions of a permit, and to refuse to dismantle it or discontinue the nonconforming feature upon the lawful direction of an authorized University official.

K. To disrupt or attempt to disrupt intentionally any recruitment activity of a recruiter who is on campus in accordance with ordinary University processes.

L. To fail to comply with any time, place, and manner regulation authorized by Article III of Title One.¹²

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¹¹ Such as regular and special curricular activities, extracurricular activities, and employment interviews
¹² An accused charged with such conduct may assert as a defense that he or she has complied with such time, place, and manner restrictions. [From Current Code Page 6]

Exception Regarding Grave Misconduct [Page 4 – 5 Current Code] While the Code governs individual conduct, an individual's exceptionally grave misconduct, particularly misconduct that threatens or attempts to cause physical or mental harassment, may demonstrate such flagrant disrespect for the basic integrity and rights of others as to call into question continuance of the individual's membership in the University community, because:

- (1) his or her presence would adversely affect the ability of others to pursue their educational goals or
- (2) his or her misconduct grossly violated standards of behavior requisite to the maintenance of an educational community.

In the event of such conduct, if the conduct is not covered by any specific provision of a University regulation or statement regulating conduct or if the relevant regulation does not provide a sanction adequate to protect the safety of the University community, nothing in this Code shall preclude the President or his or her designee, under the authority of the Board of Trustees as expressed in the University Bylaws, from taking appropriate and lawful action. But such authorization constitutes a procedure parallel to this Code, not an authority to review or revise a decision made under this Code.

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Commented [MB57]: We may wish to clarify that this power should be used only in very rare circumstances as it is in essence an "escape hatch" to the entire Code.

In discussion, CJC members agreed this should be used sparingly, if at all (and that if it ever was, that afterwards the Code should be evaluated and potentially amended to bring such conduct within its ambit and prevent this provision from needing to be used again).

Part 3A – Sanctions

Article IV. Penalties and Related Provisions [Page 34 – 36 Current Code]

The University's mission is educational, therefore sanctions imposed through the University's judicial process should, where possible, seek to advance an educational goal and not be purely punitive. For this reason, in circumstances where harm is minimal (for instance a first-time, minor violation) the sanction ordinary should be similarly minimal (for instance oral warning) and follow progressive discipline for later violations.

Commented [MB58]: Explicitly mention that, where possible, educational sanctions should be employed.

A. Penalties

The following penalties may be imposed, or imposed and deferred as specified in the summary decision or board decision, provided that no person shall endure cruel and unusual punishment. In situations where an individual is both taking classes and on the University payroll, appropriate penalties may come from either or both Subsections a and b. The below penalties are listed in order of increasing severity.

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a. Students

(1) Oral warning.

(2) Appropriate educational steps (such as referrals for alcohol or drug education, reflection papers, counseling, letters of apology, or directed study).

(3) Community work, which shall not be more than 80 hours per violation, and must be performed in a manner acceptable to the Judicial Administrator.

(4) Fine of not less than \$20 nor more than \$500 payable to the University Treasurer.

(5) Restriction or loss of specified privileges for a stated period not to exceed one year, including for example:

(a) in cases of misconduct in connection with University services or facilities, the student being prohibited from further use of those services or facilities other than in the course of his or her work or study; or

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(b) in cases of misconduct in connection with University-owned or University-operated housing, the student being ordered to vacate such housing.

(6) Written reprimand.

(7) Probation for a stated period.

(8) Suspension from the University for a stated period not to exceed five years¹³

(9) Dismissal, i.e., expulsion from the University.

b. Faculty and Other Employees

(1) Oral warning, educational steps, community work, and fine, as provided for student offenders.

(2) Written reprimand.

(3) Suspension from University duties for a stated period not to exceed one month, with loss of salary but without loss of other rights or privileges.

(4) Dismissal from University employ, with termination of any contract or tenure.

c. University-Registered Organizations

(1) Appropriate educational steps for **involved** members of the organization (such as referrals for alcohol or drug education, reflection papers, counseling, letters of apology, or directed study).

(2) Community work performed by members in a manner acceptable to the Judicial Administrator.

(3) Fine of not less than \$25 nor more than \$500 payable to the University Treasurer.

(4) Restriction or loss of specified privileges for a stated period not to exceed one year.

(5) Written reprimand.

(6) Suspension of all privileges for a stated period not to exceed **five** years.

(7) Dismissal, i.e., rescission of permission to operate on University property.

2. An offender's prior record of violations under this Code should be considered in the imposition of a penalty.

a. Ordinarily, the penalty for a second violation, whenever such violation occurs, should be more severe than for a first violation.

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¹³ [Add footnote reading "The Code previously allowed for indefinite suspension. While indefinite suspensions are no longer given as of [date of changes being accepted], any student indefinitely suspended at the time of indefinite suspensions being removed shall continue to be indefinitely suspended and subject to the appeals provision in-place at the time of removal.]

Ordinarily, the penalty for a third violation by a student within a twelve-month period should be probation or suspension from the University ~~for a stated or indefinite period~~ and denial of academic credit for the term in which the suspension occurs. The penalty may be reduced if a lesser penalty would more appropriately serve the interests of justice and if, in addition, the offender expressly agrees not to engage in misconduct of specified kinds in the next twelve months. ~~indefinite~~

3. Without intending to limit the assessor of a penalty's ultimate discretion, certain types of violations are so fundamentally inconsistent with the University's educational mission that, absent unusual mitigating factors, a sanction of substantial suspension or dismissal ordinarily should be imposed. Such violations include

- a. acts of violence, including sexual violence;
- b. violations that are motivated by Protected Status, or any other suspect or invidious category; or
- c. any other violation that substantially threatens the University's educational mission or property or the health or safety of University community members.

B. Remedies [Page 36 Current Code]

The following remedies may be imposed:

1. Restitution to the University or to the victim of the violation.
2. Order to the offender to perform, or to cease and desist from, stated actions.

Part 3B – Summary of Procedures [bulk in new Appendix B]

TITLE TWO: CONSTITUTIVE PROVISIONS ON JUDICIAL SYSTEM

[NEW CLARIFYING LANGUAGE] The following is a brief overview of the procedures Cornell's Judicial System follows. Additional details and more in-depth procedures are included in Appendix [B], general procedures, and Appendix [C], University Hearing and Review Board Procedures.

Article I. Judicial Jurisdiction [Page 10 Current Code]

Jurisdiction in General [Page 10 Current Code]

All violations of the Campus Code of Conduct by a student, member of the University faculty, other employee of the University, or University-registered organization shall be processed through the campus judicial system, consistent with the principles stated in Article II of Title One, except as otherwise provided in Section C below.

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For penalties and related provisions, this Title adopts the provisions of Article IV of Title Three prevailing at the time of the violation.

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Article III. Judicial Participants [Page 14 Current Code]

A. Complainant and Victim [Page 14 Current Code]

1. Any student, member of the University faculty, or other employee of the University can allege a violation of this Code, of which he or she was the victim, by filing a complaint with the Judicial Administrator.¹⁴

2. The complainant and the victim, whether or not he or she is a member of the University community, each shall have the right:

- to be present at any relevant hearing.
- to be accompanied at every stage by a personal advisor of that person's choice.¹⁵

3. The Judicial Administrator shall provide to the complainant and the victim information about the University's Victim Advocate, Complainants Advisors, and other relevant resources, including information about how to file a police complaint.

B. Defense Counsel or Advisor [Page 14 – 15 Current Code]

1. When a respondent appears before the Judicial Administrator, the University Hearing Board, the University Review Board, or other University officials acting in a judicial capacity, the respondent has the right:

- To be advised and accompanied at every stage by an individual of the respondent's choice in the role of counsel or advisor.¹⁶ For suspension or dismissal to be imposed, such counsel or advisor must have had a reasonable opportunity to participate fully in the hearings.
- To act as his or her own counsel.

¹⁴ In cases in which a formal complaint is made by one or more individuals, such individuals shall be designated as the complainants. In cases in which no such formal complaint has been made or pursued, and an investigation is initiated by the Judicial Administrator, the University community shall be designated as the complainant. However, in cases concerning violations against the interests of the University, "Cornell University" (the corporation) may be named as complainant.

¹⁵ An advisor shall not be a witness and shall not participate in a hearing in the capacity of counsel.

¹⁶ Such counsel or advisor for the accused may be any member of the University community or general public, but shall not be a witness and, except for the Judicial Codes Counselor, shall not normally participate in a hearing in the capacity of counsel.

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Commented [MB68]: This contemplates that a complainant and victim may be separate persons.

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- To be accompanied at every stage by a personal supporter of that person's choice¹⁷

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Article IV. Judicial Boards [Page 15 Current Code]

A. University Hearing Board [Page 15 Current Code]

A five-person panel of the University Hearing Board shall adjudicate cases under the Campus Code of Conduct.

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B. University Review Board [Page 15 Current Code]

A three-person panel of the University Review Board shall hear appeals under the Campus Code of Conduct.

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Article III. Procedures [Page 20 Current Code] – [Full details in Appendix]

A. Initial Investigation [Page 20 Current Code]

1. The Judicial Administrator shall promptly cause an investigation to be made:

a. upon receiving a complaint alleging a violation of this Code by:

- (a) a student or University-registered organization, or
- (b) a non-employment-related violation by a faculty member or other University employee;

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b. upon determining that a complaint referred to him or her by a department head, dean, or supervisor, or by means of a jurisdictional appeal, is non-employment-related; or

c. upon receiving information that a violation of this Code may have occurred when no formal complaint has been made or pursued.

2. During the course of an investigation, the Judicial Administrator, before filing formal charges, may interview the persons involved. Prior to any such interview the Judicial Administrator shall, in writing, inform the person of:

- a. the matter to be discussed and the person's alleged relationship to it; and
- b. the services of and contact information for the Office of the Judicial Codes Counselor.

¹⁷ That supporter shall not be a witness and shall not participate in a hearing in the capacity of counsel.

B. Interim Measures [Page 20 – 22 Current Code]

1. The Judicial Administrator shall work with Campus Life, in cases in which the victim, complainant, or respondent live in the same residence hall and there is a substantial danger of future harm or misconduct, to determine whether Campus Life should relocate the victim, complainant or the respondent to another residence hall.

Commented [MB73]: NB - Interim measures have been an area of interest for the UA in recent years.

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2. No-Contact Directive

a. In cases involving allegations of harassment, abuse, assault, rape, or other menacing activity, the Judicial Administrator, after making a reasonable effort to meet with the accused if appropriate to do so, may issue a No-Contact Directive binding upon all involved parties.

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b. The Judicial Administrator shall make available to the accused the exact terms of the No-Contact Directive, as soon as it is issued.

c. Such directives may be initially issued for a duration of up to 21 calendar days. Should the Judicial Administrator believe a No-Contact Directive remains necessary after that time, he or she may petition a University Hearing Board Chair to renew the directive for up to an additional 21 calendar days. Should the Chair choose to extend the directive, he or she may modify the directive's terms but may not supersede an active court order. Prior to a directive being renewed, the parties to the directive may submit written statements to the Chair for consideration. If additional renewals are requested by the Judicial Administrator, a different Hearing Board Chair shall review each additional request. Chairs may evaluate multiple renewal requests on the same case only if all other currently available Chairs have already reviewed an equal number of requests on that case.

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d. In the event the Judicial Administrator is notified of a violation of the terms of the No- Contact Directive, the accused shall be provided with an opportunity to review the matter with the Judicial Administrator within two business days. If the Judicial Administrator determines, based upon the information available, that the No-Contact Directive has been violated, he or she may impose additional interim measures or suspend the accused temporarily, pending resolution of the underlying case.

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C. Summary Decision or No Action [Page 22 – 23 Current Code]

1. The Judicial Administrator shall determine, without undue delay, whether to offer a summary decision, to file formal charges, or to take no action.

2. The Judicial Administrator and the accused may agree, in writing, to a summary decision at any time, but typically prior to a matter going to a hearing before the University Hearing Board. If a Summary Decision Agreement is reached, the Judicial Administrator

Commented [MB77]: See below new provision concerning mediated SDAs reached via ADR.

shall:

a. send a notice of formal accusation and of the provisions of the summary decision to the respondent; and

b. notify the Judicial Codes Counselor of each summary decision as soon as possible, if the Judicial Administrator has learned that the accused has consulted the Judicial Codes Counselor.

3. In the event that this summary procedure is employed:

a. All penalties and remedies listed in Article IV may be assessed via summary decision.¹⁸

b. The respondent may withdraw approval of the summary decision by written request to the Judicial Administrator within the two business days following receipt of the notice described in item 2(a) of this section.

4. In the event the Judicial Administrator determines to take no action, the Judicial Administrator shall notify the respondent of such decision.

5. Except as noted below, the Judicial Administrator shall notify the complainant no more than five business days after the deadline for the accused to revoke the summary decision or after the Judicial Administrator otherwise decides not to file charges.

a. If the Judicial Administrator notified the complainant at a time the summary decision may still be revoked by the accused, this information must be provided to the complainant.

b. For University complainants, the Judicial Administrator need notify the complainant only:

i. in a case where the University complainant submitted a written request for notification at the time the complaint is lodged; and

ii. in specific cases, limited to cases involving any violence or threatened violence against another person, violations of the Financial Irregularities Policy, and fraud or theft against the University in an amount exceeding \$100.

6. If the complainant is dissatisfied with the summary decision or with the decision of the Judicial Administrator not to file charges, the complainant may petition the Judicial Administrator in writing to show cause for the decision before the University Hearing Board. This petition must be received by the Judicial Administrator within eight business days after the complainant's receipt of the Judicial Administrator's notice of the nonaction or within three business days after the deadline for the accused to revoke the summary

¹⁸ In the case of suspension or dismissal, however, the Judicial Administrator must obtain the approval of a Hearing Board Chair, to insure against the possibility of intimidation or coercion in the negotiations; the Judicial Administrator must do so prior to reaching agreement but may address the Hearing Board Chair without the participation of the accused.

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action, whichever is longer. The Judicial Administrator shall promptly forward the petition to a Hearing Board Chair. The University Hearing Board shall meet to consider the petition within 21 calendar days of receipt of the petition by the Judicial Administrator. That board can:

- a. uphold the decision of the Judicial Administrator in whole or in part;
- b. order the Judicial Administrator to reopen the investigation; or
- c. order the Judicial Administrator to file charges so that the case can be adjudicated by the University Hearing Board.

Commented [MB81]: The current language has an "or" between two calculated dates implying that the longer date carries however it cannot hurt to be clear.

D. Alternative Dispute Resolution - Mediation

1. In determining whether to offer a Summary Decision Agreement to the respondent, the Judicial Administrator may, in their discretion, offer to utilize mediation as a method to assist in negotiating a Summary Decision Agreement.
2. Mediation, if utilized, is voluntary and the complainant or respondent may withdraw from participation at any time.
3. Mediations shall be conducted by mediators trained and overseen by the Scheinman Institute on Conflict Resolution at Cornell University (or its successor).
4. Mediations shall be conducted in accordance with the procedures included in Appendix [D] to this Code created under the procedures outlined in Section [X] of this Code.
5. Any information discussed by any participant in a mediation shall be confidential and not admissible in proceedings before the University Hearing and/or University Review Boards without the consent of all parties.
6. During mediation, the complainant and respondent retain all rights they would respectively have in interacting with Cornell's Judicial System, including the right to an advisor or personal supporter.
7. Any Summary Decision Agreement negotiated through mediation must comply with Code provisions applying to all Summary Decision agreements outlined in Section [X] of this Code.

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E. Formal Charges [Page 23 – 25 Current Code]

1. Notification of Charges

- a. If, as a result of an investigation, the Judicial Administrator determines that there is reasonable cause to believe that a violation of the Code has been committed, and a

Summary Decision Agreement has not been reached, then the Judicial Administrator shall promptly refer the case to the University Hearing Board by filing charges with a Hearing Board Chair.

(1) The Judicial Administrator shall make a good faith effort to serve notice of the charges on the respondent (or on an officer of record of an accused University-registered organization) within seven calendar days of the filing of charges¹⁹.

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(2) Notice of the charges shall contain:

Deleted: <#>by personal service; or, if personal service is impossible to effect after diligent effort, <#>by certified mail, return receipt requested, to the accused's last known local or permanent address; or, if such mailed notice is impossible to effect, <#>by a means reasonably calculated to result in actual notice.

(a) the charges in the form of a formal accusation;

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(b) instructions to contact the Judicial Administrator within four business days of the respondent's receipt of notice, so that a time for appearance of the accused before the Judicial Administrator may be agreed upon;

(c) notice of the nature of the evidence to be used against the respondent; and

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(d) a brief summary of the services of and contact information for the Office of the Judicial Codes Counselor.

b. The Judicial Administrator shall provide a copy of charges made against the respondent on request of University officials, the Judicial Codes Counselor, or any other officer or board of the judicial system.

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2. If the respondent does appear, the Judicial Administrator shall again advise the respondent of access to the Office of the Judicial Codes Counselor, and shall refer the respondent to this Code and available supplementary information so that the accused can learn of:

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a. the procedures of the Office of the Judicial Administrator and the judicial boards;

b. the respondent's right to be accompanied by counsel or an advisor of the accused's choice;

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c. the alternative administrative process provided for employment-related cases; and

d. other rights and options that may be available to the respondent.

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¹⁹ Service may be effectuated:

- (a) by personal service; or, if personal service is impossible to effect after diligent effort,
- (b) by certified mail, return receipt requested, to the accused's last known local or permanent address; or, if such mailed notice is impossible to effect,
- (c) by a means reasonably calculated to result in actual notice.

3. If the respondent fails to respond within the four-day period or to agree to appear within a reasonable time, the Judicial Administrator may, in his or her discretion:

- (a) forward the case to the University Hearing Board, or
- (b) Deem the respondent to have waived the right to a hearing, and proceed to find the accused to have violated this Code. The Judicial Administrator may directly impose a penalty in the form of oral warning, educational steps, community work, or fine as listed in Article IV.²⁰

4. Limitations Period

Any charge of a violation of this Code must be initiated by the filing of charges by the Judicial Administrator within one calendar year of the date of the alleged violation. Exceptions to this policy that extend the period beyond one year are:

a. In cases where the charge involves fraud, the period shall be one calendar year from the alleged fraud or 60 calendar days from the filing of a complaint alleging fraud, whichever is longer, but in any event no more than three calendar years from the alleged fraud.

b. In cases where the individual to be charged is absent from the University because of either (1) a leave of absence, (2) a termination of employment, or (3) a withdrawal as a student, a charge may be brought within one calendar year of the alleged violation or within 60 calendar days of his or her return to the jurisdiction of the University judicial system, whichever is later.

c.

d. In cases where the individual to be charged is facing public prosecution involving the same matters, a charge may be brought within 60 calendar days of the final disposition of such prosecution.²¹ The Judicial Administrator may request a Hearing Board Chair to extend any limitations period by up to an additional six calendar months, without required notice to any other person but upon a showing of special circumstances justifying such an extension, provided that the Judicial Administrator delivers such written request to a Hearing Board Chair prior to the expiration of that period.

d. In cases where the Respondent is a University-Registered Organization, the period shall be no more than three calendar years from the alleged violation.

F. Hearing Procedures [Page 25 - 30 Current Code]

²⁰ Unless the Judicial Administrator, in his or her discretion, decides to set aside such default for good cause shown, such direct penalty will stand as the equivalent of a decision of the University Hearing Board, subject only to appeal to the University Review Board.

²¹ Should it appear that the individual will leave the University before such time, the President or his or her designee may cause the individual's degree to be withheld for the period in which the Judicial Administrator may file charges.

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1. University Hearing Board

1. The University Hearing Board shall conduct hearings in accordance with the below procedures as well as those contained within Section [B] of Appendix [B] and Appendix [C] to this Code. Circumstances Requiring Hearing

a. The complainant may petition in writing for a review of the nonaction or summary action by the Judicial Administrator on the complaint.

b. The respondent may petition in writing for a review of his, her, or its temporary suspension imposed by the Judicial Administrator or by the President or his or her designee.

c. The Judicial Administrator may request a hearing by filing charges.

d. The offender may petition in writing for a review of the penalty imposed by the Judicial Administrator for noncompliance with a prescribed penalty or remedy, or for violation of probation.

2. Temporary Suspension Pending Resolution

a. Suspension of an Individual

(1) In extraordinary circumstances and for the purpose of ensuring public order and safety, the President or a designated representative shall have discretionary power to suspend the accused pending resolution of the underlying case. Suspension in the case of a student may include the withdrawal of any or all University privileges and services, including class attendance, participation in examinations, and utilization of University premises and facilities, as determined by the President or his or her designee.

(2) The Judicial Administrator may accept from the President this power to suspend temporarily, but only if the Judicial Administrator can exercise the power at his or her own discretion.

b. Suspension of a University-Registered Organization

(1) In extraordinary circumstances and for the purpose of ensuring public order and safety, the President or a designated representative, after consulting with the Office of the Dean of Students and/or other offices as deemed appropriate, shall have discretionary power to suspend the activities of a University-registered organization pending resolution of the underlying case.

(2) The Judicial Administrator may accept from the President this power to suspend temporarily, but only if the Judicial Administrator can exercise the power at his or her own discretion after consulting with the Office of the Dean of Students and/or other offices as deemed appropriate.

c. When the President or his or her designee exercises this power to suspend

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¶ The University Hearing Board shall hold a hearing within 21 calendar days of receipt of charges or petition by the Hearing Board Chair, unless otherwise provided by the Code, postponed by agreement of the parties, or postponed by the Hearing Board Chair for good cause shown.¶ In any case referred to the University Hearing Board for a hearing.¶

¶ The Judicial Administrator shall make a good faith effort to give notice of the hearing no later than seven business days in advance of the hearing, unless the accused agrees to a shorter time.¶

¶ to the accused in the manner for notification of charges;¶

¶ to the complainant by regular United States mail or by e-mail; and¶

¶ to the Judicial Codes Counselor by campus mail, e-mail, or telephone, if the Judicial Administrator has learned that the accused has consulted the Judicial Codes Counselor.¶

¶ This notice shall contain:¶

¶ the time and place of the hearing;¶

¶ specification of the charges against the accused; and¶

¶ statement of the accused's rights to be accompanied by counsel or an advisor of the accused's choice, to hear the evidence against the accused, to question witnesses, and to give evidence in the accused's own behalf.¶

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Names and written statements of any witnesses to be called at the hearing by the Judicial Administrator or by the accused, if known at the time, shall be exchanged no later than three business days prior to the hearing. The University Hearing Board, in its discretion, may exclude a witness's testimony if it determines that the Judicial Administrator or the accused has failed to comply with this provision as to that witness.¶

¶ Copies of exhibits to be used at the hearing by the Judicial Administrator or by the accused, if known at the time, shall be exchanged no later than three business days prior to the hearing. Any objections to exhibits shall be made to the Chair for his/her ruling in advance of the hearing. Copies of the exhibits shall be made available to board members prior to the commencement of the hearing. The University Hearing Board, in its discretion, may exclude an exhibit... [73]

temporarily, these procedures shall be followed:

(1) In the case of such suspension, the accused may petition the University Hearing Board in writing for a review of the suspension. That board shall meet to consider the petition as soon as possible, but no later than five business days after it receives the petition. However, that board may grant a postponement upon the request of the accused, to a date not later than 21 calendar days after the petition is received.

(2) If the University Hearing Board determines that (1) good cause has not been shown for the exercise of the President’s suspension power or (2) that circumstances have changed so that suspension is no longer necessary, the suspension shall be lifted immediately.

(3) If the suspension remains in effect after the University Hearing Board’s initial meeting, that board may decide to reconvene, upon motion by any member or the chair of the panel or upon the request of the suspended person or University-registered organization, to determine whether circumstances no longer require suspension.

G. DETAILS OF PROCEDURE MOVED TO APPENDIX B Appeal Procedures [Page 30 – 33 Current Code] **Most Procedural Aspects Moved to Appendix B**

The University Review Board shall conduct appeals in accordance with the below procedures as well as those contained within Section [B] of Appendix [B] and Appendix [C] to this Code.

I. University Review Board

a. Composition²²

(1) A Review Panel shall consist of three voting members: one student, one faculty member, and one nonfaculty employee.

(2) The members of the Review Panel, for any one appeal, shall be selected in the same manner as the members of a Hearing Panel from the University Hearing Board and University Review Board pool. But no person who served on the Hearing Panel shall sit on the Review Panel in the same case.

b. Panel Procedures

(1) Right to Appeal

(a) An accused against whom a penalty has been imposed or a remedy assessed by a Hearing Panel shall have the right to appeal the decision to the Review Panel.

(b) Any complainant, other than the University community as defined in

²² For some violations, a different standard of evidence is required. See Appendix A, Article I.

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 <#>Composition¶
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 <#>In cases involving complaints against students or University-registered organizations, a Hearing Panel shall be composed of three students, one faculty member, and one nonfaculty employee, all drawn from the University Hearing Board and University Review Board pool, except that in cases of sexual harassment, abuse, assault,¶
 <#>or rape the complainant, victim or the accused may opt for a Hearing Panel composed of three faculty members and two nonfaculty employees drawn from that pool.¶
 <#>¶
 <#>In cases involving complaints against faculty members, a Hearing Panel shall be composed of three faculty members, one student, and one nonfaculty employee, all from that pool.¶
 <#>¶
 <#>In cases involving complaints against nonfaculty employees, a Hearing Panel shall be composed of three nonfaculty employees, one student, and one faculty member, all from that pool.¶
 <#>¶
 <#>Selection of a Hearing Panel, whenever one is needed, shall be made randomly by the Administrative Chair of that pool.¶
 <#>¶
 <#>A member of the Hearing Panel may voluntarily withdraw from participation in any case by reason of a conflict of interest or any other good cause. Knowledge of the events at issue shall not disqualify a member, unless he or she has first-hand knowledge of the events at issue, has been directly involved in those events, or is personally interested with regard to the outcome, in which circumstance the member shall be excused by vote of the Hearing Panel. Any person aware of such circumstance concerning a member shall call it to the attention of the Hearing Board Chair. In the event that a member withdraws or is excused, an alternate member shall be randomly selected by the Administrative Chair.¶
 <#>¶
 <#>Panel Procedures¶
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 <#>The Hearing Board Chair shall have the right to convene the Hearing Panel. The Hearing Board Chair [74]

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Article III.A.2 of Title Two shall have the right to appeal a Hearing Panel decision to the Review Panel if remedies were sought or if other laws or regulations require allowing such appeal.

(c) The Judicial Administrator shall have the right to appeal the penalty imposed by a Hearing Panel.

(2) Appeals may be grounded only upon the complainant's belief that the remedy awarded the complainant is not commensurate with the injury, upon the Judicial Administrator's belief that the penalty is not commensurate with the violation, or upon the respondent's belief that:

(a) the Hearing Panel violated the fair application of the procedures established by the Board of Trustees, the University Assembly, or the University Hearing Board, and such violation may have had a prejudicial effect upon the outcome of the hearing;

(b) the Hearing Panel committed a prejudicial error in interpreting this Code or rendered a decision clearly against the evidence;

(c) new evidence was discovered after the hearing and could not have readily been discovered before the hearing, and such evidence might have had an effect upon the outcome of the hearing; or

(d) the penalty and/or remedy imposed upon the accused is unjust.

(3) Notification of Appeal

(a) The appellant shall file written notice of appeal with the Judicial Administrator within ten business days of the appellant's receipt of the notice of the decision. The Judicial Administrator shall refer the notice of appeal to the Review Board Chair without delay.

(b) The appellant and the respondent²³ shall be notified by the Judicial Administrator of the time of the appeal's hearing no later than seven business days after the notice of appeal is filed, and no fewer than seven business days in advance of the appeal's hearing.

[DETAILED PROCEDURES MOVED TO APPENDIX B]

Part 4 – Administration

Ordinary Jurisdiction

²³ If there is one other than the Judicial Administrator

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“⁴ For some violations, the complainant must have the same rights of appeal as the accused. See Appendix A, Article I.”

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“⁵ For some violations, the complainant must have the same rights of appeal as the accused. See Appendix A, Article I.”

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Deleted: <#>The Review Board Chair shall have the right to convene the Review Panel and shall conduct the appeal in a manner similar to a Hearing Panel proceeding. The Review Panel shall meet to hear an appeal within 21 calendar days after the notice of appeal is filed, unless a postponement is granted by the Review Board Chair for good cause shown.¶

<#>Decision of the Review Panel shall be rendered by a majority vote of the members present, and the majority of the members, in addition to the nonvoting Review Board Chair, shall constitute a quorum for any hearing of the appeal.¶

<#>¶

<#>The Review Panel shall determine whether its hearings shall be conducted in public or in private. However, all deliberations of the Review Panel and Review Board Chair shall be private.¶

<#>Disposition of Appeal¶

<#>Any decision of the Review Panel shall be based solely on the record and, in appropriate cases, upon a showing of new evidence relevant to the grounds for appeal. All decisions shall be in writing, including a rationale and dissenting opinions. Findings of fact shall not be set aside unless clearly erroneous, and harmless errors shall be ignored.¶

<#>¶

<#>The decision shall be affirmance unless the Review Panel sustains one of the above-specified grounds for appeal, in which case the Review Panel can:¶

<#>¶

<#>reverse a finding of violation;¶

<#>¶

<#>alter a penalty or modify a remedy, if necessary and appropriate in the interests of justice;¶

<#>¶

<#>remand a case to the Hearing Panel from which it originated for a new hearing; or¶

<#>¶

<#>remand a case to a newly composed Hearing Panel...[75]

Commented [MB90]: From page 16 Current Code - Applicability

This Code shall apply to all students, members of the University faculty, other employees of the University, and University-registered organizations, except that those of the Medical College and the Graduate School of Medical Sciences shall be governed by separate regulations with respect to property and facilities of the Medical College and the Graduate School of Medical Sciences.

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This Code shall apply to conduct on any campus of the University, on any other property or facility used by it for educational purposes, or on the property of a University-related residential organization in the Ithaca or Geneva area.

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This Code shall also apply to conduct elsewhere if the Judicial Administrator—with the approval of the President or his or her designated representative in the person of the Dean of Students for conduct by students, the Provost for conduct by faculty, or the Vice President for Human Resources for conduct by other employees—considers the conduct to constitute a serious violation of this Code, in that the conduct poses a substantial threat to the University’s educational mission or property or to the health or safety of University community members.

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Article I. — Applicability, Jurisdiction Relating to Public Order [Page 37 – 38 Current Code]

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Provisions of this Code that relate to the enforcement of Public Order shall apply to all persons and organizations, including visitors and other licensees and invitees, on any campus of the University, on any other property or facility used by it for educational purposes, or on the property of a University-related residential organization in the Ithaca or Geneva area, except that students, members of the University faculty, other employees of the University, and University-registered organizations of the Medical College and the Graduate School of Medical Sciences shall be governed by separate regulations with respect to property and facilities of the Medical College and the Graduate School of Medical Sciences.

A. Jurisdiction over Students [Page 10 Current Code]

1. The term student shall be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with the University as:

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

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

- a. currently enrolled in or taking classes at the University with the exclusion of any individual enrolled in or taking classes at the University while still an elementary,

Commented [MB92]: Requested by Risk Management and approved by the CJC and UA. President Pollack voiced concerns with the carve out proposed by Risk Management.

middle, high school student, or foreign equivalent, so long as such individuals are subject to written behavioral expectations, policies or procedures;

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

Commented [MB93]: Requested by Risk Management and approved by the CJC and UA.

c. currently on leave of absence or under suspension from being a student of the University.

B. Jurisdiction over Faculty and Other Employees [Page 10 – 11 Current Code]

1. Faculty members and other University employees include those who are incidentally taking classes at the University.

2. The procedures of this Code shall not apply to faculty members or other University employees who are accused of employment-related misconduct. Instead, the applicable administrative process shall apply, such as that described in Cornell University Policy 6.11.3.

a. Should any accusation or complaint of a Code violation be made to or by a department head, dean, supervisor, or the Judicial Administrator and involve conduct by a faculty member or other University employee clearly arising in the course of employment, then the department head, dean, or appropriate University administrative authority shall determine whether there was a Code violation and shall also assess penalties and/or remedies where appropriate.

(1) The accused may make a jurisdictional appeal to the Judicial Administrator, i.e., raise a question whether the alleged conduct arose in the course of employment and so call for rechanneling into the judicial system.

(2) The accused may make an appeal on the merits of the administrative disposition through appropriate faculty channels or the employee grievance procedure, but not through the judicial system.

b. If an accusation or complaint of a Code violation comes before a department head, dean, or supervisor about conduct by a faculty member or other University employee not arising in the course of employment, or there is uncertainty whether it does, the accusation or complaint shall be referred to the Judicial Administrator for channeling into the administrative process or the judicial system.

c. The criterion on which the Judicial Administrator shall channel between the administrative process and the judicial system is whether the conduct is employment-related. In reaching such a decision, the Judicial Administrator shall consult with the Dean of the Faculty if the case involves a faculty member or the Vice President for

Human Resources if the case involves a nonfaculty employee. The Judicial Administrator shall make his or her own decision after such consultation.

d. Upon imposition of a penalty of suspension or dismissal upon a faculty member by the University Hearing Board, the faculty member may choose to appeal to an arbitration committee (as described in Cornell University Policy 6.2.10) in lieu of appeal to the University Review Board. Any penalty imposed on a nonfaculty employee is subject to review either pursuant to the applicable grievance process (such as that described in Cornell University Policy 6.11.4) or by appeal to the University Review Board, as the employee may choose.

Article II. Supporting Policies [Page 2 Current Code]

A. Basic Policies on University Conduct Regulation in Relation to Public Law Enforcement [Page 2 - 3 Current Code]

The following basic policies will apply in situations where misconduct violates both a University conduct regulation and the public law:

1. The following kinds of offenses are adjudicated in the public courts: all felonies, controlled substance offenses, motor vehicle moving violations, assaults upon a peace officer or resisting arrest, refusals by persons to identify themselves, as well as cases in which the complainant wishes to proceed in the courts and cases involving accused persons who are not members of the University community. Still, the Judicial Administrator has discretion to pursue even serious breaches of the law under the Campus Code of Conduct. Timely dealing with alleged misconduct is vital. Nevertheless, the Judicial Administrator should consider whether justice counsels withholding the exercise of University jurisdiction until public officials have disposed of the case by conviction or otherwise.

2. When the Judicial Administrator determines that misconduct does not constitute a serious breach of the law and that the interests of justice would be served by handling such misconduct within the University jurisdiction, he or she shall:

- a. attempt to exercise jurisdiction in a manner to avoid dual punishment for the same act;
- b. cooperate with public officials so that the exercise of University jurisdiction ordinarily will not be followed by public prosecution of the individual's misconduct; and
- c. withhold the exercise of University jurisdiction, when prompt public prosecution is anticipated or is under way, until public officials have disposed of the case by conviction or otherwise.

3. Policies covering conduct that violates both a University conduct regulation and the public law, where feasible, should be based on jurisdictional understandings and procedures

jointly developed and periodically reviewed by University and local officials. To the maximum extent feasible, jurisdictional understandings shall be made known to the University community.

B. Other Policies on the University's Role in Public Law Enforcement [Page 3 Current Code]

1. When public officials apprehend an individual for a violation of the public law, whether or not the misconduct is also a violation of a University conduct regulation, the University shall neither request nor agree to specially advantageous disposition of an individual's case by police, prosecutors, or judges solely because of that individual's status as a member of the University community. Nonetheless, the University stands ready to assist student defendants and to cooperate with public officials to promote equitable application of the law. Should a student charged with law violation request assistance from the University, a representative of the Office of the Dean of Students or Office of the University Ombudsman will meet with such student and may advise him or her and, if requested, may facilitate the student's retention of suitable counsel. If the law violation does not also constitute a violation of a University conduct regulation, and if the student defendant consents, the University ordinarily will cooperate with the request of appropriate law enforcement officials for programs of probation or rehabilitation. Notwithstanding the above provisions, if the prosecution, the complainant, and the accused all consent, minor breaches of the law may be handled exclusively within the University jurisdiction, except in case of repeat offenses.

2. The University's cooperation with law enforcement, at the request of public officials, shall be exercised in each particular case with a view to safeguarding the interests of the educational community, especially that community's confidence in the University.

C. Limitations and Exceptions [Page 3 – 4 Current Code]

1. Overriding Laws

a. It is understood that the Board of Trustees, under sections 5708 and 5709 of the New York Education Law, is responsible for the protection of the grounds, buildings, and property of Cornell University, including state property under its supervision and control, and for the prevention of crime and the enforcement of law and order. These and other statutory provisions regarding law enforcement led to the creation of the Cornell Police, staffed by peace officers who are deputy sheriffs of the county. Under section 6430 of the New York Education Law, adopted in 1969, the Board must also adopt regulations for the maintenance of public order and provide penalties in addition to those for the same misconduct under the New York Penal Law. State law makes the trustees responsible for the enforcement of such rules and regulations as the Board makes from time to time. These state laws cannot be superseded by actions of the Board, nor may the Board evade its legal responsibilities by delegation.

b. Under state law, public servants who knowingly refrain from performing a duty

imposed upon them by law, or a duty clearly inherent in the nature of their office, may be guilty of a criminal offense. Accordingly, any inflexible internal rule that precludes a peace officer from making an arrest when a crime has occurred would be contrary to law. It is understood, however, that as to minor offenses, law enforcement authorities are permitted a degree of discretion in determining whether to prosecute an offender or to pursue some other appropriate remedy when an alternative disposition would further the interests of justice. Accordingly, the policies enumerated above are understood to constitute policy guidelines to be applied in good faith, and not prohibitions upon the exercise of the law enforcement responsibilities vested in the Board of Trustees and exercised by its authorized peace officers. That is, such peace officers must retain the sole discretion to determine the circumstances in which the public laws must be enforced.

2. Presidential Overrides

a. Public Disorder

The President may alter or suspend the implementation of the policies enumerated in this Code when the President finds that the policies and regulations within this Code are insufficient to maintain public order and when there is an imminent and sufficient threat to the University community's pursuit of its educational goals to warrant such action. Any such action of the President shall be subject to and consistent with the applicable laws of the state and nation.

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(1) Should the President exercise such authority, such action shall be made known to the University community immediately, together with a statement explaining the basis of such action. Such deviation from the implementation of said policies should last no longer than necessary to alleviate any pending threat.

(2) It is not intended that the President will seek to suspend the general application of said policies except in cases in which the President finds a threatened imminent and general breakdown in the University's capacity to enforce law and order. It is not intended, therefore, that the President will exercise such authority in cases involving individual misconduct.

C. Consultation Groups [Page 9 Current Code]

The President is authorized and encouraged to appoint a standing committee to study and report to the President on significant policy issues concerning the protection of freedom of expression on campus. The committee should study any issue presented to it by the President. It should also receive petitions or inquiries from members of the University community, but should limit its attention to issues that involve important matters of a policy nature. Thus, the committee could study an individual's charge that University officials are not adequately enforcing the policy against disrupting public speakers or that they are imposing unreasonable constraints upon the right to protest or demonstrate peacefully and lawfully on campus. The

committee should not function as an adjudicatory body, or receive any complaint about or continue considering any issue arising from a campus incident after a disciplinary proceeding growing out of that incident and involving the same or similar issues has been initiated, until any such disciplinary proceeding has been completed. Any report issued by the committee should go to the President and should be available thereafter to the University community. The report would be advisory only.

The President may consult with the Executive Committee of the University Assembly, or appoint an ad hoc committee to advise the President, concerning appropriate administrative policy in the face of protest and demonstrations.

Article IV. Amendment of Code [Page 9 Current Code]

A. Title Four

All sections of this Code may be amended by the University Assembly, subject to the approval of the President. Appendices [C] and [D] to this Code concerning Hearing and Review Board and Mediation procedures may be amended by the procedures indicated within those appendices.

Deleted: The Regulations for Maintenance of Public Order were adopted by the Board of Trustees and may be amended only by action of the Board of Trustees, upon the recommendation of or after consultation with the University Assembly.

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Article II. Judicial Offices [Page 11 Current Code]

A. Office of the Judicial Administrator [Page 11 – 13 Current Code]

1. The Office of the Judicial Administrator receives, investigates, and pursues accusations of violations of the Campus Code of Conduct, or of any other regulation as the University Assembly or Board of Trustees may direct. Anyone can direct such accusations, or any questions about the judicial system, to that office.

2. No employee of the Office of the Judicial Administrator shall be a member of the University, Student, Graduate and Professional, or Employee Assembly, or any of their committees or boards, or of a judicial board. The Judicial Administrator may hire students who have had some legal training to act for the Judicial Administrator.

3. The Judicial Administrator shall be appointed by the President with the concurrence of the University Assembly. Upon the University Assembly chair's receipt of notice of the Judicial Administrator's resignation or removal, the chair shall convene a search committee, composed of no more than four members appointed by the University Assembly and no more than two members appointed by the President, to propose two or more nominees to the President. A chair for the search committee shall be jointly selected by the President and University Assembly Executive Committee from one of the appointed

members. The President shall appoint a candidate with the concurrence of the University Assembly. The President may ask the search committee to present additional candidates if he or she does not feel that any of the nominees presented merit hire. In the event of an unexpected vacancy, the President shall, with the concurrence of the University Assembly, appoint the Associate Judicial Administrator or other qualified person to serve in an interim capacity until a permanent Judicial Administrator is appointed.

4. The Judicial Administrator shall undergo an annual review, overseen by the Chair of the University Assembly (or designee) and a designee of the President with full participation by the following representatives of the University Assembly and the administration: the Judicial Codes Councilor or their designee, the Chair of the University Assembly's Codes and Judicial Committee or their designee, two additional members of the University Assembly, and one appointee from the Division of Human Resources. The review shall include both public and private components.

a. The public component shall afford a general opportunity for the University Community to provide feedback on the performance of the Judicial Administrator. It shall include opportunities for individuals and groups to privately share experiences in specific areas, if any, needing improvement, specific concerns, or instances of dissatisfaction as well as positive experiences and areas of praise. The evaluation process shall also include the opportunity for a reasonable number of those with interactions with the Campus Judicial System such as, but not limited to: chairs and members of the judicial boards, complainants and respondents, other members of the Office of the Judicial Administrator, and Office of the Judicial Codes Councilor to provide feedback in addition to general members of the public. This feedback shall be conveyed privately to the Chair of the University Assembly (or designee) and the President's designee who shall communicate it as needed to relevant parties such as the Judicial Administrator.

b. Performance feedback shall be given to the Judicial Administrator by the Chair of the University Assembly and the President's designee, consistent with the University's regular system of annual evaluation.

5. The Judicial Administrator shall be solely responsible for the Office of the Judicial Administrator. The Judicial Administrator shall be independent, although an administrative relationship should exist with the University administration that will support that office. He or she shall be subject to removal only by action of the University Assembly or the President with the concurrence of the other.

a. The University Assembly may take steps to remove the Judicial Administrator by a majority vote of its seated membership taken at a regularly scheduled meeting. Should the President agree with the action of the University Assembly, the termination of the Judicial Administrator will be implemented. Should the President not agree, and no mutually agreeable resolution is found, the University Assembly may recommend the removal of the Judicial Administrator to the Board of Trustees. The Board of Trustees' decisions and actions in response to the University Assembly's recommendation are final.

b. The President may take steps to remove the Judicial Administrator by notifying the Chair of the University Assembly. Should the University Assembly agree with the action of the President via a majority vote of its seated membership taken at a regularly scheduled meeting, the termination of the Judicial Administrator will be implemented. Should the University Assembly not agree after taking a formal vote at a regularly scheduled meeting, and no mutually agreeable resolution is found, the President may recommend the removal of the Judicial Administrator to the Board of Trustees. The Board of Trustees' decisions and actions in response to the President's recommendation are final.

6. The Judicial Administrator shall annually report to the President, the University Assembly, and its Codes and Judicial Committee on the operation of the office and the judicial system as a whole.

B. Office of the Judicial Codes Counselor [Page 13 – 14 Current Code]

1. The Office of the Judicial Codes Counselor provides free assistance and representation within the judicial system to those charged with violations of the Campus Code of Conduct and to students charged with violations of the Code of Academic Integrity.

2. To the extent permitted by law, the Judicial Codes Counselor shall not reveal any information provided by the accused, unless the accused expressly requests that the information in question be confided to another person. Although the Judicial Codes Counselor traditionally has had some legal training and is frequently a law school student, the services are not meant to be a substitute for professional legal advice or for the legal assistance provided by an attorney. The Judicial Codes Counselor primarily explains how the judicial system works, and assists the accused in the selection of counsel or an advisor. With the consent of the Judicial Codes Counselor, an accused may choose the Judicial Codes Counselor as the accused's advisor, in which case the Judicial Codes Counselor may participate fully on behalf of the accused in any hearing.

3. No employee of the Office of the Judicial Codes Counselor shall be a member of the University, Student, Graduate and Professional, or Employee Assembly, or any of their committees or boards, or of a judicial board.

4. The Judicial Codes Counselor shall be appointed for a two-year term. A Judicial Codes Counselor can be reappointed for additional terms. The President shall appoint the Judicial Codes Counselor with the concurrence of the University Assembly, following the procedures for the appointment of the Judicial Administrator.

5. The Judicial Codes Counselor shall be solely responsible for the Office of the Judicial Codes Counselor. The Judicial Codes Counselor shall be independent, although an administrative relationship should exist with the University administration that will support that office. He or she shall be subject to removal during the term of office only by action of the Board of Trustees upon

recommendation of the University Assembly.

C. Pool of Board Members [Page 15 - 16 Current Code]

1. The University Hearing Board and University Review Board pool shall comprise 75 members confirmed by the University Assembly: 35 students, 20 faculty members, and 20 nonfaculty employees. Faculty members are nominated by the Dean of the Faculty. For other candidates, the Office of the Assemblies will solicit written applications, and the Codes and Judicial Committee shall nominate candidates to the University Assembly for its confirmation no later than the last regular meeting of the outgoing University Assembly. The University Assembly Executive Committee may make emergency appointments on a temporary basis.

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2. No person shall serve on the University Hearing Board and University Review Board pool who is at the same time a member of the University Assembly or its Codes and Judicial Committee or is an employee of the Office of the Assemblies.

3. Members of the University Hearing Board and University Review Board pool shall serve terms of office as follows:

a. All members shall be appointed for two-year staggered terms except for students entering their final year of study, who shall be appointed for one-year terms.

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b. Terms of office shall begin June 1 of the year appointed. Any appointment to fill a vacancy or to address an emergency shall become effective immediately.

Appointments made to fill a vacancy arising mid-term shall be granted the balance remaining of that term.

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c. Currently serving members may be appointed for additional terms if reconfirmed by the University Assembly after review by the Codes and Judicial Committee. Faculty members seeking renewal will be reviewed by the Codes and Judicial Committee who shall receive input from the Dean of the University Faculty prior to reconfirmation by the University Assembly.

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d. Any Chair of the Hearing Board(s) or Review Board(s) shall have the authority to begin removal proceedings against a member of the pool if the member is not honoring his/her commitment to the university to communicate promptly with the Chair or the Judicial Administrator's office, to participate in hearings, to arrive punctually, and otherwise to participate responsibly in this process. Upon a Chair beginning removal proceeding, the Chair shall furnish to the Codes & Judicial Committee of the University Assembly the following:

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- The name of the board member.
- A rationale for their removal from the boards.
- Prior steps taken to attempt to resolve the relevant issue(s).
- Indication that the board member received at least fourteen calendar days' notice of a Chair's intent to seek removal.

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c.
Upon receipt of the information, the Codes & Judicial Committee may remove the board member by a two-thirds vote of its seated membership. The Codes & Judicial Committee may request additional information from a Chair or other parties as part of their deliberation. For instances involving faculty members, the Dean of the Faculty shall also be consulted.

4. All the members of the University Hearing Board and University Review Board pool shall annually elect one Administrative Chair from among those members.

5. Although the judicial boards decide cases and appeals when sitting in panels, the pool as a group, convened by the Administrative Chair, shall perform the following functions:

a. The judicial boards in consultation with the Codes & Judicial Committee of the University Assembly shall be responsible for establishing their own internal rules and procedures not specified elsewhere, and making them available through the Offices of the Judicial Administrator and the Judicial Codes Counselor.

(1) Such rules and procedures must not conflict or contradict provisions in this Code.

(2) Such rules and procedures must be published in the Cornell Chronicle before going into effect.

(3) Any changes in rules and procedures must be published in the Cornell Chronicle at least 30 calendar days before taking effect.

b. All changes to the judicial board's rules and procedures must be provided to the Codes & Judicial Committee of the University Assembly at least 14 calendar days prior to approval by the boards. The Codes and Judicial Committee may reject any proposed change by a majority vote of its seated membership.

c. The Codes & Judicial Committee of the University Assembly may choose to modify the judicial board's rules and procedures by a majority vote of its seated membership. Changes made by the Codes & Judicial Committee follow the same public notice procedures as apply to the judicial boards.

d. Upon request, the judicial boards shall report on their operations to the Codes and Judicial Committee of the University Assembly. When a report is requested, the boards shall provide it in the manner requested within thirty calendar days of receipt.

6. Training of the members of the University Hearing Board and University Review Board pool will include special training in handling complaints of sexual harassment, abuse, assault, or rape.

Hearing and Review Board Chairs

The President shall name at least one person, who is a member of the faculty recommended by the Dean of the Faculty and not a member of the University administration, to:

- be a Hearing Board Chair presiding over five-person Hearing Panels' proceedings but having no vote;
- to be the Review Board Chair presiding over three-person Review Panel's proceedings but having no vote;

Deleted: The Chair of the Hearing Board or Review Board shall have the authority to remove a member of the pool if the member is not honoring his/her commitment to the university to communicate promptly with the Chair or the Judicial Administrator's office, to participate in hearings, to arrive punctually, and otherwise to participate responsibly in this process.

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Chairs shall be appointed for a two-year term but can be reappointed for additional terms.

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Mediation Procedures

a. Mediators shall be selected by the Scheinman Institute on Conflict Resolution and [PLACEHOLDER] and may be students, faculty, or staff.

b. PLACEHOLDER – terms of office/appointment

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c. No person shall serve as a mediator who is at the same time on the University Hearing Board and University Review Board pool, a member of the University Assembly, its Codes and Judicial Committee, or is an employee of the Office of the Assemblies.

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d. The Scheinman Institute on Conflict Resolution (or its successor) shall report to the University Assembly and its Codes and Judicial Committee on the operations of the mediation process upon request. When a report is requested, the Scheinman Institute shall provide it in the manner requested within thirty calendar days of receipt.

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e. Mediators shall have no authority to compel or coerce any participant in a mediation to accept a proposed agreement.

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f. The Scheinman Institute in consultation with the Codes & Judicial Committee of the University Assembly shall be responsible for establishing mediation procedures and making them available through the Offices of the Judicial Administrator and the Judicial Codes Counselor.

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a. Such procedures must not conflict or contradict provisions in this Code.

b. Such procedures must be published in the Cornell Chronicle before going into effect.

c. Any changes in procedures must be published in the Cornell Chronicle at least 30 calendar days before taking effect.

ii. All changes to the mediation procedures must be provided to the Codes & Judicial Committee of the University Assembly at least 14 calendar days prior to approval by the Scheinman Institute. The Codes and Judicial Committee may reject any proposed change by a majority vote of its seated membership.

iii. The Codes & Judicial Committee of the University Assembly may choose to modify the mediation procedures by a majority vote of its seated membership. Changes made by the Codes & Judicial Committee follow the same public notice procedures as apply to the Scheinman Institute.

C. Interpretation [Page 19 Current Code]

Because the judicial system utilizes the decisions of the University Hearing and Review Boards to define or interpret violations, public records of all decisions of those boards shall be kept on file in the Office of the Judicial Administrator, including a brief summary that describes the nature of the case and its disposition but with names of individuals and other identifying information redacted.

2. Confidentiality [Page 33 – 34 Current Code]

a. All who are involved in the complaint, investigation, hearing, appeal, and reporting processes are obliged to maintain confidentiality of the proceedings, except as otherwise specifically provided in this Code. They shall protect the confidentiality of all judicial records, except those records specifically referred to in Article II.B. Copies of judicial records shall not be released to outside sources without written consent of the subject of such record, except as provided in subsection (b) below.

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b. The University will take reasonable measures to ensure the confidentiality of the proceedings and records; however, the University cannot and does not guarantee that confidentiality can or will always be maintained. Additionally, the University may disclose judicial records or otherwise confidential information:

- i. when required by law; or,
- ii. when authorized by law and necessary to protect the safety or well-being of the University community members, or to preserve the integrity of proceedings under this Code; or,
- iii. with respect to the judicial records of University registered organizations only, when deemed necessary to educate the University community or to provide information to the University community about the organization's conduct.

c. Notification of the offender's violations, penalties, and remedies shall be sent as directed by the Hearing Panel or Review Panel to the University officials necessary to make the penalties and remedies effective, and to other persons who might provide counseling assistance to the offender.

3. Record Keeping

a. The Office of the Judicial Administrator shall retain records of all complaints, orders, charges, proceedings, and decisions in accordance with that office's internal records management practices and Cornell University Policy 4.7.

Commented [MB106]: There has been some discussion about examining record retention policies as some members of the CJC felt they are part of the sanction process and in the past Hearing Boards have refused to give certain sanctions due to record keeping length.

b. Violations, penalties, and remedies shall be recorded in the Office of the Judicial Administrator and/or Director of Cornell Police in all cases arising under this judicial system. However, only a penalty of written reprimand, probation, suspension, or dismissal creates a disciplinary record.

C. Compliance [Page 37 Current Code]

1. An official transcript issued during the pendency of charges shall indicate that charges are pending, accompanied by a complete recitation of the pending charges. The University, upon request of the person seeking the transcript, shall notify that person of the final judgment in the case. The University may withhold awarding a degree otherwise earned until the completion of proceedings, including compliance with a prescribed penalty or remedy.

Commented [MB107]: This area has been an area of interest for the Assembly and CJC in recent years. The CJC also drafted a policy regarding annotations in the 2016-2017 Academic Year.

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

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

D. Other Proceedings

1. Any provision of this Code and the penalties and remedies imposed thereunder shall not be deemed exclusive of and shall not preclude resort to any applicable state, federal, or local law or ordinance or other University regulations and procedures. They shall not be deemed to limit the right of the University or of any person to take such additional action as may seem appropriate or necessary to maintain public order and safety and to protect legal rights.

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2. Imposition of any penalty or remedy under any provision shall not preclude the imposition of any other penalty or remedy under this Code.

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B. Interpretation regarding provisions concerning the maintenance of public order [Page

39 Current Code]

Consistent with regulations making it an offense “to interfere with or attempt to interfere with the lawful exercise of freedom of speech, freedom of movement, freedom of peaceable assembly, or other right of an individual,” this Code shall not be interpreted to permit the unlawful interference with such rights, as protected by the constitutions and laws of the United States and the State of New York. Nothing in this Title or any other University regulation, however, shall be interpreted to limit or prevent the University from seeking, without unlawfully interfering with any of the rights described,

- (1) to enforce the laws respecting trespass or
- (2) to regulate lawfully the use of University property.

Nothing shall be deemed to impair the right of the University to take such action as may be necessary or appropriate for the purposes of construction and repair of facilities, of regulating vehicular and pedestrian traffic, and of maintaining public order and safety. And nothing shall be deemed to impair the right of the University to take such nondisciplinary administrative action as may be necessary or appropriate to maintain public order and safety.

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Appendix A - Additional Policies Appended To the Code

Article I. Procedures for Violations Involving Sexual Violence and Sexual Assault

Offenses involving sexual violence and sexual harassment, while still violations of the Campus Code of Conduct, will be investigated and adjudicated under Cornell University Policy 6.4 until such time as the Code is amended to fulfill requirements of Title IX.

To assist readers in interpreting the Campus Code of Conduct (the Code), references to this language have been made by footnotes throughout the Code; however, the text may apply to other sections of the Code even if no explicit footnote reference is provided.

Appendix B: Administrative Procedures

A. Procedures regarding the permitting of Symbolic Structures;

In regulating by permit the duration, size, location, and other features of symbolic structures, the administration will be guided by attention to the following, or similar, kinds of University community interests that such structures could infringe upon:

- (a) protecting health and safety;
- (b) preventing damage and risk of damage to University grounds and property;
- (c) preserving unimpeded mobility on pathways and streets, entrance to and departure from buildings, and unimpeded mobility within buildings;
- (d) providing for competing uses of campus grounds and property;
- (e) avoiding interference with other University activities;
- (f) reasonably limiting costs to the University of increased campus police protection, potential University liability, insurance coverage, and cleanup and repair after an event; and
- (g) preserving campus aesthetic values.

In addition to such limits, other restrictions on symbolic structures may also be imposed. For example, depending on experience and context, the President may impose any of the following restrictions: requiring portability so that structures do not remain overnight; prohibiting overnight sleeping in structures; and requiring continual daytime physical presence of persons responsible for the expressive activity.

C. Hearing Procedures [Page 25 - 30 Current Code]

1. Preparations for Hearing

a. The University Hearing Board shall hold a hearing within 21 calendar days of receipt of charges or petition by the Hearing Board Chair, unless otherwise provided by the Code, postponed by agreement of the parties, or postponed by the Hearing Board Chair for good cause shown.

b. In any case referred to the University Hearing Board for a hearing:

(1) The Judicial Administrator shall make a good faith effort to give notice of the hearing no later than seven business days in advance of the hearing, unless the accused agrees to a shorter time;

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(a) to the accused in the manner for notification of charges;

(b) to the complainant by regular United States mail or by e-mail; and

(c) to the Judicial Codes Counselor by campus mail, e-mail, or telephone, if the Judicial Administrator has learned that the accused has consulted the Judicial Codes Counselor.

(2) This notice shall contain:

(a) the time and place of the hearing;

(b) specification of the charges against the accused; and

(c) statement of the accused's rights to be accompanied by counsel or an advisor of the accused's choice, to hear the evidence against the accused, to question witnesses, and to give evidence in the accused's own behalf.

c. Names and written statements of any witnesses to be called at the hearing by the Judicial Administrator or by the accused, if known at the time, shall be exchanged no later than three business days prior to the hearing.²⁴

d. Copies of exhibits to be used at the hearing by the Judicial Administrator or by the accused, if known at the time, shall be exchanged no later than three business days prior to the hearing.²⁵

e. In the case of such suspension, the accused may petition the University Hearing Board in writing for a review of the decision. That board shall meet to consider the petition as soon as possible, but no later than five business days after it receives the petition. However, that board may grant a postponement upon the request of the accused, to a date not later than 21 calendar days after the petition is received. If that board determines that the No- Contact Directive was not violated or the suspension was improper or is no longer necessary, it shall lift the suspension immediately.

f. The Judicial Administrator may, in his or her discretion, rescind a No-Contact Directive or lift such a suspension if he or she determines that the circumstances no longer require such action.

1. University Hearing Board

²⁴ The University Hearing Board, in its discretion, may exclude a witness's testimony if it determines that the Judicial Administrator or the accused has failed to comply with this provision as to that witness.

²⁵ Any objections to exhibits shall be made to the Chair for his/her ruling in advance of the hearing. Copies of the exhibits shall be made available to board members prior to the commencement of the hearing. The University Hearing Board, in its discretion, may exclude an exhibit if it determines that the Judicial Administrator or the accused has failed to comply with this provision.

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a. Composition

A hearing panel shall be composed of three members of the same University status as the respondent (i.e. a student or University-registered organization will have a panel with three students) and one member from each of the two other University statuses all drawn from the University Hearing Board and University Review Board pool.^{26 27}

(1) Selection of a Hearing Panel, whenever one is needed, shall be made randomly by the Administrative Chair of that pool.

(2) A member of the Hearing Panel may voluntarily withdraw from participation in any case by reason of a conflict of interest or any other good cause.

(i) Knowledge of the events at issue shall not disqualify a member, unless he or she has first-hand knowledge of the events at issue, has been directly involved in those events, or is personally interested with regard to the outcome, in which circumstance the member shall be excused by vote of the Hearing Panel. Any person aware of such circumstance concerning a member shall call it to the attention of the Hearing Board Chair. In the event that a member withdraws or is excused, an alternate member shall be randomly selected by the Administrative Chair.

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b. Panel Procedures

(1) The Hearing Board Chair shall have the right to convene the Hearing Panel. The Hearing Board Chair shall conduct the proceedings and maintain order in the hearing room.

(a) He or she shall make procedural rulings before or at the hearing, applying these procedures and the procedures developed by the University Hearing Board, so as to assure fairness and to avoid undue delay. However, all procedural rulings of the Hearing Board Chair, other than a decision to postpone the initial convening of a hearing, shall be subject to the approval and concurrence of the Hearing Panel as a whole. The Hearing Panel may overrule the procedural rulings of the Hearing Board Chair by ordinary majority vote.

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(2) At least four members of a five-person Hearing Panel must sit for a given case, in addition to the nonvoting Hearing Board Chair, and at least three votes shall be required for any decision.

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²⁶ For example, in cases involving complaints against students or University-registered organizations, a Hearing Panel shall be composed of three students, one faculty member, and one nonfaculty employee.

²⁷ Except that in cases of sexual harassment, abuse, assault or rape the complainant, victim or the accused may opt for a Hearing Panel composed of three faculty members and two nonfaculty employees drawn from that pool.

(3) Cases that present common questions of law or fact and that would come before a panel of like composition may be joined for hearing.

i. For joint hearing, the Judicial Administrator must affirm in writing that each respondent performed acts sufficiently similar that the facts presented in evidence would not differ materially from one accused to another. In such case, the Hearing Board Chair may order joinder of such cases for hearing.

ii. Any accused, whose case is joined, may request in writing to be excluded from the joint hearing on the ground that (i) the accused is not charged with the same offense, at the same time and place, or (ii) that the facts relevant to the accused would differ materially from the facts relevant to the others. Such case, with the consent of the Judicial Administrator or at the direction of the Hearing Board Chair, may be severed from the joint hearing.

iii. The Hearing Panel may permit any respondent, tried jointly and found to have violated this Code to submit either a written or oral statement regarding mitigating circumstances, and must permit such a statement before imposing a penalty of dismissal or of suspension for the balance of a term or longer. The Hearing Panel shall consider differences among the conduct and circumstances of each accused before imposing any penalty.

(1) At the hearing, the case shall be presented by the Judicial Administrator in the name of the complainant. But failure of an individual complainant to appear at the hearing, unless excused by the Hearing Panel for good cause shown, shall result in a loss of his or her right to the assessment in his or her favor of a remedy (which means restitution to the complainant or order to the offender, as opposed to a penalty) by the Hearing Panel.

(2) The failure of the respondent to appear at the time and place designated for the respondent's appearance before the Hearing Panel empowers the Hearing Panel to:

(a) impose a temporary suspension, pending the respondent's appearance;

(b) find the respondent to have violated this Code and impose appropriate penalties and/or remedies. However, Hearing Panel may do so only if the Judicial Administrator shows that the respondent received notice of the hearing, or that the procedures for notifying the accused were followed, and submits information sufficient to establish the allegations in the charges; or

(c) excuse the failure to appear for good cause shown, in which case the respondent shall have the option of having the case heard in absentia, with the privilege of submitting written evidence, or of having a new date set for a hearing.

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Commented [MB112]: Concern raised by some that a joint hearing may unduly delay some respondent's case being heard or otherwise prejudice their ability to have a hearing on the merits.

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The Hearing Panel shall endeavor to evaluate all relevant facts of a given case at the hearing. It shall receive relevant information that is reasonably reliable, but need not accept as evidence accounts of the accused's statements by the Judicial Administrator. Strict rules of evidence shall not apply, and the Hearing Panel shall have the power to establish its own rules of evidence

- i. Any rules of evidence adopted by a Hearing Panel's are subject to the following exceptions:
 - (a) Confidential relationships currently protected under state or federal law shall be protected.
 - (b) Evidence of a victim's sexual conduct shall not be admissible unless fairness to the accused requires consideration of such evidence, consistent with practice under section 60.42 of the New York Penal Law.
 - (c) Members of the Hearing Panel may question witnesses and adduce evidence, but this shall not preclude parties to the hearing from questioning witnesses or introducing evidence. No accused person shall be denied the opportunity to question witnesses or to confront his or her accusers. However, the Hearing Board Chair shall control the hearing. For example, to avoid the risk of intimidation, the Hearing Board Chair may require certain questioning to be conducted by written questions read aloud to the witness by the Hearing Board Chair. In particular, to avoid the risk of intimidation in cases of sexual harassment, abuse, assault, or rape, the Hearing Board Chair shall require cross-examination of the complainant or victim to be conducted by written questions submitted in advance or in real time, including follow-up questions, and read aloud to the witness by the Hearing Board Chair, if the witness so requests. If an individual complainant does not testify, the Hearing Panel may proceed to decision only if it finds that the complainant's interests in not testifying outweigh the accused's interests in confronting his or her accuser. In any case, the accused can prevent the introduction of any written, recorded, or oral account of an earlier statement by a nontestifying complainant or victim, unless the Hearing Board Chair finds compelling circumstances of need for and reliability of such statement. If a witness critical to the proof of the charges or to the defense against those charges indicates to the Judicial Administrator or the accused that he or she refuses to testify, the Judicial Administrator or accused may ask the Hearing Board Chair to order the witness to testify. The Hearing Board Chair shall, in his or her sole discretion, grant or deny the request based on the balance of equities for the witness, the complainant, the accused, the victim, and the University. If a witness does not appear for a scheduled hearing, the Hearing Board Chair may decide whether to delay the hearing pending the witness's testimony.
 - (d) No accused person shall be denied the right to present evidence and witnesses in his or her own behalf.
 - (e) No accused person shall be compelled to testify against himself or herself. The hearing can proceed even if he or she chooses to remain silent.

(3) All hearings shall be private unless (a) the accused notifies the Judicial Administrator, no later than three business days after the scheduling of the hearing, that

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he or she wishes a public hearing and (b) the Hearing Board Chair determines that a public hearing would not result in undue intimidation of the complainant, the victim, or the witnesses.²⁸ In the event of a public hearing, the Hearing Board Chair shall convene it in quarters that accommodate a reasonable number of the public, but may limit the number in the interest of preserving the decorum and dignity of the proceedings. Witnesses shall be excluded from all hearings, except for the period of their questioning. Witnesses shall not see or hear other evidence presented at the hearing, such as any police report, except as the Hearing Board Chair determines to be appropriate. All deliberations by the Hearing Panel and Hearing Board Chair shall be private.

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(4) A verbatim record shall be kept of all hearings, but not of deliberations, and made available to the complainant within the allotted time for filing an appeal, and to the respondent at any time.

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(5) The Hearing Panel shall proceed to a decision as expeditiously as possible, and then shall notify the Judicial Administrator of its decision without delay. All decisions by the Hearing Panel shall be in writing, including a rationale and any dissenting opinions. The burden of proof on violation shall rest on the complainant, and the standard of proof on violation shall be clear and convincing evidence.²⁹ After hearing, the Hearing Panel can:

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(a) sustain a defense of lack of jurisdiction or other inapplicability of this Code, including that off-campus conduct did not meet the requirement of being a serious violation of this Title, and dismiss the case. Any such defense shall be deemed waived if not raised by the conclusion of the hearing;

Commented [MB114]: This footnote references Appendix A and the carve out for 6.4.

Commented [MB115]: Concern raised by some that this appears to be the only place lack of jurisdiction over students can be resolved forcing a student to go through a full hearing on the merits even if they have reason to believe jurisdiction does not apply.

(b) find the accused did not violate this Code and dismiss the case; or

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(c) find the accused violated this Code and impose a penalty and/or remedy.

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(6) The Judicial Administrator shall serve written notice of the decision of the Hearing Panel on the accused and the complainant within five business days of the Judicial Administrator's receipt of the written decision. The respondent shall be provided with a full copy of the decision. The complainant shall be provided a copy of the decision with names of individuals and other identifying information redacted.

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Appeal Procedures [Page 30 – 33 Current Code]

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1. The Review Board Chair shall have the right to convene the Review Panel and

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²⁸ In cases of sexual harassment, abuse, assault, or rape, all hearings shall be private, with the accused having no option of requesting a public hearing; and in such cases, if either the accused, the complainant, the victim, or the Judicial Administrator requests that the proceedings be conducted in a fashion such that the accused and the complainant or victim be separated or such that the intimidation of the complainant or victim be otherwise reduced, the Hearing Board Chair, after determining appropriateness, shall make suitable arrangements to accomplish this.

²⁹ This is a higher standard than the civil law's more-likely-than-not standard but a lower standard than the criminal law's beyond-a-reasonable-doubt standard.

shall conduct the appeal in a manner similar to a Hearing Panel proceeding. The Review Panel shall meet to hear an appeal within 21 calendar days after the notice of appeal is filed, unless a postponement is granted by the Review Board Chair for good cause shown.

2. Decision of the Review Panel shall be rendered by a majority vote of the members present. The majority of the members, in addition to the nonvoting Review Board Chair, shall constitute a quorum for any hearing of the appeal.

3. The Review Panel shall determine whether its hearings shall be conducted in public or in private. However, all deliberations of the Review Panel and Review Board Chair shall be private.

4. Disposition of Appeal

a. Any decision of the Review Panel shall be based solely on the record and, in appropriate cases, upon a showing of new evidence relevant to the grounds for appeal. All decisions shall be in writing, including a rationale and dissenting opinions. Findings of fact shall not be set aside unless clearly erroneous, and harmless errors shall be ignored.

b. The decision shall be affirmance unless the Review Panel sustains one of the above-specified grounds for appeal, in which case the Review Panel can:

i. reverse a finding of violation;

ii. alter a penalty or modify a remedy, if necessary and appropriate in the interests of justice;

iii. remand a case to the Hearing Panel from which it originated for a new hearing; or

iv. remand a case to a newly composed Hearing Panel if there were procedural violations.

c. If the Review Panel calls for new evidence, it shall remand the case to the Hearing Panel from which it originated for a new hearing.

b. No final decision of this judicial system shall be reviewed by any other authority within the University, except that either the Judicial Administrator or the accused may appeal the penalty imposed by the Review Panel for violations involving acts or threats of violence, including sexual assault. Such appeal shall be to the President within fifteen business days of the appellant's receipt of the Review Panel's decision. The appeal shall be a written petition with the opportunity for the other party to respond; no oral argument shall be heard. The President may alter the penalty only by a written and reasoned opinion.

D. General Procedures [Current Page 33]

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a. Deadlines

i. In computing any time period specified in this Code, the day of the event, act, or default that initiates the period shall be excluded.

ii. The Judicial Administrator and other parties to the hearings must make good faith efforts to meet the deadlines for conducting hearings outlined by this Code. If the deadlines cannot be met, however, the hearings must be held as soon as practicable.

b. Legal Advisor

The Hearing Panel or the Review Panel may appoint an independent legal advisor who shall advise that board on all legal matters relating to the performance of its responsibilities, and who may be present during any hearings and, upon the invitation of that board, during deliberations.

c. Witness Immunity

The Judicial Administrator, the Hearing Panel, or the Review Panel may grant to witnesses transactional immunity from proceedings within the judicial system.

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Article III. Procedures regarding violations concerning the maintenance of public order [Current Page 39 – 40]

A. Immediate Enforcement

The President or a designated representative shall be responsible for initiating and ensuring the prompt enforcement of violations concerning the maintenance of public order. For conduct that violates these provisions [cite to section], individuals and organizations may be ejected from the University campus, property, or facility, or any part thereof by the President or his or designee acting in the following manner:

1. When the continued presence of an individual poses a clear and present danger to the public order or to the security of any property or the safety of any person, the individual may be ejected, but only until a hearing before the University Hearing Board.

2. In the case of an organization that authorizes conduct posing such a clear and present danger, the President or his or designee may rescind permission for that organization to operate on University property and rescind the registration of the organization, but only until a hearing before the University Hearing Board.

3. The University Hearing Board shall meet to review such action within five business days after the day on which the alleged offense occurred.

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B. Disciplinary Process

For procedures, violations concerning the maintenance of public order follow the procedures currently in effect in this code with the following exceptions:

1. The President or his or designee shall perform the functions of the Judicial Administrator. In the case of service upon the President of any notice, including a notice of appeal, delivery to the office of the President or his or her designee shall constitute sufficient service.

2. In the event that a violation of these provisions should also constitute a violation of other University regulations, the President or his or designee may, in his or her discretion, determine to handle the hearing and appeal of all such violations in one proceeding pursuant to the procedures of this Code.

3. Additionally, the President or his or her designee shall have the right to appeal a Hearing Panel final decision to the Review Panel on the grounds that the Hearing Panel committed a prejudicial error in interpreting this Code or rendered a decision clearly against the evidence, by filing written notice of appeal with the Review Board Chair within five business days of receipt of the notice of decision.

[Appendix C: Hearing Board Procedures](#)

| [Appendix D: Medication Procedures:](#)

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Page 6: [2] Commented [MB23] **Matthew Battaglia** **3/17/19 10:42:00 PM**

Trim language and integrate in above section discussing counter protests and freedom of speech.

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Simplified operative language above, move the values portion to Section 1.

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Pulled from WG report – for consistency with other sections of the Code, the CJC is harmonizing with political belief included.

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The Presidential task force also includes a provision stating: “Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective”

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Assault is currently covered by the Code but making it more clear and distinct from endangerment has been raised by the CJC.

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The Judicial Codes' Councilors have remarked that this provision may be being misused and/or being construed too broadly as currently written.

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See above concerns by the JCCs about this language being too broad.

Also concerns about university policy possibly contradicting this Code.

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This potentially may be condensed with the above trespass provision.

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The CJC has flagged this provision as one of concern in the past.		
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We may wish to add language that specifies that if a policy contradicts the Code this provision does not apply.		
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Appears redundant to hazing and general endangerment.		
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New language – it may be better to consolidate and explicitly list common resources.		
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Cornell Student Code of Conduct

Click here for [[Cornell Student Code of Conduct](#)] PDF version.

Section A: Principles and Values

Section B: Definitions

Section C: Scope

Section D: Prohibited Conduct

The Cornell Student Code of Conduct (Code) contains the University's behavioral standards for its students.

For information about the processes for investigating and resolving alleged violations of the Code, please review, [Student Conduct Procedures](#) or [Conduct Procedures for Recognized Student Organizations and Recognized Sororities and Fraternities](#).

Separate policies and procedures govern:

Academic Integrity, <http://theuniversityfaculty.cornell.edu/academic-integrity/>; and Sexual Misconduct, Prohibited Bias, Discrimination, Harassment, Dating & Intimate Partner Violence, and Related Misconduct: Cornell Policy 6.4. 4.

In addition, individual colleges or programs may have student conduct expectations and policies supplemental to this Code; those policies may be enforced through procedures established by the respective college or program.

Some additional resources and links may be found at the end of this Policy.

SECTION A: INTRODUCTION

A. Principles and Values

Cornell University has developed a **Student Code of Conduct** (“Code”) to communicate Cornell’s *behavioral* expectations applicable to all Cornell students, registered student organizations, and recognized living groups (fraternities and sororities) on Cornell’s campuses or property, excepting the Weill Cornell Medicine campuses. Behavioral standards contained in the Code are based in Cornell’s historical educational origins and mission. These standards reflect the founding vision and values of Ezra Cornell and Andrew Dickson White. Cornell’s educational legacy embodies personal growth through higher learning and Ezra Cornell’s aspiration to ‘... *found an institution where any person can find instruction in any study*’.¹ This Code is intended to preserve a higher education community and residential campus where ‘any person’ in the community can pursue their scholarship in a secure and educationally nourishing environment.

¹ Ezra Cornell, First Inaugural Address, Oct 7, 1868; *Motto* magazine, Top Motto Among All American Colleges and Universities, “*Top 10 Motto List*”, 2007.

University Counsel Draft_082919 Substantive Sections for Comments and Review

Cornell's institutional legacy as a private university combined with its public land-grant mission and membership among outstanding Ivy League peers makes Cornell distinguishable from any other institution of higher learning. Critical core values embrace the *inclusion of all persons*, *civility* toward others, the attainment of genuine *understanding* versus mere tolerance of personal differences, a breadth and continuum of life *perspectives and experiences*, the expression of *bold ideas*, and *civil discourse* between community members *focused upon ideas* not personal attacks. Essential to Cornell's attainment of its distinctive higher education mission and effective operation is the protection and preservation of its teaching, learning, and research environments.

The Student Code contains not only Cornell's conduct expectations and standards, but non-punitive educational objectives embodying opportunities to demonstrate growth from mistakes, restorative justice, and sanctions inclusive of and advancing Cornell's educational goals.

The principle of freedom with responsibility is central to Cornell University. Freedoms to teach and to learn, to express oneself and to be heard, and to assemble and to protest peacefully and lawfully are essential to academic freedom and the continuing function of the University as an educational institution. Responsible enjoyment and exercise of these rights mean respect for the rights of all. Infringement upon the rights of others or interference with the peaceful and lawful use and enjoyment of University premises, facilities, and programs violates this principle.

Thus, individual rights are central to Cornell's history and identity. The Code is drafted to safeguard individual rights as well as those rights conferred by the University reflecting its dedication to fairness in the treatment of all members of the university community. The University must simultaneously address misconduct when it unduly imposes upon the inherent rights of others or compromises the effective operation of the University in the fulfillment of its educational mission.

When individuals, recognized sororities, fraternities or student organizations are alleged to have violated the Code's academic or behavioral expectations, the Code provides the framework to address allegations of prohibited conduct. **Student Conduct Procedures** ("Procedures") are used to uphold the Code and instruct participants in the conduct process, the respective rights and responsibilities of participants, and the roles of University representatives in the conduct processes at each respective stage – alleged violations, administrative resolution versus hearing procedures and, if applicable, the imposition of sanctions.

Authority and administration of the Code and Procedures are vested with the ***Vice President for Student and Campus Life (SCL)***, in consultation with the University Assembly. Student conduct matters are delegated to the Office of Student Conduct, overseen by the Dean of Students. The conduct of University *faculty* and *staff* are separately administered pursuant to policies and procedures applicable to employees of the University.

The Code does not govern criminal conduct, though criminal conduct can violate both the Cornell Student Code as well as criminal statutes. Accordingly, because violations of *public laws* are handled through criminal prosecution or civil litigation for entirely distinct public policy purposes, the Cornell Student Conduct Code process and separate criminal or civil processes

may run concurrently where the alleged conduct implicates both the Code and local, state or federal criminal or civil statute(s) and ordinances.

The Commitment to Responsible Speech and Expression

Cornell University has long evidenced its commitment to free expression within its Code of Conduct.

- Only members of the Cornell community or permitted users may hold or host events on Cornell-owned property. Subject to certain source of funding requirements, any registered or recognized campus organization or living group is free to invite a speaker to address its own membership in a private, closed meeting under ground rules set by the inviting organization. Such organizations are also encouraged to enrich campus discourse by inviting speakers to address the broader community. Regulations governing both private group and public speaking events are found at: <https://ccengagement.cornell.edu/campus-activities/event-planning> <http://eventplanning.cornell.edu/>
- Freedom of expression, within commonly accepted limits of safety and civility, is a paramount value in a university community. The University recognizes and respects rights to academic freedom.
- In a university community, as in society as a whole, freedom of speech cannot be absolute; expression being subject to both reasonable time, place, and manner restrictions and to limited exceptions defining conduct outside the parameters of protected expression. University rules regarding the erection of symbolic structures on campus, use of campus facilities, and demonstrations can be found at: *[new url linking to Policy Outdoor Space Working Group language will be included here]* <https://ccengagement.cornell.edu/campus-activities/event-planning/reserving-space> <http://news.cornell.edu/stories/2019/02/new-event-planning-policies-unveiled-following-student-input> The rights of recruiters are found at <https://hr.cornell.edu/our-culture-diversity/diversity-inclusion/equal-opportunity-and-affirmative-action/equal-education> together with the Law School statement on the Solomon Amendment: <https://www.lawschool.cornell.edu/spotlights/Military-Recruitment-at-Cornell.cfm> Within commonly accepted legal limits, freedom of speech is of paramount value in our university community.
- Once members of the university community have extended an invitation to a speaker, others will not be permitted to disrupt the speech, or interfere with the rights of others to hear the speaker on the grounds that any given person finds the expression offensive, stupid, immoral, or dangerous.
- The University President has the ability and the duty to protect the community and maintain public order in rare cases where imminent threats to health and safety require it. Any intervention by the President in campus rights of expression and assembly shall be timely reported to the community, with an explanation of the basis for the actions taken.
- The President shall consult with the University Assembly and other elected campus governance bodies on a regular basis to ensure that the community's fundamental commitments to free expression and respect for others are being safeguarded.

SECTION B: DEFINITIONS

1.0 Definitions. The following definitions apply to the Code.

University Counsel Draft_082919 Substantive Sections for Comments and Review

- 1.1 The term "campus" includes property owned, leased, used, or controlled by Cornell; it also includes streets, sidewalks, and pathways adjacent to or in the immediate vicinity of Cornell campus or property.
- 1.2 The term "University" means Cornell University, as well as any affiliated programs or virtual spaces including, but not limited to, University programs in remote locations within or outside of New York or the United States.
- 1.3 The term "student" includes:
- o Undergraduate, graduate, medical, veterinary, executive, and professional students upon their commencement of attendance, defined as the earliest of: the first day of the term for which they were admitted; their first day residing in a university residence hall; or the first day of a university-sponsored pre-orientation trip, activity, or academic program for which they are participating – whichever is earliest. A student's status ends – with some exceptions noted in related Conduct Procedures – when a student withdraws or is withdrawn from the University, is dismissed (expelled) from the university, or their enrollment is terminated.

SECTION C: SCOPE

2.00 Scope

The Code covers behaviors by all Cornell students, and University registered or recognized student organizations and living groups (fraternities and sororities), excepting Weill Cornell Medicine campuses. The jurisdiction and scope of the Code is addressed in greater detail in the Student Conduct Procedures, however, the Code generally applies to campus owned or controlled properties as well as the operation of programs associated in any way with University activities, however, conduct expectations can also apply to certain behaviors that occur off-campus and implicate the health and safety of individuals (whether or not those individuals are affiliated with the University), the University community, or the University's reputation, or that suggest a student's presence on campus may pose unreasonable health and safety risks to individuals or the Cornell community. The final determination as to whether conduct is subject to this Code will be made by [the Dean of Students] or their designee. In addition, a student's online activities and conduct – whether a student is on or off-campus – as well as the use of University computing resources is similarly subject to the jurisdiction of the Code. The Code further applies between terms and whether or not the University is in session.

Students are further required to inform their guests as to Cornell's behavioral standards and expectations, and students can be held responsible for complicit misconduct arising from the behavior of their guests.

Transcript notations related to Code proceedings, including during the pendency of a conduct matter or when a student withdraws or takes a leave of absence with a conduct charge pending, will be made in accordance with the University Registrar's transcript notation policy (<https://registrar.cornell.edu/grades-transcripts>).

For incidents for which the reporting party is not an enrolled Cornell student, the University may (but is not obligated to) proceed as the Complainant.

Proceedings under the Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings concerning the same conduct. Decisions about the timing of University proceedings will be at the sole discretion of the Dean of Students or designee.

SECTION D: PROHIBITED CONDUCT

3.00 Prohibited Conduct²

The following conduct is prohibited and subject to conduct charges handled pursuant to the applicable University Procedures. It is also a violation of this Code to attempt to commit any of the following violations.

Furthermore, in determining the appropriate sanctions for a violation of sections 3.2, 3.8, and 3.9, the decision-maker shall take into account whether the behavior was motivated by a person's or group's age, race, ethnicity, creed, color, national origin, sexual orientation, military status, sex, gender identity or expression, disability, predisposing genetic characteristics, familial status, or marital status.

- 3.1 Alcohol-Related Behavior
- 3.2 Assault and Endangerment
- 3.3 Collusion
- 3.4 Disorderly Conduct
- 3.5 Disruption of University Activities
- 3.6 Drug-Related Behavior
- 3.7 Failure to Comply
- 3.8 Harassment
- 3.9 Hazing
- 3.10 Invasion of Privacy and Appropriation of Identity
- 3.11 Misrepresentation
- 3.12 Misconduct Related to Student Organizations or Groups
- 3.13 Property Damage
- 3.14 Theft and Intellectual Property Infringement
- 3.15 Unauthorized Entry or Use of Space
- 3.16 Violations of Public Law(s)
- 3.17 Weapons

3.1 Alcohol-Related Behavior

To unlawfully manufacture, distribute, dispense, possess, use, or sell alcohol, including, but not limited to:

² The Code, together with Procedures for the enforcement of the prohibited conduct comply with New York Consolidated Laws, Education Law – EDN §6430 for the maintenance of public order on Cornell's campus.

- Providing alcohol to an individual who is under the legal drinking age
- Selling alcohol without a license
- Consuming alcohol or possessing alcohol with the intent to consume while under the legal drinking age
- Possession of identification by a person under the legal drinking age if the date of birth on the identification would make the person legal to consume alcohol
- Possessing alcohol in unauthorized spaces regardless of age
- Operating a motor vehicle under the influence of alcohol
- Possessing mass alcohol consumption paraphernalia on campus. Mass consumption paraphernalia includes, but is not limited to, kegs, drinking funnels, ice luges, and other implements used to facilitate the consumption of large quantities of alcohol
- Public intoxication

3.2 Assault and Endangerment

To assault or engage in conduct that does or can reasonably be expected to result in physical harm, or significant emotional or psychological harm, to a person, or to threaten to do so, including, but not limited to:

- Any unwelcome physical contact, such as striking, slapping, hitting, biting, punching, shoving, or kicking
- Subjecting another person or group to abusive, threatening, intimidating, harassing, or humiliating actions
- Any action that threatens or endangers the physical health or safety of any person or causes reasonable apprehension of such harm, including displaying a weapon, using firecrackers or flares, throwing or firing projectiles

3.3 Collusion

To aid or assist another person to commit a violation of the Code.

3.4 Disorderly Conduct

To cause or create a risk of disruption to the University community or local community, including, but not limited to:

- Violent, tumultuous, or threatening behavior
- Unreasonably loud or belligerent behavior
- Obstruction of vehicular or pedestrian traffic
- Public urination or defecation
- To prevent a person from leaving a location (including part of the location, such as one part of the room) or to force a person to go to a location against his or her will. This is a violation whether accomplished through physical or psychological means.
- To expose a private or intimate part of one's body in a lewd manner or commit any other lewd act in a public place

Commented [MF1]: This is not currently addressed under the Code; we've seen however in other school's provisions. Offered for consideration/comments. If used would need to be clear doesn't apply for example to an approved graduate party on campus where a keg/beer is being offered!

- To traffic, for profit or otherwise, in goods or services in a manner incompatible with the interests of the University community or local community

Commented [MFW2]: We've left this in, but we think it should be deleted. Not sure what it adds beyond legalese.

3.5 Disruption of University Activities

To disrupt or materially interfere with any instructional, research, service, judicial, or other University operation or function of the University, including, but not limited to:

- Disrupting, obstructing, or interfering with the lawful exercise of freedom of speech, freedom of movement, freedom of peaceable assembly, or other right of an individual, by:
 - using or threatening physical force or violence to harass, endanger, injure, abuse, intimidate, or coerce another person, or to cause damage to or loss of property
 - obstructing or causing to be obstructed the lawful use of, access to, or egress from University premises or portions thereof, or by making unauthorized entry upon or use of a University property or facility or by unlawfully remaining in or on the same
 - by intentionally obstructing or restraining the lawful movement of another person or obstructing or restraining his or her lawful participation in an authorized activity or event, such as regular and special curricular activities, extracurricular activities, employment interviews, and recruiting activities
- Directly or indirectly preventing a speaker from speaking at a lecture, debate, or any public forum, obstructing the passage of others, or creating an imminent threat of such disruption or obstruction
- Disrupting or obstructing any speaker invited to appear on the campus by the University or a University-recognized organization
- Bribing a University official
- Refusing to participate, without a substantial reason, as a witness in an investigation of or proceeding brought to enforce potential violations of this Code
- Destroying evidence or otherwise obstructing the application of this Code

3.6 Drug-Related Behavior

To unlawfully manufacture, distribute, dispense, possess, use, or sell marijuana or any controlled substances, including prescription medication not prescribed to the user, as defined by state or federal law, including, but not limited to:

- Possessing drug paraphernalia
- Operating a motor vehicle under the influence of marijuana or any controlled substance, including prescription medication not prescribed to the user

Commented [MFW3]: MIT has an interesting take on this, adding "substances generally recognized as dangerous." Could be considered.

3.7 Failure to Comply

Failure to comply with:

- The proper directive of a University official

- A policy or operational rule that has been duly promulgated by the University or any college, department, or unit thereof, whether or not the policy has been issued in the standardized University format, including life safety regulations and technology regulations
- Any term of a sanction imposed or agreed to pursuant to this Code or other conduct policy, including Policy 6.4
- The requirement that all persons must leave a University building after a fire alarm has sounded or other notice of fire has been given, whether or not a drill

3.8 Harassment

Subjecting another person or group to uninvited or unwelcome behaviors that are abusive, threatening, intimidating, or humiliating, when the conditions outlined in (1) or (2) below, are present.

1. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's participation in any of the University programs or activities or is used as the basis for a decision affecting the individual.
2. Such conduct creates a hostile environment. A hostile environment exists when the conduct unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's programs or activities. Conduct must cause unreasonable interference from both a subjective and an objective perspective. The fact that the conduct targets a group that has historically experienced discrimination may be relevant to a contextualized judgment about whether the conduct creates a hostile environment.

Because of protections afforded by free speech and academic freedom, expression will not be considered harassment unless the expression also meets one or both of the following criteria:

- it is meant to be either abusive or humiliating toward a specific person or persons, or
- it persists despite the reasonable objection of the person or person targeted by the speech.

Offensive conduct that does not by itself amount to harassment as defined above may be the basis for educational or other non-punitive interventions to prevent such conduct from becoming harassment if it were repeated or intensified. Mere disagreement with a particular viewpoint of another person – as opposed to the means or manner by which the person communicates – shall not be the basis for any intervention, even a non-punitive one.

Actions that constitute stalking or sexual harassment as defined by Policy 6.4 (“Prohibited Bias, Discrimination, Harassment, and Sexual and Related Misconduct”) shall be handled pursuant to that Policy and its associated Procedures.

3.9 Hazing

To haze another person, regardless of the person's consent to participate. Hazing means an act that, as an explicit or implicit condition for initiation to, admission into, affiliation with, or continued membership in a group or organization, (1) could be seen by a reasonable person as endangering the physical health of an individual or as causing mental distress to an individual through, for example, humiliating, intimidating, or demeaning treatment, (2) destroys or removes public or private property, (3) involves the consumption of alcohol or drugs, or the consumption of other substances to excess, or (4) violates any University policy.

3.10 Invasion of Privacy and Appropriation of Identity

To intentionally invade privacy or misappropriate property rights, by means of videotaping, photographing, audiotaping, or otherwise making any video, picture, or sound recording, or to appropriate or use someone's likeness, identifying personal data, or documents.

3.11 Misrepresentation

- To furnish false information to the University with intent to deceive.
- To use, create, sell, or possess forged, fraudulently altered, or falsified documents, electronic records, or permits.
- To claim falsely to represent the University or a University-registered organization.
- To access the documents or records of the University or person without authorization, whether physical or electronic (i.e., "hacking").

3.12 Misconduct Related to Student Organizations or Groups

Student living groups and organizations may be charged with violations of the Code. A student group or organization may be charged and held responsible collectively, or its officers or members may be charged and held responsible individually, for violations of the Code.

Positions of leadership in a student group, organization, or athletic team entail specific responsibilities both ethically and practically. Student officers cannot permit, condone, or acquiesce in any violation of this Code by the group or organization. The Code is designed to hold groups or organizations – including its members and leadership – responsible for Cornell's behavioral expectations and culture.

Further, to knowingly affiliate with groups, teams, or organizations that have had their University recognition or registration withdrawn, suspended or permanently revoked by the University for disciplinary reasons can constitute a violation of the Code. The definition of affiliation includes joining, rushing, pledging or being involved in any activity that would normally be associated with being a member of such an organization. This applies to organizations that were created by members of a de-recognized organization in an attempt to continue its presence on campus.

This prohibited conduct does not apply to unrecognized student groups who have never had University recognition or who are currently not recognized by the University because of non-

Commented [MFW4]: We need a broader conversation about the topic of Greek misconduct and sanctions to complete this section.

disciplinary disbandment. However, known members of unrecognized student groups may be held accountable for prohibited conduct by these groups.

3.13 Property Damage

Actions that result in or can be reasonably expected to result in damage to property, including electronic data, files, or other information. This includes, but is not limited to, property owned by the University, property owned by individuals affiliated with the University, and property owned by individuals or entities not affiliated with the University.

3.14 Theft and Intellectual Property Infringement

To steal or knowingly possess stolen property or information, including by such acts as misappropriation of data or University funds, or to infringe upon another person's trademark, copyright, patent, or other intellectual property rights.

3.15 Unauthorized Entry or Use of Space

To enter upon or make use of University or private property or facilities without authorization, including:

- To enter any waters of Fall Creek, Cascadilla Creek, or Beebe Lake that are on or traverse the campus for the purpose of swimming or bathing, except in those waters officially designated as swimming or bathing waters
- Tampering with or improper activation of a fire alarm, covering or otherwise compromising the proper functioning of a smoke detector or fire sprinkler, theft or improper use of a fire extinguisher, igniting or attempting to ignite a fire on campus without authorization
- Building a structure on the campus without a permit or in violation of the conditions of a permit

3.16 Violations of Public Law(s)

Violation of any federal, state, or local law, regulation, or ordinance.

3.17 Weapons

To possess, carry, or use any weapon or other object that can be used to cause physical harm, that can be used to threaten physical harm, or that, by its appearance, could reasonably be perceived as a weapon or object that could be used to cause physical harm (e.g., replica firearms). This includes firearms (defined as any projectile-firing device including rifles or shotguns), ammunition, explosives, or other dangerous weapons, instruments, or substances.

4.0 Links to Applicable Procedures & Responsible Offices

Statement of Ethical Conduct

Standards of Ethical Conduct Policy 4.6

Student Code of Conduct Procedures

How to File A Complaint

Hearing Panel Procedures

Student Rights & Responsibilities

Respondent Rights & Responsibilities and Resources

Complainant FAQ & Resources

Title IX Office

Procedures for Resolution of Reports Against Students Under Cornell University Policy 6.4

Forms

Dean of Students

Office of Student Judicial Hearings

DRAFT

First Section of the Code (Values)

PART 1:

Title One: Statement of Principles and Policies.

Preamble.

Article I. Fundamental Principles.

A. The Primary Purpose.

The primary purpose of the regulation of conduct is to enable and promote the educational, research, and public service activities of all individuals within the University community. Since the conduct of students, staff, faculty, and University officers collectively contribute to the intellectual, cultural, and social life of the community, the Campus Code sets out the rights and duties of all individuals as they contribute or potentially detract from the life of the entire community.

With respect to education, the principles underlying the Campus Code are:

1. enabling all members of the University community to pursue their educational goals;

2. the generation of a tolerant and vibrant intellectual, social, and educational environment;

3. the protection of the health, safety, welfare, property, and individual rights of all individuals in the University community, along with the safety and property of University installations. In some respects, these general interests are also the concern of state and federal law.

B. The Principle of Freedom with Responsibility.

The principle of freedom with responsibility is central to Cornell University. Freedoms to teach and to learn, to express oneself and to be heard, and to assemble and to protest peacefully and lawfully are fundamental pillars of academic freedom and of the health of the University as an intellectual, professional, and educational community. Responsible enjoyment and exercise of these individual and collective rights entail respect for the rights of all members of the community. As Cornell's motto—"I would found an institution were any person can find instruction in any study"—proclaims, we are a community that affirms and defends inclusion, tolerance, and diversity. Infringement upon the rights of others or interference with the peaceful and lawful use and enjoyment of University premises, facilities, and programs violates these principles.

D. Freedom of Speech in Context.

Freedom of speech is one of the most important individual rights protected by the Campus Code of Conduct. However, as in society at large, freedom speech is not an absolute right in a university community. For example, speech that is libelous or intended to incite a crowd to riot enjoys no protection under the Code. Within the limits of these commonly accepted principles, freedom of speech should be one of the paramount principles of

the University community because the University's purpose is the discovery of truth through the practice of free inquiry and debate. The University community is thus committed to the unrestricted expression of ideas, arguments, and opinion. Cornell, like almost all universities, has different kinds of spaces in which the principle of freedom of speech and other considerations protected by Campus Code of Conduct apply in varying ways.

1. The classroom. Freedom of speech in the classroom is a fundamental aspect of academic freedom, both for the instructor and for the student. The instructor enjoys complete and unqualified freedom to present arguments and interpretations of the subject matter of a course in whatever way he or she feels is consistent with their professional and intellectual integrity. Students similarly have a complete and unqualified freedom to dissent from those arguments and interpretations in the course of open intellectual debate and academic exchange. The only limitations on student freedom to dissent would arise when the class is disrupted in a way that prevents the instructor from covering the material.

2. Organized public venues for speakers, panels, and other kinds of presentations. Any and all attempts to prevent an invited speaker from addressing his or her audience are inconsistent with the values of the University community, regardless of how noxious or morally reprehensible may be the speaker's message. Once members of the University community have extended an invitation to speak, others members of the community may not disrupt the event even if they are personally offended by the message.

However, those who dislike the message of an invited speaker have the right to: (a) distribute leaflets outside the meeting room in which the event is held; (b) peacefully picket the event; (c) personally boycott the event and encourage others to do so as well; (d) and, within the protocol of the event as interpreted by the moderator, express personal displeasure with the responses to questions. The guiding principle in all these things is that those who oppose a speaker may thus make their own views known, as long as doing so does not interfere with the speaker's ability to be heard or the right of others to listen. Name-calling and obscenities, even when they are not carried so far as to abridge freedom of speech, are nevertheless deplorable in a community devoted to rational persuasion and articulate controversy. Violence, intimidation, and insult are the resources of those who have nothing else to say. Although civility is a fragile virtue, the Campus Code of Conduct is nevertheless fully devoted to its cultivation.

Although nonviolent civil disobedience is an honorable method of expressing moral outrage, the University will prosecute those who use this method to actively prevent freedom of speech. Civil disobedience thus neither exempts an individual from penalties for violating the freedom of speech of another individual nor mitigate the severity of those penalties. Outdoor picketing, marches, rallies, and other demonstrations on campus are honorable and legitimate forms of self-expression and dissent. As in other contexts and situations, the right to such free expression requires respect for the rights of others, including the ordinary and routine use of University grounds or property.

Freedom of speech includes the right of University organizations to reserve rooms or other facilities for the purpose of hearing invited speakers or other meetings, regardless of how unpopular the views of these speakers or organizations might be. In addition, the University should not impose discriminatory charges for security upon an organization when a speaker is deemed particularly controversial.

3. Research, writing, and related activity. The American conception of academic freedom includes the principle that professors may participate in political demonstrations, speak out on controversial issues, and conduct research that may be controversial or unpopular in their professional communities or society at large. They can do all these things without jeopardizing their employment. However, academic freedom also carries with it certain responsibilities. Scholars should, for example respect the professional standards of their discipline and the pedagogical requirements of the teacher-student relationship. They should, in addition, not encourage others to abridge the free expression of controversial viewpoints. In their role as citizens of a free republic, professors may not be particularly fond of freedom of speech; as scholars, however, they are morally bound to uphold that freedom.

4. Public spaces generally: The University also has public spaces, such as hallways and common rooms in dormitories, sidewalks, study rooms and carrels in libraries, and cafeterias and coffee shops. In all these spaces, members of the University community are protected from harassment and other forms of unwanted engagement with others as they go about their daily lives and business. Freedom of speech does not extend to personal confrontations with others in the University community. In fact, the protection of the privacy and personal autonomy of individual members of the community from unwanted engagements with others is an essential component of a vibrant intellectual and academic environment and is thus strongly protected by the Campus Code of Conduct.

With respect to demonstrations (such as sit-ins) within University buildings and other facilities, demonstrators must have the consent of those who use or are responsible for the use of those buildings or facilities. Classrooms, libraries, laboratories, living units, and faculty and administrative offices are dedicated to specific purposes which individuals must be able to use without disruption as they carry out their responsibilities and their private lives. While the law of trespass and the right of free speech are not mutually exclusive and, indeed, have always coexisted in our legal system, the Campus Code of Conduct enforces the principle of free access to buildings and facilities for all those who ordinarily and routinely use them. Freedom of expression, for example, does not extend to the infringement of another individual's right to participate in a recruitment interview or an information session with a recruiter who has received University permission to be on campus for that purpose.

C. The University's Role.

The Campus Code of Conduct governs the entire University community and thus sets out the rights and responsibilities of all individuals in the community. It is also the duty of all individuals to cooperate in the operation and enforcement of the Code. The purpose of this opening statement is to clearly state those general principles and policies to which the University community is dedicated and upon which the Cornell judicial system operates. These principles and policies thus give general guidance to the judicial system as it disposes of individual cases arising under regulations authorized by the Board of Trustees, including legislation adopted by the University Assembly and approved by the President as agent for the Board.

With respect to the regulation of individual conduct, the University's concerns are not the same as those of the larger society. For example, the power and authority of the University's judicial boards shall be limited to the enforcement and adjudication of individual conduct within the University

and thus does not extend to the enforcement of public laws, except where the provisions in the Campus Code are similar to those in public law.