

Cornell University
University Assembly

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Agenda

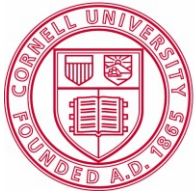
Codes and Judicial Committee
University Assembly
February 20th, 2019
4:45pm – 6:00pm
Day Hall Room 163

- I. Call to Order (Chair)**
 - i. Call to Order (1 minute)
- II. Approval of Minutes (Chair)**
 - i. November 7, 2018 (1 minute)
 - ii. November 28, 2018 (1 minute)
 - iii. February 5th, 2018 (1 minute)
- III. Review of Minutes (Chair)**
 - i. February 6, 2019 (1 minute)
- IV. Business of the Day**
 - i. Approval of UHRB Applicant Questions (40 minutes)
 - ii. For Discussion: Individual amendments contained in reorganized Campus Code of Conduct (25 minutes)
- V. Adjournment**
 - i. Adjournment (5 minutes)

Attachments

1. CJC Meeting Minutes 11.07.2018
2. CJC Meeting Minutes 11.28.2018
3. CJC Meeting Minutes 2.05.2019
4. CJC Meeting Minutes 2.06.2019
5. UHRB 2018 Application Questions

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



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Minutes

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

I. Call to Order

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

II. Approval of Minutes

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

III. Business of the Day

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

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

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

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

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

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

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

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

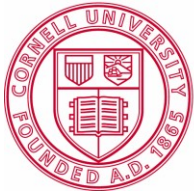
- forward with the Code of Conduct in a working meeting held last week. He said that tasks will be assigned to each member at today's meeting.
- ii. M. Battaglia said that it would be best to take the current Code and make it the best version it can be internally before engaging with the community and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

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

IV. Adjournment

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

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



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Minutes

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

I. Call to Order

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

II. Approval of Minutes

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

III. Business of the Day

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

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

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

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

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

i. M. Battaglia apologized for the delay.

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

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

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

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

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

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

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

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

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

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

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

faculty.

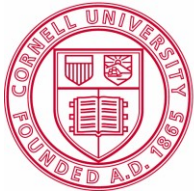
- x. M. Battaglia said that through reorganizing the Code, the Committee could devise a pamphlet that summarizes the workings of the Code which could be given to first year students.
 - xi. R. Lieberwitz said that she believes that a pamphlet is a good idea, but also having an overview at the beginning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

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

IV. Adjournment

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

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



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Minutes

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

I. Call to Order

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

II. Approval of Minutes

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

III. Business of the Day

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

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

reorganized since some items are better suited in the appendix.

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

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

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

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

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

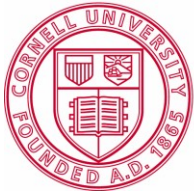
do” type of question without referring to any specific entity.

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

IV. Adjournment

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

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



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Minutes

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

I. Call to Order

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

II. Business of the Day

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

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

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

make it optional.

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

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

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

III. Adjournment

a. Adjournment

- i. There was no adjournment of the meeting.

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