



**Cornell University**  
**University Assembly**

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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. Bense'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. Bense 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. Bense 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