



Cornell University University Assembly

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Minutes Codes and Judicial Committee University Assembly February 28th, 2018 4:30pm - 5:45pm 163 Day Hall

I. Call to Order

- i. Call to Order
 - a. M. Battaglia called the meeting to order at 4:36pm.
- ii. Roll Call
 - a. *Present:* K. Ashford, D. Barbaria, M. Battaglia, R. Bense, M. Horvath, K. Karr, G. Kaufman, J. Kruser, R. Lieberwitz, V. Price, C. Riley, E. Winarto
 - b. *Absent:* D. Putnam, K. Zoner, A. Waymack
 - c. *Others Present:* G. Giambattista, M. Lee

II. Approval of Minutes

- i. November 15, 2017
 - a. Tabled to the next meeting.
- ii. February 28, 2018
 - a. Tabled to the next meeting.

III. Business of the Day

- i. For Discussion: Working Group Update, Charge, and Name
 - a. G. Kaufman made a motion to amend the last sentence of the charge of the Working Group to include “and be considered non-voting members”.
 - 1. The motion was approved by a vote of 6-0-2.
 - b. G. Giambattista made a point of information that the Chair had asked for permission to receive full access although he is not a member of the Working Group.
 - 1. M. Battaglia said that the Working Group is a subcommittee of the Codes and Judicial Committee and that the language is simply requesting to have administrative access.
 - 2. G. Kaufman said that he does not see why this is an issue, as the Group is a subcommittee of the Committee.
 - 3. G. Giambattista said that the names of the Working Group members have been provided for the Committee. She said that the issue lies with the process and restrictions as outlined by the website.
 - 4. R. Bense made a motion to call the question.
 - a) The motion was approved by a vote of 7-0-1.
 - c. M. Battaglia said that the name of the Working Group could be potentially limiting in scope.
 - 1. M. Horvath – point of information – whether it was a charge of the UA

to be named the Hate Speech Working Group.

- a) M. Battaglia said that the initial motion passed was to look into issues of hate speech on the campus. He said that the name was inspired by the charge to have a working group, but is neither mandated nor required.
 2. R. Lieberwitz said it would be adequate to change the name to the “Working Group on Hate Speech and Harassment”.
 - a) D. Barbaria said that the name should also include the campus code.
 - b) R. Lieberwitz proposed to rename the Group to the “Codes and Judicial Committee Working Group on Hate Speech and Harassment”.
 - c) D. Barbaria made a motion to call the question.
 - 1) The motion was approved by a vote of 6-0-2.
 - d. R. Lieberwitz updated the Committee on the Working Group’s first two meetings that took place on Friday and Wednesday. She said that the Group is now at a point in which two dates have been identified to potentially be scheduled for regular meetings. She said that the Group expects three public forums to be held – the first forum being informational, the second to be a workshop on potential changes to the Code & policies, the third forum to be one in which people would provide responses in person.
 1. M. Battaglia said that the meeting is tentatively scheduled for next Wednesday at 3:30pm.
 2. M. Horvath said that the Judicial Administrator (JA) conference room is open for use.
 - e. M. Horvath asked about the Working Group minutes item 3 number 12 regarding concerns that the Judicial Administrator’s office is not enforcing the Code.
 1. M. Battaglia that this item was a discussion on concerns that the current language of the Code is not being enforced.
 2. D. Barbaria said that it was more of an issue of research than concerns about the JA’s office itself.
 3. M. Horvath asked for the Working Group to amend its minutes to reflect that notion.
 - f. R. Bensel asked how many seats of the Working Group have been filled.
 1. M. Battaglia said that currently 7 of the 8 seats have been filled.
- ii. For Discussion: Concerning the Previously Passed Housekeeping Amendments to the Campus Code
- a. M. Battaglia provided an overview and background on the housekeeping amendments to the Campus Code of Conduct.
 - b. R. Lieberwitz asked what the highlighted portion of page 5 on the issue of non-matriculated minors meant.
 1. M. Battaglia said that the proposed language indicates that a non-matriculated minor would be removed from the jurisdiction of the code. He said that the president has proposed to mirror down and drop the language on whether the individuals are subject to written policies or procedures. He said that the Committee could accept the president’s recommendation and may wish to keep the “saving statute”.
 2. R. Bensel said that he favors the President’s recommendation and would prefer not to go back and forth to provide additional explanation.
 3. M. Horvath said that she agrees with R. Bensel. She said that she was

concerned about the “saving clause” because it would require minors to be a part of the Code, which Risk Management has expressed to be a liability risk for the university to take on an obligation to such minors that they otherwise wouldn’t have.

4. M. Battaglia said that the Committee needs to decide on whether to keep the “saving statute”.
 5. R. Bensel said that Risk Management should explain this issue on liability to the Committee and that we should separate the clause and ask for a written explanation. He said that the Committee shouldn’t settle the issue right now.
 6. R. Lieberwitz said that there are cases in which high school students take courses at the university, and that such students should appropriately be covered by the code. She said that the “saving clause” helps to determine where such minors belong, but would require adequate explanation of coverage
 7. R. Bensel said that students participating in the Pre-Freshman program should be covered by the Campus Code.
 8. M. Horvath said that those participating in pre-college programs are already covered by the Code since they are no longer in high school, whereas those who have not graduated are within the jurisdictional limits of their high school.
- c. M. Battaglia provided an overview on the proposed language clarifying University Hearing and Review Boards (UHRB) appointment procedures.
1. R. Bensel asked if Dean of Faculty, Charles Van Loan, has any concerns about the proposed language.
 - a) M. Battaglia said that he intends to reach out to seek his view.
 2. G. Giambattista said that the Office of the Assemblies has a role in soliciting applications for UHRB members.
 - a) R. Bensel asked what solicit means.
 - 1) G. Giambattista said that soliciting entails reaching out to the community to make sure everyone is aware that the opportunity exists.
 - b) G. Giambattista said that she wants to ensure that no particular constituency is reaching out to potential applicants on their own. She said that the Office of the Assemblies is the neutral body that would be logistically involved with ensuring fairness of procedures.
- d. M. Battaglia said that the University Assembly has passed Resolution #11 to reappoint the Judicial Administrator and that M. Horvath’s term has been extended for an additional year. He said there has been an ongoing discussion on ensuring that a process of reappointment is put into place and that the Committee is committed to improving such a process.
- e. M. Battaglia provided a summary on the No Contact Directive procedures. He said that the Judicial Administrator is not required to suspend based on violations, and that the proposal would add an appeals process for no contact directives. He said that groups concerned with Policy 6.4 are unlikely to be affected by the change and that there is a need for an appeals process for interim measures since interim directives can be used for several months as of now. The proposal would require a petition after 21 days.
1. M. Horvath said that the proposal to make orders mutual negates the need for an appeals process. She said that the interim suspension is

most in need of an additional process as it has the most impact on the educational environment.

2. K. Karr said that the Office of the Judicial Codes Counselor supports making no-contact orders mutually binding.
3. C. Riley said that he was concerned about revising the directive and that the parties may not have enough information on this directive.
 - a) M. Battaglia said that these are interim measures that are meant to be temporary.
4. R. Benseal said that he was concerned about a possible delay in settling this issue. He asked if it would be possible to have UHRB members to come and talk to the Committee and to postpone the discussion until such an interaction takes place.
 - a) M. Battaglia said that he has reached out to the UHRB chair, who will be able to attend the meeting on March 21.
5. V. Price asked if there would be a way to let the UHRB know in advance to be able to conduct research about the issue.
 - a) M. Battaglia said that he will provide a summary of what the Committee was looking at in the fall, and will send out an email to the members' listserve.
6. D. Barbaria – point of information – whether it would be possible to have eight separate resolutions in order to tackle more controversial issues separately.
 - a) M. Battaglia said that would be possible.
- f. M. Battaglia reviewed how individuals would be removed from the UHRB. He said that the new proposal would require a $\frac{2}{3}$ vote to remove someone from the Board and that the CJC will be notified of reasons for removal. He added that this new proposal was based on prior discussions within the Committee.
 1. R. Benseal asked how many people have been removed so far.
 - a) M. Battaglia said that there is currently an ambiguity in the process that makes it difficult to remove individuals from the Board. He said that the procedure is currently in a “limbo”.
 2. V. Price asked what the process for voting would be for removing members.
 - a) M. Battaglia said that a $\frac{2}{3}$ vote would be required and that there would not be a specified method of voting. He said that the Board would be required to contact the Committee for clarification on their procedures.
 3. R. Benseal asked why it would be necessary to involve other Chairs if the matter would come to the Committee anyway.
 - a) M. Battaglia said that University Assembly currently approves every member of the Board and that the matter would eventually end up for discussion within the Committee.
- g. M. Horvath made a motion to extend the meeting to 5:52pm.
 1. The motion was **approved** by unanimous consent.
- h. M. Battaglia provided context on the new proposed language concerning Hearing Board oversight. He said that records from last year raised concerns about the Hearing Board and its procedures, which contain language that may appear to conflict with the Code. He said that the proposed language would require the Hearing Board to bring forth any changes made to the Committee, in which the Committee may opt to disprove such changes. He said that the 5th point gives the Committee the ability to modify procedures by a vote if it sees so fit

1. M. Horvath said that the 1st point makes sense, and that the procedures already ensure that they do not conflict with provisions of the Code. She said that the proposal is confusing and difficult to read and she believes that there needs to be a reworking of the language for more clarification. She said that it would be better to have changes in rules and procedures proposed by a set date, rather than changes to the procedure itself.
2. R. Bensei said that the Board should be provided with a floor to be able to comment on all three proposals that concern them. He said that this would aid in understanding what the UHRB does and how the Committee could help.
3. M. Horvath said that there are challenges in publicizing these issues to the community and that the Committee needs to follow the appropriate publicity requirements.

- iii. For Discussion: Current Status of the Greek Judicial System at Cornell
 - a. Tabled to the next meeting.
- iv. Update Concerning: UA Resolution #5 Bylaws Change Clarifying the Charge of the Codes & Judicial Committee
 - a. Tabled to the next meeting.
- v. For Discussion: University Hearing and Review Boards Staffing Update and Discussion
 - a. Tabled to the next meeting.
- vi. For Discussion: Discussing recent Department of Education Policy Shifts, our Quantum of Proof, Policy 6.4, Selection Questions, and the Complainants Advisor
 - a. Tabled to the next meeting.

IV. Adjournment

- i. Adjournment
 - a. The meeting was adjourned at 5:53pm.

Respectfully submitted,
Dongyeon (Margaret) Lee
Clerk of the Assembly