



Cornell University
University Assembly

109 Day Hall
Ithaca, NY 14853
p. 607.255.3175
f. 607.255.2182
e. assembly@cornell.edu
w. <http://assembly.cornell.edu>

Minutes

Codes and Judicial Committee

University Assembly

April 25th, 2018

4:30pm – 5:45pm

163 Day Hall

I. Call to Order (Chair)

a. Call to Order

- i. M. Battaglia called the meeting to order at 4:38pm, at which point there were not enough members to reach a quorum. The Committee moved into an informal discussion on the Working Group, Judicial Administrator re-appointment process, University Hearing and Review Boards staffing, housekeeping amendments to the Campus Code, and Policy 6.4.

b. Roll Call

- i. *Present:* K. Ashford, D. Barbaria, M. Battaglia, R. Bensel, M. Horvath, K. Karr, R. Lieberwitz, V. Price, E. Winarto
- ii. *Absent:* G. Kaufman, J. Kruser, D. Putnam, C. Riley, K. Zoner
- iii. *Others Present:* M. Lee, C. Liang

II. Business of the Day

a. Working Group Update

- i. M. Battaglia said that the Working Group will be meeting on Thursday, April 26th at 231 Ives Hall to discuss internal suggestions and matters pertaining to the transparency of the Code. He added that forums will be held on Friday the 27th and Monday the 30th, and that the Group expects to have a concrete set of proposals ready for the Committee in the last meeting.

b. For Discussion: Proposed Changes to the Judicial Administrator Re-Appointment Process

- i. M. Battaglia said that G. Kaufman, J. Kruser and himself will be meeting with the administration on Friday the 27th to discuss the direction of the CJC.

c. For Discussion: University Hearing and Review Boards Staffing Update

- i. M. Battaglia thanked E. Winarto and V. Price for joining him in reviewing University Hearing and Review Boards (UHRB) applications. He noted that there was a lower number of applicants than usual most likely because the application had gone out late and

at the time of Student Assembly elections. He said that he is currently waiting on the Office of the Assemblies (OA) to provide a coder key and follow up with procedures to schedule interviews. He said that it is crucial to have a fully staffed Board for the upcoming academic year.

- ii. M. Horvath asked what M. Battaglia meant by a “coder key”.
 - 1. M. Battaglia said that the Committee used to have a formal subcommittee that reviews applications as they came in, but the OA decided to anonymize them two years ago. He said that it has been difficult to obtain applicants’ random number (i.e. coder key) and contact them regarding interviews and further steps in the application process.
- iii. C. Liang asked whether selection determinations were made when subcommittees reach out to applicants.
 - 1. M. Battaglia said that applicants have been ranked and the Committee is following up to receive clarification on responses.
- iv. C. Liang asked if anyone has ever seen the rankings.
 - 1. M. Battaglia said that rankings are known internally within the committee.
- v. M. Horvath asked whether current UHRB members reapplied to serve on the Board.
 - 1. M. Battaglia said that the Code does not prohibit renewing current members, but that the University Assembly (UA) must confirm.
 - 2. M. Horvath expressed concerns on not having existing members go through the current application process, but stated her trust in the Committee’s judgment.
 - 3. D. Barbaria said that he doesn’t see following prior precedent to be problematic, but does see possible concerns and noted that is why the Committee is codifying the process.
 - 4. M. Battaglia said that there needs to be clarification in the Code as it affects the integrity of the process.
 - 5. M. Horvath said that “apply” could refer to continuing application, and expressed concerns that someone could challenge the Committee’s decision.
- d. Update Concerning the Previously Passed Housekeeping Amendments to the Campus Code
 - i. M. Battaglia said that the UA passed Resolution #4 in the Fall, which included Code amendments. He said that the administration was primarily concerned about lack of community engagement and notice, which was why public office hours were held last week. He noted that a public comment box has been circulated, and that the Committee is searching for ways to increase outreach to gather input from the community. He added that it is not a problem if members from the community are not interested in commenting, so long as they have been given the opportunity to do so.
 - ii. M. Horvath asked if the Committee would be interested in placing an advertisement in the Cornell Daily Sun as this would be another way to demonstrate good faith effort in soliciting public comment about the Code.
 - 1. M. Battaglia said that he will make use of this after checking on the Committee’s budget.
 - iii. C. Liang asked what happens to the public comments received.

1. M. Battaglia said that comments received through the online anonymous system will be publicly provided.
- iv. M. Horvath asked whether this anonymous site is affiliated with the UA.
 1. M. Battaglia said that it is a third-party service because the OA website is not set up to collect comments anonymously.
 2. M. Horvath asked who has administrative access to this site.
 - a. M. Battaglia said that he is the owner, and would be happy to share access to Committee members.
 - b. M. Horvath said that it would be beneficial for more people to have access to ensure transparency.
- e. For Discussion: Discussing recent Department of Education Policy Shifts, our Quantum of Proof, Policy 6.4, Selection Questions, and the Complainants Advisor
 - i. M. Battaglia said that the revised Policy 6.4 hearing panel questionnaire was based on comments from two meetings ago. He noted major changes included changing “accused” to respondent”, framing questions as less anti-administrative, and combining two of the questions together.
 - ii. M. Battaglia said that a new Title IX Coordinator has been hired and she will be receiving a copy of the document once she is more settled in.
 - iii. V. Price proposed to have a suggested or minimum word count added to each question.
 - iv. E. Winarto asked what was difference between Question 4 and 13.
 1. M. Battaglia noted that they were rather similar.
 - v. R. Lieberwitz entered the meeting.
 - vi. M. Battaglia responded to K. Karr’s question from last week about how Policy 6.4 members are removed. He said that the Title IX Office is currently researching because they do not have an answer to the question.
 - vii. R. Bensel entered the meeting.
 1. M. Battaglia noted that the Committee has now reached a quorum.
 - viii. K. Karr noted a typographical error in Question 3, where “and” was placed before the word “individual” instead of “an”.
 - ix. K. Karr noted another typographical error in Question 5, where “effect” should be changed to “affect”.
 - x. V. Price said that it could be beneficial to have a hypothetical question like Question 4 just as there is one in the UHRB application questions.
 1. K. Karr noted that the hypothetical situation in Question 4 does not accurately depict how Policy 6.4 actually works.
 2. V. Price suggested rewriting Question 13 in the form of a hypothetical. She said that doing so could provide further clarification on procedures.
 - a. The motion was adopted by unanimous consent.
 - xi. D. Barbaria said that Question 6a should be broken up into different categories.
 1. M. Battaglia said that he could simplify the language of the question.
 2. R. Bensel proposed altering the question to a more direct format such as “Could

you be impartial and dispassionate in cases involving [categories]”.

3. M. Battaglia said that he will simplify and flip the language of Question 6a.
- xii. M. Battaglia said that the Committee could send the revised Policy 6.4 selection questions as an internal document, or bring it in as a formal resolution to the UA.
 1. K. Karr suggested to send as an informal document.
 - a. The motion was approved by unanimous consent.

III. Approval of Minutes (Chair)

- a. April 11, 2018
- b. April 18, 2018
 - i. R. Bensel motioned to approve both minutes.
 1. Minutes approved by unanimous consent.

IV. Business of the Day (cont.)

- a. For Discussion: Proposed Changes to the Judicial Administrator Re-Appointment Process
 - i. M. Battaglia said that there are two separate versions to the proposed changes because he is working with the administration on modifications. He noted a concern from last week’s UA meeting in which an individual would make an irrelevant motion in every meeting. He said that he will take steps as necessary according to a provision in the Robert’s Rules of Order that gives chairs the discretion to decline motions that disrupt, and discipline or expel individuals if such practice is continued.
 - ii. M. Battaglia said that the administration’s language makes several changes to the regular Judicial Administrator (JA) search process. He said that the biggest one changes the composition of the JA search committee to 7 members (4 UA and 3 administration members) instead of 6 members.
 - iii. M. Battaglia said that the goal is to have this process completed by the end of the semester. He noted that he may need to call an emergency meeting if not done so.
 - iv. D. Barbaria asked how the UA would pass a resolution that is passed in an emergency meeting.
 1. M. Battaglia said that the UA has been briefed on the issue and that the hope is to have a rough integration of both versions.
 - v. D. Barbaria asked what would happen if the document does not get passed by the last UA meeting.
 1. M. Battaglia said that if not passed by the last meeting in May, the UA can also hold an emergency meeting. He said that it is already on the UA agenda and if not passed by next Wednesday, it is likely that an emergency meeting will be held.
 - vi. M. Horvath suggested seeking feedback from other constituents such as the Hearing Board chairs.
 - vii. R. Lieberwitz asked whether Section 5b from the administration’s version of the draft language for JA reappointment is already included in the Committee’s version.
 1. M. Battaglia said that the administration’s version of the draft language is an expansion of the President’s authority.

2. R. Lieberwitz expressed her concern over whether it would be problematic to give more authority to the President.
 - a. M. Battaglia noted that the President has taken a more hands-off approach on this matter.
- viii. M. Horvath expressed her approval of the provision from 5b of the administration's version of the draft language. She said that the new document is a nice compromise in allowing the President to recommend reappointment of the JA.
 1. R. Bensel agreed with M. Horvath.
- ix. R. Bensel asked for M. Horvath's opinion on the administration's draft version of JA reappointment procedures.
 1. M. Horvath said that the administration's version settles some of the concerns raised by the Committee. She noted that this new proposed draft allows for more privacy for a JA that has no advocate for him or herself.
 - a. M. Battaglia noted that his intent on drafting the Committee's proposed language for JA reappointment was not meant to make the JA's position completely public and that the Committee is free to amend the entire document.
- x. R. Bensel suggested sending the administration's draft version straight to the UA without further amendments if the Committee does not have any further issues.
- xi. D. Barbaria noted that the Committee agreed at last week's meeting to have a two-thirds vote rather than a majority vote, in reference to Section 5a of the administration's draft version.
 1. M. Battaglia said that the administration has asked to meet again to talk about their rationale.
- xii. R. Lieberwitz expressed concerns about the administration's proposed change of increasing the number of JA search committee members to include 3 instead of 2 members from the administration.
- xiii. M. Horvath made a motion to extend the meeting for 30 minutes.
 1. Motion **passed** by unanimous consent.
- xiv. R. Bensel echoed R. Lieberwitz's concerns on the administration's proposal to increase the number of members from administration on the JA search committee.
- xv. M. Battaglia said that historically the 4-2 committee composition worked fine, in which 2 members from administration (1 from HR, 1 from the President's office) were placed on the JA search committee. He noted that the provisions should not be too onerous, but should also set a high enough bar in ensuring that the JA fulfills their position.
- xvi. M. Horvath asked if there was anything that M. Battaglia would mention in his meeting with the administration on Friday, April 27th that he has not discussed in the meeting yet.
 1. M. Battaglia noted that there was nothing exceptional he has not gone over in this meeting. He said that he will go through the provisions line by line to ensure nothing is missing.
- xvii. R. Bensel asked if the Committee would be able to get the draft language to the UA within the next meeting.

1. M. Battaglia said that the Committee should be able to get it done as it is nearing completion.
- xviii. M. Battaglia said that the Committee could borrow language from the administration if needed, and noted the Committee's intent to bring full disclosure to the matter.
- xix. R. Lieberwitz asked who the chair of the JA search committee would be.
 1. M. Battaglia said that there is no language in the provision about whether there will be a chair or not, but his understanding is that the administration intends to have some form of a check.
 2. R. Lieberwitz expressed her belief that it is in the best interest of the JA search committee to keep its composition to 6 members as is.
- b. For Discussion: Codifying Prior Practices for UHRB Staffing
 - i. M. Battaglia noted that the language written in red from Appendix A has not been discussed in prior meetings. He said that he has attempted to clarify issues that have arisen from previous discussions.
 - ii. R. Bensel asked what the current pool size is for the applicants, referring to lines 131-134 that indicate applications could be opened up in the fall semester should there be enough vacancies.
 1. M. Battaglia said that the UHRB had 27 applicants, but hopes to have 20 more serve on the Board. He added that the Code currently has no guidance on when the Committee solicits applications, and that he aims for both flexibility and codification.
 - iii. R. Lieberwitz noted that there was a typographical error in line 121, in which "prove" should be changed to "provide". She expressed her approval of the document.
 - iv. V. Price asked why the Committee needs to undergo this procedure every year. She expressed concerns about how the Code could be interpreted differently depending on who becomes the Committee Chair.
 1. M. Battaglia said that he fully agrees with her, and that discussions are currently ongoing.
 - v. D. Barbaria asked what the UA's procedure was for amending bylaws.
 1. M. Battaglia said that the amendments need to first be introduced in a meeting before adoption. He added that Appendix A has already been introduced in the UA meeting.
- c. For Discussion: Reorganization of the Code Update and UHRB Hearing/Sanctioning Guidelines
 - i. M. Horvath provided context on the 2012 suggested sanction guidelines document and the hearing board sanctioning guide. She said that the 2012 document outlines the sanction philosophy at that time while the second document retains the actual language of sanctions, which has a list of all the sanctions in the order of the Code.
 - ii. K. Karr expressed her approval for the latter document as it is providing options rather than mandating actions. She expressed concerns about the 2012 version.
 - iii. R. Bensel asked for further clarification and background on these two documents.
 1. M. Battaglia said that concerns have been raised regarding the current UHRB procedures and about providing more guidance to the Hearing Boards. He added

that the documents allow for procedural processes to be improved.

- iv. R. Bensel asked if there were ways in which the Committee could help the Hearing Board Chairs.
 - 1. M. Battaglia said that the amendments passed through the Committee give it the authority to propose changes.
- v. M. Horvath said that the UHRB Administrative Chair Joel Cisne will craft an email to all Hearing Board members with the intention to come and ask the Committee for help.
- vi. R. Lieberwitz asked if the Code of Conduct sanctioning guide is a publicly available document.
 - 1. M. Horvath said that it is now publicly available since it would be reflected in the current minutes.
- vii. R. Lieberwitz said that this document could be useful for the public to understand how the sanctioning process works.

V. Adjournment (Chair)

- a. The meeting was adjourned at 6:32pm.

Respectfully submitted,

Dongyeon (Margaret) Lee
Codes and Judicial Committee Clerk