



# Cornell University University Assembly

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

## Minutes

Codes and Judicial Committee  
University Assembly  
April 30th, 2019  
4:45pm – 6:00pm  
Day Hall Room 316

### I. Call to Order

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

### II. Approval of Minutes

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

### III. Business of the Day

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

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

1. Motion **approved** by unanimous consent.
- xviii. D. Barbaria opened the floor for discussion on whether the Committee should send a draft of the Code for the administration to review over the summer.
- xix. M. Horvath asked whether there were suggestions on who the administration would be.
1. D. Barbaria said that this process would be more of a request than a formal order.
- xx. D. Barbaria asked if Committee members have suggestions on specific offices to share the draft with.
1. M. Battaglia suggested the Counsel's office. He said that the University Counsel has been involved with this process even though he is not necessarily in agreement with all of their work. He also suggested sending a draft to the President.
- xxi. M. Horvath said that one of the frustrations of this process is that the Office of the Judicial Administration (OJA) hasn't been consulted. She said that there appears to be a sense of fundamental distrust towards the OJA despite it following the Code exactly and ensuring that checks and balances are at work. She said that as the office that sees 600-700 cases a year and deals most closely with the Code, they were never consulted on the gaps in the Code.
1. M. Battaglia agreed that the JA should be included in the discussions. He said that regarding distrust of the office, members of the community seem to have a general distrust in authority.
  2. M. Horvath said that she has stressed the need to include all important information in the Code itself and not just in the footnotes. She said that in her conversations with M. Battaglia, they were general meetings without discussions on the specifics of Code changes.
  3. M. Battaglia said that he disagrees and that he remembers having detailed conversations about the Code.
  4. S. Vura motioned to have this conversation stricken from the record.
    - a. S. Vura **withdrew** his motion.
  5. R. Parker said that he agrees with M. Horvath that changes to the Code are necessary.
  6. D. Barbaria said that the Committee could be more effective if it were a review board rather than the actual drafters of the revisions. He said that the Committee is comprised of those who have expertise in identifying what is best for the community rather than dealing with legality.
- xxii. A. Brooks asked, in response to D. Barbaria's suggestion, whether this would mean that the CJC would not be the one that revises the Code moving forward.
1. D. Barbaria said that the CJC will still be finalizing the amendments to the Code. He said that going back and forth based on M. Battaglia's suggestions has made it impossible to amend the Code as the Committee did not have the language to have a formal debate.
- xxiii. D. Barbaria said that when the Committee returns in the Fall, it should be able to make decisions on revisions.
- xxiv. M. Battaglia said that the Committee may require another working group

moving forward. He recommended having a subset of committee review Code revisions in the next school year. In response to A. Brooks, he said that the letter to the administration would entail an outline of where the Committee is heading and what the Committee is asking from them in order to return to this discussion in the Fall.

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

most important parts of document as it outlines the university's values.

- ii. M. Battaglia said that he received feedback from some members of the community indicating their appreciation for this section.
- iii. K. Kebbeh asked whether this section would be discussed as a part of the ongoing Code revisions.
  1. D. Barbaria said that the Committee should decide on whether to include the section in the draft to have it as a separate document.
- iv. M. Battaglia said that he sees little harm in including it and that the university's values are important, although the language should be edited.
- v. D. Barbaria asked whether the section should be included in the current draft of the revised Code.
  1. R. Bensel said that although the current language is imperfect, he would prefer that it is included in the draft as a part of the introductory section of the Code.
  2. D. Barbaria said that he will include the values section in the draft, with no objections from the Committee.
- vi. D. Barbaria said that he will send the draft of the revised Code of Conduct as it currently stands with other ideas ready for the Committee to be able to vote on in the Fall.
- vii. M. Horvath said that seeking an outside consultant with a legal background or experience with higher education may be helpful in gathering additional perspectives to draft the revised Code.
- viii. M. Battaglia said that hiring outside consultants should be done with caution as best practices are informative but not always most pertinent. He said that the university's Code and history are unique from that of peer institutions.
- ix. R. Bensel asked when the UA's last meeting is.
  1. M. Battaglia said that the last one will be on the following Tuesday, but an additional meeting could be added.

c. Closing Remarks

- i. M. Battaglia thanked members of the committee for the rigorous discussions and their service to the community.
- ii. D. Barbaria strongly encouraged members to serve again in the following term.
- iii. R. Bensel thanked D. Barbaria for taking on the duty of chairing the CJC.

## IV. Adjournment

a. Adjournment

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

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