



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
October 7th, 2019
1:00pm – 2:30pm
701 Clark Hall

I. Call to Order

- a. Call to Order
 - i. R. Bensel chaired the meeting in lieu of L. Kenney's absence.
 - ii. R. Bensel called the meeting to order at 1:06pm.
- b. Roll Call
 - i. *Present:* J. Anderson, R. Bensel, J. Bogdanowicz, M. Hatch, R. Lieberwitz, G. Martin, J. Michael, L. Taylor
 - ii. *Absent:* L. Kenney, K. Wondimu
 - iii. *Others Present:* G. Giambattista, E. Kim, M. Lee, M. O'Gara

II. Approval of Minutes

- a. September 30, 2019
 - i. M. Hatch moved to approve the minutes.
 1. Minutes **approved** by unanimous consent.

III. Business of the Day

- a. Updates from the October 1, 2019 University Assembly (UA) meeting
 - i. R. Bensel briefed the Committee on the UA meeting. He said that the first portion included a presentation and Q&A session with President Pollock, where she acknowledged that the student Code would be a part of the broader Campus Code of Conduct, and that it would be acceptable to continue work on the Code as long as the Committee is making substantial reasonable progress.
 - ii. R. Bensel said that the second portion of meeting, in which the UA discussed the two resolutions proposed by the Codes and Judicial Committee (CJC), was more contentious. He said that the resolution on the scope of the CJC's consideration of the Code was tabled indefinitely, although basic principles had been agreed by the President in the Q&A

session.

- iii. M. Hatch said that in response to questions on the presidential task to the CJC, the President stated that she had already provided documents in April 2019 and August 2018 outlining her requests.
 - iv. R. Bensel asked M. Lee to contact L. Kenney to distribute the memos to the rest of the Committee.
 - v. R. Lieberwitz asked if members who attended felt that everyone in the meeting understood that it is the CJC's choice on whether and how to amend the current Code, including whether to work on a student Code and how much of the University Counsel's draft to use.
 - vi. R. Bensel said that his understanding was that the President was quite open about the CJC's use of the Counsel's draft. He also noted that the issues surrounding the Office of the Judicial Administrator (JA) may be one area in which the CJC may be at odds with the President. He said that the Counsel's draft was unclear about where to place the JA's office and that the President's position was that it is difficult to recruit a JA without the job security of a more regular appointment.
 - vii. J. Anderson said that in terms of process and content, the President was forward about having a student Code and where she believes JA should be situated. He said, however, that when the President was asked about Greek life, she requested that the other issues be addressed first.
 - viii. M. Hatch said that the President encouraged the CJC to consult with the division of Student and Campus Life in the documents she had sent out. He also called the Committee's attention to K. Clermont's memorandum and said that while the memo may not be directly relevant to the President's visit, it is related to the Committee's current discussion on issues such as administering the Code and procedures.
 - ix. M. O'Gara said that she could also speak to those viewpoints if the Committee would like.
 - x. R. Lieberwitz raised a point of order, stating that the Committee should follow the agenda and that it seems premature to discuss the memo in this meeting.
- b. Campus Code of Conduct – Continuation of Recommendations
- i. R. Lieberwitz said that she liked R. Bensel's amended language for the second paragraph in the Principles and Values section ("Cornell's institutional agency [...] attacks on character"). She also suggested going through the current Code and highlighting what is or isn't included in the Counsel's draft.
 - ii. L. Taylor asked what the Committee would do to adopt the amended language if approved.
 - iii. R. Bensel said that the amended language would replace the pertinent paragraph from the Counsel's draft.

- iv. L. Taylor moved to adopt the language.
 1. Motion **approved** by a vote of 7-0-1.
- v. R. Lieberwitz suggested removing the next paragraph “The Student Code [...] educational mission”, from the Student Code for purposes of this draft, and putting it back into the Campus Code. She said that the general principles in this paragraph would be agreed upon by the campus and that the Principles and Values section should deal with entire Campus Code. She also proposed to amend “Student Code” to “Campus Code”.
- vi. L. Taylor said that she is unsure if she would agree because the Campus Code may not be the same in that particular respect. She said that employees would not be treated in the same way as students who should be able to “grow from personal mistakes”.
- vii. G. Michael said that the paragraph, in discussing opportunities for growth, is most pertinent to students.
- viii. M. Hatch asked if the Committee is working on this draft as a Student Code of Conduct.
- ix. R. Bensel said that his understanding is that the Committee is working on a Student Code and particularly on passages that apply to the Campus Code.
- x. M. Hatch asked if the Committee will not be working on the Campus Code for a while.
- xi. R. Bensel responded in the negative and said that the Committee is considering which elements of the Code will be in the Campus Code. He also said that if the Committee adopts R. Lieberwitz’s amendment, the paragraph would state “Campus Code” and would be included as a part of the greater Campus Code.
- xii. R. Lieberwitz **withdrew** her proposal. She said that it would be useful to identify which provisions should be applied more broadly as the Committee goes through each paragraph of the working draft.
- xiii. L. Taylor proposed to have “Cornell Student Code of Conduct” accepted as the subtitle.
- xiv. M. Hatch said that would be helpful.
- xv. R. Lieberwitz suggested identifying which paragraphs relate to the entire campus community instead.
- xvi. L. Taylor **withdrew** her motion.
- xvii. The Committee agreed that the first two paragraphs of the Principles and Values section would be flagged for consideration of whether they would apply campus-wide.
- xviii. L. Taylor moved to accept the language: “The Student Code [...] educational mission”.
 1. R. Lieberwitz suggested to leave a comment in the Google doc to consider whether this paragraph should be moved to a different

portion of the draft so that it doesn't interrupt the flow of principles that apply to everyone.

2. The language was adopted by a vote of 6-0-2.
- xix. L. Taylor moved to strike "enjoyment and" from the proposed language of the next paragraph, "The principle of freedom [...] violates this principle".
 1. Motion approved by unanimous consent.
- xx. L. Taylor moved to accept the proposed language.
 1. Motion approved by unanimous consent.
 2. The committee agreed that this paragraph would apply to everyone in the community.
- xxi. J. Anderson moved to accept the paragraph "Individual rights [...] university community" as amended.
 1. Motion approved by unanimous consent.
 2. The committee agreed that this paragraph would apply to everyone in the community.
- xxii. J. Anderson said that he likes the paragraph, "When individuals [...] imposition of sanctions", but it would only be included in the student portion of the Code if accepted.
- xxiii. R. Lieberwitz said that principles of due process and fair procedures in enforcement of the Code is not explicit. She said that a general due process for enforcing rights would apply to everyone.
- xxiv. L. Taylor suggested to add that to the amended paragraph.
- xxv. Motion to accept the paragraph, "When individuals [...] imposition of sanctions" approved by a vote of 5-0-3.
- xxvi. J. Michael asked if the Committee has the power to decide where the JA reports to.
- xxvii. J. Anderson replied in the affirmative.
- xxviii. R. BenseL said that adopting the language in the paragraph, "Administration of the Code [...] employees of the university" would not change the current status quo.
- xxix. J. Michael asked if the President has requested the Committee to change that.
- xxx. R. BenseL responded in the affirmative.
- xxxi. J. Anderson said that issues regarding the JA should be in the scope section instead of the principles and values section.
- xxxii. J. Michael asked if the Committee would be changing the name of the Office of the Judicial Administrator to Office of Student Conduct.
- xxxiii. J. Anderson said that the latter naming convention is more common in other institutions.
- xxxiv. R. Lieberwitz said that the current discussion does not involve a basic

principle. She also said that the Committee should flag the content and have a separate discussion in full later on.

- xxxv. M. Hatch asked if R. Lieberwitz is saying that both the original version from the Counsel's draft and R. Bense's proposed amendment are not pertinent for the time being.
- xxxvi. R. Lieberwitz replied in the affirmative.
- xxxvii. M. Hatch moved to remove the language from the document and discuss later.
- xxxviii. R. Lieberwitz said that the Committee should recognize it and come back to it later on. R. Lieberwitz moved to vote on relocating the paragraph to another section and return to discussion of the content later on.
 - 1. Motion **approved** by a vote of 7-0-1.
- xxxix. R. Bense said that core values would apply to everyone, in response to M. Horvath's comment, "As noted, I think that the newly announced values should be included here".
 - 1. The Committee agreed that core values should be in the overarching Campus Code.
- xl. R. Lieberwitz said that the paragraph, "The Code does not govern [...] civil statute(s) and ordinances", requires further amendment. She said that having concurrent criminal prosecutions and Code procedures may prevent individuals from participating if what they say could be used against them.
- xli. R. Bense said that this paragraph should be moved to the procedural section.
- xlii. R. Lieberwitz suggested to leave a comment that that the Committee would reconsider this process and discuss content at a later time.
- xliii. J. Michael said that the Committee should aim to minimize legalistic language.
- xliv. R. Bense suggested using "concurrent processes" instead of "concurrent prosecutions".
- xlv. L. Taylor asked if the Committee could discuss delegation of tasks over email.
- xlvi. R. Bense said that M. Lee should inform L. Kenney to assign tasks to members for the procedural section.
- xlvii. J. Anderson moved to accept "The university has long affirmed [...] Campus Code of Conduct".
 - 1. Motion **approved** by a vote of 7-0-1.
- xlviii. R. Lieberwitz asked if the Committee would continue flagging what applies to everyone in the campus community.
- xlix. J. Anderson suggested doing so after going through "The Commitment to Responsible Speech and Expression" subsection.

1. R. Lieberwitz said that it would be useful to compare the language in the subsection with what is in the current Campus Code.
- li. J. Anderson said that the provision in “Subject to certain source of funding requirements [...] inviting organization” would be necessary, in response to R. Lieberwitz’s comment on the Google document. He said that this is important from a student activity fee perspective.
- lii. M. Hatch said that the phrase “on Cornell-owned property” would suggest that off-campus student groups could hold closed meetings, but not with student activity funds.
- liii. J. Bogdanowicz said that the sentence, “Only members of the Cornell community or permitted users may hold or host events on Cornell-owned property” is also in the current Code.
- liv. R. Lieberwitz said that she was merely raising an issue and that she believes the language should remain in the current draft. She also moved to remove the hyperlink included in the paragraph.
 1. J. Anderson agreed and said that the Committee should flag the link and take relevant information from it.
 2. Motion to remove the link **approved** by a vote of 6-1-1.
 3. J. Michael said that she only voted against the motion because the website version has informative policies in writing and she is unsure of why there is an aversion to a link.
 4. R. Lieberwitz said that in her experience with regulations, substantively contradictory material can be added in later on, which would raise debates.
 5. R. Bensel agreed and said that links could change.
- lv. R. Lieberwitz suggested to strike “within commonly accepted limits of safety and civility”.
- lvi. L. Taylor said that the phrasing of “commonly accepted limits of safety and civility” is vague and questioned who would decide what it means.
- lvii. R. Bensel said that “accepted limits of safety and civility” could be too narrowly restricting.
- lviii. R. Lieberwitz said that defining unprotected expression should be specific and clear enough to be able to identify what they would be. She said that an unknown constituent should not be deciding what would be considered commonly accepted limits.
- lix. M. Hatch suggested striking the paragraph as it is irrelevant to the statement of values that the Committee is currently working on.
- lx. R. Bensel said that the Committee should first vote on whether to strike the paragraph.
- lxi. R. Lieberwitz said that she understands the reasoning for striking the paragraph but noted that it is a fundamental point. She said that it should be

introduced by a reaffirmation of freedom of expression.

- lxii. J. Michael suggested tabling this discussion.
- lxiii. R. Bensel said that the Committee is concluding meeting with M. Hatch's motion to amend R. Lieberwitz's motion.

IV. Adjournment

- a. Adjournment
 - i. J. Michael moved to adjourn the meeting.
 - ii. The meeting was adjourned at 2:34pm.

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