



Cornell University
University Assembly

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Minutes

Codes and Judicial Committee
University Assembly
November 25th, 2019
1:00pm – 2:30pm
B12 Day Hall

I. Call to Order

- a. Roll Call
 - i. *Present:* J. Anderson, R. Bensel, L. Kenney, R. Lieberwitz, A. Llinas Vahos, G. Martin, J. Michael, L. Taylor, K. Wondimu
 - ii. *Absent:* J. Bogdanowicz
 - iii. *Others Present:* G. Giambattista, M. Horvath, M. O’Gara

II. Approval of Minutes

- a. November 11, 2019
- b. November 18, 2019
 - i. Minutes **approved** by unanimous consent.

III. Business of the Day

- a. Discussion on the JCC Comments
 - i. M. O’Gara provided an overview of the attachment provided by the Office of the Judicial Codes Counselor (JCC) to the Committee, which provides their perspective on parts of the draft Code revisions that relate to their role. She said that it is important that the JCC retains the ability to speak on students’ behalf to ensure equity in the process. She said that her understanding is that the Office of the Judicial Administrator (JA) is also supportive of this.
 - ii. R. Bensel said that he appreciates the comments provided by the JCCs.
 - iii. L. Taylor agreed.
 - iv. M. Horvath said that she hopes that the Codes and Judicial Committee (CJC) would be an advocate of supporting the JCC’s recommendations that both complainant and respondent representation should be extended to the Code process.
 - v. R. Lieberwitz asked if the comments were specific to the procedural section

of the Code, which the Committee has not discussed yet.

- vi. M. O’Gara responded in the affirmative.
 - vii. J. Anderson said that the University Assembly’s (UA) ability to oversee the JCC but not who becomes the complainant’s advisor is concerning. He said that the Committee and JCCs should consider how processes can be fair for both complainants and respondents if complainant’s advisors are not vetted under the UA charter in the same way that the JCCs are.
 - viii. M. O’Gara asked what the President’s reasoning was behind rejecting the 2018 resolution to grant the UA the authority to screen complainant’s advisors under its charter.
 - ix. J. Anderson said that the resolution may have been sent in too hastily, but he wanted to bring this issue up as a point of concern. He also asked if it would be appropriate for the JCCs to continue representing staff and faculty, instead of having a separate office for non-students. He said that it concerns him that the JCC would focus on student conduct processes but would still be delegated the role of dealing with faculty and staff for Policy 6.4 related cases.
 - x. M. O’Gara said that the Office of the JCC serves as a resource for faculty and staff to ensure a fair process, but the issue does not arise frequently. She said that procedures for the Code and Policy 6.4 are different and as such she believes that it would not be necessary that they be treated the same way. She also said that the JCCs should serve as a resource available to ensure an equitable process.
 - xi. R. Bensel said that the Committee should revisit the workload for JCCs when it discusses the procedural section.
 - xii. R. Lieberwitz said that she hopes that more work will be done to ensure adequate representation for everyone involved with the process.
 - xiii. L. Kenney thanked the JCCs for raising important issues of concern.
- b. Campus Code of Conduct – Continuation of Work
- i. R. Bensel said that he has yet to receive a response from the administration regarding policies on the display of posters and symbolic structures.
 - ii. R. Lieberwitz said that she proposed an aspirational tone of what “the inviting group should seek to” do rather than what they shouldn’t do in the subsection concerning Public Speaking Events on campus.
 - iii. M. Horvath said that the moderator would be responsible in ensuring that a broad range of responses are made available in a Q&A session. She recommended that the Committee observe the language in the original Code when it comes to First Amendment issues.
 - iv. R. Bensel said that retaining an aspirational provision may be better for an organization.
 - v. J. Anderson said that setting an aspirational tone would mean that it would

- not be considered a violation even if an organization were not following what was written in the Code.
- vi. R. Bensel moved to adopt the amended language on the Public Speaking Events on Campus subsection.
 - 1. Motion **approved** by unanimous consent.
 - vii. The Committee agreed to adopt “seriously disrupt the speech” instead of “substantially disrupt the speech” in the third paragraph under the subsection on Public Speaking Events on Campus.
 - viii. The Committee agreed to add language from the current Code for the Protests and Demonstrations section.
 - 1. Motion **approved** by unanimous consent.
 - ix. The Committee discussed whether to remove the second paragraph in the Scope of Presidential Responsibility section.
 - 1. J. Anderson said that he believes the paragraph should be retained in that the President should take responsibility to protect the welfare of the overall campus community.
 - 2. R. Lieberwitz said that she also believes that the provision should be kept as it concerns individual conduct beyond speech.
 - 3. R. Bensel said that granting the President the authority to have control over some individual may not be favorable.
 - 4. L. Taylor said that the provision would allow the President to be involved with cases anywhere with anybody.
 - 5. M. Horvath said Title IV technically allows the President to adjudicate cases for any individual on campus. She said that issues concerning public order may be better dealt with under the appropriate respective provisions.
 - 6. R. Lieberwitz said that she would agree with removing the paragraph considering that the current placement could be unsuitable.
 - 7. R. Bensel moved to remove the paragraph.
 - a. Motion **approved**.
 - x. The Committee had no objections to replace “academic activities” with “University activities” under the second paragraph of Section II, subsection 1.3.
 - xi. M. Horvath said that in Section III, subsection A: Code Provisions Covering Student Conduct, she is not in support of the language “Determination of whether conduct is subject to this Code will be made by the Judicial Administrator in consultation with the Dean of Students and Codes and Judicial Committee,” as this is a radical change. She also said that the issue on fraternities and sororities has not yet been discussed in depth.
 - xii. J. Anderson said that he would be supportive of the CJC’s involvement in the case of an extreme conduct violation. He said that he is not in support of

- bringing fraternities and sororities under the Code at this time.
- xiii. M. Horvath said that the language as written makes it sound as if every conduct violation needs to be consulted with the CJC. She also said that she believes that the standard of proof should be lowered to preponderance of evidence, which is in line with best practices and to ensure a safe campus environment.
 - xiv. R. Bensel and M. O’Gara said that they would be opposed to lowering the burden of proof.
 - xv. R. Lieberwitz said that considering the independence of the Judicial Administrator, the language should be eliminated as written.
 - xvi. J. Anderson said that she agrees with M. Horvath in that the standard of proof should be lowered, which is why he does not support including fraternities and sororities in the Code at this time.
 - xvii. J. Michael said that having a high standard of proof would be difficult in a college environment.
 - xviii. J. Anderson said that he fundamentally believes that Greek life should be covered under the Code, but the Committee should first discuss and understand discrepancies around the current standard of proof and the Greek judicial system’s structure.
 - xix. M. Horvath said that usually in other campuses, Greek life is considered to be under the Code. She said that if Greek life were to come under the Code, they would be held accountable under Code provisions but can retain their own processes as they see fit for other peripheral issues such as, for example, recruitment.
 - xx. R. Lieberwitz said that she is in favor of a higher burden of proof.
 - xxi. G. Martin said that the discussion on fraternities and sororities is an important one that should not be pushed off for later revisions.
 - xxii. L. Kenney said that she agrees with other Committee members and believes that the sentence concerning Greek life could be left as written to see what the public thinks. She said that specifics could be revisited in the procedural section.
 - xxiii. The Committee agreed to keep the language concerning fraternities and sororities.
 - xxiv. R. Bensel moved to remove “in consultation with the Dean of Students and Codes and Judicial Committee”.
 - xxv. M. Horvath said that she added language in the working document from existing policies, which includes that the Code does not govern criminal conduct and that the ability to be a Cornell student is not a right. She also said that the section she added on transcript notations was taken directly from the Registrar’s page, and she added temporary transcript notation from the current Code.

- xxvi. R. Lieberwitz said that she does not agree with the language that the ability to be a Cornell student is not a right.
- xxvii. G. Martin moved that the Committee meet on Monday, December 2 from 10am – 1pm before the next UA meeting on December 3.
 - 1. Motion **approved** by unanimous consent.
- xxviii. L. Kenney requested that members note any changes or comments in the document in case they are unable to attend the next meeting.

IV. Adjournment

- a. Adjournment
 - i. The meeting was adjourned at 2:35pm.

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