



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
December 9th, 2019
11:30am – 2:30pm
305 Day Hall

I. Call to Order

- a. Call to Order
 - i. L. Kenney called the meeting to order at 11:39am.
- b. Roll Call
 - i. *Present:* J. Anderson, R. Bensel, J. Bogdanowicz, L. Kenney, R. Lieberwitz, G. Martin, J. Michael, L. Taylor, K. Wondimu
 - ii. *Others Present:* M. Horvath, M. Lee, W. Treat

II. Approval of Minutes

- a. November 25, 2019
 - i. M. Horvath requested that the minutes accurately represent her view on the burden of proof. She said that the burden of proof would need to be changed if Greek life comes under the Code.
 - ii. R. Bensel moved to approve the minutes with amendments.
 1. Minutes **approved** by unanimous consent.

III. Business of the Day

- a. Campus Code of Conduct – completion of first draft section
 - i. L. Kenney said that President Pollack requested the Committee to send the draft today, as she will be meeting with the Board of Trustees.
 - ii. R. Bensel said that an update of the CJC's activities was presented to the UA, and there is nothing major to report from the meeting.
 - iii. R. Bensel said that he hopes that the Code incorporates a passage that allows for the CJC to review and comment on the enforcement of poster regulations, as posters and displays are a form of free speech. He said that the university does not seem to currently have any policies on this matter. He said that he would like for the Committee to have the capacity to review cases of free speech infringement concerning posters and displays.

- iv. M. Horvath said that the Committee seems to share concerns about the procedural section, and that a firm deadline should be set for this section. She also said that based on discussions with the Judicial Codes Counselors (JCC), the Office of the Judicial Administrator (JA) would be happy to review some recommendations and present suggestions for a substantive draft over winter break. She said that the Committee should also consider that the UA only meets once a month when assigning deadlines.
- v. L. Taylor moved that the Committee adopt R. Bensel's language for posters.
 - 1. J. Michael asked if this language would override any other existing provisions in, for example, residence halls.
 - 2. Motion **approved** by a vote of 6-0-1.
- vi. L. Kenney said that for this meeting, the Committee would vote on changes to the draft when there are substantive disagreements to continue moving forward.
- vii. R. Lieberwitz said that she added comments for areas to rework or shorten the language.
- viii. M. Horvath said that the goal of amendments to the Code is to have members of the community be able to read and understand their rights and responsibilities. She said that much of what is currently in the policies on university conduct regulation section is duplicative and harms readability.
- ix. R. Bensel said that concerning public law enforcement, prosecution would proceed anyway regardless of university conduct regulation.
 - 1. L. Taylor suggested adding "ordinarily" to R. Bensel's proposed language.
 - 2. M. Horvath said that it would be helpful to compare the draft she has with R. Bensel's proposed draft. She said that there are elements within the draft that would put the community at risk if the working draft is to be kept as is.
 - 3. R. Lieberwitz agreed with adding "ordinarily" as there may be some instances where it is difficult for an individual to participate in a conduct proceeding if they may be prosecuted for doing so.
 - 4. J. Michael said that the Code should not lose its ability when simultaneous proceedings take place and outcomes are different. She said that she would be comfortable with approving R. Bensel's language if it will be compared to a different draft.
 - 5. The Committee **adopted** the language by a vote of 6-1-0.
- x. R. Lieberwitz said that subsection c may now be redundant with R. Bensel's language.
- xi. R. Bensel said that the term "ordinarily" allows campus proceedings to take place especially when public proceedings often take a long time. He also said that a student may be reluctant to say anything in university

- proceedings until public proceedings are completed.
- xii. R. Lieberwitz said that when individuals are charged with a conduct violation on campus, they should be able to participate and defend themselves. She said that while this language would protect them, subsection c is redundant to subsection b.
 - xiii. L. Kenney said that she believes it is important to have things written out explicitly.
 - xiv. M. Horvath said that the Code is meant to protect the safety of the university community. She said that it is important for the university to be able to have educational interventions while protecting the campus community.
 - xv. L. Kenney asked if the Office of the JA would ever wait for criminal proceedings to be finalized before they get involved.
 - 1. M. Horvath said the Office would only do so if they are specifically requested by law enforcement to stop.
 - xvi. R. Lieberwitz said that regarding the statement that the “status of a Cornell student is not a right”, she disagrees.
 - 1. M. Horvath said that this concerns the bulk of what the Office of the JA deals with every day. She said that being a member of a community is not a right, and that the existing Code is so focused on respondents’ rights.
 - 2. J. Anderson said that being a student at this university is a privilege, not a right. He said he approves of the language but fears how it would be utilized.
 - 3. R. Lieberwitz said that she does not believe the language belongs in the section on other policies on the university’s role in public law enforcement.
 - 4. L. Kenney said that being a member on campus is not a right in itself, but the language probably belongs somewhere else.
 - 5. M. Horvath said that it would make sense to incorporate in the values section.
 - xvii. R. Lieberwitz said that having a more thoroughly outlined Code with lengthier language safeguards people’s rights and gives the university concurrent jurisdiction as appropriate.
 - xviii. M. Horvath said that punishment is not the goal of the Code. She said that it doesn’t make sense from a pedagogical or safety point of view for Cornell to wait for public prosecution before intervening.
 - xix. R. Bensel said that he is concerned about the university’s process, in that a student may have no way of defending themselves if a JA moves ahead of public prosecution.
 - xx. G. Martin made a motion to gender neutralize the Code.
 - 1. Motion approved by unanimous consent.

- xxi. The Committee voted on whether to submit the longer or shorter version of the Code working draft.
 - 1. By a vote of 6-0-1, the Committee **approved** to keep M. Horvath's version on the table for discussion.
- xxii. M. Horvath said that the policy on transcript notations in the working draft is taken directly from the University Registrar's webpage.
- xxiii. M. Horvath said that concerning the procedural section, definitions of violations is most important, so the Committee should take time to walk through them.
- xxiv. R. Bensei said that the Committee committed to sending out a draft without the procedural section for the time being.
- xxv. L. Kenney said that she could send the current version which includes all of the questions and concerns brought up, up until the section on definitions.
- xxvi. R. Bensei said that the draft to be sent after the meeting would be a first draft.
- xxvii. M. Horvath said that it is more difficult to add something back into a draft once it has been removed.
- xxviii. The Committee decided to go through the definitions section in the meeting.
- xxix. M. Horvath said that concerning the definition on conduct related to alcohol, possession of alcohol in unauthorized spaces, such as Lynah Rink, needs to be in line with NCAA regulations.
- xxx. L. Kenney said that "unauthorized spaces" need to be defined clearly. She also said that the section should include language on public intoxication, possession of fake IDs, mass alcohol consumption, paraphernalia, operating a motor vehicle under the influence etc.
- xxxi. The Committee took a vote on whether to send out the long or short version of the working draft for review.
 - 1. By a vote of 1-6-1, the Committee **decided** to keep the lengthier version.
 - 2. L. Taylor asked that M. Horvath's version be kept to refer back to later on.
- xxxii. J. Bogdanowicz suggested adding "knowingly" to the subsection on collusion in the definition section.
- xxxiii. M. Horvath said that the Code should include language on compliance enforcement or non-compliance with sanctions. She said that the current Code's lack of coverage on enforcing university directives has compromised the university's ability to keep private information. She also said that there is currently no recourse in the Code for situations in which university information has been disclosed, other than for health and safety issues.
- xxxiv. J. Michael suggested adding additional language that could incorporate actions taken if an individual fails to cooperate with a reasonable request

from a college official.

xxxv. R. Benseal said that compliance with investigations should be included in the procedures section. He said that he is hesitant to require individuals who have not committed a violation to testify.

xxxvi. R. Benseal moved that L. Kenney read through existing comments, compare with the current Code, attempt to finalize as best as possible, and submit the draft the President Pollack.

1. Motion **approved** by unanimous consent.

IV. Adjournment

a. Adjournment

i. The meeting was adjourned at 2:32pm.

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