

Cornell University University Assembly

Cornell University Assembly

Minutes of the October 1, 2019 Meeting

4:30 PM – 6:00 PM

401 Physical Sciences Building

- I. Call to Order
 - a. Call to Order
 - i. R. Howarth called the meeting to order at 4:30pm.
- II. Business of the Day
 - a. Martha Pollack Visit
 - i. M. Pollack said that L. Kenney asked what the President envisions in terms of Code of Conduct revisions. M. Pollack said that she had sent handouts to M. Battaglia, chair of last year's Codes and Judicial Committee (CJC), in September 2018 and had also sent those to the UA and CJC members in April outlining her concerns for the Code.
 - ii. K. Barth asked if M. Pollack could speak to what she knows regarding legal requirements for Code updates.
 1. M. Pollack said that she does not know of a legal requirement for the Code to be updated. She said, however, that the Code's complexity and inconsistency leaves room for lawsuits when parts of the Code are in disagreement and students are unable to understand the language.
 - iii. J. Anderson asked if M. Pollack could speak to the rationale behind recommending a "Student Only" Code.
 1. M. Pollack said that the University's Code, in combining students, faculty and staff, is an outlier in comparison to peer institutions. She said that most of the issues that concern faculty and staff are dealt in other documents such as employment law and tenure, and that most other peer institutions have a student Code that outlines expectations and processes for students and allows for adjudication processes to be more educational. She said that along with having a student Code, she would also support having a separate document where the first section of the Code dealing with freedom of expression would apply to the entire University.
 - iv. L. Kenney said that some members of the CJC discussed maintaining a Campus Code of Conduct with certain provisions pertaining particularly to students.



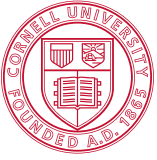
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1. M. Pollack said that she believes that there needs to be a simple and clear document that outlines expectations in a way that can be understood by students, as requested by students, faculty and the Board of Trustees. She said that other issues such as freedom of speech can be outlined in a separate document.
- v. R. Bensel said that some members of the CJC felt strongly about having the Campus Code of Conduct be an expression of core values, behaviors and ethics that apply to everyone.
 1. M. Pollack said that she would be fine with having a document that outlines campus-wide expectations and another dealing with student issues.
- vi. R. Bensel said that the Committee sought to deal with the student portion of the Code first and move on to greater issues.
 1. M. Pollack said she would be fine with that.
- vii. C. Van Loan said that in reviewing the Judicial Administrator (JA) report, he found that there were strong arguments for a student-only Code, especially since only a small fraction of cases pertaining to faculty and staff are handled by the JA's office.
- viii. J. Anderson asked why M. Pollack would be in favor of relocating the JA's office to be under the Dean of Students.
 1. M. Pollack said that she would be in strong support of moving the JA to be under the Dean of Students. She said that recruitment for the JA's position is difficult when they are expected to report to a Committee that changes each year. She also said that almost all other institutions in the Association of American Universities (AAU) have a JA that reports to student life. She said that in taking a semi-prosecutorial role, the JA is unable to fully serve students and the campus community.
- ix. M. Hatch asked if it would be possible to have a Code that does not pertain to faculty and staff at all.
 1. M. Pollack said that she would be supportive of having general principles of the Code apply to the entire campus.
 2. L. Kenney said that is consistent with what the CJC has been doing.
 3. M. Pollack said it would be clearer to have separate documents for issues pertaining to students and principles pertaining to the entire campus.
- x. M. Hatch asked what would happen in the case that there is a faculty harassment issue.



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1. M. Pollack said that such serious legal issues are handled under Policy 6.4 and the Title IX office instead of the JA.
- xi. R. Bensel said one of the concerns with the University Counsel's Code revision draft was that it may be too punitive. He also said that currently, the Office of the JA is suspended between the University Assembly (UA) and central administration, which raises concerns about shared governance.
 1. M. Pollack said that she tries very hard to respect shared governance. She said that having a JA that is accountable to no one is difficult, while other peer institutions that also have strong shared governance have a JA that reports to student life.
- xii. R. Bensel said that the University is unique in its shared governance model and conforming to a best practices model may not be the best solution. He said that there are certainly issues with the JA's office, but there are ways to design the structure to further enhance collaboration.
 1. M. Pollack said that she is not arguing for the JA's office to be repositioned because other universities are doing so, but because the current structure disfavors the community from recruiting the right person for the JA position and making the process educational.
- xiii. L. Kenney asked how M. Pollack would envision the search process in the case that the JA moves under the Office of Student and Campus Life.
 1. M. Pollack said that she would be happy to have the UA be heavily involved in that process.
- xiv. K. Barth asked if M. Pollack has a deadline in mind for the UA to deliver revisions.
 1. M. Pollack said that discontent with the Code was one of the first concerns raised when she first took on the position of President, primarily from undergraduates as well as from the Board. She said that there has been nothing concrete after two years, and if the UA does not show progress by the end of the year, the Board would take over the revision Code.
- xv. L. Kenney said that the CJC seeks community engagement but would not rush out in publicizing a document that has an immense effect on members of the community for extended periods of time. She asked if the President would be open to the Committee amending the current Code if it continues working on certain portions that are imperative for the Board to review.
 1. M. Pollack said that the current Code is overcomplicated and that reworking it would be unnecessary. She also said that having a draft



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ready to present to the Board by the May meeting would be imperative, since it has already been three years.

2. L. Kenney said that she assures that the first portion of the Code will be completed by December.
- xvi. K. Barth asked how much simpler a revised Code could be.
 1. M. Pollack said that the current University Code is too difficult to understand, requiring more simplicity and consistency.
- xvii. K. Barth asked whether any rewrite of the Code would change students' expectations.
 1. M. Pollack said that having clearly outlined expectations would be effective.
- xviii. K. Barth said that incorporating Greek life issues into current Code revisions would be beneficial.
 1. M. Pollack said that she advises revising other portions of the Code first before dealing with issues pertaining to the Greek judicial system.

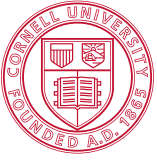
III. Roll Call

- a. *Present:* I. Allen, J. Anderson, K. Barth, R. Bensel, J. Bogdanowicz, M. Haddad, M. Hatch, D. Hiner, R. Howarth, L. Kenney, E. Loew, G. Martin, J. Pea, P. Thompson, C. Van Loan

Members not Present at Roll Call: A. Barrientos-Gomez, S. Chin, A. Howell, R. Mensah

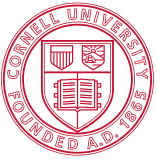
IV. Business of the Day

- a. Approval of the 9/3/19 Minutes
 - i. There was a motion to approve the minutes.
 1. P. Thompson seconded.
 - ii. L. Kenney said that her discourse with C. Van Loan on publicizing the CJC working draft was omitted from the minutes.
 - iii. There was a request for clarification from the Office of the Assemblies by the next meeting.
 1. Motion withdrawn
 - iv. L. Kenney moved to table the minutes.
 1. Motion **passed**.
- b. Call for Late Additions to the Agenda
 - i. No call for late additions.
- c. Discussion on update of the Code



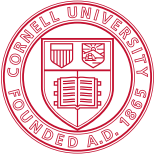
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- i. Prefaced by R. Howarth with an appreciation of level of time and dedication put in by members of the CJC. Also stated that it is critical that the UA be engaged in process going along in order to avoid problems from past three years
- ii. Background and current status on assistance being provided by the University Counsel's office
 1. E. Loew asked what isn't working in the Code that needs to be changed directly? UA and CJC has had to address specific deficiencies in the Code because someone did something that wasn't covered by the code.
 2. R. Howarth stated that UA has consistently for the past 24 months promised the Trustees and President Pollack that they were redoing the code and it would be awkward to state that they aren't going to.
 3. J. Anderson provided high-level context of culture on campus and also some specifics around the adjudication process. In reference to the high-level context, undergraduate students don't find that the Campus Code of Conduct something that is there to protect them or keep them safe at the University. J. Anderson fully endorsed a "student-only" Code of Conduct.
 4. E. Loew gave some historic context for why the current Code includes some of its provisions.
 5. L. Kenney stated that the current Code is being reviewed alongside the draft provided by the University Counsel. The current Code reads as a very legal document, so the CJC is working on the "readability" of a new Code.
 6. E. Loew asked if the "readability" was the responsibility of the Judicial Codes Counselors.
 7. R. Howarth stated that though the UA is working from the University Counsel's version, the CJC (and UA) are not bound to it. These are meant to be helpful guiding documents.
 8. G. Martin stated that along with readability, a goal of the revisions should be accessibility.
 9. I. Allen stated that a revised Code should clarify the specifics of the process. Currently, the Code is vague and causes anxiety.
 10. There was discussion about the role, positioning and reporting structure of the Judicial Administrator.
 11. M. Hatch suggested that perhaps the Code should be administered by the Student Assembly.



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12. J. Anderson concurred.
 13. Discussion ensued regarding what this may mean to the UA and other constituent assemblies.
- iii. Providing feedback to the CJC on their drafts
 - iv. Possible structure of the Code: Campus Code of Rights and Privileges (pertaining to all members of the Cornell community), with detailed Student Code of Conduct falling under that (postponing consideration of codes for faculty and staff until later)
 1. R. Howarth asked the assembly for input on whether a Statement on Rights and Privileges should apply beyond students only.
 2. R. Benzel responded that the UA could give some suggestions to the CJC but asserted that the CJC had jurisdiction over the Code and would be bringing its recommendation to the UA.
 3. R. Howarth disagreed with the position that the CJC has jurisdiction for recommending changes to the Code.
 4. Discussion ensued.
- d. Committees
- i. Executive Cabinet –
 1. P. Thompson reported that the Executive Cabinet will not be providing minutes but would provide Notes after the meetings.
 2. They discussed the revisions to the Campus Code of Conduct, and the “Use of Tobacco on Campus” survey.
 - ii. Codes and Judicial Committee
 1. K. Barth asked to go into Executive Session to discuss the resolutions from the CJC.
 - a. Motion seconded. Motion **Failed**. No Executive Session.
 2. L. Kenny reported on staffing and meeting details, and then presented two resolutions
 - a. [Resolution 1 – Unauthorized Online Publication of Campus Code of Conduct Working Drafts](#)
 - b. [Resolution 2 - The Codes and Judicial Committee Reaffirms its Jurisdiction Over the Cornell Campus Code of Conduct](#)
 3. Discussion ensued regarding which body has jurisdiction over the recommended changes to the Campus Code of Conduct.
 4. There was contention and debate.
 5. L. Kenney offered to provide sections to the UA as soon as the CJC has them ready.



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6. P. Thompson made a motion to remove the Code drafts from the Faculty Website
7. Motion was seconded.
8. Motion **passed**
9. G. Martin moved to table the second resolution (CJC R2) to the next meeting; and indefinite tabling of the first resolution (CJC R1).
10. Motion seconded. Motion **passed** unanimously.

V. Adjournment

- a. The meeting was adjourned at 6:00pm.

Respectfully Submitted,

Auriole C. R. Fassinou
Clerk of the Assembly