

Cornell University University Assembly

Cornell University Assembly

Minutes of the November 5, 2019 Meeting

4:30 PM – 6:00 PM

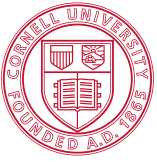
401 Physical Sciences Building

- I. Call to Order
 - a. Call to Order
 - i. J. Pea called the meeting to order at 4:33pm
 - b. Roll Call
 - i. *Present:* I. Allen, J. Anderson, A. Barrientos-Gomez, R. Bensel, J. Bogdanowicz, S. Chin, M. Haddad, D. Hiner, A. Howell, L. Kenney, T. Reuning, G. Martin, J. Pea, C. Van Loan
 - ii. *Members not Present at Roll Call:* K. Barth, R. Howarth, E. Loew, R. Mensah, P. Thompson
- II. Call for Late Additions to the Agenda
 - a. R. Bensel moved to place 'University Assembly Resolution X' on the agenda. The motion was seconded by L. Kenney. There was no dissent on the motion, and it was **approved**. 'University Assembly Resolution X' was added to the agenda after the Cornell Policy Draft 'Minors at Cornell'.
- III. Business of the Day
 - a. Approval of the minutes
 - i. 9/3/19 with Review & Revisions added by the OA
 - ii. 10/1/19 Minutes
 1. The minutes of the 9/3/19 and 10/1/19 meeting were moved to be tabled by L. Kenney. The motion was seconded by a member of the University Assembly. The motion **passed** and both minutes were tabled until the 12/3/19 University Assembly meeting..
 - b. Speaker – Michelle Horvath JA Annual Report
 - i. M. Horvath introduced herself as the Judicial Administrator. The past year was a busy year due to an increase in complex cases, multi-party cases, and cases across campus policies. The Office of the Judicial Administrator (OJA) is also being more included in campus matters as the perception of the OJA evolves. The continued challenge of the code are still the procedurally complex structure.
 - ii. M. Horvath stated that the theme for the Office of the Judicial Administrator for the past year was "*Recognizing the Past, Realizing the Future*". This theme is in honor of the idea of recognizing where the Campus Code was but also moving forward to where the OJ believes it should be.



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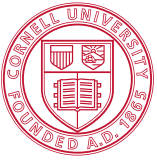
- iii. There were 820 referrals to the OJA in AY 2019, nearly a 30% increase. M. Horvath stated that there is a move to shorten the time frame between the moment a case is brought forth to the OJA and that of adjudication. Decreasing the time frame between the introduction of a case and the adjudication would allow time for faster educational intervention leading to a decline in recidivism.
- iv. M. Horvath stated that there was an unexpected increase in the workload of the OJA due to an uptick of obstruction that she would like to bring to the attention of the University Assembly. The Campus Code defines three provisions of obstruction. The first provision of obstruction is an individual's inherent duty to comply with the enforcements of the code. The second instance of obstruction is that of failing to complete sanctions. The third instance of obstruction is that of individuals not providing truthful information during an investigation.
- v. M. Horvath said that the purpose of the OJA is to ensure the safety of the community through keeping individuals accountable for their actions. M. Horvath also stated that the OJA would like the assistance of the University Assembly in finding a platform for the OJA to display the values and expectations of the campus community. The OJA has been working on making the Campus Code a pre-enrollment orientation item on the new-member checklist to aid students in understanding what the expectations are.
- vi. J. Anderson stated that as a Residential Advisor (RA), the OJA's office has been an invaluable resource. J. Anderson asked if the prolongation of cases in relation to longer UHRB (University Hearing and Review Board) hearings is due to outside attorney's not understanding the system that Cornell uses and does this prolongation occur more with outside organizations. Additionally, does the Judicial Codes Counselor (JCC) understand what the role of the UHRB should be?
 1. M. Horvath stated that it is difficult to have the process be restorative and the OJA respects precedence. It becomes a question of what is permitted.
- vii. R. Bensel stated that the University Assembly received the security report and in the report, the number of liquor violations in which referrals were involved increased from 205 to 459 from the previous year. However, in the JA report, the number of freshman violations increased from 296 to 523.
 1. M. Horvath stated that freshman are not doing anything wrong despite increase in violations but are rather making statements that



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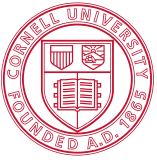
are developmentally appropriate. The large jump is due to the empowerment of North Campus RA's and different training mechanisms in those settings. Freshman will always have the highest amount of referrals.

- viii. R. Bensel asked about issues in jurisdictions of the code outside of the United States upon reviewing a case on an individual in Mysore, India. The case involved a liquor violation in which the respondent consumed an alcoholic beverage at a dinner and was prosecuted. The final ruling was that the respondent was not responsible. The issue with the case was that there was a lack of witnesses to testify the facts. R. Bensel asked if there were any other cases similar to the aforementioned case.
1. M. Horvath stated that there were no issues with finding witnesses and the reason why the case was considered "on campus" was because there was a high level of control and oversight by Cornell. The OJA felt that the case was "on-campus" because of the level of control maintained by Cornell and the UHRB did not challenge the "on-campus" notion. The UHRB found that in the case, one student drank alcohol and the other did not.
 2. R. Bensel asked if the OJA objected to one of the respondent's witnesses because the OJA was unable to meet and interview the witness?
 - a. M. Horvath stated that the witness was not taken into consideration because the individual had graduated. M. Horvath said that the remaining witnesses testified but there were not enough observations from witnesses of the behavior that the respondents were being accused of.
- ix. J. Anderson asked if there was a limit to the degree to which outside counsels could be involved in judicial processes of the university and could there be a selection of outside counsels that understand the judicial processes of the university that students could use?
1. M. Horvath stated that an issue with select outside counsels is that students have the right to choose the advisor of their choice. Additionally, outside counsels that are familiar with the code tend to cause more delays than those that do not. An underlying question that is brought up from the office of the JCC and the CJC is that in the proposed resolution, what is the role of the advisor in the judicial proceedings.



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- x. T. Reuning, regarding the Mysore, India case, asked if students are sufficiently informed that regardless of country laws, they cannot drink under the age of 21? Additionally, what is the policy of informing individuals that Cornell's Code of Conduct supersedes country laws?
 - 1. M. Horvath stated that Cornell's Code does not supersede country laws but rather the code is limited to "on-campus" issues. The Mysore, India case was brought forth to the OJA because it was still considered "on-campus" due to the trip maintaining Cornell oversight.
- xi. L. Kenney stated her appreciation of M. Horvath and her contributions to the CJC as an ex-officio member.
- c. Resolution to mark 50 years of CU Ombudsman
 - i. C. Van Loan introduced the resolution to mark 50 years of the university ombudsman. The Office of the Ombudsman started in 1969 and it serves an integral role on the campus with many community benefits. The resolution acknowledges the importance of the Office of the Ombudsman and encourages the referral of individuals to the Office of the Ombudsman as appropriate.
 - ii. J. Pea stated that the resolution was a good way to acknowledge the service of the Office of the Ombudsman.
 - iii. J. Pea motioned to amend the resolution by striking out the name of M. Hatch from the sponsors due to his resignation before the creation of the resolution. The motion was seconded by L. Kenney. The motion was **passed**.
 - iv. L. Kenney motioned to add T. Reuning and A. Barrientos-Gomez motioned to add S. Chin as sponsors of the resolution. Both motions were seconded by J. Anderson. The motions had no dissent and were **approved** by unanimous consent.
 - v. R. Bensel moved to vote on the 'Resolution to mark 50 years of CU Ombudsman?'. The motion was seconded by L. Kenney. There were no oppositions or abstentions. The motion **passed**.
- d. Cornell Policy Draft 'Minors at Cornell'
 - i. J. Pea stated that the document was brought to his attention by the Executive team. The author was looking for question and comments from the University Assembly
 - 1. S. Wan Chin asked what the role of the Cornell Police in the policy and dealing with minors?
 - 2. R. Bensel asked who prepared the document.



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- a. J. Pea stated that the responsible office was the Office of Risk Management and Insurance.
 - b. R. Bensel asked if the Office of Risk Management and Insurance was a new office.
 - c. J. Anderson stated that it was an old office.
 - d. R. Bensel asked if the policies in the document new or existing policies were.
3. L. Kenney stated that she had met with E. Young who had drafted the document. The policies were new policies and the office was seeking input on readability, clarity, and language changes. E. Young had stated that any individual could contact him.
 - a. R. Bensel asked L. Kenney what she thought of the draft. L. Kenney stated that she had made a list of her recommended changes.
 - b. A member of the University Assembly stated that in the appendix, what is the hopes in regard to issues of first aid with individuals under 18.
 - c. L. Kenney stated the current draft is the draft that the Office of Risk Management and Insurance is prepared to move forward with but is looking for community input. L. Kenney said that if the University Assembly would like to task her with contacting E. Young with the University Assembly suggestions, she would be willing to accept that role. L. Kenney stated that E. Young was not looking to add more to the policy but to increase policy clarity.
4. A member of the University Assembly asked if the draft was available for public comment or was E. Young solely seeking the input of the University Assembly.
 - a. G. Giambattista stated that the University Assembly was a stakeholder in policy development and the policy was being brought forth to the University Assembly in the assemblies capacity to represent the public.
5. L. Kenney stated that it would be most effective to have one individual collect all the comments on the draft from the University Assembly and convey it to E. Young.
6. R. Bensel moved to appoint L. Kenney as the assemblies liaison to E. Young with comments and suggestions. The motion was seconded.



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- a. L. Kenney stated that there should be a timeline for when the University Assembly members need to convey their comments to L. Kenney by.
 - i. J. Pea asked L. Kenney, what she believes is the timeline that the Office of Risk Management and Insurance is looking for.
 - ii. L. Kenney stated that she believes the Office of Risk Management and Insurance is looking to move forward as soon as possible. L. Kenney stated that she personally recommends the deadline to be no longer than two weeks from the current date.
 - iii. L. Kenney moved to amend R. Bensel's motion by adding the deadline of two weeks from the current meeting date (11/5/19). The motion was seconded. The amendment **passed**.
- b. There was no dissent on R. Bensel's previous motion of appointing L. Kenney as the liaison. The motion **passed** unanimously.
- e. 'University Assembly Resolution X' (CJC R2)
 - i. J. Pea stated that this was a late addition to the folder.
 - ii. R. Bensel stated that the purpose of the resolution was to restate the Codes Judicial Committee's (CJC) understanding of its jurisdiction with respect to the code. The resolution was not making any new laws or powers. The CJC wanted to have a sense of what its role is in the process of the codes revision.
 - iii. L. Kenney stated that after the last University Assembly meeting, the CJC received the same pressure and treatment as before. L. Kenney stated that in her opinion, the CJC had received different treatment than the other committees with more autonomy. The resolution is being brought up due to numerous amounts of time spent by the CJC discussing its role in the code revisions and the treatment it was receiving. The time spent on discussion has led to a hinderance of the CJC and its progress on the Campus Code draft. The resolution was being brought up because the issues discussed from the last meeting continued to occur.
 - iv. J. Pea stated that he understood the problems that continued to exist.
 - v. A member of the University Assembly asked how to bring the motion back to the floor after being tabled indefinitely.



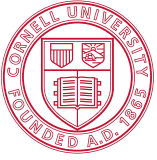
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- vi. L. Kenney moved to bring back the resolution that was tabled indefinitely since the last University Assembly meeting (CJC R2). The motion was seconded by G. Martin. There was no dissent and three abstentions. The motion **passed**.
 - vii. L. Kenney moved to vote on the resolution (CJC R2). The motion was seconded by R. Bensel. There was no dissent. The motion **passed** with 8 approvals and 5 abstentions.
- f. Committees
- i. Campus Welfare Committee
 1. D. Hiner stated that the Tobacco survey was currently out, and it would close on November 15th, 2019. There were currently 3200 respondents with a majority of respondents being staff followed by undergraduate students. To date, approximately 55% of respondents supported a smoking ban on campus based on the survey.
 2. M. Haddad asked if there would be more efforts to engage union workers.
 - a. D. Hiner stated that there are additional efforts. On 11/4/19, a communication went out to the United Autoworker's union on information regarding filling out the survey.
 3. J. Pea asked about the discrepancy between the respondents on the online forum compared to those of the survey. J. Pea stated that there were approximately 300 responses for the online comment suggestions.
 - a. D. Hiner stated that he had not looked at the online responses and would tabulate all the results after the survey closes..
 4. R. Bensel asked what happens after the results of the survey
 - a. D. Hiner stated that after the survey closes he would analyze them based on the different populations that responded.. The CWC would then deliberate the results and bring its recommendation to the University Assembly.
 5. J. Pea stated that there would be a few more steps until the recommendations would be presented to the University Assembly. J. Pea also asked how long the surveys would be available for.
 - a. D. Hiner stated that the survey would be open until November 15th, 2019.
 - ii. Codes Judicial Committee



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1. L. Kenney stated that the CJC had met two times since the last University Assembly meeting. The CJC was currently finishing the first draft of the Campus Code that had been received from the University Council's office. L. Kenney stated that the first draft should be completed by the Monday CJC meeting (11/11/19). The CJC would be willing to vote by email if that would be needed for timely completion of the first draft. The CJC also created a subcommittee for the UHRB appointments. M. Hatch retired from the University Assembly and CJC.
2. L. Kenney motioned to have the University Assembly vote by email on the first section of the Campus Code draft when it is completed. The completion of the first section would likely be before the next University Assembly meeting (12/3/19) and voting by email would prevent the delay in releasing the draft for public comment. The move would also allow for the CJC to continue its revisions of the procedural section of the Campus Code.
 - a. M. Haddad asked if the email vote was in accordance with the bylaws of the University Assembly.
 - b. R. Bensel stated that there was a precedence for the email vote exhibited in the previous year.
 - c. L. Kenney withdrew her motion.
3. R. Bensel stated that the CJC would like to bring the first draft to the University Assembly, the public, and the University for comment concurrently. Serial discussions and comments would be complicated.
4. L. Kenney stated that the University Assembly needs to approve the draft for public comment to be in accordance with the bylaws of the CJC.
5. R. Bensel said that once the CJC has a draft to move forward with, it would be viewable for comment by everyone.
6. L. Kenney moved that the University Assembly vote on the first section of the draft that the CJC recommends via email to allow the CJC to open the draft to public comment while the University Assembly is reviewing it rather than wait until the subsequent University Assembly meeting.
 - a. R. Bensel seconded the motion.
 - b. J. Pea stated that he agreed with the motion and the fact that it takes the pertinence of time into consideration.



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- c. There was no dissent and the motion passed unanimously.
7. L. Kenney moved to have the University Assembly vote by email on the UHRB appointment recommendations if the CJC and CJC subcommittee approve the vacant seat recommendations. This would allow for training of appointees to start as soon as possible rather than waiting until the subsequent University Assembly meeting.
 - a. The motion was seconded by R. Bensel.
 - b. L. Kenney stated that the CJC was already behind in terms of having vacancies for the UHRB. There were 6-8 vacancies and a subcommittee of 2 members. The CJC is looking to move the appointments along as soon as possible.
 - c. J. Pea asked if the process would be open in filling the vacancies.
 - i. L. Kenney stated that she believes the CJC can consider past applicants and those that have previously served.
 - d. The motion passed with no dissent.

IV. Adjournment

- a. G. Martin motioned to adjourn. The motion was seconded by A. Barrientos-Gomez.

The meeting was adjourned at 5:45pm.

Respectfully Submitted,

Auriole C. R. Fassinou
Clerk of the Assembly