



Cornell University
University Assembly

Cornell University Assembly
Minutes of the April 28, 2020 Meeting
4:30 PM – 6:00 PM
Zoom Meeting

- I. Call to Order
 - a. Call to Order
 - i. R. Howarth called the meeting to order at 4:30pm
 - b. Roll Call
 - i. *Present:* J. Anderson, A. Barrientos-Gomez, K. Barth, R. Bense, D. Hiner, A. Hong, R. Howarth, A. Howell, L. Kenney, C. Levine, J. Pea, P. Thompson, C. Van Loan
 - ii. *Members Joined after Roll Call:* U. Chukwukere, C. Duell, G. Martin
 - iii. *Members not Present:* B. Fortenberry, Y. Li, R. Mensah
- II. Call for Late Additions to the Agenda
 - a. There were no late additions to the agenda
- III. Business of the Day
 - a. Approval of the 4/07/20 meeting minutes
 - i. C. Van Loan moved to approve the minutes. The motion was seconded by R. Bense and approved with no dissent.
 - b. Resolution Presentation – J. Pea
 - i. Resolution 6 – JCC Approval
 - 1. J. Pea stated that the resolution was a formal resolution for S. Swanson to fill the position of JCC for a two year term.
 - 2. R. Howarth stated that S. Swanson had been selected by a search committee on which the UA had representation and had received a recommendation from President Pollack. The approval by the UA would be last step in her appointment.
 - 3. L. Kenney noted that the name on the resolution was improperly spelled as “Susan” and needed to be switched to “Suzanna”.
 - 4. The motion was moved by J. Pea and seconded by L. Kenney. The resolution was approved with no dissent.
 - ii. Resolution 7 – Postponement of Elections
 - 1. J. Pea stated that the purpose of the resolution was to formally ask for the postponement of the University Assembly officers (chair, vice chair, and ranking member). It would align with the fact that several other assemblies had also already postponed their elections.



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2. R. Howarth stated that it would be good to clarify since the resolution was not completely needed in accordance with the UA Bylaws.
 3. K. Barth stated that in normal circumstances, the transition would be difficult. In the current circumstances, postponing would be good for keeping all the assemblies aligned.
 4. The resolution was moved by J. Pea and seconded by K. Barth. The resolution was approved with no dissent.
- c. Revision of Campus Code
- i. Summary update on edits to the Code – J. Anderson
 1. J. Anderson presented on the major substantive changes on the code and warranted an update.
 - a. J. Anderson noted that the CJC was charged by the President to review the recommended changes that were a result of the Campus Climate Task Force. The recommended changes included simplifying the administrative process, expanding the treatment of harassment, reworking the code to have an educational and aspirational tone rather than a punitive one, and narrowing the focus of the code to students.
 - b. There was an organizational and structural change in the Office of the Judicial Administrator being renamed to the Office of Student Conduct and Community Standards (OSCCS). The OSCCS would be a unit under the Dean of Students in Student and Campus Life to help ensure that the understanding of what the student experience was would be considered. This understanding and integration would be important because the code had narrowed to include students: undergraduate, graduate, and professional. Another major change comes in the form of jurisdiction. The revised code would cover behavior by all Cornell students, University-recognized or University-registered student organizations and living groups (including fraternities and sororities). Additionally, the final determination as to whether off-campus conduct is subject to the Code would be made by the Dean of Student or their designees.
 - c. J. Anderson noted that the definition of harassment had been standardized with the University definition that is used in Policy 6.4. The definition of hazing has also been updated to



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a definition that captures the totality of the violation and the totality of circumstances that hazing might occur in.

- d. J. Anderson stated that the major change in the procedure of addressing violations is that under the revisions, every violation would have the option to be remedied by an educational conference, mediation, or alternative dispute resolution if all parties agree it is appropriate.
 - e. The CJC voted 5-2 to make suspension up to 5 years because academic programs are longer than 4 years for undergraduate and graduate students. Affected students would be able to graduate within the time period if the violations were serious enough to warrant a 5 year suspension.
 - f. J. Anderson noted that the CJC was divided on the burden of proof with 6 members voting in favor of preponderance of the evidence while 4 members supported the clear and convincing standard.
- ii. Discussion by UA members on the Code
1. C. Van Loan asked what the major difference was between what the CJC ended up doing and the University Council recommendations.
 2. J. Anderson responded that there were changes pertaining to who advisors could be. There was not a uniformed Office of Judicial Codes Counselor. Rather, there was an Office of Judicial Codes Counselor for respondents and an Office of Complaint Advisors for complainants. The CJC procedure allows leeway for the OSCCS to push the cases through the process. In the University Council proposal, the OSCCS was the facilitator of a larger process. J. Anderson also noted that the CJC proposal was also simpler to read in his opinion compared to the legalistic point-of-view taken by the University Council.
 3. K. Barth asked what the scope of the Greek-life inclusions was.
 4. J. Anderson stated that the Sororities and Fraternities would still have the ability to work on membership development. The CJC was not trying to take away the autonomy of Greek-life in dictating what it meant to be a member of Greek life. Rather, the CJC was taking away the more complex cases that are related to major violations such as hazing.



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5. R. Bensel asked if J. Anderson could add page reports to the report. Additionally, R. Bensel what the relationship was between suspension and expulsion.
6. J. Anderson conveyed that suspension was a maximum and would be used to avoid retaliation. Expulsion and suspension were different and were punitive of sanctioning. If the sanction matched the behavior that was against the Cornell community behavior, then it would be justified. J. Anderson stated that studying at Cornell was a privilege and actions done that inherently harmed a member of the community or were harmful in general would have repercussions.
7. R. Bensel stated that expulsion carries a message to other institutions about the gravity of the offense while suspension does with lesser impact. Expulsion has its uses as an information carrier. Additionally, R. Bensel conveyed his opposition to preponderance of the evidence. He noted that preponderance of evidence has been the argument of the mob, bias, and prejudice and would not vote for a code that uses preponderance of the evidence.
8. J. Anderson stated that the totality of information needs to be looked at and he would respect the wishes of the UA. The change to preponderance of the evidence would create unity across the evidentiary processes and would leave Policy 6.4 intact.
9. L. Kenney conveyed opposition to the preponderance of the evidence for the standard of proof because it would lead to wrongful convictions but would also be a move away from due process. In response to J. Anderson's previous comment, she would like to see the information calling for uniformity across the evidentiary process and its impact on Policy 6.4. L. Kenney stated that her main concern was the way by which the process was being rushed and public comment was only available for two weeks on the procedural section in order to get a timely vote. In the midst of a pandemic, if multiple other deadlines are able to be extended, the UA should ask President Pollack for an extension. Students were not being given enough time to weigh in on the process.
10. J. Anderson noted that there had been conversations with administrators, not the Board of Trustees specifically, and they still had expectations for the code to be completed by the end of the year. The code revisions were expected to have been done last year.



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11. C. Van Loan asked if the general public knew the difference between the standards of proof and if the community appreciated the difference enough.
12. J. Anderson stated that if we do not have many individuals educated on the code as a whole, how could they be educated on the standard of proof.
13. R. Bensel noted that most students would never read the code but in violations, the standard of proof would be important. An educational program that has preponderance of the evidence built in is not truly educational.
14. J. Anderson stated that the issue was being thought of in terms of criminal proceedings, but the situation is student conduct and is not a court of law. The current student conduct procedures are a form of alternate dispute resolution.
15. L. Kenney noted that she agreed with R. Bensel and understood that the standard of proof was not being applied to a criminal proceeding in these scenarios. However, when there are panelists who are students, looking for approval by the University and can be in situations with bias, the situation is moving towards wrongful convictions. Additionally, L. Kenney asked if there had been any conversations with President Pollack about the deadline extension and increasing time for public comment. In the current situation, it did not make sense for the code revisions to be the University's main concern.
16. J. Anderson stated that the conversations with President Pollack had indicated that the end of the semester was still the requirement. R. Howarth added that if it were absolutely necessary to ask for extension, it would be granted by the trustees. The UA was serving as an advisor in the code revisions and the trustees had the final say on the code. R. Howarth stated that he would like to see the UA attempt to finish the code in the time given.
17. L. Kenney responded by saying that she would not like to see students punished, by taking away transparency, for the work of previous UA chairs.
18. There was discussion by B. Krause, C. Van Loan, and G. Kanter on the burden of proof.



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19. R. Bensel asked how many cases were being adjudicated at the moment and over the summer. If there were few cases, then it would make sense to delay the code until June or July.
20. K. Barth stated that there would continue to be a CJC and the code would continue to be revised so even if everything is not correct on the first round, there can be revisions. The code revisions would not be able to encompass all the possibilities that they would need to on the first round and subsequent revisions would be beneficial.
21. L. Kenney conveyed that she disagreed with K. Barth and did not understand why the revisions could not be delayed by a month to allow students time to look at the proposed changes. Less than two weeks is not adequate time to allow students to understand the changes and voice their recommendations.
22. R. Howarth noted that he believed the code revisions had been under discussion for a long time and thinks it would be best to complete them by the deadline. However, he added that L. Kenney could pose a resolution to discuss with the administration and the Board of Trustees the extension of the deadline.
23. L. Kenney moved to have discussion with administration and the Board of Trustees to extend the code revision deadline in order to give students adequate time to review the proposed changes. The motion was seconded by K. Barth.
24. R. Howarth clarified by stating that the decision was not President Pollack's but rather that of the Board of Trustees. He would ask the trustees and they would give a response in May. However, if they decline the extension, the trustees could take control of the code revisions.
25. C. Levine asked if there could be a poll for delaying the deadline with C. Van Loan specifying, the delay would be until June 15.
26. The informal vote yielded 6 members in favor of delaying and 7 members opposed to delaying.

The meeting was adjourned at 6:00pm.

Respectfully Submitted,

Auriole C. R. Fassinou
Clerk of the Assembly