

Cornell University
University Assembly

U.A. Resolution # 24

**Finalizing Housekeeping Amendments to the Campus
Code of Conduct**

May 29, 2018

1 **Sponsored by: Matthew Battaglia, Graduate and Professional; Chair, Codes & Judicial**
2 **Committee**

3
4 **On Behalf Of:**
5 **The University Assembly Codes and Judicial Committee: K. Ashford, D. Barbaria, R.**
6 **Bensel, J. Kruser, R. Lieberwitz, V. Price, C. Riley, E. Winarto, K. Zoner**

7
8 **Whereas,** pursuant to Article Three, § 3.1 of its Charter and Title One, Article IV, of the
9 Campus Code of Conduct the University Assembly (the “Assembly”) may propose changes to
10 the Campus Code of Conduct (the “Code”) subject to the University President's approval; and
11

12 **Whereas,** the object of the University Assembly, “...is to improve and sustain the involvement
13 of the campus community in the governance of campus affairs affecting the broad campus
14 community by establishing open, effective, and efficient channels of communication between
15 and amongst the community and university administration” [University Assembly Charter,
16 Article Two]; and
17

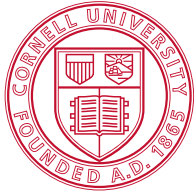
18 **Whereas,** the Assembly views its custodianship of the Code as crucial to facilitating dialogue
19 between the University Administration and wider Campus Community; and
20

21 **Whereas,** the Assembly strives to execute its responsibility to the Campus Code of Conduct and
22 Community with the utmost professionalism and care; and
23

24 **Whereas,** the Assembly strives to be responsive to the needs and requests of the Campus
25 Community and the needs and requests University Administration; and
26

27 **Whereas,** the Assembly believes that it has been and continues to be responsive to both the
28 needs and requests of the Campus Community and the needs and requests of the University
29 Administration; and
30

31 **Whereas,** the Assembly’s Codes & Judicial Committee (the “Committee”) during this year
32 undertook a number of initiatives to seek to improve the Conduct including convening a



Cornell University University Assembly

33 Working Group on Hate Speech and Harassment, beginning the process of examining the Code
34 holistically, and working with the Assembly's Executive Committee and University
35 Administration to revise the Judicial Administrator appointment process; and
36

37 **Whereas**, the Committee and Assembly are greatly pleased with the outcome and expediency
38 with which the improvements to the Judicial Administrator appointment process were drafted,
39 implemented, and approved; and
40

41 **Whereas**, in the Fall of 2017, the Committee proposed, and the Assembly approved a series of
42 "Housekeeping Changes" to the Code prior to beginning a larger review; and
43

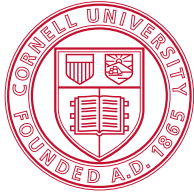
44 **Whereas**, the President returned several of the changes with comments and suggestions for
45 improvement as well as a request for greater community notice and opportunity for comment
46 generally; and
47

48 **Whereas**, in discussions with the University Administration it was made clear that the Assembly
49 and Committee had full discretion in how they sought to provide additional notice and
50 opportunity for comment; and
51

52 **Whereas**, the Committee spent the entirety of the Spring 2018 Semester discussing the
53 suggested changes and undertaking to address the concerns raised; and
54

55 **Whereas**, the Committee has accepted several the proposed changes, partially accepted others,
56 and undertaken to drastically increase the opportunity for public comment by:
57

- 58 1) Holding the Code changes on its Agenda for the vast majority of the semester,
- 59 2) Taking out advertisements in the *Cornell Daily Sun* advertising the pending Code
60 Amendments and detailing multiple ways to provide feedback and input,
- 61 3) On several occasions holding public office hours concerning the pending Code
62 Amendments for members of the Campus Community to attend,
- 63 4) Answering questions posed by members of the Campus Community at the public office
64 hours, via email, and at public meetings and incorporating feedback received into the
65 proposed changes,
- 66 5) Creating and circulating an anonymous "Comment Box" for community members to
67 register their comments,
- 68 6) Requesting the Office of the Assemblies open its electronic Netid comment system for
69 the pending Code amendments on multiple occasions,
- 70 7) On multiple occasions throughout the semester presenting, providing notice to, and
71 updating some of our constituent Assemblies as to the scope of the changes as well as
72 their exact substance,
- 73 8) Undertaking to discuss the pending changes with various additional stakeholders
74 throughout the Spring Semester,



- 75 9) Delaying the formal passage of the Code amendments for as long as possible in the term
- 76 by the Assembly tentatively approving the language at its last meeting of the semester but
- 77 waiting to finally approve it for an additional few weeks to allow the maximum
- 78 timeframe for the community to be aware of and comment on the pending changes,
- 79 10) Numerous other initiatives designed to facilitate maximum community notice and input
- 80 concerning the changes; and

81
 82 **Whereas**, the Committee and Assembly believe these extra steps sufficiently address the
 83 concerns raised by the President in the Fall Semester about providing adequate community
 84 notice and opportunity for comment; and

85
 86 **Whereas**, Assembly notes that the Judicial Administrator appointment amendments, due to the
 87 requirements of the adopted timeline, received a shorter period for community feedback yet were
 88 extensively promulgated for public comment prior to a formal vote and received a level of public
 89 notice and comment that both the Assembly and President are satisfied with; and

90
 91 **Whereas**, the Committee and Assembly greatly appreciate the opportunity to continue to work
 92 collaboratively with the President and University Administration to maintain and improve the
 93 Code; therefore

94
 95 **Whereas**, the Committee proposes the following four sub-resolutions, grouped topically, to
 96 contain the Code amendments from the fall as well as new ones identified by our constituents
 97 and those involved in the University’s Judicial System this semester; and

98
 99 **Be it Resolved**, the appended changes in sub-resolutions A – D be incorporated to the Campus
 100 Code of Conduct and are approved such that each sub-resolution is internally non-severable:

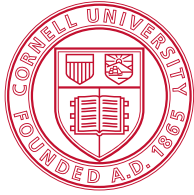
U.A. Resolution # 24 – Subpart A

Amendments Addressing Suspension within the Campus Code of Conduct

May 8, 2018

101 **Whereas**, during the Fall Semester, the Assembly passed three amendments relating to the
 102 Code’s usage of suspension in various forms; and

103
 104 **Whereas**, those changes include 1) Language to address to the suspension length, definition, and
 105 reporting date for organizations, 2) Language to address the immediate suspension for non-
 106 compliance of sanctions, and 3) Language regarding removal of indefinite suspension; and



Cornell University
University Assembly

107
108 **Whereas**, the President provided comments, feedback, and minor proposed modifications
109 concerning some of the approved amendments; and
110
111 **Whereas**, the Committee considered and accepted the proposed modifications and appreciates
112 the valuable feedback provided by the President; therefore
113
114 **Be it Resolved**, the changes appended in Appendix A (Amendments Addressing Suspension
115 within the Campus Code of Conduct) be incorporated to the Campus Code of Conduct and are
116 approved in a non-severable manner.

U.A. Resolution # 24 – Subpart B

**Amendment Addressing the Role of Non-Matriculated
Minors within the Campus Code of Conduct**

May 8, 2018

117 **Whereas**, during the Spring of 2017, the Committee was approached by the Office of Risk
118 Management (“Risk Management”) and asked to address the manner in which non-matriculated
119 minors are treated within the Code; and
120

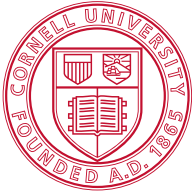
121 **Whereas**, during the Spring and Fall of 2017, the Committee and Assembly considered and
122 passed the amendment proposed by the Office of Risk Management, to address non-matriculated
123 minors, verbatim; and
124

125 **Whereas**, the President provided comments, feedback, and a proposed modification concerning
126 the approved amendment requesting the provision’s scope be expanded and that a “saving”
127 clause, stating that if a non-matriculated minor was not subject to other written behavioral
128 guidelines the Code would continue to apply, be removed; and
129

130 **Whereas**, the Committee considered and accepted the expansion of scope and appreciates the
131 valuable feedback provided by the President; and
132

133 **Whereas**, in discussions with the Administration members of the Committee learned that while
134 the Office of Risk Management had proposed the amendment the current President had not
135 formally approved it prior to it being presented to the Committee; and
136

137 **Whereas**, when the amendment was proposed to the Committee, the Office of Risk Management
138 described the “saving” clause as a “safety valve” that virtually certainly would never be utilized
139 as Risk Management would not approve any program for non-matriculated minors without
140 written behavioral guidelines; and



Cornell University University Assembly

141
142 **Whereas**, while the Assembly and Committee also hope and believe the “saving” clause likely
143 will never be required to be utilized, we believe creating a situation where any individual could
144 end up in a state of procedural “limbo” with no written behavioral guidelines is not good practice
145 and is not supported by the Campus Community; and

146
147 **Whereas**, the Assembly and Committee are confident the Office of Risk Management and
148 University Counsel will ensure the “saving” clause need never be utilized as the Administration
149 has within its power the ability to ensure that no program for non-matriculated minors exists
150 without written behavioral guidelines of some sort; and

151
152 **Whereas**, in her response the President emphasized a need for “the units that directly supervise
153 non-matriculated minors, in partnership with appropriate administration offices including Risk
154 Management and University Counsel, [to] be able to develop appropriate policies that meet those
155 unique needs” and the Assembly and Committee do not believe that retaining the “saving” clause
156 interferes in any way with the ability of Risk Management, University Counsel, and the various
157 units to devise “appropriate policies that meet those unique needs” as the clause only requires
158 that such policies or procedures be written and grants the enables the Administration full
159 freedom in all other aspects of these policies; and

160
161 **Whereas**, the Assembly and Committee took the President’s recommendation exceedingly
162 seriously prior to coming to a conclusion and appreciate the time and input provided by various
163 members of the Administration in their discussion of this topic; and

164
165 **Whereas**, based upon, but not limited to, the preceding factors, the Committee and Assembly
166 respectfully decline to accept the President’s request that a “saving” clause be omitted from the
167 removal; therefore

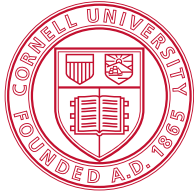
168
169 **Be it Resolved**, the changes appended in Appendix B (Amendment Addressing the Role of Non-
170 Matriculated Minors within the Campus Code of Conduct) be incorporated to the Campus Code
171 of Conduct.

U.A. Resolution # 24 – Subpart C

Amendments Addressing the Operations of the University Hearing and Review Boards and Hearing Mechanics

May 8, 2018

172 **Whereas**, during the Fall Semester, the Assembly passed an amendment relating to the Code’s



Cornell University University Assembly

173 provisions for appointment and re-appointment of members to serve on the University Hearing
174 and Review Boards (the “UHRB”); and

175
176 **Whereas**, the President provided comments and feedback on the proposed amendment; and

177
178 **Whereas**, the Committee considered and accepted changes to address the President’s
179 recommendation to require input from the Dean of the Faculty when handling Faculty member
180 reappointments to the judicial boards¹; and

181
182 **Whereas**, the Committee also drafted, proposed, and the Assembly adopted a new Bylaws
183 appendix outlining in considerable detail how the Assembly will conduct UHRB appointments
184 and reappointments moving forward; and

185
186 **Whereas**, during the Spring Semester the Committee met with the Chairs of the University
187 Hearing and Review Boards (the “Chairs”) to discuss this proposed amendment, other proposed
188 amendments concerning the judicial boards, as well as other matters concerning the operation of
189 the Hearing and Review Boards; and

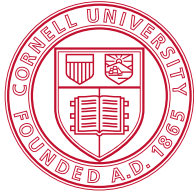
190
191 **Whereas**, the Chairs supported the proposed amendments and provided valuable feedback to the
192 Committee which was incorporated into the amendments also resulting in the drafting of
193 additional amendments; and

194
195 **Whereas**, the final set of approved amendments include 1) Language clarifying UHRB
196 appointment procedures (previously passed in the fall), 2) Language increasing the judicial
197 boards pool size (new), 3) Language clarifying Hearing Board removal process (new), 4)
198 Language concerning Hearing and Review Board Procedures (new), and 5) Language addressing
199 public hearing notice timeframe (new); and

200
201 **Whereas**, the language increasing the judicial boards size was passed after the direct and explicit
202 request of the Chairs for a larger board pool and was supported by both the Judicial
203 Administrator nor Judicial Codes Counselor; and

204
205 **Whereas**, the language concerning the removal process for currently sitting members of the
206 judicial boards was drafted in consultation with the Chairs who expressed their support for it

¹ N.B. The President’s response outside of its formal recommendation concerning the Dean of the Faculty (which has been accepted) also discussed in passing that the proposed amendment would “remove the ... Office of the Assemblies from exercising any oversight over HB members after their initial appointment.” The Office of the Assemblies as an entity of the University Administration presently does not and has never exercised oversight over UHRB members and does not nor has it ever appointed members to the boards. The Assembly strongly opposes any expansion of the Office of the Assemblies’ role to include oversight over UHRB members and believes that such an expansion would be entirely improper.



Cornell University University Assembly

207 after the Judicial Administrator noted an ambiguity concerning the language presently inside the
208 Code; and

209

210 **Whereas**, the new removal language is designed to ensure community input through the
211 Committee prior to the removal of a judicial board member noting that board members are
212 appointed by a community body and therefore a community body should also play a role in the
213 removal process; and

214

215 **Whereas**, with a larger pool size, a more detailed removal process is not likely to impede the
216 sound operation of the boards; and

217

218 **Whereas**, the language concerning Hearing and Review Board Procedures (the “Procedures”)
219 was drafted in consultation with the Chairs who expressed their support for it after the Chairs and
220 the Committee separately identified the Procedures as an area needing additional community
221 involvement and examination and the Chairs explicitly asked the Committee to assist them in
222 improving the Procedures; and

223

224 **Whereas**, the language concerning Hearing and Review Board Procedures seeks to ensure that
225 the Procedures do not conflict with the Code, as they might have in the past, that the Committee
226 is more aware of and involved when edits are made to the Procedures, and that the Committee is
227 able to assist and work with the judicial boards to draft functional procedures that do not
228 inadvertently go against the spirit or function of the Code; and

229

230 **Whereas**, the language concerning the public hearing notice timeframe was drafted in
231 consultation with Judicial Administrator and Judicial Codes Counselors who expressed their
232 support for it after a recent public hearing brought to light the need for additional notice prior to
233 a public hearing taking place; therefore

234

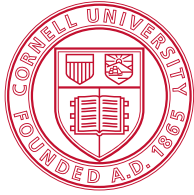
235 **Be it Resolved**, the changes appended in Appendix C (Amendments Addressing the Operations
236 of the University Hearing and Review Boards and Hearing Mechanics) be incorporated to the
237 Campus Code of Conduct and are approved in a non-severable manner.

U.A. Resolution # 24 – Subpart D

Amendment Adding Discretion to Interim No Contact Directive Procedures

May 8, 2018

238 **Whereas**, during the Fall Semester, the Assembly proposed and passed a Code amendment
239 relating to the Code’s procedures for Interim No-Contact Directives; and



Cornell University University Assembly

240 **Whereas**, that proposal was based upon information furnished to the Committee over preceding
241 years and discussions with various campus entities; and

242
243 **Whereas**, the information furnished outlined concerns about interim measures being utilized
244 over a considerable length of time, in some circumstances for many months, such that in many
245 ways they were no longer “interim”; and

246
247 **Whereas**, the President provided comments, feedback, and proposed modifications concerning
248 parts of the approved amendment; and

249
250 **Whereas**, the Committee appreciates the feedback provided by the President; and

251
252 **Whereas**, the Committee engaged in discussions with individuals involved in victim advocacy
253 concerning language making Interim No-Contact Directive’s mutually binding; and

254
255 **Whereas**, in discussions with individuals involved in victim advocacy, minimal, if any, concerns
256 about making Interim No-Contact Directive’s mutually binding were raised; and

257
258 **Whereas**, the Committee notes that the Judicial Administrator has stated it is her present policy
259 to only issue mutually binding no-contact directives even though the Code does not formally
260 require it; and

261
262 **Whereas**, the Committee believes it is prudent to codify this best practice to provide stability
263 and notice to members of the Campus Community; and

264
265 **Whereas**, from these discussions with individuals involved in victim advocacy and discussions
266 with other stakeholders, the Committee removed the appeal process, as suggested by the
267 President, and formulated a different procedure to strive the ensure that interim measures are
268 both flexible and robust when necessary but also mindful that no hearing on the merits has been
269 held and cognizant of the significant impact on an individual’s lives interim measures can have;
270 therefore

271
272 **Be it Resolved**, the changes appended in Appendix D (Amendment Adding Discretion to Interim
273 No Contact Directive Procedures) be incorporated to the Campus Code of Conduct.