

Cornell University
University Assembly

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Agenda

Codes and Judicial Committee
University Assembly
February 7th, 2018
4:30pm - 5:45pm
163 Day Hall

I. Call to Order (Chair)

- i. Call to Order (2 minutes)

II. Approval of Minutes (Chair)

- i. November 29, 2017 (1 minute)
- ii. January 31, 2018 (1 minute)

III. Business of the Day

- i. For Discussion: Hate Speech Working Group Update and Discussion (10 minutes)
- ii. For Discussion: Concerning the Previously Passed Housekeeping Amendments to the Campus Code (35 minutes) ^[1]
- iii. For Discussion: UA Resolution #5 Bylaws Change Clarifying the Charge of the Codes & Judicial Committee (15 minutes) ^[2]
- iv. For Discussion: University Hearing and Review Boards Staffing Update and Discussion (5 minutes)
- v. For Discussion: Discussing recent Department of Education Policy Shifts, our Quantum of Proof, Policy 6.4, and the Complainants Advisor (5 minutes)

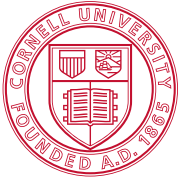
IV. Adjournment (Chair)

- i. Adjournment (1 minute)

Attachments

1. Language for Housekeeping Changes to the Campus Code of Conduct – President's Response Comparison
2. UA Resolution #5 Bylaws Change Clarifying the Charge of the Codes & Judicial Committee

If you are in need of special accommodations, contact Office of the Assemblies at (607) 255-3715 or Student Disability Services at (607) 254-4545 prior to the meeting.



Cornell University University Assembly

Minutes

Codes and Judicial Committee
University Assembly
November 29, 2017
4:30pm-5:45pm
316 Day Hall

I. Call to Order (Chair)

- a. M. Battaglia called the meeting to order at 4:34pm.
- b. Roll Call:
 - i. *Present*: M. Battaglia, R. Bensel, C. Hodges, M. Horvath, N. Jaisinghani, K. Karr, G. Kaufman, R. Lieberwitz
 - ii. *Absent*: J. Kruser, S. Park, D. Putnam, K. Zoner
 - iii. *Others Present*: K. Ashford, T. Malone, M. Peralta-Ochoa, V. Price, N. Stetson, E. Winarto

II. Approval of Minutes (Chair)

- a. November 15, 2017
 - i. **Tabled** by unanimous consent until the Spring semester.

III. Business of the Day

- a. End of the Semester Outlook and Thank You (Chair)
 - i. The Chair, M. Battaglia thanked everyone for their hard work and service on the Codes and Judicial Committee this semester. He also recapped some of the highlights of the work of the Codes and Judicial Committee over the course of the past semester.
- b. Discussion with Hearing and Review Boards Chairs (Facilitated by Chair)
 - i. A Chair of the University and Hearing Review Boards, ____, introduced herself to the Codes and Judicial Committee and fielded questions from the Codes and Judicial Committee.
 1. R. Bensel spoke about the issues regarding the rights of defendants. He said that he is concerned that these issues aren't addressed, and that a chair of the University Hearing and Review Boards being able to, in his opinion, deny a defendant his or her basic rights.
 2. M. Horvath said that this is an educational administrative process. She said the process is very different from a court of law. She said the right to confront witnesses is a provision in the Campus Code of Conduct. She said that the Campus Code of Conduct can only participate in cases of suspension or dismissal. She said that, she spoke with Gabe Kaufman and Matt Battaglia about the University Assembly paying the cost, in the

case that there is another open hearing. She said, after a cost analysis, it will cost \$10,000.

3. N. Stetson said that the rules do good, but could do better at avoiding legalism.
4. A. Waymack discussed the Hearing Boards case of Mitch McBride and livestreaming during the public hearing. She said that there is no exemption for tape recording. She said that there needs to be very clear guidelines on how the public can share information from the hearings.
5. R. Lieberwitz said that she likes procedures. She said that education is fine, but that there is also a punitive nature to this. She said that is for due process, but not for pretending that this process is just educational. She said rehabilitation and due process are not exclusive at all.
6. R. Benseal said that the case [that he is thinking of] is egregious. He said that there was a premeditated intervention to add bias to the proceedings. He said that the actions of the administration and the actions of the Provost should be condemned. He said that the resources should be equal and balanced, because in the case of Mitch McBride, there was a power and resource imbalance. He said that procedural rights are the minimum.
7. M. Horvath said that she agrees with R. Benseal, which is why [she said] her office does not issue comments. She said that we [the Codes and Judicial Committee] need to be careful when we [the Codes and Judicial Committee] say we [the University] are not restorative, but 99% of the cases at the University are restorative. She said that the dismissal and suspension rate is small. She said that the system is complex and disproportionally fair. She said the University only needs to meet a fundamental fairness standard because the University is private.
8. N. Stetson spoke about a possible resolution to the University Assembly to stop administrators from commenting on cases heard by the University Hearing and Review Boards. He said that there needs to be clarification of the language to reflect the parts that are educational, punitive, and rehabilitative.
9. A. Waymack said that she urges us [the University] to move towards a system where no one has access to legal counsel outside of the University because it advantages the well-off. She said that she would like to see a system where counsel is not necessary, but it is difficult to achieve because of the issues previously raised.
10. M. Battaglia said that, in his interaction with the Judicial Codes Counselor, the Judicial Codes Counselor does not see outside counsel as being beneficial.
11. D. Putnam-Point of Information-Who owns the documents? Who can direct the owner to clarify and update the language of the document?
 - a. M. Battaglia said that there is a relationship between the Codes and Judicial Committee and the University Hearing and Review Boards. He said that the chairs would typically alter the documents.
 - b. M. Horvath said that it is typically the Administrative Chair, and in this case, Joel Cisne.

12. R. Lieberwitz said that the Codes and Judicial Committee should commit to clarifying the language. She said that she would not like to run away from the term of “due process,” as a term of art that is not specific to public institutions. She said that the term captures a notion of fairness.
 13. M. Battaglia spoke about University Counsel, and their relationship with the Codes and Judicial Committee.
 14. R. Bense said that fear leads to bringing in outside counsel. He said that, in that fear, to deny someone the choice, no matter if it is bad, is a mistake. He said that there is an asymmetry of power.
 15. A community member spoke in support of A. Waymack’s ideas and the general power dynamics in cases that involve counsel.
 16. A community member spoke about the comments made during the Mitch McBride case.
 17. M. Horvath said that something missing in the procedures is a timeline for exchanges. She said that it is frustrating for her office when respondents fail to sign their SDA, resources are lost because her office must act to assemble a hearing. She asked why this process is so feared? She said that it is important that there is the option of having an attorney.
 18. V. Price said that, from a student perspective, it is worrisome that it will tarnish one’s record and transcripts.
 19. M. Horvath said that probation is reportable, but not notated.
 20. N. Stetson said that, one problem may be that the Campus Code of Conduct does not cover administrators. He said that he has mixed feelings about everyone being under the same Code of Conduct. He said that the easier thing to do would be to ask the University Assembly to request the administration to not comment on cases.
 21. M. Horvath said that faculty and staff are held to a higher standard of proof than students.
- c. For Discussion: University Hearing and Review Boards Staffing Update and Discussion
- i. M. Battaglia discussed the updated University Hearing and Review Boards questions and the upcoming staffing procedures.
 - ii. M. Horvath said that there should be a process of notifying individuals as alternates to train them for vacancies because the process to fill vacancies can be cumbersome.
 - iii. N. Stetson moved by unanimous consent to extend the meeting by 5 minutes.
- d. For Discussion: Hate Speech Working Group Update and Discussion
- i. M. Battaglia said that the Hate Speech Working Group met on Monday and discusses timelines and logistics, and that the bulk of the work would need to be done by the end of February, 2018. He said that they are still waiting on an employee representative and an undergraduate representative. He said that one faculty member was appointed.
 - ii. N. Stetson said that there is now a listserv. He said that they are working on producing a website under the Assemblies website.
 - iii. R. Lieberwitz said that it is important that, as the Hate Speech Working Group begins to meet regularly, it needs be publicized so that the community will be aware.

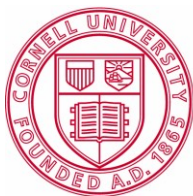
- iv. N. Stetson moved by unanimous consent to extend the meeting by 5 minutes.
- e. For Discussion: Concerning the process of a holistic evaluation of the Campus Code of Conduct
- f. For Discussion: Discussing recent Department of Education policy shifts, our Quantum of Proof, and Policy 6.4

IV. Adjournment

- a. N. Stetson motioned to adjourn. There was no dissent. The motion was adopted. The meeting was adjourned at 5:55pm

Respectfully submitted,

Terrill D. Malone
Codes and Judicial Committee Clerk



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Minutes

Codes and Judicial Committee
University Assembly
January 31st, 2018
4:30pm - 5:45pm
305 Day Hall

In attendance: R. Lieberwitz, M. Battaglia, N. Stetson, K. Zoner, R. Bense, V. Price, G. Kaufman, D. Putnam, K. Karr, J. Kruser

Others: M. Horvath, N. Hernandez, G. Giambattista

I) Call to Order (Chair)

- The Chair called the meeting to order at 4:33pm
- The chair noted staffing changes to the committee: Sarah Park (SA) and Neeraj Jaisinghani (UA) have stepped down, and vacancy filled by Rina Winarto (from the UA). The SA vacancy will be filled.

II) Approval of Minutes (Chair)

- November 29, 2017 (2 minutes). Will be reviewed at the next meeting

III) Business of the Day

- Beginning of Semester Outlook and Scheduling
- Chair heard from members that the weekly meetings were onerous, so he is reaching out to members for a confirmed time and date for regular meetings, noting that if members cannot attend, or it is difficult to attend, would not be conducive to the work of the committee. The Chair will send out a Doodle poll to members.
- Review of Agenda –
 1. UA R5 sent back to the committee by the UA.
 2. Chair would like to record actions of the committee for institutional memory.
 3. Review of Code Changes, pursuant to UA R4.
 4. UHRB Staffing – invite and hear from the UHRB Chairs
 5. Complaint Advisors (Policy 6.4), be included in Code with parity to the JCCs.
 6. UHRB selection process. Calendar in place. Noting the change to bi-weekly (committee) meetings, to no tax everyone's already-overcommitted time.
 7. Scheduling – we need a time that works for everyone. It will be a busy semester.

IV) For Discussion: Hate Speech Working Group Update and Discussion (15 minutes)

- Hate Speech Working Group had two meetings in the fall, minutes were posted on the OA website.

- The working group has been trying to schedule another meeting for the past two and a half weeks
- The current chair, C. Hodges is unable to discharge the duties of being the chair.
- Committee needs a chair– needs to be operational asap. Working Group is only half-staffed at this point.
- M. Battaglia reviewed the current staffing. Faculty and GPSA are staffed; still waiting on appointments from the undergrads and staff.
- J. Kruser noted the EA has approved an appointment, and will follow up.
- R. Bensel - asked for clarification from the chair about how the new chair of the HSWG will be appointed.
- M. Horvath – there was an effort to staff the committee last semester, and took up a lot of time of the CJC. Concerned that the staffing of the Working Group will take up valuable time of the CJC.
- M. Battaglia – agrees, and asserts that what is most important is to “get it done right”. Goal would be to get it done quickly and right, but right is most important.
- N. Stetson- Because the chair has to be one of the members from the CJC, and since C. Hodges is not able, stated that he would be happy to be a chair, in the interest of time.
- R. Lieberwitz – concerned about need to move forward, feels it is stalling because we can’t get a full complement of people on the committee. In the interest of moving forward, she offered to be chair if necessary, so that the working group could move forward. But also noted her limited time available.
 1. R. Bensel seconded nomination
 2. Call for other nominations
 3. N. Stetson nominated himself
 4. R. Lieberwitz withdrew her nomination, in support of N. Stetson’s nomination.
- Motion to elect N. Stetson as the new chair for the Hate Speech Working Group
- **Approved** by unanimous consent.

V) For Discussion: UA Resolution #5 Bylaws Change Clarifying the Charge of the Codes & Judicial Committee (10 minutes)

- Chair explained the resolution briefly
- A bylaw revision to ensure UA has input on 6.4; holiday symbol policies; Risk Management request that non-matriculated minors not be included as “students”
- M. Horvath – Does the Charter get approved by president?
- M. Battaglia – this is a bylaw change, so only internal. We are documenting something
- M. Horvath – Concern with policy of non-matriculated minors in President Pollack’s denial statement... “I do not agree that the CJC should be involved in policies regarding minors that are not part of the Cornell community...” So, we have already heard from the president that she will not approve, and we are putting forth bylaw changes that are contrary to that...
- M. Battaglia – our charter says we can ask for information as we see fit. The CJC is free to “check in” from time to time and be involved in policies; we can pick up anything on our own prerogative.
- M. Horvath – my concern is that we would have two documents that contradict each other.

- M. Battaglia – Code doesn't mention the CJC at all, so no technical conflict.
- R. Bensel – Clarify: If we do not have jurisdiction over non-matriculated minors. Then it is a moot issue. But we should be clear.
- N. Stetson – Understand that the president wants input from the community. Hopefully input from the constituent assemblies will be included.
- M. Battaglia – This is an internal, bylaw change; does not need the president's approval.
- R. Bensel – The UA is responsible to its constituents, through its assemblies. He doesn't think it's the president's job or responsibility to tell us how we do that. We should do more community outreach, but not to satisfy the president's opinions or wishes. She could take some lessons on that. I want to be clear that we are doing this to address a constituency, but it is not our responsibility to respond to the president.
- N. Stetson – amend resolution so it is clearer with objective. The CJC is the best, and most experienced with adjudicative and rules-based matters; so the CJC would be happy to give advice to the UA on this resolution.

VII) For Discussion: University Hearing and Review Boards Staffing Update and Discussion (10 minutes)

- M. Battaglia – stated that the process was begun in the fall and applications will be open for about two weeks, a goal is to have this done by March; with a separate goal to institutionalize some sort of process
- The UHRB chairs will be coming to talk to us in the near future because they were invited
- M. Horvath – giving the chairs at least a month advanced notice is a courtesy we should extend to them

VIII) For Discussion: Concerning the Holistic Approach to Addressing the Campus Code (10 minutes)

- M. Battaglia – resolution was returned with three or four items for us to reconsider. Some slight typographical question. Biggest issue was under the JA Reappointment process. We would like to pull out those things to fix and re-submit. Most of what we did here is likely to be approved. Everything we did was already voted through.
- G. Giambattista – community outreach was concern, even for provisions the president was ready to approve.
- M. Horvath - Meaningful public notice and comment – how is it historically defined?
- M. Battaglia – historically, the UA has put it on their website for public comment for a period of time. Personally, will shop this around to the other assemblies; to make sure they are aware of it. In terms of public comment, there are areas we won't hear anything about; the language is mostly set; but will personally do outreach, and then elevate it back to the UA.
- M. Horvath – Code states the procedures (proposals) need to be posted in the Cornell Chronicle – is this something we have traditionally done? Or has it been in the Sun?
- M. Battaglia – That is not something traditionally done. Traditionally the UA puts it out on our agenda and opens it for public comment. In this case, will personally shop this around send it out to the other assemblies, to ensure maximum opportunity for visibility; meaningful and substantial engagement that is satisfactory to the president.
- M. Horvath – does the UA Agenda go to the whole community? How will we meet the requirements, and demonstrate our response to the president's request for "broad-based community interest"?
- G. Kaufman - traditionally code changes are presented at CJC in a public way and the CJC

spends enough time on it, gets passed to the UA, which also sends it to their agenda; that has been enough in the past and now we have a new president who may want to send the agenda to the whole campus community.

- J. Kruser - the expectation for campus outreach has never been clearly defined, we have used the process in the past, but does not do decent outreach to the part of the community who might be interested. Thinks a mass email for every Code change would not be the way. Proposes the UA contact the constituent assembly with any code changes, and let the assemblies determine whether or not it would significantly impact their constituency, maybe that would meet the expectations of the president.
- N. Stetson – Supports Jeramy’s idea. Cornell Chronicle is sort of like the Federal Registry, so put changes there; include link to public comment site on OA website. Gets us close to representative democracy.
- Victoria – echo Nate’s idea. Mimics the federal government. People who want to read it will read it, and those not interested will not. Communicating through the constituent assemblies makes sense. We don’t have a way to communicate to the entire campus about every Code change. If it’s available to everyone then it should be enough.
- G. Giambattista –historically changes to the code have included a two-week comment period and community input. The Cornell Chronicle is the newspaper of record for the university.
- R. Bense - Likes Nate’s suggestion. Whole thing is a bizarre conversation. The president is asking us to do outreach because, why? We are not the arm of her administration; we don’t do outreach to inform her; we do outreach to inform ourselves. I worry about it in terms of governance. The autonomy of governance is really important. If there is going to be any counter-weight to central administration it’s going to be one of the governance organizations. So, the (president’s) appeal to outreach, trying to make us feel some guilt; works on disabling our own autonomy and how we govern ourselves. Dislikes it. The president has complete discretion; like a constitutional monarchy. She can turn over anything, for any reason. Is against this. Would have been against asking her what she thought outreach was as a condition on our governance. The autonomy of this group, and every other governance group outside of the central administration is very important.
- J. Kruser – we came up with a really good procedure to do outreach. We can centralize them through the Office of the Assemblies. Newspaper, website, constituent assemblies.
- M. Horvath – only thing to add is an ad in the Sun with details of the proposals. Notes interesting in statement from the president is an interpretation of the UA’s own charter, and seemed to highlight the times that Gabe and Matt spoke with impacted constituents. Risk Management; Greek community, etc. so also create a document stating the impacted constituents. Suggests adding this.
- N. Stetson – if we tell our assemblies, and they tell their communications people, it will filter out to the community by word of mouth. But in response to the president’s statement, thinks this is a worrisome tone and worrisome take to our governing documents, and we should keep an eye on it. It’s not the first evidence that we are already seeing a worrisome trend and our governance is a little more vulnerable than it ever has been in history. We need to stand up for our role, but also hold “congressional hearings” of our stakeholders. We need them in here really quickly, to hear your concerns, and then send back a message to the president telling her, not only did we enhance our public comment, which we thought was good, but now is better, but we’ve reached out to stakeholders, which would give us additional coverage with the president.
- M. Battaglia – Next time, we will be exceptionally clear
- R. Lieberwitz –Thinks this has been a good discussion. No one is against complying with meaningful discussion. Don’t think we need to go overboard and have every stakeholder attend. These are open meetings, anyone can come. But along the lines of what Richard said, I ask myself where is this coming from... what is motivating this? Can’t completely tell. Experience with the Faculty Senate where if the administration doesn’t like what the

FS votes on, then we get a response of “you’re just a bunch of faculty, and you don’t really know what the rest of the faculty wants.” But, we were elected to speak for all of the faculty, and it relates to the issue of autonomy that was raised. That is the control we maintain. We are representative bodies. And the point of irony: how many years have we chased the administration to (allow shared governance to) provide consultation and input in their own decision making; this may be a case of “physician, heal thyself”. This president wasn’t here back then, but perhaps we can use this as an opportunity to say we’re all in agreement. We want to have the constituent assemblies working with you early to inform policy. How do we do that?

- J. Kruser – If we have a page on the website for Code amendments, people who are interested will know where to go. On the economy of shared governance, with the delegated authority from the president’s office there is a push and pull. We don’t have true autonomy, and we must remember that.
- M. Battaglia – Notes, the UA’s authority in the charter comes directly from the Trustees, so in terms of being autonomous from the president’s office... we are. In this case, we can be autonomous. We are not an arm of the administration, we are as autonomous as can be, even though we are in Day Hall. In our decision-making, we are autonomous.
- K. Zoner – Uniformly we have heard that people want more input; it may be what she (president) is trying to do; she is getting that pressure too. President is new to us. But, she doesn’t know us; hasn’t seen us work. We are tempering everything that we do to the best of our ability; we have always been a very thoughtful in moving forward. Let’s be more communicative of what we’ve done. The opinion of the day matters. Let’s re-shop it and determine if this still represents what we want to say.
- G. Kaufman – looking at the president’s response, she specifically said community outreach in the UA’s charter. The way I see it, that leaves outreach up to us. Maybe we did all of those things, maybe we did most of them. Thinks we fulfilled the requirement. Next time we pass a Code change, we need to make sure we specifically address this portion of our Charter. So, she will not be able to send it back. She can disagree, but she could not say we were not transparent.
- M. Battaglia – there is wiggle-room; “be as transparent as possible” gives us authority to do it the best way we decide.
- J. Kruser – What we’re aiming for is “spirit” and not just “letter”. If we document what we discussed here today, we should not run into similar situations in the future.
- R. Bense – Institutional memory. Interpretation of language in our bylaws should be tracked, so we know what it “means”. Don’t put things in the bylaws, but rather document what we want the bylaws to say. Point is that we are satisfying our bylaws. We are not satisfying the president. Make clear that distinction. We are not doing this to satisfy her request; we are doing this for ourselves.
- M. Battaglia- Bylaw amendments should be included for institutional memory. We should specify, “what constitutes public comment”, to ensure we are institutionally sound.
- J. Kruser – on documenting procedures, we could use the tool of “Standing Rules” to document procedures; much quicker to adapt than bylaws.

IX) For Discussion: Discussing recent Department of Education Policy Shifts, our Quantum of Proof, Policy 6.4, and the Complainants Advisor (10 minutes)

a) Tabled

X) Adjournment (Chair)

a) Adjournment at 5:47pm

Language Comparison from Returned Changes to the Campus Code of Conduct

Proposed language to address to the suspension length, definition, and reporting date for organizations

President's Language/Concern.	Passed Language (Title Three, Art. III, Sec. D.4 (pg. 24, 2017).
None noted.	<p>4. Limitations Period</p> <p>Any charge of a violation of this Code must be initiated by the filing of charges by the Judicial Administrator within one calendar year of the date of the alleged violation. Exceptions to this policy that extend the period beyond one year are:</p> <ul style="list-style-type: none">a. In cases where the charge involves fraud, the period shall be one calendar year from the alleged fraud or 60 calendar days from the filing of a complaint alleging fraud, whichever is longer, but in any event no more than three calendar years from the alleged fraud.b. In cases where the individual to be charged is absent from the University because of either (1) a leave of absence, (2) a termination of employment, or (3) a withdrawal as a student, a charge may be brought within one calendar year of the alleged violation or within 60 calendar days of his or her return to the jurisdiction of the University judicial system, whichever is later.c. In cases where the individual to be charged is facing public prosecution involving the same matters, a charge may be brought within 60 calendar days of the final disposition of such prosecution. Should it appear that the individual will leave the University before such time, the President

	<p>or his or her designee may cause the individual's degree to be withheld for the period in which the Judicial Administrator may file charges.</p> <p>d. In cases where the Respondent is a University-Registered Organization the period shall be no more than three calendar years from the alleged violation.</p> <p>e.-d. The Judicial Administrator may request a Hearing Board Chair to extend any limitations period by up to an additional six calendar months, without required notice to any other person but upon a showing of special circumstances justifying such an extension, provided that the Judicial Administrator delivers such written request to a Hearing Board Chair prior to the expiration of that period.</p>
None noted.	<p>(Title Three, Art. IV, Sec. A.1.c.6 (pg. 25, 2017).</p> <p>(6) Suspension of all privileges for a stated period not to exceed one year five years.</p>

Proposed language to address to immediate suspension for non-compliance of sanctions

President's Language/Concern.	Passed Language (Title Three, Art. III, Sec. D.4 (pg. 24, 2017)).
<p>2. If an offender has not complied with the prescribed penalty or remedy within the specified time, the Judicial Administrator may suspend the offender or issue a lesser penalty. In the event the JA elects to suspend, the JA shall notify the University Registrar, Office of the Dean of Students, and other offices on a need-to-know basis that the individual or organization is suspended, and the suspension shall have immediate effect and continue until the offender has complied. For any violation of the terms of probation committed during the probationary period, the Judicial Administrator may impose on the offender additional penalties, including suspension or dismissal. The offender may request an appearance before the Judicial Administrator in order to show the fact of compliance, to contest the violation of probation, or to argue for a lesser penalty. The offender may petition the University Hearing Board in writing for a review of the penalty imposed by the Judicial Administrator for noncompliance or for violating probation.</p>	<p>2. If an offender has not complied with the prescribed penalty or remedy within the specified time, the Judicial Administrator shall may¹ notify the University Registrar, Office of the Dean of Students, and other offices on a need-to-know basis that the individual or organization is suspended, and the suspension shall have immediate effect and continue until the offender has complied. For any violation of the terms of probation committed during the probationary period, the Judicial Administrator may impose on the offender additional penalties, including suspension or dismissal. The offender may request an appearance before the Judicial Administrator in order to show the fact of compliance, to contest the violation of probation, or to argue for a lesser penalty. The offender may petition the University Hearing Board in writing for a review of the penalty imposed by the Judicial Administrator for noncompliance or for violating probation.</p>
<p>None noted.</p>	<p>(Title Three, Art. II, Sec. A.3 (pg. 18, 2017)).</p> <p>(m) To refuse to comply with any valid penalty or remedy dispensed by the Office of the Judicial Administrator and/or University Hearing or Review Board lawful order of a clearly identifiable University official acting in the performance of his or her duties, or with a policy that has been duly promulgated by the University or any college, department, or unit thereof, whether or not the policy has been issued in the standardized University format.²</p>

¹ The term “may” will preserve the rare instances of addressing, for example, serious violations of NCDs.

² Same language as Title IV; some language from peer-institutions will be shared.

Proposed language to role of non-matriculated minors

President's Language/Concern.	Proposed Language (Title Two, Art. I, Sec. B.2 (pg. 10, 2017)).
<p>1. The term student shall be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with the University as:</p> <ul style="list-style-type: none"> a. a degree candidate in any of Cornell's undergraduate or graduate divisions; b. a special student in the undergraduate divisions; or c. a non-degree-candidate in the graduate school. <p>2. The term student shall be interpreted to mean also persons not officially registered, and not faculty members or other University employees, if they are:</p> <ul style="list-style-type: none"> a. currently enrolled in or taking classes at the University, with the exclusion of any individual enrolled in or taking classes at the University while still an elementary, middle, high school student, or foreign equivalent; b. currently using University facilities or property, or the property of a University-related residential organization, in connection with academic activities, with the exclusion of any individual enrolled in or taking classes at the University while still an elementary, middle, high school student, or foreign equivalent; or c. currently on leave of absence or under suspension from being a student of the University. 	<p>1. The term student shall be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with the University as:</p> <ul style="list-style-type: none"> a. a degree candidate in any of Cornell's undergraduate or graduate divisions; b. a special student in the undergraduate divisions; or c. a non-degree-candidate in the graduate school. <p>2. The term student shall be interpreted to mean also persons not officially registered, and not faculty members or other University employees, if they are:</p> <ul style="list-style-type: none"> a. currently enrolled in or taking classes at the University, with the exclusion of any individual enrolled in or taking classes at the University while still an elementary, middle, high school student, or foreign equivalent, so long as such individuals are subject to written behavioral expectations, policies or procedures; b. currently using University facilities or property, or the property of a University-related residential organization, in connection with academic activities; or c. currently on leave of absence or under suspension from being a student of the University.

Proposed language regarding removal of indefinite suspension

President's Language/Concern.	Proposed Language (Title Three, Art. II, Sec. E.1.c (pg. 24, 2017)).
None noted.	<p>Circumstances Requiring Hearing</p> <p>e. The offender may petition in writing for readmission from indefinite suspension.</p>
None noted.	<p>(Title Three, Art. IV, Sec. A.1.a.8 (pg. 34, 2017)).</p> <p>(8) Suspension from the University for a stated period not to exceed five years. or indefinitely with the right to petition the University Hearing Board in writing at any time for readmission after the academic term following the academic term in which the suspension occurred. Such petition shall be submitted no later than April 1 if the petition is for readmission for the fall semester and by November 1 if the petition is for readmission for the spring semester. If the Judicial Administrator agrees with the petition of the accused, he or she may permit the readmission without the petition being considered by the University Hearing Board, after consulting with appropriate professional colleagues and receiving approval of a Hearing Board Chair. If the University Hearing Board denies the petition, the accused may not petition again until the next semester and, in any event, may not petition for readmission for the same semester denied by the University Hearing Board. While on such suspension, the student may not obtain academic credit at Cornell or elsewhere toward the completion of a Cornell degree.</p>
None noted.	<p>(Title Three, Art. IV, Sec. A.2.b (pg. 34, 2017)).</p> <p>b. Ordinarily, the penalty for a third violation by a student within a twelve-month period should be probation or suspension from the University for a stated or indefinite period and denial of academic credit for the term in which the suspension occurs. The penalty may be reduced if a lesser penalty would more appropriately serve the interests of justice and if, in addition, the offender expressly agrees not to engage in misconduct of specified kinds in the next twelve months. In such a case of indefinite suspension, the offender may petition the University Hearing Board in writing for readmission, but no</p>

	application for readmission for the academic term following the academic term in which the suspension occurred will be permitted
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Proposed language clarifying UHRB appointment procedures

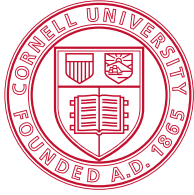
President's Language/Concern.	Proposed Language (Title Two, Art. IV, Sec. C.3 (pg. 14-15 2017)).
<p>I generally support the proposed change, but request that the UA make clear the process by which a currently serving member may request reappointment. Under the current process, which does not expressly allow for reappointing existing Hearing and Review Board (HB) members, a reappointment to the HB would follow the same process as any initial appointment: for faculty members, nomination by the Dean of the Faculty, and for all other appointments, nomination by the CJC following written solicitation for applicants by the Office of the Assemblies. The proposed reappointment process removes the Dean of the Faculty and the Office of the Assemblies from exercising any oversight over HB members after their initial appointment to the HB. In order to ensure the appropriate levels of transparency and independence for reappointment of HB member, I recommend this provision be further amended to require input from the Dean of the Faculty.</p>	<p>3. Members of the University Hearing Board and University Review Board pool shall serve terms of office as follows:</p> <ul style="list-style-type: none"> a. All members shall be appointed for two-year staggered terms, except for students entering their final year of study, who shall be appointed for one-year terms. b. Terms of office shall begin June 1 of the year appointed. Any appointment to fill a vacancy or to address an emergency shall become effective immediately. c. Currently serving members may be appointed for additional terms if reconfirmed by the University Assembly after review by the Codes and Judicial Committee. d. The Chair of the Hearing Board or Review Board shall have the authority to remove a member of the pool if the member is not honoring his/her commitment to the university to communicate promptly with the Chair or the Judicial Administrator's office, to participate in hearings, to arrive punctually, and otherwise to participate responsibly in this process.

Proposed language clarifying JA appointment procedures

President's Language/Concern.	Proposed Language (Title Two, Art. II, Sec. A.3 (pg. 12 2017)).
<p>I cannot accept this proposed change. As you note in the resolution, the practice used in the JA reappointment process over many years has not aligned with what is in the Code, and what is in the Code lacks clarity. The resolution's language, however, not only fails to address the clarity issues, but it also creates new, substantive problems, including a fairness issue of changing the reappointment process at the very moment at which reappointment is due. Given the urgent need for (re)appointment of the JA and the outstanding, substantive issues with the UA's proposed changes to the reappointment process, I suggest that we reappoint the JA for a period of one year (i.e., through June 2019), to give us time to work together to develop mutually acceptable changes to the JA appointment process that can be fairly applied to the current JA.</p>	<p>3. The Judicial Administrator shall be appointed for a two-year term. A Judicial Administrator can be reappointed for additional terms. In October of the year</p> <p>a. Six months preceding the expiration of the term of the Judicial Administrator, the chair of the University Assembly shall convene a six-member committee, including two members appointed by the President, two members appointed by the University Assembly, the chair of the Codes and Judicial Committee, and the Judicial Codes Counselor to provide feedback to the Judicial Administrator and evaluate their term. The committee will internally elect a chair and shall make a recommendation to the President either in favor or against the Judicial Administrator being nominated for an additional term. Such recommendation must be made at least four months prior to the expiration of the current term. or</p> <p>b. Upon the University Assembly chair's receipt of notice of the Judicial Administrator's resignation or removal, the chair shall convene a six-member search committee, including two members appointed by the President and four members appointed by the University Assembly, to propose two or more nominees to the President.</p> <p>The President shall appoint or reappoint a candidate with the concurrence of the University Assembly. In the event of an unexpected vacancy, the Associate Judicial Administrator shall be appointed by the President, with the concurrence of the University Assembly, to serve until a permanent Judicial Administrator is appointed.</p>

Proposed language adding discretion to No Contact Directive procedures

President's Language/Concern.	Proposed Language (Title Three, Art. III, Sec. B.2 (pg. 19, 2017)).
<p>I support the UA's proposed change, in part. In addition to the JA and JCC, victim advocates should have the opportunity to comment on a change making all no-contact orders mutually binding. Also, I question the wisdom of creating a new right of appeal to a process that is, by its nature, intended to be interim and would suggest that lines 479 - 489 be eliminated.</p>	<p>a. In cases involving allegations of harassment, abuse, assault, rape, or other menacing activity, the Judicial Administrator, after making a reasonable effort to meet with the accused if appropriate to do so, may issue a No-Contact Directive, binding upon all involved parties.</p> <p>b. The Judicial Administrator shall make available to the accused the exact terms of the No-Contact Directive, as soon as it is issued.</p> <p>c. In the event the Judicial Administrator is notified of a violation of the terms of the No-Contact Directive, the accused shall be provided with an opportunity to review the matter with the Judicial Administrator within two business days. If the Judicial Administrator determines, based upon the information available, that the No-Contact Directive has been violated, he or she may impose additional interim measures or suspend the accused temporarily, pending resolution of the underlying case.</p>
	<p>c. In the case of such directive, the accused may petition the University Heard Board in writing for a review of the decision. That board shall meet to consider the petition as soon as possible, but no later than seven business days after it receives the petition. However, that board may grant a postponement upon the request of the accused, to a date not later than 21 calendar days after the petition is received. If that board determines that the No-Contact Directive was improper or is no longer necessary, it shall lift the directive immediately. The board's decision may not supersede an active court order.</p>



U.A. Resolution # 5

Bylaws Change Clarifying the Charge of the Codes & Judicial Committee

October 17, 2017

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

Whereas, the object of the University Assembly (the Assembly), "...is to improve and sustain the involvement of the campus community in the governance of campus affairs affecting the broad campus community by establishing open, effective, and efficient channels of communication between and amongst the community and university administration" [Charter, Article Two]; and

Whereas, pursuant to Article Three, § 3.3 of its Charter "The Assembly has authority in matters concerning its internal operation and maintenance, including provisions for the creation of bylaws and procedures"; and

Whereas, the Codes and Judicial Committee (the Committee) over time has been charged with and has reviewed all resolutions concerning the Campus Codes of Conduct (the Code); and

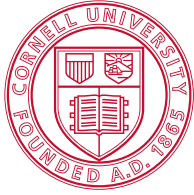
Whereas, in the Committee's work it has examined areas that are adjacent to and similar in scope and application to the Code both of its own volition and upon request of the Assembly; and

Whereas, in the past some areas of responsibility of the Assembly and the Committee have been examined sparingly as they have not been formally documented in the standing charge to the Committee; and

Whereas, the Committee in its discussion of the role of non-matriculated minors in the Code expressed a concern that by removing these individuals from the Code the Committee would lose touch with these groups and the policies governing them; and

Whereas, the Assembly traditionally has worked with the Committee and Cornell Environmental Health and Safety to approve Guidelines for Display of Religious Symbols in the Fire Safety Guidelines for Holiday Displays¹; and

¹ Attached as Appendix A to this resolution.



Cornell University University Assembly

Whereas, in his letter of April 22, 2012 then-President David Skorton accepted the University Assembly's request to be a stakeholder under the definition of Policy 4.1 for Policy 6.4 stating "I very much appreciate and welcome the participation of the University Assembly as a stakeholder in the process of amending Policy 6.4 and know that the community will benefit from the "robust participation" of the University Assembly"; and

Whereas, by adding these responsibilities and areas of examination to the Committee's standing charge it records them in our permanent governing documents, minimizing the risk that responsibilities are inadvertently neglected; and

Whereas, these changes are not modifying the existing authority of the Assembly or Committee but rather documenting and aligning the Committee's charge with its current and historical areas of examination and responsibility; and

Whereas, the Committee in its examination of the Code and other documents has emphasized taking steps to align practice and written procedure; and

Whereas, the Assembly strives to be a partner with the Administration; and

Whereas, effective partnership requires that the Assembly maintain and exercise its responsibilities judiciously; and

Whereas, these changes assist the Assembly and the Committee in keeping track of and carrying out their respective responsibilities; therefore

Be it Resolved, that Article Four, § 4.1 of the University Assembly Bylaws be amended to add:

By delegation from the Assembly, the Committee will review any proposed motion related to:

- Campus Code of Conduct;
- recruitment and appointment of members to the University Hearing and Review Boards;
- the Assembly's role as a Policy 4.1 stakeholder in Policy 6.4 (or its successor);
- the Assembly's approval of the Guidelines for the Display of Religious Symbols contained within the University's Fire Safety Guidelines for Holiday Displays; and
- written behavioral policies regarding non-matriculated minors who are outside the full Campus Code of Conduct.

No signature block is present until the resolution has been disposed of by the Assembly (Passed, Failed, Withdrawn, etc.) Then a block with the certifying member (customarily Chair/Vice-Chair) verifying the authenticity and vote tally of the resolution.



Fire Safety Guidelines For Holiday Displays

Fire Code Compliance

FIRE SAFETY GUIDELINES FOR HOLIDAY DISPLAYS	
PERMITTED	NOT PERMITTED
Decorations <ul style="list-style-type: none"> Potted plants and leaf-bearing trees Underwriter's Laboratory (UL) approved artificial, slow-burning/non-combustible trees made of plastics All-natural cut trees and other plant material that have been treated with fire retardant material. Documentation of treatment is required Flame-resistant paper or cloth decorations covering 10% or less of the wall & ceiling space 	Decorations <ul style="list-style-type: none"> All-natural cut trees or other plant material that have NOT been treated with a fire retardant material Metallic trees Combustible decorations
Lighting <ul style="list-style-type: none"> UL Approved & UL tag must be on light cord(s) Miniature electric lights, up to 3 strings of light maximum 	Lighting <ul style="list-style-type: none"> Non-UL approved light strands Light strands that do not have the UL approved tag More than 3 strings of lights plugged in together
Candles <ul style="list-style-type: none"> Battery operated LED candles "preferred" Live Candles with approval from the University Fire Marshal and Risk Management during religious observances only. Must be attended and enclosed in glass at all times while lit 	Candles <ul style="list-style-type: none"> Live open burning candles, except with an approved use of candle permit for religious observances
REMEMBER TO: <ul style="list-style-type: none"> Keep all exit routes hallways corridors and stairways free of obstructions Contact the University Fire Marshal at 607-255-8200 if you have any fire or life safety concerns Have a current and approved fire emergency plan Always know two ways out of every room and building. Practice alternate escape routes on a regular basis If fire strikes, on your way out of the building activate the fire alarm system to begin the total evacuation of building and then call Cornell Police at 607-255-1111 from a safe location 	
For additional fire safety information and other fire safety links visit us on the web at http://www.ehs.cornell.edu .	

Cornell is fortunate to have members from diverse religions on campus. According to the Cornell United Religious Works, there are more than 25 religious organizations represented at Cornell. While there are many religions that have no religious holiday between November and January, and while many members of Cornell's community do not practice a religion, the university encourages its members to respect differences in religious

Approved by: Ron Flynn
Last revised by: Ron Flynn
Revision date: 10/21/14

FCC_Fire_Safety_Guidelines_for_Holidays_Decorations

Page 1 of 2

The most recent version of this document is available electronically at EH&S Website:

http://sp.ehs.cornell.edu/fps/fire-code-compliance/Documents/FCC_Fire_Safety_Guidelines_for_Holidays_Decorations.pdf

Fire Safety Guidelines for Holidays Decorations

practices during this holiday season, and always. In an effort to create an inclusive environment, the University Assembly approved the following *Guidelines for the Display of Religious Symbols* below

GUIDELINES FOR DISPLAY OF RELIGIOUS SYMBOLS

- Individuals may *privately* display symbols in their work areas or living quarters.
- Areas that would give the impression that the symbol is associated with the university, particularly the external surfaces of buildings may not be used for displays of religious symbols.
- The university administration shall not sponsor nor provide direct financial support for the display of religious symbols.
- Campus groups desiring to sponsor celebrative and/or educational displays utilizing religious symbols shall have full access to appropriate campus display areas, subject to regular administrative procedures governing the use of these areas.
- Any display areas that normally are available to all campus groups shall also be available for the display of religious symbols, subject to regular administrative procedures.
- The policy prohibits special or temporary display areas for religious symbols.

University members are reminded to be respectful of the religious diversity of our students and colleagues and are encouraged to use an *inclusive* approach in celebrating the holiday season.

Individuals and units demonstrate this inclusive approach by:

- Focusing on the winter season rather than a particular holiday
- Displaying symbols that visually represent holidays of several religions in combination with secular decorations of the season.

GUIDELINES FOR INCLUSIVE SEASONAL DISPLAYS

Winter Holiday Displays/Decorations that are Consistent with Cornell's Commitment to Diversity and the University Assembly Guidelines:

- Snowflakes
- Trees (in accordance with Fire Safety Guidelines) decorated with snowflakes and other non-religious symbols

Winter Holiday Displays/Decorations that are Consistent with University Assembly Guidelines But Should be Basis of Dialogue Within Unit or Living Area

- Trees decorated with bows, garland and lights (in accordance with Fire Safety Guidelines)
- Wreaths with bows (in accordance with Fire Safety Guidelines)
- Combination of snowflakes, (in accordance with Fire Safety Guidelines), Santa Claus figure, and dreidel
- Holly

Winter Holiday Displays/Decorations that are NOT Consistent with Either University Assembly Guidelines or the University's Commitment to Diversity and Inclusiveness

- Nativity scene
- Menorah
- Angels
- Mistletoe
- Stars at the top of trees
- Crosses
- Star of David

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Last revised by: Ron Flynn
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FCC_Fire_Safety_Guidelines_for_Holidays_Decorations

Page 2 of 2

The most recent version of this document is available electronically at EH&S Website:

http://sp.ehs.cornell.edu/fps/fire-code-compliance/Documents/FCC_Fire_Safety_Guidelines_for_Holidays_Decorations.pdf