



Minutes

Codes and Judicial Committee
University Assembly
November 1, 2017
4:30pm-5:45pm
305 Day Hall

I. Call to Order (Chair)

- a. M. Battaglia called the meeting to order at 4:35pm.
- b. Roll Call:
 - i. *Present*: M. Battaglia, R. Bensel, M. Horvath, K. Karr, G. Kaufman, J. Kruser, R. Lieberwitz, S. Park, V. Price, N. Stetson, A. Waymack, K. Zoner
 - ii. *Absent*: C. Hodges, N. Jaisinghani, D. Putnam
 - iii. *Others Present*: K. Ashford, T. Malone, E. Winarto

II. Approval of Minutes (Chair)

- a. September 6, 2017
 - i. **Tabled** to the next meeting
- b. October 18, 2017
 - i. **Approved** by a vote of 6-0-1
- c. October 25, 2017
 - i. **Approved** by a vote of 5-0-2

III. Business of the Day

- a. For Discussion/Vote: Chair of Hate Speech Working Group
 - i. M. Battaglia said that, in terms of the composition of the Hate Speech Working Group, there are only Risa Lieberwitz, Conor Hodges, and Nate Stetson. He said that there has been interest in approving Conor Hodges as the Chair.
 - ii. M. Battaglia asked for any thoughts on Conor Hodges as being the Chair of the Hate Speech Working Group.
 1. K. Zoner moved to confirm Conor Hodges as the Chair of the Hate Speech Working Group. R. Bensel seconded the motion.
 - a. By a vote of 6-0-1, the motion was **adopted**. Conor Hodges was confirmed as the Chair of the Hate Speech Working Group.
- b. For Discussion: Discussion of prior and upcoming Community Forum(s)
 - i. M. Battaglia said that there will be an info list-serv for the Hate Speech Working Group.
 - ii. M. Battaglia discussed the Community Forum held on Friday, October 27, and how many community members felt as if the Hate Speech Working Group is not reflective and inclusive.

- iii. M. Battaglia said that he is glad that Conor Hodges was confirmed as the Chair of the Hate Speech Working Group. He also said that the Codes and Judicial Committee would be happy to provide any necessary support that that Hate Speech Working Group may need.
- iv. M. Battaglia said that the timeline was whimsical and that the Codes and Judicial Committee needed to have more flexibility. He said that he will speak with the University Assembly Executive Committee to ask for an amendment to the Charge that will give the Codes and Judicial Committee more time.
- v. M. Battaglia said that Tuesday, November 22, and Wednesday, November 23 are possible dates for the next forum.
- vi. G. Kaufman encouraged that voting and nonvoting members of the Codes and Judicial Committee consider the timeline, assess the Charge, and take part in the entire process.
- vii. R. Bensel said that he didn't think there were more than 40 people at the Community Forum, and no more than four faculty members present; he said that it was not a great turnout. He said that there were a lot of complaints and criticisms about the forum being short noticed and not having the employee seat of the Hate Speech Working Group filled. He said that one of the most common claims of those that were critical, was that they were hurt, and that they wanted something to be done. He said that he asked for actual incidents that are not covered by the Campus Code of Conduct to see how they [people at the forum] envision the relationship between the Campus Code of Conduct and hate speech; he said that the only cases that came up were 1) the incident in Collegetown; and 2) the incident at the Latino Living Center.
- viii. R. Bensel asked M. Horvath and K. Zoner: 1) what actually happened [in regard to those incidents]? and 2) Does the Campus Code of Conduct only apply to individuals, instead of groups, and would those incidents be covered under the Campus Code of Conduct?
 - 1. M. Horvath said that the Campus Code of Conduct covers registered organizations, not Greek organizations. She said that she was not a part of the investigation, so she does not know of all the details.
 - 2. K. Zoner said she is not prepared to talk about the case and that she does not know to details. She said that, if it were an individual, one would have to identify the individual responsible, which is a real issue because it is difficult to do so.

3. M. Horvath said that one things with the Campus Code of Conduct cases is that, even though the University is a private institution, there is a very deep commitment to First Amendment right. She said that, if we as a community wanted to create speech codes, because we are a private institution and we can do so, then we need to get rid of about 20 pages of the Campus Code of Conduct. She said that, when talking about what is not covered by the First Amendment, it is a very hard standard to meet because one has to show severity or pervasiveness or speech plus action.
- ix. M. Horvath said the way the Campus Code of Conduct is setup, it is a system of hoops that determine the action taken a case-by-case basis.
- x. R. Bensel said that [the Codes and Judicial Committee] has to be careful on how distinctions will be built into the Campus Code of Conduct.
- xi. K. Zoner said that, years ago, there was a move to have accountability move beyond the borders of the campus, being that one is a Cornell citizen wherever he or she is, but the idea was not well received, so there is now an opportunity to discuss if there is an appetite for the idea in this current time.
- xii. R. Bensel said that the tone of the people at the Community Forum was to punish, not to rehabilitate.
- xiii. M. Battaglia read the Campus Code of Conduct's provision on Harassment [which can be found in the slides in the meeting packet].
- xiv. M. Horvath said that there is another provision that directly follows the first.
- xv. R. Lieberwitz said that it is important to look at the issues of jurisdiction. She said that [the Codes and Judicial Committee] must think of addressing those issues with people feeling hurt, but there is also the point of regarding a hostile environment. She said that the Hate Speech Working Group will be looking carefully at these issues, and that it can be seen through the community's definition of the issues at hand.
- xvi. M. Horvath said that the Campus Code of Conduct does not explicitly talk about a hostile environment.
- xvii. N. Stetson said that the strength of the deliberative body is in the Codes and Judicial Committee, and that if the Codes and Judicial Committee continues the discussion, then 1) [the Codes and Judicial Committee] risks getting dragged by losing time for other issues; and 2) [the Codes and Judicial Committee] risks undermining the Hate

Speech Working Group. He requested that the Codes and Judicial Committee keep in mind that the Hate Speech Working Group will be working on the issue. He also mentioned that future Community Forums should be on adjacent days and occur at different times.

- xviii. S. Park asked if the Codes and Judicial Committee will have to approve what the Hate Speech Working Group produces?
1. M. Battaglia said yes. He said that the Hate Speech Working Group will come up with 3-5 different proposals, which will then come before the Codes and Judicial Committee for approval as a resolution, which will then go before the University Assembly for approval, and then finally be conveyed to President Pollack for approval, and in the case that it deals with Title IX, it must go before the Board of Trustees for approval.
- xix. S. Park said that she thinks that it was valuable to have the discussion. She also said that it will be valuable to look at the intent of actions, because, from her understanding, in the case of the Latino Living Center incident, she said that the male accused was an inebriated member of the Latinx community, and that he yelled “build a wall” at the Latino Living Center one time on a dare, but it was never his intent to cause as much trouble as he did.
- xx. M. Horvath made a motion to have the Chair of the Hate Speech Working Group, Conor Hodges, propose a timeline and a forum structure and dates to the Codes and Judicial Committee, then close discussion on the topic.
- xxi. K. Ashford said that there were valid complaints raised, but it seemed as if Matt Battaglia was held accountable for a lot more people’s actions, like adopting the structure of the Hate Speech Working Group. She said that, whether it is Matt Battaglia, or Conor Hodges, going forward, the Codes and Judicial Committee should look at the structure of any forum to make sure that there is not only one person that is fielding questions and being held accountable. She said that she would like to see a different format going forward.
- xxii. M. Battaglia said that he got a lot of passionate feedback, which is valuable because it shows that people care. He said that part of leadership means getting caught in the crossfire. He said that he heard feedback that the process was going too slow, too fast, that it was too inclusive, or too exclusive.
- xxiii. R. Bensel praised M. Battaglia for his work on the Community Forum. He said that the forum must have some preparation, and that, in this case, it is not irrelevant to talk about the event at the Latino Living

- Center because it is came up at the forum.
- xxiv. V. Price asked, do people know that they can email you [M. Battaglia], and now C. Hodges to voice their opinions? She said that this process is meant to hear as many people as possible and that it is not meant to be orderly.
 - xxv. M. Battaglia said that he agrees. He said that, when more people know that they can be heard, then there will be more feedback and success for the Hate Speech Working Group.
 - xxvi. S. Park said that the ILR Town Hall model was successful because everyone received notice and was encouraged to submit questions. She said that this structure will help people that cannot come, and also help to add more structure to the forum.
 - xxvii. M. Battaglia said that he can also contact Institutional Research and Planning to create, publish, and summarize the results of a survey that the Codes and Judicial Committee can analyze.
 - xxviii. A. Waymack-Point of Order-She said that M. Battaglia jumped in when V. Price was speaking.
 - 1. V. Price said that it was not an issue.
 - xxix. K. Ashford said that it might be valuable to make sure that more members of the Codes and Judicial Committee are present, as well as have different people with varying levels of knowledge.
 - xxx. N. Stetson said that he agrees that people will settle down as they have the opportunity to be heard. He said that what was heard has been the pain and hurting that was being discussed previously, and that it will be vented, and we [the Codes and Judicial Committee] will get good stuff.
 - xxxi. N. Stetson said that he is uncomfortable with resolving a different timeline because the University Assembly is the governing body of the Codes and Judicial Committee. He said that it would be better to request or recommend that the University Assembly consider a new timeline.
 - xxxii. R. Lieberwitz said that it seems as if N. Stetson is contrasting in terms of what he said about people expressing hurt feelings, and contrasting that with good stuff. She said, she thinks that the actual feelings that people have are real.
 - xxxiii. N. Stetson said that he is not saying that those are valid or that they are not feedback, but rather that the matter in which we [the Codes and Judicial Committee] gets feedback is likely to organize as people express their feelings and begin to organize their own thoughts and begin to feel hurt. He said that he was not attempting to pass any

judgements on the feelings and expression of pain.

- xxxiv. R. Lieberwitz said that she did not think that N. Stetson meant it that way, but those feelings matter, and although they don't dictate where we [the Codes and Judicial Committee] go, it matters. She said that vocabulary that is used is important; be careful to be inclusive of what people are expressing. She said that forums require real planning and preparation. She said that people are busy with other obligations, so planning can be used to make sure that there is adequate representation of the Codes and Judicial Committee at the forums.
- xxxv. G. Kaufman recommended that there be multiple people from the Codes and Judicial Committee and the Hate Speech Working Group up front at the forums.
- xxxvi. A. Waymack said that the Codes and Judicial Committee continues to talk as if it is running the Hate Speech Working Group, and that, in some ways, that is true, but that is important to give separation and autonomy to the Hate Speech Working Group to allow the group to gain the trust of the community. She said that it is best to leave them to decide the structure of the forum.
- xxxvii. G. Kaufman said that he doesn't know how autonomous the Hate Speech Working Group can be because there are members on both the Hate Speech Working Group and the Codes and Judicial Committee, and because of the fact that the Hate Speech Working Group is an Ad-hoc subcommittee of the Codes and Judicial Committee.
- xxxviii. [Back to the motion made by M. Horvath] M. Horvath motioned to have the Chair of the Hate Speech Working Group, Conor Hodges, present a revised timeline and a forum structure and dates to the Codes and Judicial Committee, on paper or in person. R. Bensel seconded the motion.
 - 1. By a vote of 7-0-1, the motion was adopted.
- xxxix. J. Kruser said that he foresees a request for an alternative timeline, and he suggested having a date for when the timeline will be provided.
 - xl. A. Waymack asked that the timeline not be referred to as "whimsical."
- c. For Discussion: Beginning the process for staffing the University Hearing and Review Boards and increasing contact with the Hearing and Review Board Chairs
 - i. M. Battaglia said that the Codes and Judicial Committee has lost contact with the University Hearing and Review Board, and that he intends for the last meeting to be dedicated to viewing a presentation from the University Hearing and Review Board on where they would like to go in the future.

- ii. M. Horvath recommended that the applicant questions for the University Hearing and Review Board be standardized. She also recommended that there be recognition for students, faculty, and staff that serve on the University Hearing and Review Board.
 - iii. J. Kruser said that certificates of recognition should be sent to all Assemblies memberships.
 - iv. A. Waymack suggested that the University Assembly Executive Committee handle the matters regarding recognition of membership.
 - v. K. Karr recommended that the Codes and Judicial Committee have more contact with the University Hearing and Review Board. She said that having Codes and Judicial Committee and Judicial Codes Counselor members present would be beneficial to the process.
- d. For Discussion: Beginning the process of a holistic evaluation of the Campus Code of Conduct
- i. Point of Information-M. Horvath-Are we [the Codes and Judicial Committee] doing a holistic evaluation of the Campus Code of Conduct, or a plain English revision?
 - 1. M. Battaglia said that the Codes and Judicial Committee is free to go where it wants.
 - 2. M. Horvath offered to provide a timeline and material from peer institutions.
 - ii. N. Stetson said that it might be helpful to look at whether people want the Codes and Judicial Committee to do a holistic evaluation of the Campus Code of Conduct, or to simply just a plain English revision.
- e. For Discussion: Discussing recent Department of Education policy shifts, our Quantum of Proof, and Policy 6.4
- i. This topic was not discussed at the meeting.

IV. Adjournment

- a. M. Battaglia adjourned the meeting at 5:44pm

Respectfully submitted,

Terrill D. Malone
Codes and Judicial Committee Clerk