



# Cornell University University Assembly

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## Minutes

Codes and Judicial Committee  
University Assembly  
March 7<sup>th</sup>, 2018  
4:30pm – 5:45pm  
163 Day Hall

### I. Call to Order

- i. Call to Order
  - a. M. Battaglia called the meeting to order at 4:40pm.
- ii. Roll Call
  - a. *Present*: K. Ashford, D. Barbaria, M. Battaglia, R. Bense, M. Horvath, K. Karr, G. Kaufman, J. Kruser, R. Lieberwitz, V. Price, C. Riley, E. Winarto
  - b. *Absent*: D. Putnam, K. Zoner, A. Waymack
  - c. *Others Present*: M. Lee

### II. Approval of Minutes (Chair)

- i. November 15, 2017
  - a. Amended version approved by unanimous consent.
- ii. February 21, 2018
  - a. Amended version approved by unanimous consent.
- iii. February 28, 2018
  - a. Approved by unanimous consent.

### III. Business of the Day

- i. For Discussion: University Hearing and Review Boards Staffing Update and Discussion
  - a. Chair M. Battaglia provided an update on the University Hearing and Review Boards staffing procedures. He said that the staffing process will begin on Monday and that he will be in further contact with the Office of the Assemblies regarding possible issues of miscommunication.
  - b. V. Price asked if it would be possible for the Committee to review the applications on its own.
    1. M. Battaglia said that it would be possible to separate the

reviewing of applications and then reconvene.

- c. G. Kaufman asked about the exact date and times for which the applications open and close.
  - 1. M. Battaglia said that the applications will open on March 12<sup>th</sup>, Monday morning. He said that he will be in contact with the Office of the Assemblies for an exact time of 10am and noted that the times provided by the Office do not align with the discussion he recalled. He said that the Committee would stop collecting applications on the 28<sup>th</sup>.
- d. R. Bensel asked when the staff decisions would be made, if the applications were to open on the 12<sup>th</sup> and close on the 28<sup>th</sup> of March.
  - 1. M. Battaglia said that the plan provided by the Office was to make decisions by May 4<sup>th</sup>, which is a date much later than what had been discussed. He noted that this plan may need to be altered.

ii. Working Group Update

- a. R. Lieberwitz, Chair of the Working Group, presented updates on the progress of the Working Group. She noted that there has been a discussion about the first forum, which is structured to begin with a large group discussion and move into smaller breakout groups. She said that the purpose of the first two sessions of the Working Group is to bring together ideas and look for emerging themes and commonalities of concerns. She noted that community input is significant to move towards the third set of forums which will be focused on gathering input on a specific set of proposals. She encouraged members to attend and send out announcements about the meetings.
- b. D. Barbaria asked about the date and time of the first forum.
  - 1. R. Lieberwitz said that the first forum will take place on Friday the 9<sup>th</sup> from 3 to 5pm in 142 Goldwin Smith Hall. She said that the first forum will be focused on sharing information to all members of the community. She noted that the second forum will be on March 14<sup>th</sup> from 12 to 2pm.

iii. For Discussion: University Hearing and Review Boards Staffing Update and Discussion (cont.)

- a. M. Battaglia said that he went through his calendar and found that the Office of the Assemblies has provided March 12<sup>th</sup> and 28<sup>th</sup> as dates for applications to open and close. He said that the applications will be returned to the Codes and Judicial Committee on March 30<sup>th</sup>.
- b. D. Barbaria asked why the applications would close on Wednesday the 28<sup>th</sup> instead of Friday the 30<sup>th</sup> if the Committee would not be reviewing them as a whole before spring break.
  - 1. G. Kaufman said that it would be ideal for the applications to

be automatically forwarded to M. Battaglia as they come in for the Committee to know when the majority of applicants submit their applications and to follow up on when to set the due date and conduct outreach. He said that it would be difficult if the closing date is set directly after spring break.

2. D. Barbaria said that he is fine with having the applications due before spring break, but was concerned about why the Thursday and Friday before spring break would not be included, unless the Committee is reviewing applications on the two days.
3. R. Lieberwitz suggested to also amend the time at which the applications close to 11:59pm.
4. M. Battaglia said that the timelines provided by the Office are not in accordance with the discussions he had.
5. G. Kaufman made a motion to revise the application opening and closing times to March 12<sup>th</sup> at 10am and March 30<sup>th</sup> at 11:59pm.

a) The motion was approved by a vote of 7-0-1.

- c. M. Battaglia said that the Office intended to contact Hearing Board members whose terms would expire and request them to reapply. He said that this isn't what had historically been done and that he was concerned about the need for current members to fill out a new form in its entirety.

1. M. Horvath suggested to have the decision made be sent out by the Administrative Chair instead of this Committee.
2. R. BenseI asked how the Committee would know whether there is an issue with those reappointed.
  - a) M. Battaglia noted that there has not been a substantive issue in the past. He said that the Committee would circulate a list of renewals to Judicial Administrator and Judicial Codes Counselors, who would determine whether there have been issues.
3. V. Price asked why it would be necessary for those who get reappointed to undergo the entire application process again if they had already applied and were confirmed to serve on the Board in the past.
  - a) V. Price made a motion to amend the reappointment procedures. The Administrative Chair would send a message to current members that their term is

expiring and ask whether they wish to renew, then consult with the Offices of the Judicial Administrator and Judicial Codes Counselor.

b) The motion was approved by a vote of 7-0-1.

4. D. Barbaria asked what the bylaws state for the renewal process.

a) M. Battaglia said that currently the CJC reviews the applications, then nominates to UA, but the Code does not prohibit renewal.

5. K. Ashford asked if members still need to take affirmative action to renew.

a) M. Battaglia said that yes, current members will need to indicate whether they intend to renew membership.

iv. For Discussion: Current Status of the Greek Judicial System at Cornell

a. M. Battaglia provided an update on the University Assembly's meeting last Tuesday, in which the Heads of the Greek Tri-Council attended. He said that several members of the Tri-Council discussed the possibility of being brought under the Code. He said that currently the Greek System is recognized but not registered, which places them outside of the Code.

b. V. Price asked for clarification on whether the organizations themselves are outside of the Code, while its members are students who abide by the Code.

1. M. Battaglia said that the individuals are still students of Cornell who can be charged under the Code, whereas the organization is "recognized" by the Code.

c. R. Benseal asked whether the Tri-Council wished to come under the Code due to difficulties in policing problematic chapters. He said that he is in favor of bringing them under the code, and that many parts of administration are also in favor of this.

1. M. Battaglia said that there are external barriers to placing the Greek System under the code but it is something that the Committee could possibly pursue.

2. R. Benseal stated that the greater issue seems to lie in how the Greek Council has policed themselves.

3. M. Battaglia said that the sheer act of reclassifying is simple, but several checks need to be made in order to ensure that the process runs smoothly.

d. D. Barbaria noted that he was present at the meeting and that one of the reasons the Tri-Council wished to be a part of the Code was to

warrant a higher standard evidence for finding an individual guilty.

1. M. Battaglia said that it would be better for the university as a whole for everyone to be put under one system.
  - e. M. Horvath said that in the event that the Greek System were to be placed under the Code, some precedents would need to be overturned. For example, any member of the organization cannot be called into JA's office if there is an ongoing investigation. She said that there would also need to be Code amendments.
  - f. M. Battaglia said that the issue would require several administrative changes, and the Committee could look into a list of things to do later when allotted with more time.
- v. For Discussion: Concerning the Previously Passed Housekeeping Amendments to the Campus Code
- a. M. Battaglia said that the options that the Committee and President agreed upon can be pulled off and that the Committee can focus on handling other issues.
  - b. M. Battaglia said that the first housekeeping amendment would allow organizations to be suspended for up to 5 years, and that the President noted no concerns.
    1. D. Barbaria made a motion to mark the issue as resolved.
      - a) The motion was **approved** by a vote of 7-0-1.
  - c. D. Barbaria made a motion to include the president's language for the issue of immediate suspension for non-compliance sanctions and mark the amendment resolved.
    1. K. Ashford made a point of clarification on the President's language.
      - a) D. Barbaria withdrew his motion.
      - b) M. Horvath stated that the President's language states that the Judicial Administrator "may" suspend the offender but "shall" notify the Registrar, so a notification needs to be made in the case of a suspension.
    2. D. Barbaria reinstated his motion.
      - a) The revised language was **accepted** by a vote of 7-0-1.
  - d. M. Battaglia said that the President took the language proposed by the Committee and mirrored it down for the third amendment concerning non-matriculated minors.

1. D. Barbaria made a motion to table discussion on the issue until other amendments are explored.
  - a) The motion was approved by unanimous consent.
- e. M. Battaglia stated that the President had no concerns for the proposed language regarding removal of indefinite suspension.
  1. D. Barbaria made a motion to mark the amended language as resolved.
    - a) The language was marked as resolved by a vote of 7-0-1.
- f. M. Battaglia said that the President's main concern for the proposed language clarifying UHRB appointment procedures involved faculty members being reappointed to Boards. He said that he will be submitting the issue to Dean of Faculty, Charlie Van Loan, to ensure he has no concerns.
  1. D. Barbaria made a motion to table discussion until after the discussion on non-matriculated minors.
    - a) The motion was approved by unanimous consent.
- g. R. Bensel made a motion to table the provision on JA appointment procedures indefinitely.
  1. The motion was approved by unanimous consent.
- h. M. Battaglia said that the President was concerned with creating a new right of appeal in Option C of the proposed language to the No Contact Directive procedures. He said that he added comments that proposed issuance of the directives for up to 21 days.
  1. M. Horvath said that there are three interim measures the Judicial Administrator could take – relocation, temporary suspension, or no contact directives. She suggested to amend the language in Comment MB6 to “[...] may petition the University Hearing Board **Chair** to extend the directive [...]” – that she would prefer for the process to be handled by the Chair instead of the Board.
  2. M. Battaglia said that while the goal is not to linger judgment, the number of days for which the directive would last is amendable.
  3. K. Karr – point of information – believes that a No

Contact Directive is restricting and has a big educational impact on students.

4. M. Battaglia said that previous concerns have revolved around utilizing interim measures for too long, so of changing the duration would serve the purpose of having a form of check on the process.
5. R. Bensei suggested to approve the new draft language, as it appears that the Committee is in agreement.
  - a) M. Battaglia said that the committee can alter the language as it sees fit.
6. R. Bensei suggested to make all subsequent measures upon appeal to last for 21 days.
  - a) M. Battaglia said that the Committee could alter the language to 21 “academic”, instead of “calendar” days to ensure breaks are not included.
  - b) M. Horvath suggested increasing the period to 60 or 42 days.
7. R. Bensei made a motion to amend the proposed language in the comments to “Such directives may be issued for a duration of up to **60 days** [...] may petition the University Hearing Board **Chair** to extend the directive for up to an additional 21 calendar days [...]”.
8. Horvath proposed an amendment to the language to reflect that the renewal process can take place multiple times.
9. D. Barbaria proposed to change the language from “may be issued for a duration [...]” to “may be initially issued”.
10. G. Kaufman said that if No Contact Directives are only to be used in extreme cases, the entire Board should be observing the matter. He said that the Board as a whole should review the matter and check in on a regular basis.
11. R. Lieberwitz agreed. She said that 60 days seems like a long time and the Chair should not be handling the issue alone.
12. M. Horvath said that if the Board were to handle the meeting, there should be a proper proceeding conducted through paper.

13. R. Bensel asked how often the Hearing Board meets.
  - a) M. Horvath said that the Board does not meet consistently.
14. R. Bensel suggested for the paper proceedings to take place for 60 days.
15. G. Kaufman said that the process should be shorter, and that the entire Board should be involved when the Directive is first issued.
16. R. Lieberwitz said that a mere paper extension would raise concerns about fairness and that due process calls for the entire Board to be involved. She said that 30 days would be better than 60.
17. M. Horvath said that a set number of days is needed to notify people in advance.
- i. M. Horvath made a motion to extend meeting for 10 minutes.
  1. The motion was approved by unanimous consent.
  2. G. Kaufman suggested to extend the directive review period to 35 days, and ask for renewal 7 days before expiration of the 35-day period.
    - a) M. Horvath said that there are procedural checks and few instances in which No Contact Directives would be issued.
  3. R. Lieberwitz agreed with the suggestion in the comments that eliminates the right of appeal issue, as the burden is placed on the Judicial Administrator.
  4. R. Bensel proposed to extend the duration for which the directives can be issued to 35 days.
  5. M. Horvath said that logistical procedures would require that the duration be longer than 35 days if the full Board were to be involved with the issue.
    - a) D. Barbaria agreed that having the Chair renew the directives would be enough.
    - b) M. Battaglia suggested rotating between weeks in who reviews the directive.
  6. K. Karr said that these are interim measures unlike Policy 6.4, in that it can only be put in place when charged.
  7. R. Bensel said that the full Board should be involved with the matter, but not every time. He



suggested having the Chair review the matter alone in the first 35 days, and in a 21-day renewal period. After the 56 days, the full Board would become involved with the issue.

- j. R. Bensel made a motion to extend the meeting by 15 minutes.
    - 1. G. Kaufman dissented.
    - 2. The motion was **denied** by a vote of 2-3-3
  - vi. Update Concerning: UA Resolution #5 Bylaws Change Clarifying the Charge of the Codes & Judicial Committee
    - a. **Tabled** to the next meeting.
  - vii. Update Concerning: UA Resolution #7 Charter Change Supporting the Office of the Complainant's Advisor
    - a. **Tabled** to the next meeting.
  - viii. For Discussion: Discussing recent Department of Education Policy Shifts, our Quantum of Proof, Policy 6.4, Selection Questions, and the Complainants Advisor
    - a. **Tabled** to the next meeting.
- IV. Adjournment (Chair)**
- i. Adjournment
    - a. The meeting was adjourned at 5:57pm.

Respectfully submitted,  
Dongyeon (Margaret) Lee  
Clerk of the Assembly