Cornell University Assembly
Agenda of the October 3, 2017 Meeting
4:30 PM – 6:00 PM
Room 401, Physical Sciences Building

I. Call to Order (Chair)
   a. Call to Order (1 minute)
   b. Welcome and Introduction (3 minutes)
   c. Call for Late Additions to the Agenda (1 minute)

II. Approval of the Minutes (Chair)
    a. September 5, 2017 (2 minutes)
    b. September 19, 2017 (2 minutes)

III. Assembly Reports
    a. Student Assembly (J. Kim) (2 minutes)
    b. Graduate and Professional Student Assembly (E. Winarto) (2 minutes)
    c. Employee Assembly (U. Smith) (2 minutes)
    d. Faculty Senate (C. Van Loan) (2 minutes)

IV. Committee Reports
    a. Executive Committee (A. Waymack) (3 minutes)
    b. Codes and Judicial Committee (M. Battaglia) (8 minutes)
    c. Campus Welfare Committee (J. Anderson) (5 minutes)
    d. Campus Infrastructure Committee (N. Jaisinghani) (2 minutes)

V. Liaison Reports
    a. Policy Advisory Group (E. Winarto) (2 minutes)
    b. Transportation Task Force (K. Fitch) (2 minutes)
    c. Council on Sexual Violence Prevention (K. Quinn) (1 minute)
    d. Student Health Benefits Advisory Council (J. Anderson) (1 minute)
    e. Campus Planning Committee (M. Hatch) (1 minute)

VI. Business of the Day
    a. Motion to Move Oct 31 UA Meeting to Dec 5, Study Period (A. Waymack) (5 minutes)
    b. Appointments to Transportation Hearing and Review Board (K. Fitch) (5 minutes)
    c. Consensual Relationships Task Force (C. Van Loan) (5 minutes)
    d. Resolution 1: Appointment of University Hearing Board and University Review Board Members for Academic Year 2017-2018 (M. Battaglia) (5 minutes)
    e. Resolution 3: Strategic Plan (J. Anderson) (5 minutes)

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.
f. Resolution 2: Condemning Hate Crimes (A. Waymack) (10 minutes)
g. Resolution 4: Addressing Housekeeping Changes and Laying the Groundwork for a Holistic Evaluation of the Campus Code of Conduct (M. Battaglia) (10 minutes)

VII. Late Additions to the Agenda (2 minutes)
VIII. Adjournment (1 minute)
I. Call to Order
   a. G. Kaufman called the meeting to order at 4:30PM.
   c. Absent: K. Fitch, R. Howarth,
   d. Others present: G. Giambattista, M. Horvath, T. Malone
   e. Call for Late Additions to the Agenda

II. Approval of Minutes
   a. 5.2.2017 Meeting Minutes, 2017
      i. Approved by unanimous consent

III. Assembly Reports
   a. Student Assembly
      i. A. Martinez said that in the previous week, the SA met about international student financial aid. He said that he expects that conversations will center around university protections for DACA students, considering the recent decisions made at the federal level.
   b. Graduate and Professional Student Assembly
      i. E. Winarto said that the GPSA had their first meeting on August 28, 2017, and they did introductions to the structure of the GPSA, and are finalizing and accepting applications to committees, as well as reviewing charter and bylaws.
   c. Employee Assembly
      i. U. Smith said that the EA has been meeting all summer and had a retreat. He said that they followed up on the Board of Trustees’ presentation and request for the chair that the EA submit formal resolutions to the board that call for the creation of a board level committee that is focused on the workforce and creating an additional employee elected trustee. He also said that there will be a presentation on the transition to tracking time in Workday and that the EA will be creating a staff strategic plan this semester
      ii. President Pollack’s Address to Staff has been scheduled for October 10, 2017 in Klarman Hall Auditorium during the lunch hour.
d. Faculty Senate
   i. C. Van Loan said that the senate hasn’t met, and will not for two weeks. He said that the senate would like to start developing a university level policy on consensual relationships. He also mentioned that the new calendar would start next year and orientation has expanded, and that exam rules and procedures are being examined. He said that there is a new policy in the works regarding the awarding of Emeritus status, which will wrap up this fall.
   ii. There was also a discussion about updating the Campus Code of Conduct with input from all stakeholders in the university.

IV. Committee Reports
   a. Campus Infrastructure Committee
      i. N. Jaisinghani said that CIC is still accepting applications. He said that the committee would like to work on transportation with the Big Red Shuttle to offer more safety on campus for everyone in the community.
      ii. M. Hatch added that the CPC, over the summer, has dealt with motions to fulfill the plans for Cornell to get closer to the Plan for Carbon Neutrality by 2035 by constructing a solar power generation facility.
   b. Campus Welfare Committee
      i. J. Anderson said that the CWC will be meeting September 12, 2017 in Day Hall to discuss the tobacco-free campus referendum and will be looking to UA Resolution #9 for any critiques from President Martha Pollack. He also mentioned that the CWC will be setting goals for the academic year.
   c. Executive Committee
      i. A. Waymack said that there is a new website and that she anticipates a busy year for the UA.

V. Business of the Day
   a. Presentation from the Judicial Administrator (M. Horvath)
      i. JA M. Horvath presented on the scope of the OJA. She said that the office handled roughly 400 cases last year. She said that their new website is under construction, but in particular, there is a new online recording system in development. She also said that the office is working towards moving towards a model of restorative justice, and with a newly hired Associate JA, with background in restorative justice, the office can achieve that goal. She also mentioned that she hopes to change the image of the OJA and that the Campus Code of Conduct is dense and needs to be clearer. Lastly, she mentioned the successful rollout of the credit-bearing pilot program with the OJA and the Scheinman Institute on Conflict Resolution.

VI. Late Additions to the Agenda
   a. There were no late additions to the agenda.

VII. Committee Reports (Part 2)
   a. Codes and Judicial Committee
      i. M. Battaglia said that the CJC is still working to form a schedule of meetings, but that they are contemplating meeting weekly.
VIII. Adjournment
   a. The meeting was adjourned at 6:00pm.

Respectfully submitted,

Terrill D. Malone
University Assembly Clerk
U.A. Resolution #1

Appointment of University Hearing Board and University Review Board Members for Academic Year 2017-2018

September 19, 2017

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


Whereas, the 2016 – 2017 Codes and Judicial Committee received and reviewed applications for service on the University Hearing and University Review Boards (UHRB) from students and employees and made recommendations on appointments; and

Whereas, with a larger than anticipated turnover on the UHRB the Executive Committee of the University Assembly authorized the appointment of individuals on a temporary basis to the UHRB when insufficient numbers of regular appointees were available; and

Whereas, the students temporarily appointed were formally vetted and recommended by the Codes and Judicial Committee during the 2016 – 2017 academic year; and

Whereas, the staff member temporarily appointed was a member of the UHRB during the 2016 – 2017 term who wished to continue her service; and

Whereas, the faculty member temporarily appointed was formally nominated for service by the Dean of the University Faculty during the 2016 – 2017 academic year; and

Whereas, due to a number of UHRB members resigning their seats during the Assembly’s summer recess additional vacancies were created beyond those filled by temporary appointments; and

Whereas, the remaining vacancies created by resignations may be filled by individuals who applied and were formally vetted and recommended by the Codes and Judicial Committee during the 2016 – 2017 academic year; and
Whereas, all individuals appointed to serve on the University Hearing and Review Boards must be confirmed by the University Assembly; therefore

Be it Resolved, the following student members are appointed to the UHRB for a two-year term beginning retroactively from June 1, 2017 lasting until May 31, 2019 or their graduation from the University, whichever is sooner:

Austin Boyle¹
Zoe Kohl¹
Carrie Montgomery²
Olivia St. Amand²

Resolved, the following staff members are appointed to the UHRB for a two-year term beginning retroactively from June 1, 2017 lasting until May 31, 2019 or their separation from the University, whichever is sooner:

Adidi Etim-Hunting³
Beth VanDine²

Resolved, the following faculty members are appointed to the UHRB for a two-year term beginning retroactively from June 1, 2017 lasting until May 31, 2019 or their separation from the University, whichever is sooner:

Tracy Carrick⁴
Michelle Cox¹
Vilma Santiago-Irizarry⁴
Makda Weatherspoon⁴
Michelle Whelan⁴

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.

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¹ New member given appointment on a temporary basis by the University Assembly Executive Committee.
² New member to fill a vacancy created by UHRB member resignation occurring during Summer 2017.
³ Continuing member given reappointment on a temporary basis by the University Assembly Executive Committee.
⁴ New member nominated by the Dean of the University Faculty during Summer 2017 to fill a preexisting vacancy, to fill a vacancy created by UHRB member resignation, or to fill a vacancy created by a faculty member being elevated to serve as a Hearing Board Chair.
U.A. Resolution #2

Condemning Hate Crimes

September 19, 2017

Sponsored by: Anna Waymack, Graduate and Professional; Executive Vice Chair of the University Assembly


Whereas, over the past year there has been an increase in hate-based incidents on college campuses across the country; and

Whereas, on September 6, 2017 one or more students from Zeta Psi, a Cornell University fraternity, shouted “build a wall” and “let’s build a wall around the LLC” at the Latino Living Center; and

Whereas, on September 15, 2017 one or more students from the Chi Chapter of Psi Upsilon, a fraternity no longer affiliated with Cornell University, allegedly used racial slurs against a Black Cornell student and violently assaulted him; and

Whereas, later the same day on September 15, 2017, two or more Cornell students were captured on video using racial slurs against another student; and

Whereas, all of these incidents appear to be clear violations of the Campus Code of Conduct, should the allegations prove true, as it is a violation of the Campus Code of Conduct to:

• “harass another person...by acting toward that person in a manner that is by objective measure threatening, abusive, or severely annoying and that is beyond the scope of free speech,” or
• “assault or cause any physical injury to another person on the basis of disability, ethnicity, gender, national origin, race, religion, or sexual orientation or affectional preference;” and

Whereas, the Ithaca Police have arrested one student allegedly involved on September 15 and charged said student with one count of assault in the third degree; and

Whereas, the Ithaca police are investigating the events of September 15 as a possible hate crime; and
Whereas, pursuant to New York State Penal Law Article 485, hate crimes “do more than threaten the safety and welfare of all citizens” because they “inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society,” “send a powerful message of intolerance and discrimination” and “disrupt entire communities and vitiate the civility that is essential to healthy democratic processes;” and

Whereas, bias, discrimination, and hate crimes, by their nature, affect the fabric of the Cornell community, prevent the fulfillment of and are deeply antithetical to Cornell’s motto “I would found an institution where any person can find instruction in any study;” and

Whereas, these recent events place the onus on Cornell University to establish and justify its members’ trust in our community; and

Whereas, we, the University Assembly, are appalled by these recent attacks and incidents; therefore

Be it Resolved, that the University Assembly unequivocally condemns these violent, racist actions; and

Resolved, that the University Assembly calls on all members of the Cornell community to join us in this condemnation; and

Resolved, that the University Assembly charges all members of the Cornell community to consider how best to heal these harms, and how best to accord all members of our community the equal dignity and respect due to them as our peers.

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.
U.A. Resolution # 3

Calling for the Development of a Strategic Plan
September 26th, 2017

Sponsored by: Joseph Anderson, Undergraduate; University Assembly and Linda Copman, Employee; University Assembly

On Behalf Of: University Assembly Campus Welfare Committee

Whereas, senior leadership recognizes the critical need to address issues of injustice, racism and bigotry, in the wake of separate incidents on or near campus this semester, and to develop and/or enhance programs and services that support diversity and inclusion on our campuses; and

Whereas, many in our campus community are dealing with questions and concerns about recent U.S. executive actions on immigration travel bans, and DACA and undocumented students—and the current and future implications for student, faculty, and staff activities and our international programs; and

Whereas, the Senior Leaders Climate Action Group is working to integrate sustainability and climate action strategies into the campus culture and strategic planning process; and

Whereas, the opening of the tech campus in New York City marks the beginning of a new era of unprecedented opportunity for Cornell, which hinges upon our ability to take advantage of cross-college synergies and develop institutional capacity to act as “One Cornell” and create more connections among the distinct parts; and

Whereas, there is an ongoing tension between our ambitious aspirations to enhance diversity, sustainability, connectivity between colleges and campuses, and global impact, and the limited availability of new resources to fund these aspirations; and

Whereas, the most recent strategic plan was completed in May 2010 and set forth specific objectives and actions for the university for the period of 2010-2015; and

Whereas, this plan has not been updated to reflect the changing environment for higher education in general and for Cornell in particular; and

Whereas, the strategic plan will guide institutional decisions about where to invest resources (i.e., time, effort, and money); therefore
Be it therefore resolved, that the University Assembly formally requests that the president and provost of Cornell University initiate a strategic planning process to begin in fall 2017 and be completed by spring of 2018; and

Be it Further Resolved, that the university administration should partner with all assemblies and ensure that faculty, students, and staff share in the strategic planning process and have a meaningful role in shaping the final strategic plan; and

Be it Further Resolved, that all assemblies will have the ability to appoint members to the strategic planning advisory council in the process of crafting the new strategic plan; and

Be it Finally Resolved, that the university administration should formally present a status update on the strategic plan to the University Assembly by October 2018.
U.A. Resolution # 4

Addressing Housekeeping Changes and Laying the Groundwork for a Holistic Evaluation of the Campus Code of Conduct

October 3, 2017

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


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

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

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

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

Whereas, the Assembly’s Codes & Judicial Committee (the Committee) is undertaking the process of conducting a holistic evaluation of the Code to ensure it reflects our practices and is in a form that is clear for the Campus Community to understand; and

Whereas, in beginning this process the Committee is aware of pending Code changes requested by the Administration; and

Whereas, in beginning this process the Committee is aware of pending Code changes requested by the Judicial Codes Councilor; and
Whereas, the Committee is also aware of other pending Code changes which reflect the current practices of Cornell’s Judicial System, correct omissions or errors in the code, and have been pending for some time; and

Whereas, the Committee believes handling these pending, “housekeeping” changes prior to undertaking an evaluation of the Code enables the Committee to handle long-standing requests and requests for improvement; and

Whereas, these University President has requested the Committee examine the Code to improve its readability, and

Whereas, the University Administration has requested any changes be done together prior to an evaluation of the Code, and

Whereas, the University Administration had directly and indirectly requested some of the included Code changes, and

Whereas, clearing these requests best balances the current needs of custodianship and responsiveness to change with the goal of evaluating the Code; and

Whereas, some of the proposed changes are time sensitive and handling them will allow the Committee to best devote its attention to evaluating the Code; and

Whereas, these changes bring the Code to a state where the Committee is comfortable focusing its attention on a holistic Code evaluation; and

Whereas, the Committee appreciates the input and assistance of various offices on campus including the Offices or the Judicial Administrator, Risk Management, Judicial Codes Councilor, Assemblies, and many others in handling these “housekeeping” changes; therefore

Be it Resolved, the appended changes be incorporated to the Campus Code of Conduct and are approved in a non-severable manner:

I: MODIFYING SUSPENSION LENGTH AND LIMITATIONS PERIOD FOR UNIVERSITY REGISTERED ORGANIZATIONS

Whereas, the Judicial Administrator requested the Committee consider increasing the maximum suspension length for University Registered Organizations from one year to five years; and

Whereas, the Judicial Administrator also requested the Committee consider increasing the limitations period for University Registered Organizations from one year to three years; and
Whereas, the neither of these changes modify the policies or procedures for individuals; and

Whereas, the Judicial Administrator believes that a five-year maximum suspension length provides the Hearing and Review Boards (the Boards) additional discretion to handle cases; and

Whereas, this lengthened suspension timeline allows the Boards to apply more granularity to a sanction as a middle ground to dismissal; and

Whereas, the Judicial Administrator believes that a three-year limitations period enables the better handling of long-term violations such as hazing; and

Whereas, this additional time will be viewed in-context by the Boards when deciding cases; and

Whereas, the Committee reviewed this request, gathered feedback from stakeholders, and held it on its agenda for multiple meetings; and

Whereas, the Committee agrees with this request and received positive feedback from stakeholders; and

Whereas, the Committee approved this request verbatim without changes; therefore

Be it Resolved, that Title Three, Article III, Section D.4 (Code pg. 24) be amended to add:

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.

[Current subsection d advanced to subsection e]

Resolved, that Title Three, Article IV, Section A.1.c.6 (Code pg. 35) be amended to read:

(6) Suspension of all privileges for a stated period not to exceed one year five years.

II: ADDING DISCRETION TO INSTANCES OF NON-COMPLIANCE WITH SANCTIONS AND REMEDIES

Whereas, the Judicial Administrator requested the Committee consider modifying the Code to allow the Judicial Administrator discretion in cases of offenders not complying with prescribed sanctions, remedies, or penalties; and

Whereas, the Code currently mandates that non-compliance result in automatic suspension until compliance is achieved; and
Whereas, the Judicial Administrator requested the Committee consider modifying the Code to add a violation for refusal to comply with a penalty or remedy; and

Whereas, the Code does not currently have a violation for such an action, instead relying upon automatic suspension; and

Whereas, the Judicial Administrator believes that being able to use discretion best serves the educational nature of a University and the interests of justice; and

Whereas, the Committee reviewed this request, gathered feedback from stakeholders, and held it on its agenda for multiple meetings; and

Whereas, the Committee agrees with this request and received positive feedback from stakeholders; therefore

Be it Resolved, that Title Three, Article III, Section C.2 (Code pg. 36) be amended to read:

2. If an offender has not complied with the prescribed penalty or remedy within the specified time, the Judicial Administrator 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.

Resolved, that Title Three, Article II, Section A.3 (Code pg. 18) be amended to add:

(m) To refuse to comply with any penalty or remedy given pursuant to this Code.

III: CLARIFYING THE ROLE OF NON-MATRICULATED MINORS

Whereas, the Office of Risk Management requested the Committee consider modifying the definition of student in the Code to exclude non-matriculated minors; and

Whereas, the Office of Risk Management stated that in a number of areas, minors on Cornell’s campus are subject to separate written policies and procedures for behavior; and

Whereas, the Office of Risk Management stated that non-matriculated minors raise a number of unique issues when examining discipline; and
Whereas, the Office of Risk Management worked with the Committee to examine sample behavioral policies from various programs; and

Whereas, the Committee expresses its gratitude to the Office of Risk Management for their assistance and willingness to explain the rationale behind the proposed change; and

Whereas, the Committee reviewed this request, gathered feedback from stakeholders, and held it on its agenda for multiple meetings; and

Whereas, the Committee agreed that the Code is not the proper place to address non-matriculated minors; and

Whereas, the Committee was concerned about non-matriculated minors, particularly high school students being removed from the scope of the free expression protections contained within the Code; and

Whereas, the Committee approved this request verbatim without changes; and

Whereas, the Committee discussed either including a provision in the Assembly’s Charter or Bylaws reaffirming the Committee’s ability to examine these behavioral policies or adding language directly into the code to that effect; and

Whereas, U.A. Resolution 4 incorporates such a provision; and

Whereas, such language is meant to ensure that concerns about specific policies may be brought to and examined by the Committee; and

Whereas, any authority over other policies would be pursuant to the Assembly’s role in general policy development and advisory powers; therefore

Be it Resolved, that Title Two, Article I, Section B.2 (Code pg. 18) be amended to add:

3. Individuals 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 are not students under the definition of this Code.

IV: DISCONTINUING THE USAGE OF INDEFINITE SUSPENSION

Whereas, the Office of the Judicial Codes Counselor requested the Committee consider removing indefinite suspensions from the Code in the 2014 – 2015 academic year; and
Whereas, the Office of the Judicial Codes Counselor argued that such suspensions create uncertainty for suspended students; and

Whereas, the Office of the Judicial Codes Counselor argued that the University’s educational mission and the interests of justice are better served through the usage of suspension with a definite term or in extreme cases dismissal; and

Whereas, the Committee has discussed these changes multiple times in interceding years; and

Whereas, the prior usage of indefinite suspensions was to demonstrate growth in an individual before being permitted to return; and

Whereas, the Boards have a variety of other tools that are now able to fill this goal; and

Whereas, the Judicial Administrator has stated her agreement with the rationale for not using indefinite suspension; and

Whereas, the Judicial Administrator has stated it is her practice not to seek indefinite suspension; and

Whereas, the Judicial Administrator informed the Committee that there are students who remain indefinitely suspended and requested it be made clear that for those students the appeals procedures currently in place remain in effect; and

Whereas, the Committee reviewed this request, gathered feedback from stakeholders, and held it on its agenda for multiple meetings; and

Whereas, those students who are currently indefinitely suspended will continue to remain suspended use the existing appeals procedures; therefore

Be it Resolved, that Title Three, Article II, Section E.1c (Code pg. 24) be amended to strike:

c. The offender may petition in writing for readmission from indefinite suspension.

[Subsequent subsections d and e relabeled appropriately]

Resolved, that Title Three, Article IV, Section A.1.a.8 (Code pg. 34) be amended to read:

(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. [Add footnote reading “The Code previously allowed for indefinite suspension. While indefinite suspensions are no longer given, any student indefinitely suspended at the time of indefinite suspensions being removed shall continue to be indefinitely suspended and subject to the appeals provision in-place at the time of removal.”]

Resolved, that Title Three, Article IV, Section A.2.b (Code pg. 34) be amended to read:

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 application for readmission for the academic term following the academic term in which the suspension occurred will be permitted.

[NOTE: THE FOLLOWING SECTION IS STILL UNDER ACTIVE DISCUSSION BY THE CJC BUT IS INCLUDED TO ALLOW FOR PRELIMINARY INPUT]

V: EXAMINING THE MISUSAGE OF CONFIDENTIAL INFORMATION

Whereas, events in the Spring of 2017 identified an area where the Code may not adequately articulate Community norms for behavior regarding the use of confidential information; and

Whereas, an incident with allegedly confidential information resulted in a Hearing Board (the Board) being convened; and

Whereas, the Board publically and in its report stated that the alleged actions were “wrong” but were not violations of the code as written; and

Whereas, the Board noted that the Assembly and Committee are the proper venue to take or to decline to take action to modify the Code; and
Whereas, the principal of Freedom with Responsibility is core to the Cornell Community and
the Code; and

Whereas, this area involves a number of contrasting concerns including holding people to their
agreements, a perceived overconfidentialization of discussions and documents, the value of open
discussion, and many others; and

Whereas, the Committee reviewed these concerns, gathered feedback from stakeholders, and
held this change on its agenda for multiple meetings; and

Whereas, the Committee’s understands the value of the well-argued viewpoints on each side and
aims is to address behavior that violates community norms while ensuring individuals are not
unwittingly ensnared; and

Whereas, the Committee’s goal is to balance these concerns and ensure the Code evolves when
potential shortcomings are identified; and

Whereas, the Committee intends to examine this area in more depth in the coming term; and

Whereas, the Committee believes that balanced tailored language best addresses the concerns on
both sides; therefore

[NOTE: THE FOLLOWING LANGUAGE IS STILL UNDER ACTIVE DISCUSSION BY THE CJC BUT IS
INCLUDED TO ALLOW FOR PRELIMINARY INPUT]

Be it Resolved, that Title Three, Article II, Section A.2.d (Code pg. 17) be amended to read:

d. To (1) forge, fraudulently alter, willfully falsify, or otherwise misuse University or non-
University documents (including computerized or noncomputerized records, parking permits,
dining cards, identification cards, other permits or cards, reserve books, or other property), or (2)
possess such forged, altered, or falsified documents, or (3) unlawfully possess the identification
of another person if that identification has a date of birth that would make the person legal to
consume alcohol at a time the accused is not of a legal drinking age, or (4) disclose University
documents denoted in writing to be confidential where an individual has explicitly assented in
writing or other recorded medium to described terms of confidentiality.

VI: CLARIFYING UNIVERSITY HEARING AND REVIEW BOARD APPOINTMENT PROCEDURES

Whereas, the Assembly, Committee, and Dean of the Faculty are responsible for selecting and
confirming members of the University Hearing Review Boards (the Boards); and
Whereas, the Assembly and Committee take this obligation seriously and exercise their utmost care in the selection process; and

Whereas, the President in the Spring of 2017 noted that the Code did not fully describe the practices that the Committee and Assembly had been utilizing; and

Whereas, the President in her message raised important concerns about transparency; and

Whereas, the Assembly and Committee take these concerns seriously and agree with the importance of transparency; and

Whereas, the Committee reviewed the concerns raised, gathered feedback from stakeholders, and held the topic on its agenda for multiple meetings; and

Whereas, the changes, while minor, align the practices currently utilized in UHRB selection with the Code; therefore

Be it Resolved, that Title Two, Article IV, Section C.3 (Code pg. 14-15) be amended to read:

3. Members of the University Hearing Board and University Review Board pool shall serve terms of office as follows:
   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.

[NOTE: THE FOLLOWING SECTION IS STILL UNDER ACTIVE DISCUSSION BY THE CJC BUT IS INCLUDED ALLOW FOR PRELIMINARY INPUT]

VI: CLARIFYING JUDICIAL ADMINISTRATOR REAPPOINTMENT PROCEDURES

Whereas, the Committee was made aware of an incongruity between the Code and historical practice for reappointment of a sitting Judicial Administrator; and

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Whereas, the Code as currently written requires that the Chair of the Assembly convene a search committee for a new Judicial Administrator in the October preceding the Judicial Administrator’s term expiring; and

Whereas, conducting a full search when the sitting Judicial Administrator would like to continue serving is not a prudent use of limited resources; and

Whereas, the Committee agrees with concerns raised by the University Administration that the Code should reflect current practices; and

Whereas, the Committee believes this provision was originally put in place to provide feedback to the Judicial Administrator prior to reappointment; and

Whereas, prior Judicial Administrator’s in their reports to the Assembly, informal conversation, and formal written reports have identified a request for a more formal feedback structure; and

Whereas, the in the 2014 Judicial Administrator’s report the previous Judicial Administrator, Mary Beth Grant, requested a more formal structure so that office “has more opportunities for more accountability, mentorship and professional development, better efficiency and a better design philosophically.”; and

Whereas, the Committee believes this area is one that is important to the long-term health of the Office of the Judicial Administrator and their role in application of the Code; and

Whereas, the Committee believes there is value in having a formalized feedback process and dialogue for the Judicial Administrator prior to reappointment; and

Whereas, the Committee believes adding a feedback provision to the reappointment process is beneficial to both the Community and Judicial Administrator; and

Whereas, the Committee does not intend or wish to interfere with the President’s sole prerogative to nominate or decline to nominate the Judicial Administrator for an additional term; and

Whereas, the Committee believes that a modified procedure, based upon the existing search committee procedure strikes the correct balance between managing resources and providing feedback; and

Whereas, the Committee is aware of the time-sensitive nature of this request; therefore
Be it Resolved, that Title Two, Article II, Section A.3 (Code pg. 12) be amended to read:

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

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 JudicialCodes 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 terms. or

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. 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.

VI: ALIGNING PRACTICES WITH PROCEDURES REGARDING NO-CONTACT DIRECTIVES

Whereas, the Office of the Judicial Codes Counselor requested the Committee consider clarifying language around no-contact directives in the Code during the 2014 – 2015 academic year; and

Whereas, the Office of the Judicial Codes Counselor argued that the current language resulted in scenarios where an individual bound by a no-contact directive was antagonized by another individual not bound by a directive; and

Whereas, the Office of the Judicial Codes Counselor argued that the current language only allowed the Judicial Administrator to suspend an individual who was found to violate a no-contact directive as an additional interim remedy; and
Whereas, the Office of the Judicial Codes Counselor argued that the University’s educational mission and the interests of justice are better served through the usage of mutual no-contact directives in interim situations; and

Whereas, the Committee has discussed these changes multiple times in interceding years; and

Whereas, these provisions are utilized as interim measures prior to any determination of responsibility; and

Whereas, their interim nature necessitates extra care as no finding of responsibility has been made and all facts may not be known; and

Whereas, the grave nature of the offenses that result in no-contact directives being implemented also necessitate extra care; and

Whereas, the Judicial Administrator has stated her agreement with the rationale for only utilizing mutually binding no-contact directives; and

Whereas, the Judicial Administrator has stated it is her current practice to only utilize mutually binding no-contact directives; and

Whereas, the Committee reviewed this request, gathered feedback from stakeholders, and held it on its agenda for multiple meetings; and

Whereas, the Committee believes allowing discretion should a no-contact directive be violated best serves the interest of justice; and

Whereas, the Committee agrees with this request and received positive feedback from stakeholders; therefore

Be it Resolved, that Title Three, Article III, Section B.2 (Code pg. 19) be amended to strike:

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.

b. The Judicial Administrator shall make available to the accused the exact terms of the No-Contact Directive, as soon as it is issued.

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.