



Cornell University University Assembly

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Minutes

Codes and Judicial Committee
University Assembly
November 7th, 2018
4:45pm – 6:00pm
Day Hall Room 163

I. Call to Order

- a. Call to Order
 - i. D. Barbaria called the meeting to order at 4:51pm.
- b. Roll Call
 - i. *Present:* K. Ashford, D. Barbaria, R. Bense, K. Kebbeh, L. Kenney, R. Lieberwitz, A. Viswanathan, S. Vura, K. Zoner
 - ii. *Absent:* T. Onabajo
 - iii. *Others Present:* J. Anderson, M. Battaglia, M. Horvath, M. Lee, R. Parker

II. Approval of Minutes

- a. September 26, 2018
 - i. A. Viswanathan motioned to approve the minutes.
 - 1. Minutes **approved** by unanimous consent.
- b. October 10, 2018
 - i. M. Battaglia motioned to approve the minutes.
 - 1. Minutes **approved** by unanimous consent.
- c. October 24, 2018
 - i. M. Battaglia motioned to approve the minutes.
 - 1. Minutes **approved** by unanimous consent.

III. Business of the Day

- a. Presentation: Judicial Administrator's Annual Report
 - i. M. Horvath provided an overview of the Judicial Administrator's Annual Report for the Academic Year of 2018. She said that the report includes every code that has been reviewed. She also said that there has been a lot of leadership change in the university this past year.
 - ii. M. Horvath said that the new Cornell Tech campus has imposed two major challenges in terms of issues of conduct. She said that the non-traditional

residence hall model at the Tech campus results in a lack of behavioral monitoring by Resident Advisors, while Cornell Health does not cover alcohol-related issues of the students. She also said that possession of marijuana in New York City is a citation offense, which complicates cases of employees who are bound by their Cornell contract. She said that the Judicial Administrator's office has provided various means for students at the Tech campus to have the full opportunity to work with the office, including Zoom, Skype, or expense-paid visits to the Ithaca campus to attend hearings.

- iii. M. Horvath said that her office saw an increase in number of complex hazing cases. She said that these cases take a substantial amount of time and effort; approximately 200 to 250 hours are spent interviewing everyone involved.
- iv. M. Horvath said that there has been a nearly 20% increase in number of materials sent to the Office of the Judicial Administrator (OJA). She said that this appears to be a sign of trust-building with the community. She also said that the office has remained stable over the year, with no personnel changes. She said that Cornell is being seen as a place in which policies concerning student conduct are properly administered.
- v. M. Horvath said that with regard to speech, the OJA's role is to educate community members on ways to combat speech they disagree with in ways that would not violate the Code. She also said that one of her greatest challenges as the JA is knowing that there is inaccurate information, but not responding to those in order to maintain integrity of the process.
- vi. M. Horvath said that the hazing model created overlays moral development theory over a public health approach. She said that Cornell has partnered with other campuses on this issue, and that it is becoming a leader in this realm.
- vii. M. Horvath said that there has been a drop in recidivism in that there are fewer students being referred to the OJA more than once. She also said that there has been a reduced number of calendar days between adjudication and report.
- viii. M. Horvath said that uncooperative witnesses who did not want to be interviewed or provided false information delayed several cases. She said that she seeks support from the broader campus on changing such a culture of aversion to approaching the JA.
- ix. M. Horvath said that her office has continued its partnership with the Scheinman Institute on Conflict Resolution and is creating a JA Advisory Council.
- x. M. Horvath said that in terms of statistics, number of referrals have expanded by almost 20%, and cases are being turned around at quicker rates, which ensures better educational intervention. She also said that in

approximately 30% of cases respondents were not found responsible, which demonstrates Cornell's emphasis on standard of proof.

- xi. M. Horvath said that the report does not fully represent all accounts, and that adjudicators from both sides provide a fuller picture. She said that the OJA always gives the benefit of the doubt to the respondent.
- xii. M. Horvath said that a noteworthy change in the past academic year was a 3% increase in the number of cases involving seniors and hazing cases. She also expressed gratitude to the athletic department for their deference to the OJA.
- xiii. M. Horvath said that with regard to Greek organizations, Sigma Nu and Delta Phi are no longer recognized by the university. She said that the number of cases concerning Greek chapters is low, but she believes that this reflects incidents that take place in annexes and off campus, outside of the realm of the Code.
- xiv. M. Horvath asked committee members for any questions or concerns.
- xv. M. Battaglia asked when the report will be posted onto the website of the JA.
 - 1. M. Horvath said that she will make sure that the report is posted on the website.
- xvi. M. Battaglia asked whether there is an area in which the JA believes another part or full-time Associate Judicial Administrator may be needed, noting the significant uptake in cases recently.
 - 1. M. Horvath said that she believes the best avenue to report these concerns is through human resources.
- xvii. M. Battaglia asked if M. Horvath could provide more context on the JA Advisory Council.
 - 1. M. Horvath said that the Advisory Council addresses the concern that the decentralized nature of the university has resulted in the lack of an adequate venue for members of the community who are merely interested in the work of the OJA to provide feedback. She said that the JA Advisory Council has been modeled based on other advisory councils such as that of the Office of Student Life.
 - 2. M. Battaglia said that the Committee hopes to be able to help with this as well.
- xviii. K. Ashford asked whether there is a downward trend in number of hazing cases over the years in the longer term.
 - 1. M. Horvath said that hazing cases began to gain recognition on a national scope at around 2008. She said that hazing has been an issue on this campus for a long time as there are reports from as far back as 1890. She said that she hopes for a downward trend, but a major challenge with hazing is that it is enriched with alumni traditions.

She said that working on changing alumni involvement and challenging the systemized nature of hazing is the most difficult part of reducing the number of hazing cases. She also said that she hopes the presidential mandates will increase awareness of the consequences of hazing.

- xix. R. Benseal asked what the increase was for the different categories on page 10 of the report concerning statistics.
 - 1. M. Horvath said that the increase is most likely proportionate to the increase in number of cases.
- xx. R. Benseal asked what “endangered persons” denotes.
 - 1. M. Horvath said that she believes endangerment is the broadest category in the Code and that the vague word choice and language disserves the community in that it leaves room for misinterpretation.
- xxi. R. Benseal asked in what respects M. Horvath views deterrence as more important, considering the controversy between concepts of behavior modification and deterrence.
 - 1. M. Horvath said that she believes that the best deterrence is education. She said that she could use the help of the University Assembly (UA) to implement orientation programs on behavioral expectations. She said that there is not much research on what is deterrent, but the OJA focuses on educational aspects of deterrence.
- xxii. L. Kenney asked whether sanctions are any less severe now with changes in New York laws concerning marijuana.
 - 1. M. Horvath said that federal law remains the same regardless of changes in New York law. She said that Cornell is still obligated to abide by federal law as an institution that receives federal funding. She also said that other campuses have looked for reasonable accommodation for medical marijuana use, but this accommodation is not meant to surpass federal law.
 - 2. M. Horvath said that sanctions for alcohol and drug use remain consistent, and they are reflective in all sanctions. She said that they focus on allowing individuals to choose what to do, while understanding the consequences associated with behaviors.
- xxiii. L. Kenney asked what the process would be when a student is caught smoking marijuana but the police prefer not to be involved.
 - 1. M. Horvath said that Cornell’s protocols on the Ithaca campus remain consistent, and that changes only affect the Tech campus.
- xxiv. A. Viswanathan asked if students on the Tech campus would also receive citations like students in Ithaca.
 - 1. M. Horvath said that the Code covers all students including those on

the Tech campus.

- xxv. A. Viswanathan asked if there are any adjudication or policy changes that account for the increase in number of cases in which respondents were found not responsible, referring to page 11 of the report.
 - 1. M. Horvath said that this is most likely reflective of the increase in number of referrals to the office. She said that some referrals are not enough for the office to substantiate.
- xxvi. D. Barbaria asked if there is a particular reason for the increase in number of senior cases.
 - 1. M. Horvath said that some of the graduating seniors this year may have disregarded the fact that they were still held responsible under the Code even toward the end of the year.
- xxvii. J. Anderson asked if there is a general narrative that may account for why there has been a leap in number of incidents in the Cornell Store.
 - 1. M. Horvath said that almost every referral from Cornell Store concerned thefts, most of which were petty larceny.
- xxviii. J. Anderson asked if the OJA could perhaps conduct outreach on north campus residential halls.
 - 1. M. Horvath said that the Office continues to work towards hosting robust training programs for Residential Advisors and Residence Hall Directors. She also said that she is open to going to anywhere invited for outreach.
 - 2. M. Battaglia said that the UA and other Assemblies could help with improving orientation programs to cover issues regarding the Code.
- xxix. R. Benseal asked if the classification of respondents by year includes those living off campus.
 - 1. M. Horvath said that this is reflective of what any campus would see. She said more cases arise for members in the freshman class who are younger. She also said that the culture of students moving off-campus in sophomore year reduces the number of incidents covered, while many juniors or seniors are over 21 and hence there are fewer underage drinking cases for upperclassmen.
- xxx. J. Anderson asked if future reports would include gender classifications beyond male or female for those who identify differently.
 - 1. M. Horvath said that in the footnotes she has indicated that the data was gathered from PeopleSoft. She said she would be happy to change classifications based on whether individuals change their designation on PeopleSoft.
- b. For Discussion: Assigning Sections to Review in the Code
 - i. D. Barbaria said that Committee members discussed ideas on how to move forward with the Code of Conduct in a working meeting held last week. He

said that tasks will be assigned to each member at today's meeting.

- ii. M. Battaglia said that it would be best to take the current Code and make it the best version it can be internally before engaging with the community and garnering feedback. He said that the Code is poorly organized and wordy as of now. He proposed to break up the existing code into four different parts: Part 1 – Values, Part 2.A. – Rights, Part 2.B. – Offenses, Part 3.B. – Sanctions, Part 4 – Administration. M. Battaglia said that once the Code is in the best shape it can be, the Committee could decide whether rewriting would be necessary. He also said that he has benchmarked other model Codes of Conduct to understand ways to better articulate our Code.
- iii. D. Barbaria said that the overall plan for the Committee is to spend the next few weeks looking at changes made by M. Battaglia and work on the different sections in smaller groups. He said that Committee members should note parts that lack clarity, compare with other Codes of Conduct, and look over all of the input that the Committee has been provided with. He said that he hopes that the Committee could begin the spring semester with a reorganized and streamlined Code. He also said that he aims to present a complete draft that includes all of the proposed amendments when meeting with the President in February.
- iv. M. Battaglia said that the intent is to hue as closely to the current Code.
- v. R. Bense said that he supports the plan in that it is a moderate simplification of the Code rather than a radical reworking of the contents. He thanked M. Battaglia for his efforts.
- vi. M. Horvath said that the Committee should build in time for community feedback.
 - 1. D. Barbaria said that the Committee will be garnering community feedback once it makes internal adjustments and devises a complete draft. He said that this will be at around the same time he intends to present the draft to the President, in mid to late February.
- vii. M. Battaglia said that simplifying the language of the existing Code removes political aspects. He said that the process focuses on clarifying the Code instead of making large substantive changes.
- viii. D. Barbaria said that he hopes Committee members will endorse the revised Code in their respective committees.
- ix. M. Battaglia said that there should be least changes made to Part 4 because it is intended to provide explanations to make the Code more understandable.
- x. D. Barbaria said that there should be at least two people assigned to each proposed part of the Code.
- xi. K. Kebbeh suggested that “Part 1 – Values” should be assigned to everyone in the Committee.
 - 1. R. Bense said that there should still be a lead person for Part 1.

- xii. Sections were assigned as follows.
 - 1. Part 1: Values (Everyone, R. Bensel)
 - 2. Part 2.A.: Rights (L. Kenney, K. Zoner)
 - 3. Part 2.B.: Offenses (K. Kebbeh, R. Lieberwitz, R. Parker)
 - 4. Part 3.A.: Procedures (A. Viswanathan, M. Horvath)
 - 5. Part 3.B.: Sanctions (S. Vura, K. Ashford)
 - 6. Part 4: Administration (D. Barbaria, R. Bensel)
- xiii. D. Barbaria said that Committee members should bring suggestions to the next meeting on November 28th. He also said that they should make note of any redundancies in the Code.
- xiv. R. Lieberwitz asked for clarification on what members are expected to do by the next meeting.
 - 1. D. Barbaria said that members of the Committee should review their section, look over the current Code, and ensure everything that belongs to that section is included. He said that members should ensure that everything is logical, and that the Code sections themselves also make sense.
- xv. R. Lieberwitz said that once the Committee discusses these sections, the next step over winter break would be to make suggested rewrites.

IV. Adjournment

- a. Adjournment
 - i. The meeting was adjourned at 6:00pm.

Respectfully submitted,
Dongyeon (Margaret) Lee
Codes and Judicial Committee Clerk