

From the end of last semester to the beginning of this semester, the Codes and Judicial Committee has worked to review the present Campus Code of Conduct, doing so in response to President Skorton's letter of May 15, 2007. The CJC considered the Code in light of the much-discussed Krause Report of April 2006 and the community input received through various public discussions during the 2006-2007 academic year. The CJC's aim was to produce a solid and sound code that would provide the framework for more substantive revision of particulars in the future, because the Code is after all a living document that evolves over the years.

The result, now put before you, is the attached proposal for a revised code that keeps but refines most of the present Code, while also addressing the community's previously expressed concerns and accepting some proposals of the Krause Report that the CJC felt were of value. The President has requested a final report on recommendations for the Code by the end of this calendar year. In order to do that, the CJC has adopted the following schedule:

- (a) September – CJC discussion
- (b) October – Community discussion and open forum
- (c) Early November – CJC writes report to the University Assembly
- (d) November-December – UA discusses CJC report
- (e) End of December – Final Report to the President

We are at the second step, calling for community input. To facilitate that step, we need to explain the attached document.

First, under its original charge last spring, the CJC supposed three questions to be fundamental:

- (a) Who is responsible for the Code?
- (b) Should the Office of the Judicial Administrator remain independent?
- (c) What are the proper parameters of the Code (should it include all community members of Cornell University, and should it cover only activity within the campus geographic boundaries)?

The proposed code opts for little change on these fronts. It resolves that the UA should retain oversight over the Code; the Office of the Judicial Administrator should remain independent; and a uniform judicial process should be retained for campus judicial proceedings against students, faculty, and other employees. However, the proposed code does extend its geographic reach, as we shall explain below.

Second, President Skorton's letter of May 15 listed his four major concerns, so instructing the UA or the CJC to focus on the current Code's unnecessary complexity, to consider overhauling its legalistic procedures, to reassess the appropriateness of its penalties, and to consider reaching off-campus misconduct. The CJC followed those instructions:

- (a) The CJC's major effort was to pursue clarity and brevity, while totally reordering, clarifying, and correcting the ossified Code provisions. The proposal folds old Title Five on free speech into Title One on principles and policies. It merges the Regulations for Maintenance of Public Order with the Regulations for Maintenance of Educational Environment to the extent legally possible.
- (b) The CJC, in accord with community views, kept the procedural protections essentially as they were. This means that the right to counsel and right to remain silent,

and the standard of proof as clear and convincing evidence, remain unchanged, as we shall point out below. But the proposal tries to be more sensitive to the victim's interests throughout. See, for example, Article III.A.3 of Title Two and Article III.E.3.b(7) of Title Three.

(c) The CJC incorporated language of the Krause Report to reflect the desire that serious violations receive serious penalties. See Article IV.A.3 of Title Three.

(d) The CJC extended the proposed Code's geographic reach, as already mentioned.

Third, there is no substitute for your reading the proposal. But the following chart may help to direct that task by pointing out the major issues:

ISSUE	CURRENT	PROPOSED
Jurisdiction in general	Set no time limit on when accused can raise.	"Any defense of lack of jurisdiction, or other inapplicability of this Code, shall be deemed waived if not raised by the accused promptly at the outset of the hearing before the University Hearing Board or earlier." (p. 14)
Jurisdiction over persons	Covered students, and also faculty and other employees for non-job-related violations.	Slightly refines definition of student. (p. 14)

Off-campus jurisdiction	Limited coverage to campus, except for presidential override for “grave misconduct.” (Relied on policies of Article II.A of Title I to mesh Cornell and criminal jurisdiction.)	Adds to the presidential override (p. 7) by providing a more routine reach over “serious” violations when “the conduct poses a substantial threat to the University’s educational mission or property or to the health or safety of University community members” (p. 20). The idea was to reach the kind of serious violations mentioned on p. 39, but instead of doing the impossible by defining those violations, the new provision on p. 20 relies on the procedural restraint of having the Judicial Administrator obtain the President’s approval of the exercise of jurisdiction. This is a significant change, but the thought is that the Code cannot ignore, say, a student committing rape in Collegetown.
Violations	Listed violations.	Rewords the violations, although those listed in 1./, 3.e, and 3.f are somewhat new. (pp. 21-22)
Judicial Administrator powers	Authorized JA to act as prosecutor, subject to strict limits.	Allows the JA and the accused to agree to any authorized penalty or remedy, but provides for oversight of the JA in case of an agreed suspension or dismissal (pp. 25-26); gives the JA modest powers in case of the accused’s failure to respond to notice of charges (pp. 27-28).
Procedural protections	Provided right to counsel and right to remain silent, and apparently required proof by a clear and convincing evidence.	Retains and clarifies those protections. (pp. 18, 32-33)