



Cornell University
University Assembly

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April 30, 2009

David Skorton, President
Cornell University
300 Day Hall
Ithaca, NY 14853-2801

Dear President Skorton,

Attached please find the University Assembly's Resolution 8: Resolution from the CJC-recommended changes to the Campus Code of Conduct. Representatives from the CJC and Mary Beth Grant were present at the meeting of April 29th to discuss the changes in the attachment. The changes range from cleaning up the wording to make it read better to adding items that were over looked when the Code was revamped last year. Both Mary Beth and CJC believe these are not substantive changes. I ask that if you have questions or concerns about these changes please let me know at your earliest convenience so we can discuss them. We would like to have these in place for the new academic year.

We look forward to your comments and approval of this resolution.

Respectfully submitted,

A handwritten signature in black ink that reads "Rodney Orme".

Rodney Orme
Chair, University Assembly

Attach (1)

R8: Resolution from CJC-recommended changes to the Campus Code of Conduct

Whereas the University Assembly (UA) has legislative authority over the Campus Code of Conduct (the Code) defined in Article 1, Section 1 of its charter; and

Whereas the Codes and Judicial Committee (CJC) of the UA has recommended a revision of the Code described below;

Be it therefore resolved that the following changes of the Code be amended as follows with insertions indicated in bold and deletions in strikethrough:

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2In Section 3.2.A.1, titled *Violations*:

A. Listing

1. It shall be a violation of this Title, as an offense against another person **OR THE UNIVERSITY**:

a. To (1) rape, (2) sexually assault, or (3) sexually abuse another person, as those terms are defined in Cornell University Policy 6.3.

b. To intentionally (1) expose a private or intimate part of one's body in a lewd manner or (2) commit any other lewd act in a public place.

c. To harass another person in a manner that would violate Cornell University Policy 6.4 if it were applicable.

d. To harass another person (1) by following that person or (2) 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.

e. To 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.

f. To haze another person. Hazing means an act that, as an explicit or implicit condition for initiation to, admission into, affiliation with, or continued membership in a group or organization, (1) could be seen by a reasonable person as endangering the physical health of an individual or as causing mental distress to an individual through, for example, humiliating, intimidating, or demeaning treatment, (2) destroys or removes public or private property, (3) involves the consumption of alcohol or drugs, or the consumption of other substances to excess, or (4) violates any University policy.

g. To (1) endanger another person, including by such acts as violation of Life Safety regulations, theft or use of fire extinguishers, or use of firecrackers or flares, or (2) threaten or use physical force or violence to endanger, injure, abuse, intimidate, or coerce another person.

h. To endanger or to cause damage to or loss of property of another person.

i. To steal or knowingly possess stolen property, including by such acts as misappropriation of data or of copyrighted material or software.

j. To recklessly or maliciously damage, access, or interfere with, in a manner violating University technology regulations, computer or network resources, data, files, or other information.

k. To intentionally invade privacy or misappropriate property rights, by means of videotaping, photographing, audiotaping, or otherwise making any picture or sound recording.

In Section 3.2.A.1.g, titled Violations:

Title Three, Article II, A. 1.g.(1) endanger another person, **including included but not limited to** by such acts as: **introducing a weapon into a fight, whether or not the weapon was used; using one's body parts as a weapon;** violation of Life Safety regulations; theft or use of fire extinguishers; ~~or~~ use of firecrackers or flares; **or any other acts, whether reckless or intentional, that create a dangerous situation for the physical or mental safety of another individual . . .**"

In Section 3.4.A.1.a.7, titled Students:

(7) Probation for a stated period. ~~For any violation of this Code or of the terms of probation during the probationary period, the student may be subject to additional penalties for violation of probation, including suspension or dismissal.~~

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.**

In Section 3.2.B, titled Interim Measures

B. Interim Measures

1. The Judicial Administrator shall work with Campus Life, in cases in which the victim and the accused live in the same residence hall and there is a substantial danger of future harm or misconduct, to determine whether Campus Life should relocate the victim or the accused to another residence hall.

2. ~~Temporary Protection Directive~~ **No-Contact Directive**

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 ~~Temporary Protection Directive~~ **No-Contact Directive**.

b. The Judicial Administrator shall make available to the accused the exact terms of the ~~Temporary Protection Directive~~ **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 ~~Temporary Protection Directive~~ **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 ~~Temporary Protection Directive~~ **No-Contact Directive** has been violated, he or she may suspend the accused temporarily, pending resolution of the underlying case.

d. In the case of such suspension, the accused may petition the University Hearing Board in writing for a review of the decision. That board shall meet to consider the petition as soon as possible, but no later than five business days after it receives the petition. However, that board may grant a postponement upon the request of the accused, to a date not later than 21 calendar days after the petition is received. If that board determines that the ~~Temporary Protection Directive~~ **No-Contact Directive** was not violated or the suspension was improper or is no longer necessary, it shall lift the suspension immediately.

e. The Judicial Administrator may, in his or her discretion, rescind a ~~Temporary Protection Directive~~ **No-Contact Directive** or lift such a suspension if he or she determines that the circumstances no longer require such action.

In Section 3.4.A.1.c, titled Violations:

Title 3, Article II.A.1.c. To harass **or discriminate against** another person in a manner that would violate Cornell University Policy 6.4 if it were applicable.

In Section 2.2.A.3.d, titled Violations:

Title Three, Article II.A.3.d. To unlawfully manufacture, distribute, dispense, possess, use, or sell **marijuana or any** controlled substances as defined by state or federal law.

In Section 3.2.A.3.b, titled Violations:

~~Title Three, Article II. A.3.b. b. To possess any alcoholic beverage by a person under 21 years of age with the intent to consume such beverage, except if that beverage was given to that person (1) by that person's parent or guardian or (2) as part of an official University course for which the person is registered and in which tasting or imbibing alcoholic beverages is required for instructional purposes.—~~

Title Three, Article II. A.3.b. To unlawfully manufacture, distribute, dispense, possess, use, or sell alcohol. This includes, for example, providing alcohol to an individual who is under the age of 21, selling alcohol without a license, consuming alcohol while under the age of 21 or possessing alcohol with the intent to consume it while under the age of 21.

In Section 3.3.E.2, to be added as subsection (d), titled Procedures:

d. Copies of exhibits to be used at the hearing by the Judicial Administrator or by the accused, if known at the time, shall be exchanged no later than three business days prior to the hearing. Any objections to exhibits shall be made to the Chair for his/her ruling in advance of the hearing. Copies of the exhibits shall be made available to board members prior to the commencement of the hearing. The University Hearing Board, in its discretion, may exclude an exhibit if it determines that the Judicial Administrator or the accused has failed to comply with this provision.

In Section 3.2.A.3.1 and 4.3.E.3.b.6.c, subject Witness Testimony:

Title Three, Article II, A3.1. To refuse to participate, without a substantial reason, as a witness in the campus ~~disciplinary~~ **judicial** system, as outlined in Title Four, Article III.E.3.b(6)(c).

Title Four, Article III.E.3.b.(6)(c) Members of the Hearing Panel may question witnesses and adduce evidence, but this shall not preclude parties to the hearing from questioning witnesses or introducing evidence. No accused person shall be denied the opportunity to question witnesses or to confront his or her accusers. However, the Hearing Board Chair shall control the hearing. For example, to avoid the risk of intimidation, the Hearing Board Chair may require certain questioning to be conducted by written questions read aloud to the witness by the Hearing Board Chair. If an individual complainant does not testify, the Hearing Panel may proceed to decision only if it finds that the complainant's interests in not testifying outweigh the accused's interests in confronting his or her accuser. In any case, the accused can prevent the introduction of any written, recorded, or oral account of an earlier statement by a non-testifying complainant or victim, unless the Hearing Board Chair finds compelling circumstances of need for and reliability of such statement. **If a witness critical to the proof of the charges or to the defense against those charges indicates to the Judicial Administrator or the accused that he or she refuses to testify, the Judicial Administrator or accused may ask the Hearing Board Chair to order the witness to testify. The Hearing Board Chair shall, in his or her sole discretion, grant or deny the request based on the balance of equities for the witness, the complainant, the accused, the victim, and the University. If a witness does not appear for a scheduled hearing, the Hearing Board Chair may decide whether to delay the hearing pending the witness's testimony.**

In Section 2.4.C.3 , titled Pool of Board Members:

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.
 - b. Terms of office shall begin with the first day of classes in the next academic year. Any appointment to fill a vacancy shall become effective immediately.
 - c. 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.**

In Section 3.3.E.1, titled Hearing Procedures:

- e. The offender may petition in writing for a review of the penalty imposed by the Judicial Administrator for noncompliance with a prescribed penalty or remedy, or for violation of probation.**

Respectfully submitted,

Kade Laden
University Assembly Liaison to Codes and Judicial Committee