The Proposed Student Code of Conduct*

*A.K.A the Campus Code of Conduct*
Background

The Code is the responsibility of the University Assembly.

President Pollack asked for a major revision.

After various missed deadlines spread over a number of years, the University Counsel’s Office was charged to complete the project.

The doc is now available for public commenting until Nov 17. Details [here.](#)
The Office of the Judicial Codes Counselor (JCC) provides free assistance to any member of the Cornell community accused of violating the Campus Code of Conduct, the Code of Academic Integrity, or Cornell University Policy 6.4.

The revision is a 40-pager. Who has the time to read and comment?

Eirene Kim and Marisa O’Gara from the JCC Office are here to explain their top three concerns about of the code revision so we have a clue about what it’s all about.
Fall 2020 Proposed Amendments to the Campus Code of Conduct

Office of the Judicial Codes Counselor
Respondents’ Ability to Speak and to Question Witnesses

Current Code (*Title III, Art. III.E*):
“[A]ccused’s rights to be accompanied by counsel or an advisor of the accused’s choice, to hear the evidence against the accused, **to question witnesses**, and to give evidence in the accused’s own behalf.”

Proposed Amended Code (*Procedures at 20.8.2*):
“Testimony is conducted through a question-and-answer format. Questioning will **primarily be conducted by the Hearing Panel, but the Panel Chair may supplement** the Hearing Panel’s questioning.”
Advisors’ Ability to Speak and to Question Witnesses

**Current Code (Title II, Article II.B):**

“Judicial Codes Counselor may participate fully on behalf of the accused in any hearing.”

**Proposed Amended Code (Procedures at 20.8.2):**

“Counselors/advisors may not normally participate in a hearing in the role of counsel, but for suspension or dismissal to be imposed...”
Respondents’/Advisors’ Ability to Speak and to Question Witnesses

The Effects:

• Respondents and Complainant (parties with the most knowledge and most at stake) lose the ability to question witnesses directly

• Hearing process slowed down

• Students—including those who speak English as a second language and those who suffer from crippling anxiety—left to defend themselves against representatives of the University
Oversight, Supervision, and Accountability

Current Code (*Title II, Art. II.B.5*):

“The Judicial Codes Counselor shall be independent . . . . He or she shall be subject to removal during the term of office only by action of the Board of Trustees upon recommendation of the University Assembly.”

Proposed Amended Code (*Procedures, 2.2.1*):

Gives the Office of Student Conduct and Community Standards a say in the hiring and removal of the JCCs.
The Effects:

- Conflict of interest: The Office that charges students with disciplinary violations should not play any role in the hiring, removal, or supervision of a student’s trusted advisor.
Evidentiary Standard

**Current Code (Title III, Art. III.E.9):**

“The burden of proof on violation shall rest on the complainant, and the standard of proof on violation shall be clear and convincing evidence . . . .”

**Proposed Amended Code (Procedures, 20.2):**

Potential to lower the burden of proof to “preponderance of the evidence”
Evidentiary Standard

The Effects:

• Makes it easier for students to be found responsible because it requires less evidentiary proof

• Disadvantages students, especially those from low-income backgrounds who are unable to afford an attorney

• No statutory reason nor any other reason backed by evidence given by the University to justify the change in standard of proof
Other Changes

• Right of Accused to be Informed in Writing of their Right to an Advisor
• Confidentiality
• Temporary Suspensions
• Public Hearings
• Statute of Limitations (Time Within Which a Complaint Must be Brought)
• Jurisdiction