# Table of Contents

1. Executive Summary ........................................... Page 3
2. Personnel and Committee Membership ................... Page 4
3. Accomplishments and Changes of Note ................... Page 5
4. Projected Needs ........................................... Page 9
5. Future Considerations and Projects ....................... Page 9
6. Appendix
   a. Analytics
   b. OJA’s Student and Campus Life Showcase Poster
   c. Public Records
   d. Campus Codes of Conduct, Code Changes, and Procedures of the University Hearing Board and the University Review Board
Executive Summary

Undoubtedly, the 2018 academic year was one of profound intensity for Cornell University, and without question, such a sentiment was felt by the Office of the Judicial Administrator (OJA). While some of this intensity can be attributed to the unique events which occurred within the Cornell and Ithaca communities, it is also fair to note that the national and international climate impacted the University. The intensity experienced by the OJA in AY 2018 included: understanding how leadership and personnel changes across the University brought a fresh perspective to the application of policies and procedures; working to triage cases with the Cornell Tech campus, including the limited number of educational sanctions available to students matriculating at that campus versus those matriculating in Ithaca; an increase of complex hazing cases, often with intersecting investigations with other campus partners; working with the campus community and complainants to balance what is permitted under the Campus Code of Conduct (Code) with the actual harm caused by the actions of a respondent; and, a 19.4%\(^1\) increase of persons or organizations referred to the OJA, including many high-profile or high-risk cases.

While the prior academic year demonstrated the complexities of the work of the OJA to those who were new to the institution, at the time of selecting the theme for the 2018 academic year, it was unknown how fitting the theme of “Think, Verify, Proceed” would be for the year. During the 2018 academic year, the OJA incorporated the theme though: a deliberative effort to decelerate the pace between receipt of an incident report and the adjudication so that complexities of a case were realized earlier in the administration and investigation processes; the developing and strengthening of campus partnerships; and, a continued commitment to administering the Code in an educational manner, while respecting the nature of the Code and established precedent.

Finally, of note, 625 referrals were made to the OJA in academic year 2018. Of those referrals, the University Hearing Board (UHB) convened six times\(^2\) to hear seven cases, one of

---

1 In AY 2017, 536 referrals were made to the OJA; in AY 2018, 640 referrals were made.
2 One UHB was a joint-hearing.
which qualified for a review by the University Review Board (URB), and none of which qualified for a Presidential appeal.

**Personnel and Committee Membership**

During the 2018 academic year, the personnel of the OJA remained stable. Michelle R. Horvath continued to serve as the Judicial Administrator (JA). Michelle’s initial two-year appointment was extended for one year by University Assembly Resolution #11; this resolution extended Michelle’s appointment and set a timeline for amending the JA reappointment process. University Assembly Resolution #21 provided the new evaluation process for the JA position, and replaced the two-year reappointment cycle. During the academic year, Michelle presented at two conferences, contributed to the “Communication and Collaboration Guidance for Inter/National Fraternal Organizations and Campus Student Conduct Professionals Guide” developed by the Association for Student Conduct Administration (ASCA) and the Fraternity Executives Association; was reappointed as the co-chair of the Fraternity and Sorority Life Community of Practice for ASCA; and, continued to serve as the hazing point of contact resource for COFHE conduct administrators.

Christina Liang continued her service as an Associate Judicial Administrator (AJA), and during the academic year, was elected Treasurer for ASCA and was published as a contributing author in *Conduct and Community: A Residence Life Practitioner’s Guide*, a collaborative book between ASCA and the Association of College and University Housing Officers—International.

Vincent J. Ciampolillo continued his service as an AJA, and during the academic year, continued to volunteer with ASCA as co-state chair for the state of New York.

Janey Bosch continued her service as Case Manager, worked to digitize the OJA’s probation curriculum on Blackboard, and saw an expansion of her job duties to include participating in the Summary Decision Agreement by Mediation process.

---

3 The URB was technically convened twice during AY 2018, but one of the cases heard by the URB was a case which overlapped academic years—the UHB heard the case at the end of AY 2017, but the appeal was heard in AY 2018.


5 [https://assembly.cornell.edu/resolutions/ua-r21-updating-judicial-administrator-reappointment-process](https://assembly.cornell.edu/resolutions/ua-r21-updating-judicial-administrator-reappointment-process)
Steve Morey continued his service as Administrative Assistant, and saw an expansion of his job duties to include leading an internal OJA professional development activity.

Members of the OJA staff served on multiple University committees and working groups, including:

- Alcohol and Other Drugs Incident Review Team;
- ALERT Team;
- Behavioral Health Committee;
- Bias Assessment and Review Team;
- Coalition on Mental Health and Wellness;
- Codes and Judicial Committee (ex-officio member);
- Conflict Resolution Group;
- Council on Sexual Violence Prevention (Renamed SHARE Committee);
- Diversity Community Group;
- Hazing Committee;
- Public Safety Advisory Committee;
- Senior Business Group; and,
- Various search committees.

Finally, the OJA read the following books as an office to help inform our work: *Guyland: The Perilous World Where Boys Become Men—Understanding the Critical Years Between 16 and 26* by Michael Kimmel, and, *The Little Book of Restorative Justice for College and Universities: Repairing Harm and Rebuilding Trust in Response to Student Misconduct* by David R. Karp.

**Accomplishments and Changes of Note**

As noted, academic year 2018 was an intense year for the OJA due not only to campus events, but also because of: understanding how leadership and personnel changes across the University brought a fresh perspective to the application of policies and procedures; working to triage cases with the Cornell Tech campus, including the limited number of educational sanctions
available to students matriculating at that campus versus those matriculating in Ithaca; an increase of complex hazing cases, often with intersecting investigations with other campus partners; working with the campus community and complainants to balance what is permitted under the Campus Code of Conduct (Code) with the actual harm caused by the actions of a respondent; and, a 19.4% increase of persons or organizations referred to the OJA, including many high-profile or high-risk cases.

As an office whose work interacts laterally and horizontally across the University, but is independent, the leadership and personnel changes across the campus impacted the work of the OJA by offering differing perspectives regarding the Code, and the policies and procedures of the University. The greatest impact of these differing perspectives is that such views challenged not the work of the OJA, but buttressed the efforts of the OJA of working towards a conduct process which more closely aligns with best-practices in the conduct field—practices which are often more embraced at other colleges and universities, and include jurisdiction over only students and student organizations.

As expected, the formal opening of the Cornell Tech campus impacted the work of the OJA. The intensity of pace with which the campus was opened created some unintended consequences which have impacted the work of the OJA. While the OJA liaised with campus partners at the Tech Campus in anticipation of its opening, the following factors have impacted the work of the OJA at that location: the residential model serving faculty, staff, and students, and that therefore does not utilize traditional campus life housing staff, has resulted in some inconsistencies in campus behavioral requirements; the lack of preset drug confiscation protocols, especially regarding marijuana in the judication of the New York City Police Department, was an a unexpected challenge for a case referred to the OJA (and has since been resolved); and, the inability to provide the first level of the alcohol and other drug educational intervention triage process—BASICS—while the student is matriculating at the Tech campus because they are not covered by Cornell Health while in New York City, has delayed the educational and behavioral intervention normally available in those types of cases. However, through utilizing remote communication methods (such as telephone, Zoom, and Skype), as well as offering bussing and lodging for respondents to attend hearings, the actual adjudication of Cornell Tech campus cases under the Code has not been impacted.
As projected in the JA’s 2017 Annual Report, the intersection of speech rights and community expectations remained a focus in the 2018 academic year, and one campus incident in particular was the final catalyst to the creation of the Presidential Task Force on Campus Climate and its three subcommittees. While members of the OJA were not selected to sit on any of these subcommittees, the JA was provided the opportunity to speak to the subcommittee on the Regulation of Speech and Harassment, a subcommittee whose final report the OJA endorses almost entirely, and in many ways reiterates the recommended changes of the 2006 Krause Report. However, the challenge regarding speech on a college campus will always require balancing the importance of free and protected speech, with the education and strategies needed for the community to respond to incidents in which speech may be protected, but which are distasteful, abysmal, hurtful, or harmful. Much of the education that the OJA facilitated in this realm focused on ensuring that community members were taught ways to combat speech they disagreed with in ways which did not violate the Code, and working with campus partners to balance the safety needs of events with the protections of speech enshrined prominently in the Code. Incidents referred to the OJA within this topic realm also strengthened the OJA’s commitment to following the facts of the investigation, regardless of the popularity of such an action—despite speculation and conjecture within the community or media, which the OJA cannot challenge.

While the OJA did not accomplish its goal of updating its website in AY 2018, two programs which were scheduled to pilot during this year were successfully implemented—a suspension reintegration program and a decision-making class. While the suspension reintegration program was required for any student suspended during AY 2018, academic year 2019 will be the first year in which students sanctioned with the program will return; thus, a more substantive evaluation of the efficacy of the program will be provided in next year’s annual report. However, the implementation of the OJA’s Decision-Making Class—a one-time, three-hour seminar focusing on making better decisions—has been a sanction which has benefitted not only the participants of the program, but has helped to challenge the reputational misconceptions of the OJA, particularly by including campus partners as co-facilitators in the program. Data

---

6 https://president.cornell.edu/initiatives/presidential-task-force-on-campus-climate/
from the four sessions held in AY 2018, in which over 40 students participated in the class, demonstrated not only were students learning in the class, but also were pleasantly surprised by its content.\(^8\) The OJA will continue to use this sanction in the coming year, and will look to expand its use.

In addition to expanding the use of the decision-making class, it is unfortunately foreseeable that the OJA will continue to use the hazing sanctioning model created in AY 2018 to specifically address hazing violations committed by individual respondents in AY 2019. This sanctioning model overlays Cornell’s Public Health Hazing Framework\(^9\) wheel with development theory to create sanctions tailored toward the motivating factors which drove a student’s decision to haze. This model has provided a rich educational opportunity for those who subjectively may not deem their actions as hazing (or struggle because the hazing they inflicted on others was modified to be less severe), to understanding their behavioral choices from an objective perspective, which then promotes personal reflection. As with any new initiative, there were modifications made through the year as it was put into practice, but the overarching framework has been an important development as the OJA does its part to address incidents of hazing.

The sanctions that the OJA used during AY 2018, including those listed above (as well as the OJA’s marquee probation curriculum), seem to be accomplishing the goal of repairing harm and preventing recidivism—the data from AY 2018 shows that there was a 20.6% drop from AY 2017 in the number of respondents found responsible for Code violations on more than one referral to the OJA, and a 7.6% drop from that same period for the number of respondents who were found responsible for a Code violation on more than one referral to the OJA within the same academic year. In addition to attributing this drop to the efficacy of the sanctions used by the OJA, it must be noted also that the OJA has worked to ensure that the educational interventions are delivered as contemporaneously to the incident reported as possible. In AY 2018, the OJA reduced the number of calendar days between reported date to adjudication date by 27.2%, and, if excluding cases which: the matter proceeded to a hearing/was awaiting a hearing board case to be finalized; a student was on a leave of absence and requested

---

\(^8\) The OJA was permitted to participate in the Student and Campus Life Showcase, and the poster presented about this class can be found in Appendix B.

\(^9\) [https://hazing.cornell.edu/prevention/campus-framework](https://hazing.cornell.edu/prevention/campus-framework)
adjudication upon return; a student elected to adjudicate a case after summer break; or, in cases in which law enforcement requested the OJA delay its proceedings\textsuperscript{10}, that percentage drop is 17.4%. While it is unexpected that the OJA will be able to replicate such numbers in coming years, one unanticipated challenge that impacted those timelines, and which will hopefully not be a persistent trend—was the non-cooperation of witnesses. The unwillingness of individuals in the Cornell community to participate as witnesses in the investigation process led not only to delays in the underlying case which was being investigated—resulting in delays for the respondent(s) in the underlying case—but, also resulted in obstruction cases being brought against non-cooperating individuals.

Finally, while noting that AY 2018 was an intense year, such intensity is not always a negative. The intensity of the past academic year strengthened the OJA’s resolve in some ways, resulted in critical reflection in others, and despite the continuing challenges of not having a direct reporting line or departmental home, demonstrated the breadth of intersecting points the OJA and Code have within the Cornell community.

**Projected Needs**

At this time, there are no major projected needs for the OJA which have not already been addressed or shared with campus partners.

**Future Considerations and Projects**

As articulated last year, the OJA would welcome any opportunity to participate in the efforts related to revising and overhauling the Code, to increase campus knowledge of the Code and the expectations contained therein, and to increase transparency about the work and role of the OJA. Additionally, during the 2019 academic year, the OJA plans to: complete revisions to its website; build on its partnership with the Scheinman Institute by expanding the types of cases that student-mediators can participate in; prepare for any Code or changes which are likely to be announced over the coming year; and, create a JA Advisory Council.

\textsuperscript{10} Title One. Art. II. Sec.B.2 (pg. 3, 2018).
## Appendix A: Analytics

### Total Referrals

<table>
<thead>
<tr>
<th></th>
<th>2016-2017</th>
<th>2017-2018</th>
<th>Percentage change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of referrals to the OJA in 2016-2017</td>
<td>536</td>
<td>640</td>
<td>+19.4%</td>
</tr>
</tbody>
</table>

### Case Turnaround

<table>
<thead>
<tr>
<th></th>
<th>Days from Reported Date to Adjudication Date</th>
<th>Days from Reported Date to Adjudication Date, excluding cases which went to hearing/were waiting on hearing board case to be finalized, a student was on a leave of absence and requested adjudication upon return, a student elected to adjudicate a case after summer break, or in cases in which law enforcement requested the OJA delay its proceedings</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016-2017</td>
<td>33</td>
</tr>
<tr>
<td></td>
<td>2017-2018</td>
<td>24.3</td>
</tr>
<tr>
<td>Percentage change</td>
<td>-27.2%</td>
<td>-17.4%</td>
</tr>
</tbody>
</table>

### Violations and Outcomes (any violation charged at least 35 times during AY 2018)

<table>
<thead>
<tr>
<th></th>
<th># of times a Respondent was placed on notice for this charge</th>
<th>Responsible</th>
<th>Not responsible</th>
<th>No adjudication or administratively closed</th>
<th>Good Samaritan Protocol</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.b. Alcohol violations</td>
<td>267</td>
<td>76</td>
<td>57</td>
<td>0</td>
<td>123</td>
</tr>
<tr>
<td>3.d. Marijuana and Controlled substances</td>
<td>88</td>
<td>60</td>
<td>10</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>1.g. Endanger persons; threat/use of force</td>
<td>83</td>
<td>20</td>
<td>57</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>1.f. Hazing</td>
<td>54</td>
<td>27</td>
<td>14</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>3.g. Obstruction/Destroy evidence</td>
<td>51</td>
<td>22</td>
<td>8</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1.i. Theft/Stolen property</td>
<td>43</td>
<td>28</td>
<td>12</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2.d. Forge/Falsify or possess forged documents</td>
<td>35</td>
<td>25</td>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

For reference, the OJA has included AY 2017 as a comparison for AY 2018. For the purpose of defining the start and end of an academic year, the dates July 1, 2017 – June 30, 2018 were used. Due to these dates, some cases which occurred in AY 2018 may not be included in the data until AY 2019 because adjudication was not finalized by the date of the data pull. Additionally, if a referral was received, but a Respondent could not be identified, the incident is reflected in the referral number, but not the findings numbers. Calendar days. Violations are listed with a short description; please see the Code for the full text of the violation. A Respondent may be responsible for some, all, or none of the violations if multiple Code violations were alleged in the same incident report. Additionally, note that not all cases which had an incident date within AY 2018 were adjudicated by June 30, 2018. Thus, the total findings may not total the number of charges.
### Findings (Responsible/Not Responsible)

<table>
<thead>
<tr>
<th></th>
<th>Number of violations alleged(^{16})</th>
<th>Findings of Responsible</th>
<th>Findings of Not Responsible</th>
<th>Finding of Neither Responsible or Not Responsible (GSP)(^{17})</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016-2017</td>
<td>754</td>
<td>429 (56%)</td>
<td>144 (19%)</td>
<td>134 (17.7%)</td>
</tr>
<tr>
<td>2017-2018</td>
<td>841(^{18})</td>
<td>320 (38%)</td>
<td>273 (32.4%)</td>
<td>132 (15.6%)</td>
</tr>
<tr>
<td>Percentage change</td>
<td>+11.5%</td>
<td>-18%</td>
<td>+13%</td>
<td></td>
</tr>
</tbody>
</table>

### Gender\(^{19}\) of Respondent

<table>
<thead>
<tr>
<th></th>
<th>Male</th>
<th>Female</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016-2017</td>
<td>338</td>
<td>190</td>
<td>6</td>
</tr>
<tr>
<td>2017-2018</td>
<td>385</td>
<td>221</td>
<td>11(^{20})</td>
</tr>
<tr>
<td>Percentage change</td>
<td>+14%</td>
<td>+16%</td>
<td>+83.3%</td>
</tr>
</tbody>
</table>

### Classification\(^{21}\) of Respondent (Year in School)

<table>
<thead>
<tr>
<th></th>
<th>Freshmen</th>
<th>Sophomore</th>
<th>Junior</th>
<th>Senior</th>
<th>Graduate or Professional</th>
<th>Faculty and Staff</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016-2017</td>
<td>265 (50%)</td>
<td>123 (23%)</td>
<td>76 (14%)</td>
<td>45 (8%)</td>
<td>14 (3%)</td>
<td>3 (0.5%)</td>
<td>6 (1.1%)</td>
</tr>
<tr>
<td>2017-2018</td>
<td>296 (47%)</td>
<td>145 (23%)</td>
<td>67 (11%)</td>
<td>70 (11%)</td>
<td>11 (2%)</td>
<td>4 (0.6%)</td>
<td>11 (1.7%)</td>
</tr>
<tr>
<td>Percentage change</td>
<td>-3%</td>
<td>No change</td>
<td>-3%</td>
<td>+3%</td>
<td>-1%</td>
<td>+0.1%</td>
<td>+0.6%</td>
</tr>
</tbody>
</table>

### Athletics (Top 4 teams to which referred individuals belonged)\(^{22}\)

<table>
<thead>
<tr>
<th></th>
<th>Non-athlete</th>
<th>Men’s Football</th>
<th>Men’s Sprint Football</th>
<th>Men’s Lacrosse</th>
<th>Men’s Cross Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016-2017</td>
<td>475 (88.6%)</td>
<td>18 (0.03%)</td>
<td>6 (0.01%)</td>
<td>5 (0.009%)</td>
<td>3 (0.005%)</td>
</tr>
<tr>
<td>2017-2018</td>
<td></td>
<td>Men’s Football</td>
<td>Women’s Soccer</td>
<td>Men’s Lacrosse</td>
<td>Women’s Field hockey</td>
</tr>
</tbody>
</table>

\(^{16}\) One incident can have multiple provision of the Code reported as violated.

\(^{17}\) A case could be GSP, or GSP+; the latter meaning that additional Code charges, not covered by the Good Samaritan Protocol, were adjudicated separately.

\(^{18}\) Not all cases which had an incident date within AY 2018 were adjudicated by June 30, 2018. Thus, the total findings do not add to 841.

\(^{19}\) Data is automatically merged from PeopleSoft if available.

\(^{20}\) The eleven University-registered organizations were: The Chordials, Scabbard and Blade, Delta Sigma Pi, Big Red Band, Alpha Kappa Psi, Phi Gamma Nu, Von Cromm, Theta Tau, Varsity Fencing Team, Chinese Drama Society, and Varsity Softball. Please note that a referral does not mean that a finding of “Responsibility” resulted.

\(^{21}\) Data is automatically merged from PeopleSoft, if available, based on the date of the Respondent’s date of referral to the OJA.

\(^{22}\) Data is automatically merged from PeopleSoft. Please note that a referral does not mean that a finding of “Responsibility” resulted, and a Respondent could be listed both as a member of an athletic team and a Greek chapter.
<table>
<thead>
<tr>
<th></th>
<th>2016-2017</th>
<th>2017-2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-Greek</td>
<td>Alpha Epsilon Phi</td>
</tr>
<tr>
<td>2016-2017</td>
<td>367 (68%)</td>
<td>8 (1.5%)</td>
</tr>
<tr>
<td>2017-2018</td>
<td>428 (65.7%)</td>
<td>28 (4.3%)</td>
</tr>
</tbody>
</table>

Greek (Top 4 chapters to which referred individuals belonged)\(^{23}\)

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of Incidents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Off campus</td>
<td>45</td>
<td>8.4%</td>
</tr>
<tr>
<td>Mary Donlon Hall</td>
<td>38</td>
<td>7%</td>
</tr>
<tr>
<td>Parking Lot on campus</td>
<td>27</td>
<td>5%</td>
</tr>
<tr>
<td>George Jameson Hall</td>
<td>18</td>
<td>3.3%</td>
</tr>
<tr>
<td>Clara Dickson hall</td>
<td>16</td>
<td>3%</td>
</tr>
<tr>
<td>Balch Hall</td>
<td>15</td>
<td>2.8%</td>
</tr>
<tr>
<td>Kay Hall</td>
<td>15</td>
<td>2.8%</td>
</tr>
<tr>
<td>Mews Hall</td>
<td>13</td>
<td>2.4%</td>
</tr>
<tr>
<td>Robert Purcell Community Center</td>
<td>13</td>
<td>2.4%</td>
</tr>
</tbody>
</table>

Location of Alleged Violation (Top 10 locations) 2016-2017

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of Incidents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Off campus</td>
<td>45</td>
<td>8.4%</td>
</tr>
<tr>
<td>Mary Donlon Hall</td>
<td>38</td>
<td>7%</td>
</tr>
<tr>
<td>Parking Lot on campus</td>
<td>27</td>
<td>5%</td>
</tr>
<tr>
<td>George Jameson Hall</td>
<td>18</td>
<td>3.3%</td>
</tr>
<tr>
<td>Clara Dickson hall</td>
<td>16</td>
<td>3%</td>
</tr>
<tr>
<td>Balch Hall</td>
<td>15</td>
<td>2.8%</td>
</tr>
<tr>
<td>Kay Hall</td>
<td>15</td>
<td>2.8%</td>
</tr>
<tr>
<td>Mews Hall</td>
<td>13</td>
<td>2.4%</td>
</tr>
<tr>
<td>Robert Purcell Community Center</td>
<td>13</td>
<td>2.4%</td>
</tr>
</tbody>
</table>

Location of Alleged Violation (Top 10 locations) 2017-2018

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of Incidents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Off campus</td>
<td>64</td>
<td>10.2%</td>
</tr>
<tr>
<td>Mary Donlon Hall</td>
<td>43</td>
<td>6.8%</td>
</tr>
<tr>
<td>Hans Bethe House</td>
<td>26</td>
<td>4.1%</td>
</tr>
<tr>
<td>North Campus Townhouse C</td>
<td>25</td>
<td>4%</td>
</tr>
<tr>
<td>The Cornell Store</td>
<td>21</td>
<td>3.3%</td>
</tr>
<tr>
<td>Clara Dickson Hall</td>
<td>20</td>
<td>3.2%</td>
</tr>
<tr>
<td>George Jameson Hall</td>
<td>18</td>
<td>2.8%</td>
</tr>
<tr>
<td>Day Hall(^{26})</td>
<td>16</td>
<td>2.5%</td>
</tr>
<tr>
<td>Cascadilla Hall</td>
<td>14</td>
<td>2.2%</td>
</tr>
<tr>
<td>Multiple locations for ongoing circumstances(^{27})</td>
<td>14</td>
<td>2.2%</td>
</tr>
</tbody>
</table>

\(^{23}\) Data is automatically merged from PeopleSoft. Please note that a referral does not mean that a finding of “Responsibility” resulted, and a Respondent could be listed both as a member of an athletic team and a Greek chapter.

\(^{24}\) No longer a recognized organization as of the date of this report.

\(^{25}\) No longer a recognized organization as of the date of this report.

\(^{26}\) Most typically reflects obstructions cases opened by the OJA.

\(^{27}\) Most typically reflects hazing violations.
### Recidivism Rates

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Respondents who have been found responsible for Code violation(s) on more than one referral to the OJA</th>
<th>Number of Respondents who have been found responsible for Code violation(s) on more than one referral to the OJA within the same academic year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016-2017</td>
<td>63</td>
<td>26</td>
</tr>
<tr>
<td>2017-2018</td>
<td>50</td>
<td>24</td>
</tr>
<tr>
<td>Percentage change</td>
<td>-20.6%</td>
<td>-7.6%</td>
</tr>
</tbody>
</table>

### Sanctions 2017-2018

<table>
<thead>
<tr>
<th>Sanction</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written Reprimand</td>
<td>267</td>
<td>32.0%</td>
</tr>
<tr>
<td>Reflection Paper</td>
<td>242</td>
<td>29.0%</td>
</tr>
<tr>
<td>AOD Level 1 – BASICS</td>
<td>187</td>
<td>22.4%</td>
</tr>
<tr>
<td>Decision Making Class</td>
<td>29</td>
<td>15.4%</td>
</tr>
<tr>
<td>Research Paper</td>
<td>26</td>
<td>3.1%</td>
</tr>
<tr>
<td>AOD Level 2</td>
<td>17</td>
<td>2.1%</td>
</tr>
<tr>
<td>Oral Warning</td>
<td>12</td>
<td>1.5%</td>
</tr>
<tr>
<td>Facilitated Dialogue</td>
<td>12</td>
<td>1.4%</td>
</tr>
<tr>
<td>Disciplinary Probation</td>
<td>11</td>
<td>1.3%</td>
</tr>
<tr>
<td>Letter of Apology</td>
<td>8</td>
<td>0.9%</td>
</tr>
<tr>
<td>Directed Study: Emergency Health and Safety</td>
<td>7</td>
<td>0.9%</td>
</tr>
<tr>
<td>Deferred Suspension</td>
<td>5</td>
<td>0.6%</td>
</tr>
<tr>
<td>Restitution</td>
<td>4</td>
<td>0.5%</td>
</tr>
<tr>
<td>AOD Level 3</td>
<td>3</td>
<td>0.4%</td>
</tr>
<tr>
<td>AOD Level 1.5</td>
<td>2</td>
<td>0.2%</td>
</tr>
<tr>
<td>Suspension</td>
<td>1</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

---

28 Includes GSP cases where sanctions are tracked for completion only.
29 Written reprimands are not provided in GSP cases, so of the 320 cases in which a finding of responsible was reached, a written reprimand was included in 83.4% of the cases.
30 The incident for which this Respondent was suspended for occurred in AY 2017. However, the case overlapped academic years—the UHB heard the case at the end of AY 2017, but the appeal was heard in AY 2018.
Appendix B: Student and Campus Life Showcase Poster
WHAT DO A Rochester football team, Johnny Cash, and the MBTI HAVE IN COMMON?

Exploring the OJA’s Decision-Making Class

Office of the Judicial Administrator
Janey Bosch, Vincent J. Ciampolillo, Michelle R. Horvath, Christina Liang, Steven Morey

HISTORY

• 2015—Created by and under Michelle R. Horvath’s direction at Truman State University.
• 2016-2017—Evaluated for use at Cornell.
• Fall 2017—Implemented at Cornell.

WHEN USED

• For low-level violations, where alcohol and other drug (AOD) use is not part of the violation, including: fake ID, trespass, theft, public urination, and disorderly conduct;
• When it is clear that the Respondent’s actions were motivated by poor or underdeveloped decision-making skills; and,
• When the Respondent demonstrates a willingness to participate in the class, such that participation would not negatively impact the Respondent, and the Respondent would positively impact the peer-to-peer learning environment of the class.

VALUES

• Supports the SCL values of innovation, collaboration, and empowerment.
• Supports the educational nature of conduct, provides peer-to-peer education, incorporates restorative justice practices, allows for personal reflection, and develops a skill-set which can be applied beyond the conduct setting.

Student agrees to attend a decision-making class as a sanction:

• Student is provided pre-class assignment

Ripple-Effect

• Assesses the unintended/unforeseeable consequences of our decision making.

MBTI

• Discusses each individual’s MBTI results and how it can impact decision-making.

Johnny Cash

• Discusses the benefits of taking responsibility for your actions, as well as values such as forgiveness and punishment.

On the day of class:

• Students are not required to discuss their specific circumstances

Agenda:

• Welcome & Introductions
• Small group discussion
• Large group discussion
• Review Smart Choices decision making process through video clips

After the class:

• Students complete an anonymous assessment of the class
• A written reflection paper, and any other sanctions, are submitted to the OJA.

Using “Hidden Figures” to generate alternatives.

-“It’s all redacted; how did you read this?”
-“I held it up to the light.”

REFERENCES

Smart Choices picture: https://www.amazon.com/Smart-Choices-Practical-Making-Decisions/dp/0767908864


DATA & SAMPLE SIZE

• Six classes held over the Fall 2017 and Spring 2018 semesters
• 47 students completed the classes
• The majority of those who completed the class were first-year, residential students.
• Participants preferred, and classes were more robust on Saturday mornings

STUDENT FEEDBACK

“I was a little nervous but I had a lot of fun.”
“Not a waste of time.”
“Encouraged me to think more about my actions.”
“Helpful to be with other students.”
“I thought it would be boring.”
“Thank-you.”

WANT TO GET INVOLVED WITH THE DECISION-MAKING CLASS?

If you are interested in serving as a co-facilitator, want to suggest a video clip, or would like to read any of the materials used, please visit 120 Day Hall or contact judadmin@cornell.edu.
Appendix C: Public Records
# Campus Code of Conduct – Academic Year 2018 Public Records

<table>
<thead>
<tr>
<th>Public Record #</th>
<th>Petitioner</th>
<th>Date of Hearing</th>
<th>Type of Hearing</th>
<th>Chair</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Respondent – Undergraduate Student</td>
<td>July 17, 2017</td>
<td>Appeal of the decision of the UHB</td>
<td>Professor Andrea Mooney</td>
</tr>
<tr>
<td>2</td>
<td>Respondent – Undergraduate Student</td>
<td>September 10, 2017</td>
<td>Hearing on the merits – joint hearing</td>
<td>Professor Rocco Scanza</td>
</tr>
<tr>
<td>3</td>
<td>Respondent – Undergraduate Student</td>
<td>November 1, 2017</td>
<td>Show Cause</td>
<td>Professor Thomas Overton</td>
</tr>
<tr>
<td>4</td>
<td>Respondent – Undergraduate Student</td>
<td>February 13, 2018</td>
<td>Hearing on the merits</td>
<td>Professor Thomas Overton</td>
</tr>
<tr>
<td>5</td>
<td>Respondent – Undergraduate Student</td>
<td>February 16, 2017</td>
<td>Hearing on the merits</td>
<td>Professor Rocco Scanza</td>
</tr>
<tr>
<td>6</td>
<td>Respondent – University Registered Organization</td>
<td>March 30, 2018</td>
<td>Hearing on the merits</td>
<td>Professor Rocco Scanza</td>
</tr>
<tr>
<td>7</td>
<td>Respondent – Undergraduate Student</td>
<td>June 12, 2018</td>
<td>Hearing on the merits</td>
<td>Professor Clare Fewtrell</td>
</tr>
<tr>
<td></td>
<td></td>
<td>July 27, 2018</td>
<td>Appeal of the decision of the UHB</td>
<td>Professor Andrea Mooney</td>
</tr>
</tbody>
</table>
Public Record #1
DECISION OF THE UNIVERSITY REVIEW BOARD

In the Matter of

Date of hearing: July 17, 2017
Date of written decision: August 1, 2017

Procedural History

On May 9, 2017, Cornell University student ("the respondent") was charged with violating Title Three Article II Section A3d of the Campus Code of Conduct: to “unlawfully manufacture, distribute, dispense, possess, use or sell marijuana and controlled substances, as defined by state or federal law.”

The matter was not resolved by a Summary Decision Agreement, and a duly constituted University Hearing Board (UHB) was convened on May 26, 2017.

Prior to the UHB, the respondent stipulated that:

1) he admitted to Cornell University Police Department (CUPD) that he sold marijuana on campus to undercover officers on at least two occasions;

2) he admitted to CUPD that he sold marijuana to different college students;

3) CUPD seized 5.6 ounces of marijuana, $2,725 in cash, sales, bags, and grinders from the respondent’s Hasbrouck apartment.

As the facts were stipulated, the respondent was found responsible for violating Title Three Article II Section A3d of the Campus Code of Conduct, and the University Hearing Board moved directly to the sanctions phase.
University Hearing Board Decision

The UHB provided a written decision on June 2, 2017, which determined the following sanctions:

1. **Written Reprimand.** A disciplinary record will be maintained consistent with the OJA disciplinary record and record retention policies. This record will be maintained permanently.

2. **Deferred Suspension.** A deferred suspension for one semester will be in place through graduation for any violation of the Code of Conduct. A deferred suspension for two semesters will be in place through graduation for any violation of the Code of Conduct related to the sale of marijuana or any illegal substance defined by state or federal law on campus or off campus. The Hearing Board finds that any such off-campus sale would constitute a serious violation of the Code of Conduct. The respondent must inform the OJA of any such sale made by him off-campus, and failure to do so will constitute a violation of the Code that will result in implementation of the deferred suspension. If a deferred suspension occurs, the respondent will not take any classes at Cornell, on any of Cornell's campuses, or through any of Cornell's study-abroad programs during the suspension period. While on suspension, the respondent may not earn academic credit at Cornell or elsewhere toward completion of a Cornell degree. A persona non grata (PNG) will be put in place during any suspension, and the respondent will contact Cornell University Police before returning to Cornell to request the PNG be amended or lifted. Following any suspension and during the respondent’s first full semester on probation, the respondent must participate in the OJA suspension-reintegration program. If any suspension occurs, then a permanent transcript notation will be placed on your transcript, which will read: "Suspended for Campus Code of Conduct violation."
3. **Counseling.** Prior to beginning counseling, the respondent must complete a release form with the OJA so that appropriate referral information will be sent to the counselor. The respondent must agree to complete an initial psychological assessment with a licensed counselor. The respondent must agree to discuss the following topics during his counseling assessment: *How events in my life affected my decision-making.* The respondent must complete at least five counseling sessions to satisfy this sanction. This sanction is due October 1, 2017. The respondent must sign any releases needed to allow the counselor(s) to communicate with the OJA to confirm compliance with this agreement, and to provide information about any responsibility to return the Referral Form to the OJA after the assessment and to ask the counselor to inform the OJA once the recommendations are complete.

4. **Alcohol and Other Drug Level 1 - BASICS, Including Fee.** Respondent must complete BASICS alcohol/drug education sponsored by Gannett Health Services. This includes: contacting Gannett within two days of receipt of this decision at 607-255-4782 for an appointment with a facilitator, completing the BASICS program prior to the beginning of the fall 2017 semester, completing evaluations as requested by Gannett and paying the fee for BASICS at the time of the first appointment. If respondent fails to contact Gannett, misses any meeting, or fails to complete the BASICS education, respondent may be required to pay additional fees according to Gannett's policies.

5. **Drug Addiction Treatment Program.** Respondent must complete with a successful or favorable discharge the drug addiction treatment program in which he is presently enrolled. The respondent must sign any releases needed to allow the Drug Addiction Treatment Program and its providers to communicate with the OJA to confirm compliance with this agreement including provision of documentation of successful or favorable discharge. Failure to complete the drug addiction treatment program with a successful or
favorable discharge will constitute a violation of the Code that will result in implementation of the deferred suspension.

6. **Community Service.** Respondent must complete 100 hours of volunteer community service to the Cornell community that is preapproved in its focus and nature by the OJA. Respondent must sign any releases needed to allow verification of the completion of the required community service. Community service must be completed by December 15, 2017.

7. **Reflection Paper.** Respondent must complete a series of three reflection papers of three to four pages each on the topics indicated below. Each reflection paper should be double spaced, 12-point, Times New Roman font with one inch margins all around. Each paper must address the questions for that paper. Each paper must be submitted to the OJA by the indicated due date below. Each paper should be sent via email to judadmin@cornell.edu and include in respondent’s email the OJA case number and date of this decision.

   i. Reflection paper #1 is due one week after completion of Community Service, on or before December 22, 2017. This reflection paper should address the following questions. What is my responsibility as an individual community member to the health, safety and well-being of my fellow community members, including my student peers and the broader Cornell community? What have I learned from this community service experience about the valued role I can play in enhancing the well-being of others? How will I continue to practice in both behavior and spirit this responsibility and action to protect the well-being of others going forward?

   ii. Reflection paper #2 is due one week after completion of Sanctions 3, 4, and 5 and should address the following questions: What does it mean to be a part of a community? How does addiction interfere with being a member of a community? What is respondent’s plan to stay a responsible member of the Cornell community? What are at least 10 local Cornell and Ithaca
resources to assist him with his plan?

iii. Reflection paper #3 is due by January 2, 2018 and should address the following questions. How does the educational and professional path that I have chosen afford me an opportunity to continue to demonstrate concern for community and to contribute actively to the well-being of community members, organizations and the environment in the future?

Present Appeal

The Judicial Administrator appealed the decision of the UHB, arguing that:

1) The imposed sanctions were disproportionate and

2) The imposed sanctions were not commensurate with the violations for which the respondent was responsible. (see Title Three, Art.III, Sec. F.1.b.2)

The JA further pointed out some inaccuracies in the UHB decision:

a) the penalty of “deferred suspension” is not an available penalty under the Campus Code of Conduct.

b) the reporting length described by the UHB decision was not compliant with University Policy 4.7

c) the UHB improperly assumed jurisdiction with regard to off-campus behavior

d) the UHB required 100 hours of community service, but the Code only allows for 80 hours of service.

The respondent replied to the appeal, arguing that the UHB’s unanimous decision was correct and should be upheld. Respondent agreed with the JA with regard to reporting length and jurisdiction. Respondent also agreed that 100 hours community service was improper, but volunteered that he would complete all 100 hours nonetheless.
A University Review Board (URB) was convened on Monday, July 17, 2017 at 11:30 a.m. The Board consisted of a student, a faculty member, and a staff member. Faculty member Andrea J. Mooney chaired the URB.

**Decision**

The URB found the JA’s argument compelling. The URB agrees with the JA that the damage that the respondent caused was so significant that the penalties fixed by the UHB were not sufficient. The URB thought that the respondent’s actions put the reputation of the University as a whole, as well as the reputation of the University’s ability to safeguard students, at risk.

The URB was concerned that the respondent’s violations took place at Hasbrouck Apartments, a site that houses graduate and international students and young families. The URB was concerned that people were coming into the Hasbrouck environs to purchase marijuana from the respondent. Part of the URB’s concern was for international students, who may come from areas where drug laws are particularly harsh, and who could have been potentially traumatized by witnessing illegal drug activity.

The URB further found that the respondent underplayed his responsibility and seemed to blame others for his predicament and minimize his violations. Examples of this are taken from the Respondent’s response, dated July 9 2017 and include:

1) making a distinction between being a dealer and a user/dealer. The respondent seemed to focus more on his use of marijuana than of his role in selling it to the public. The URB noted that, at the time of his arrest, the respondent had more marijuana in his possession than a user would normally have.

2) blaming the undercover officer and the Cornell Police for his difficulties: “...the undercover officer and/or a confidential informant that sent me sms messages persistently and continuously over the course of several weeks until I sold them marijuana amounting to less that $100.00.”

3) characterizing the JA’s appeal as “…a heartless, foolhardy, intentionally malicious misrepresentation of the UHB...”
The URB found that such arguments undermine the respondent’s sense of responsibility for his own actions, even if the actions were the result of his addiction.

Absence of Mitigation

The respondent points out that he had begun treatment even prior to the convening of the UHB. The URB does not see that as a mitigating factor in this matter but is glad that the respondent has begun on the path to sobriety. Nor does the URB agree with the UHB that the fact that this is the respondent’s first offense serve as a mitigating factor. Rather, the fact that the respondent dealt drugs overrides any significance that this “first offense” might have.

URB Determination

1) Suspension The URB has determined that a two-semester suspension is the appropriate response to the respondent’s violations. Therefore, beginning August 23, 2017, the respondent is suspended from Cornell University for the Fall 2017 semester and the Spring 2018 semester. Given that the suspension will be on the respondent’s record, the UHB sanction of a written reprimand and the deferred suspension (UHB sanctions #s 1 and 2) are moot.

2) Probation Should the respondent return to Cornell after the two-semester suspension, he will be on probation until graduation.

3) Counseling Given the other sanctions determined by the URB, the UHB sanction of counseling (#3) is omitted.

4) Basics Should the respondent not have already completed Basics during the two-semester suspension, he must complete the program in his first semester back at Cornell.

5) Drug Addiction Treatment Sanction #5 of the UHB remains as is.

6) Community Service Although the respondent volunteered to complete 100 hours of community service, the URB only requires 80 hours completion prior to return to Cornell.

7) Reflection Paper The respondent will complete one reflection paper and
submit to the JA prior to enrolling at Cornell. The paper will address the following: What is my responsibility as an individual community member to the health, safety and well-being of my fellow community members, including my student peers and the broader Cornell community? What have I learned from this community service experience about the valued role I can play in enhancing the well-being of others? How will I continue to practice in both behavior and spirit this responsibility and action to protect the well-being of others going forward? What does it mean to be part of a community?

This decision is the unanimous decision of the University Review Board.

Respectfully submitted,

Andrea J. Mooney, Chair of the University Review Board

For the University Review Board
Public Record #2
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT

Hearing on the Merits

Procedural History

On March 27, 2017, Cornell University student, [REDACTED] (Respondent), was referred to the Office of the Judicial Administrator (OJA) for allegedly violating the Campus Code of Conduct (Code), specifically:

- 1. F. To haze another person, regardless of the person’s consent to participate. 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

- 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.

At the conclusion of the OJA’s investigation, the OJA proposed a summary decision agreement (SDA) to Respondent. The matter was not resolved by a SDA, and per the Code, a duly constituted UHB convened on September 10, 2017 and September 15, 2017 for a hearing on the merits.
University Hearing Board Decision

After the presentation of witnesses and information by both the Respondent and the OJA, the UHB:

… Found Respondent in violation of the following Code provision(s):

Title Three____, Article II__, Section A ______:
  • 3b
    o Vote count: 5
    o Dissent: 0

… Found Respondent not responsible for violating the following Code provision(s):

Title __Three____, Article II____, Section __A____:
  • 1.f.
    o Vote count: 5
    o Dissent: 0

Rationale for Findings

The UHB’s decision regarding violation determinations is based on the following:

1. Re: violation of Section A: 3b. OJA met its burden of clear and convincing evidence that the Respondent unlawfully provided alcohol to an individual under the age of 21. During the hearing, the Respondent admitted that he and a fraternity brother placed a cardboard box in the back of an automobile that was taking the minor to a fraternity-sponsored function off campus. The Respondent admitted that the box contained an alcoholic beverage and that the beverage was intended for the minor.

2. Re: violation of Section A: 1.f. The OJA did not meet its burden of establishing clear and convincing evidence that the Respondent was guilty of hazing a fraternity member who was also a minor. Although the OJA did offer the testimony of one witness who stated that the minor described a hazing incident to her, the minor later testified that he did not experience any “humiliating, intimidating, or demeaning treatment”. In fact, his testimony directly contradicted that of the OJA’s witness. Other witnesses, who purportedly observed the interaction between the OJA’s witness and the minor, were never questioned by the OJA’s office, nor did they testify during the instant proceeding.

Sanction(s)

The UHB determined the following sanction(s) are appropriate for the violations found:

1. Written Reprimand – A disciplinary record will be maintained consistent with the Office of

1 Please utilize the Sanctioning Guidelines for Respondent as a reference for language.
the Judicial Administrator’s disciplinary record and record retention policies in accordance with Policy 4.7

2. Successful completion of Alcohol and Other Drug Level 1 - BASICS, Including Fee. BASICS alcohol/drug education is sponsored by Cornell Health. This includes: contacting Cornell Health within two days of the issuance of this sanction, or one week prior to the Respondent’s return to Cornell after a period of suspension, at 607-255-4782 for an appointment with a facilitator; completing the BASICS program **within four weeks of the issuance of this sanction**; completing evaluations as requested by Cornell Health; and paying the fee for BASICS at the time of the first appointment.

If the Respondent fails to contact Cornell Health, misses any meeting, or fails to complete the BASICS education, the Respondent may be required to pay additional fees according to Cornell Health’s policies.

3. Reflection Paper – A five (5)-page reflection paper addressing the following:
   a. Reflect on your privilege
   b. Discuss the unintended consequences of putting someone (who may be in a minority demographic) in a position of having what looks to be illegal substances on their person
   c. Discuss the difference in what the perception of your actions were versus what your intent was.

The reflection paper should be double spaced, 12-point font, Times New Roman font with one inch margins all around. This paper must be submitted to the Office of the Judicial Administrator (OJA) by **Dec 06, 2017**. The Respondent must send the reflection paper to the OJA via email to judadmin@cornell.edu.

4. Letter(s) of Apology. Draft a letter of apology to those that were affected by this incident. It is solely the Respondent’s discretion on the length/content of this sanction, but as the letter is drafted, please reflect and address the following questions -- (1) What happened? (2) What was your role/responsibility? (3) How do you feel about the harm caused (Reputational, Financial, Physical, Emotional, Facilities in relation to yourself, the community, the institution)? (4) What will be your behavior in the future? (5) What amends will you make to repair harm/rebuild trust? This letter must be submitted to the Office of the Judicial Administrator (OJA) by _one week following the issuance of this finding_. Please submit this letter to the OJA via email to judadmin@cornell.edu. After approval, this letter will then be delivered to any/all affected/harmed parties.

**Rationale for Sanction(s)**

The UHB’s decision regarding sanction(s) determinations is based on the following:

________________________
1. The seriousness of the offense. The underage student had an alcohol problem prior to the incident in question. The Respondent was viewed as a mentor by the younger student.

Respectfully submitted,

_______________________, Chair of the UHB

_______________________, Student/Faculty/Staff

_______________________, Student/Faculty/Staff

_______________________, Student/Faculty/Staff

_______________________, Student/Faculty/Staff

_______________________, Student/Faculty/Staff
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT

Hearing on the Merits

Procedural History

On March 27, 2017, Cornell University student, [redacted] (Respondent), was referred to the Office of the Judicial Administrator (OJA) for allegedly violating the Campus Code of Conduct (Code), specifically:

1. F. To haze another person, regardless of the person’s consent to participate. 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.

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.

At the conclusion of the OJA’s investigation, the OJA proposed a summary decision agreement (SDA) to Respondent. The matter was not resolved by a SDA, and per the Code, a duly constituted UHB convened on September 10, 2017 and September 15, 2017 for a hearing on the merits.

University Hearing Board Decision
After the presentation of witnesses and information by both the Respondent and the OJA, the UHB:

… Found Respondent in violation of the following Code provision(s):

Title Three, Article II, Section A:
- 3b
  - Vote count: 5
  - Dissent: 0

… Found Respondent not responsible for violating the following Code provision(s):

Title Three, Article II, Section A:
- 1.f.
  - Vote count: 5
  - Dissent: 0

Rationale for Findings

The UHB’s decision regarding violation determinations is based on the following:

1. Re: violation of Section A: 3b. OJA met its burden of clear and convincing evidence that the Respondent unlawfully provided alcohol to an individual under the age of 21. During the hearing, the Respondent admitted that he and a fraternity brother placed a cardboard box in the back of an automobile that was taking a student who was not of legal drinking age to a fraternity-sponsored function off campus. The Respondent admitted that the box contained an alcoholic beverage and that the beverage was intended for the minor.

2. Re: violation of Section A: 1.f. The OJA did not meet its burden of establishing clear and convincing evidence that the Respondent was guilty of hazing a younger fraternity member. The OJA offered no evidence that the Respondent engaged in hazing other than the Respondent’s own testimony that he indirectly provided the minor with alcohol. During the hearing, the minor testified that he did not experience any “humiliating, intimidating, or demeaning treatment.”

Sanction(s)

The UHB determined the following sanction(s) are appropriate for the violations found:

1. Written Reprimand – A disciplinary record will be maintained consistent with the Office of the Judicial Administrator’s disciplinary record and record retention policies in accordance with Policy 4.7

2. Successful completion of AOD Level 2 - Alcohol and Other Drugs Education Group,
Including Fee. Participate in the next available Alcohol and Other Drugs Educational Group sponsored by Cornell Health. This includes: attending orientation meeting(s), attending four consecutive group sessions, and attending an exit interview by __March 15, 2018_____. Information about meeting times and locations will be emailed to the Respondent by Cornell Health. The one-time fee for the program must be paid at the time of the orientation meeting at Cornell Health’s cashier’s office. The Respondent must be on time for each meeting and must stay the entire time. Any tardiness, early departure, or missed meetings may result additional fees according to Cornell Health’s policies or ineligibility to complete the sanction at Cornell Health.

3. Reflection Paper – A five (5)-page reflection paper addressing the following:
   a. Reflect on your privilege
   b. Discuss the unintended consequences of putting someone (who may be in a minority demographic) in a position of having what looks to be illegal substances on their person
   c. Discuss the difference in what the perception of your actions were versus what your intent was.

   The reflection paper should be double spaced, 12-point font, Times New Roman font with one inch margins all around. This paper must be submitted to the Office of the Judicial Administrator (OJA) by _Dec 6, 2017________. The Respondent must send the reflection paper to the OJA via email to judadmin@cornell.edu.

4. Letter(s) of Apology. Draft a letter of apology to those that were affected by this incident. It is solely the Respondent’s discretion on the length/content of this sanction, but as the letter is drafted, please reflect and address the following questions -- (1) What happened? (2) What was your role/responsibility? (3) How do you feel about the harm caused (Reputational, Financial, Physical, Emotional, Facilities in relation to yourself, the community, the institution)? (4) What will be your behavior in the future? (5) What amends will you make to repair harm/rebuild trust? This letter must be submitted to the Office of the Judicial Administrator (OJA) by _one week following the issuance of this finding________. Please submit this letter to the OJA via email to judadmin@cornell.edu. After approval, this letter will then be delivered to any/all affected/harmed parties.

Rationale for Sanction(s)

The UHB’s decision regarding sanction(s) determinations is based on the following:

1. The seriousness of the offense. The underage student had an alcohol problem prior to the incident in question. The Respondent was viewed as a mentor by the younger student.

---

2 This sanction is only available when the student is enrolled at Cornell. If the UHB/URB is ordering that a student complete this sanction upon their return from a suspension, the panel should make that clear.
Respectfully submitted,

_______________________, Chair of the UHB

_______________________, Student/Faculty/Staff

_______________________, Student/Faculty/Staff

_______________________, Student/Faculty/Staff

_______________________, Student/Faculty/Staff

_______________________, Student/Faculty/Staff
Public Record #3
UNIVERSITY HEARING BOARD

Respondent

Complainant

SHOW CAUSE HEARING

On November 1, 2017, the University Hearing Board (UHB) convened to consider a Show Cause Petition by the Complainant regarding the decision by the Office of the Judicial Administrator (OJA) to take “no action” on her complaint based upon the OJA’s conclusion that “involuntary incapacitation provided a defense to Respondent’s actions”.

The specific alleged violation of the Code was that the Respondent struck the Complainant in the nose and face with her fist. This act falls under Title Three, Art. II, Sec. A. 1.g., which states that it is a violation of the Code:

To (1) endanger another person, including but not limited to such acts as: introducing a weapon into a fight, whether or not the weapon was used; using one’s body as a weapon; violation of Life Safety regulations; theft or use of fire extinguishers; use of firecrackers or flares; or any other acts, whether reckless or intentional, that create a dangerous situation for the safety of another individual (2) threaten or use physical force or violence to endanger, injure, abuse, intimidate, or coerce another person.

PROCEDURAL HISTORY

The OJA received an incident report on August 18, 2017 from Complainant regarding an off-campus incident of physical assault that allegedly occurred that day. The OJA sought and was granted off-campus jurisdiction from the Dean of Students as required by the Code. As is described more fully in the OJA’s Reply to Show Cause Petition dated October 25, 2017, Complainant submitted a formal complaint on August 29, 2017. The OJA states that at that time, another incident report involving Respondent “was filed with a different University unit and resulted in a co-investigation of the events of August 18, 2017 by the OJA and a different University unit”.

Under the Code, upon receiving a complaint alleging a violation of the Code, the OJA conducts an investigation (Title Three, Art. III, Sec. A.1, P.19). Following the investigation, “The Judicial Administrator shall determine, without undue delay, whether to offer a summary decision, to file formal charges, or to take no action” (Title Three, Art. III, Sec. C.1., P.21). The filing of charges is appropriate where, “as a result of an investigation, the Judicial Administrator determines that there is reasonable cause to believe that a violation has been committed, and a Summary
Decision Agreement has not been reached” (Title Three, Art. III, Sec. D.1.a, P.22). In this case, following the co-investigation, the OJA came to a conclusion of “no action”.

On October 17, 2017, the Complainant filed a Show Cause Petition providing her account of the incident and describing the subsequent impact on her health and complications resulting thereof on her recovery from sinus surgery and interference with class and work participation. In the petition, the Complainant stated that when she asked why no action was taken, she was given vague answers, and told that “since a higher investigation was happening, that this investigation was called not guilty”.

On October 25, 2017, the OJA filed a Reply to Show Cause Petition.

The Show Cause Petition and the Reply to Show Cause Petition were the only materials provided to and considered by the UHB. At this Show Cause hearing, the UHB has three options:

a) Uphold the decision of the OJA in whole or in part;

b) Order the OJA to reopen the investigation; or,

c) Order the OJA to file charges so that the case can be adjudicated by the UHB (Title Three, Art. III, Sec, C.6.a-c, P. 22).

DECISION

After considerable deliberation, the UHB voted 3 to 2 to order the OJA to REOPEN THE INVESTIGATION. The UHB acknowledged that involuntary incapacitation may be a defense to allegations under the Code. However, the UHB found that the OJA’s submission did not contain sufficient information to support its determination that, at this point in the process, there is not reasonable cause to believe a violation of the Code has occurred. The primary considerations supporting the decision of the majority were:

-- There are gaps in the OJA’s Reply to Show Cause Petition that led to further questions that cannot be answered from the information provided. Primarily, while the Respondent’s behavior could be explained by being involuntarily provided controlled substances, it could also have resulted from her voluntarily consuming alcohol. The OJA’s Reply does not explain what evidence exists, other than the Respondent’s claim that she was involuntarily provided controlled substances, that this actually did occur.

-- Some members of the UHB had questions about the nature of the co-investigation and its conclusions, including discussion and agreements that may have occurred between the OJA and the other investigating unit. The lack of information in the OJA’s response makes it difficult to determine whether the OJA’s decision to take no action was appropriate.

-- There was a general sense among some UHB members that the decision of “no action” by the OJA was premature, and that this outcome lacks a sense of fairness relative to the concerns of the Complainant and the concurrent and apparent lack of accountability of the Respondent for her actions.

The UHB acknowledges that reopening the investigation may not lead to the acquisition of further evidence and could lead to the same outcome. However, it could also lead to a Summary Decision Agreement between the parties or further consideration of this case by the UHB as provided by procedures under the Code.
Respectfully submitted,

Thomas R. Overton
UNIVERSITY HEARING BOARD CHAIR (non-voting)

On behalf of University Hearing Board panel members:

[Redacted] (staff), [Redacted], [Redacted], and [Redacted] (students), and [Redacted] (faculty)
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT

Hearing on the Merits

Procedural History

On October 4, 2017, Cornell University student [redacted] (Respondent), was referred to the Office of the Judicial Administrator (OJA) by the Meal Plan Coordinator for Cornell Dining, for allegedly violating the Campus Code of Conduct (Code). At the conclusion of the OJA’s investigation, the OJA determined that there was reasonable cause to believe that the Respondent had violated the following Code provision:

Title Three, Article II, Section A:
- 2.g. To enter upon or make use of University or private property or facilities without authorization

Accordingly, the OJA proposed a summary decision agreement (SDA) to the Respondent that was signed by the Respondent on November 2nd, 2017 but then revoked by the Respondent on November 6th, 2017. Per the Code, and following scheduling delays related to Winter Break and Chair schedule, a duly constituted University Hearing Board (UHB) convened on February 13, 2018 for a hearing on the merits.

Allegations

It is alleged that the Respondent entered the Dining Hall at Keeton House on October 4, 2017 during a time period that was outside of dining hours as posted outside the Dining Hall.

Pre-hearing Decisions (if applicable)

I. Pre-hearing motions and objections:
   a. Pre-hearing motion 1:
      i. Before the UHB convened, the OJA raised two evidentiary objections. First, the OJA objected to two of the Respondent’s proposed exhibits (a photograph taken of the dining facility and a photograph taken of the fountain soda/water dispenser) because the photographs were not taken at the time of the alleged incident. Second, the OJA objected to the testimony of a student witness because the student was not an identified as an
eyewitness to the incident during the investigation. The Respondent did not object to labeling the photographs with the date they were taken. After reviewing both the OJA’s and Respondent’s arguments, the Chair determined that the photographs would be admitted with the annotation of the date they were taken (February 8, 2018) and the witness’s testimony would be allowed.

b. Pre-hearing motion 2:
   i. The Respondent failed to list himself as a witness in his pre-hearing submission, and he and his advisor motioned for the Respondent to be recognized as a witness on his own behalf. In response, the OJA argued that the Respondent never inquired as to whether he should list himself as a witness and noted that the motion was untimely, but agreed to waive its objections and allow the Chair to decide whether the Respondent should be allowed to testify. The Chair determined that the Respondent’s testimony would likely be useful and relevant to the UHB, and that he should be allowed to testify on his own behalf.

University Hearing Board Proceedings and Decision

Testimony was heard from several witnesses during the hearing, including the Executive Chef/Manager of the Dining Hall at Keeton House, the (now former) House Assistant Dean of Keeton House, another student who is a resident of Keeton House, and the Respondent. After this presentation of witnesses and information by both the Respondent and the OJA and subsequent deliberation, the UHB found the Respondent RESPONSIBLE for violation of the following Code provision(s):

Title Three, Article II, Section A:
- Provision 2.g. To enter upon or make use of University or private property or facilities without authorization
  - Vote count: 3 in favor, 2 dissent

Rationale for Findings

The UHB’s decision regarding its determination that the Respondent is responsible for violating the Code is based on the following:

The majority view of the panel was compelled by the testimony of the House Assistant Dean on behalf of the OJA in which she indicated that her oversight of the use of the Dining Hall space was shared with the Executive Chef/Manager of the facility, that she would at times (such as during finals) allow use for study purposes only after the facility closed at 8 PM. She specifically stated that [redacted] did not have authorization to use the facility at 2:15 PM on October 4th. There was not tangible evidence presented by the Respondent that use of the facility for study purposes during off hours was allowed at any time other than after 8 PM.
Sanctions

The UHB determined by a 5 to 0 vote that the following sanctions are appropriate for the violations found:

1. Oral warning.
2. Educational sanction: Facilitated discussion between the Respondent and Executive Chef/Manager of the Keeton House Dining Hall. The Respondent is to contact Traci L. Morse at tm6@cornell.edu to set up a meeting with the Executive Chef/Manager Nery Trigueros of the Keeton House Dining Hall. If Traci Morse is not available, the OJA and Respondent should come to mutual agreement on an individual to facilitate this discussion. In this meeting, you agree to discuss the following topics: “Discuss the incident that occurred on 10/04/17. What could be done to repair harm/rebuild trust between parties in order to move forward from the incident”. This meeting should take no longer than two hours and we require completion of this meeting by 30 days after the date of this hearing (i.e., March 15, 2018).

Rationale for Sanctions

The UHB’s decision regarding its sanctions determinations is based on the following:

1. Although the Respondent was found responsible for violation of the Code by the UHB, the violation was determined to be comparatively minor.
2. The most concerning component of the case was the behavior of the Respondent toward the Executive Chef/Manager of the Keeton Hall Dining Facility at the time of the alleged violation.
3. The UHB sought to ensure that the Respondent atones for the most concerning aspect of his behavior, while also reducing the potential longer-term consequences to the Respondent based upon the records that would be maintained for other sanctions in light of the minor nature of the violation.

Respectfully submitted,

[Signature]

Chair of the UHB, on behalf of:

Thomas R. Overton

[Student]

[Student]

[Student]

[Staff]

[Faculty] (see accompanying dissenting opinion)
Dr. Thomas R. Overton  
UHB Chair  
Cornell University  
Ithaca, NY 14853

February 18, 2018

Dear Chair Overton,

I would like to dissent from the majority decision for UHB Case # [redacted] hearing on February 13, 2018, as I respectfully disagree that there is clear and convincing evidence that Respondent [redacted] violated the Cornell Campus Code of Conduct, Provision 2.b. To enter or make use of University or private property or facilities without authorization.

I want to start by clarifying that by dissenting from the majority decision, I am not condoning the inexcusable rude reply of Respondent [redacted] during his encounter with Chef Nery Trigueros on October 4, 2017. In fact, during his testimony, Mr. [redacted] expressed regret for how he handled the situation at the time, and my sense from the testimony is that the events have been a significant learning experience for the respondent. I feel it is important to keep in perspective that Mr. [redacted] was a first-year student who had been on campus less than 7 weeks at the time of the incident, and the alleged violation revolves around his actions filling a water bottle (with water) in his residence dining hall during afternoon hours when the Keeton House Dining Hall was officially closed. Although the alleged violation was that Mr. [redacted] entered or made use of university property or facilities without authorization, the language in both the Housing and Dining Contracts Letter and in the Incident Report (OJA Procedural Exhibits 1 and 2), refers to the act of filling up a water bottle as theft. While filling a water bottle with water (by a student on a meal plan) might technically be considered theft of Cornell property, the pettiness of this characterization only escalated the situation. Moreover, the incident report states that “you… have been spoken to on numerous occasions about this”, suggesting that Mr. [redacted] ignored repeated warnings about stealing Cornell food or property. There was nothing in any of the presented evidence or witness testimonies that corroborated the notion that Mr. [redacted] had been repeatedly warned about entering the dining hall during closed hours or about stealing Cornell food or property. The exaggerated Incident Report of serial unauthorized entry and theft despite repeated warnings could only have created mistrust from the start, and I think could have ultimately contributed to the inability of the Complainant, Cornell University, and the Respondent [redacted] to resolve this situation without it blowing up into the unfortunate UHB hearing it has now become. I was troubled by the OJA’s presentation of the evidence further adding to an exaggerated narrative of serial theft following repeated warnings (OJA Procedural Exhibit 1 and OJA Procedural Exhibit 2), by not being explicit from the beginning that despite the claim in the Incident Letter, Mr. [redacted] had not “… been spoken to on numerous occasions…” and that Mr. [redacted] was filling his bottle with water rather than soda from the soda fountain. Perhaps Cornell makes no distinction between water and soda, but I think it is reasonable to believe that a new student might not understand that filling a bottle with drinking water in their residence dining hall during off hours constitutes theft of Cornell property.

Despite the emphasis on repeated theft in the Housing and Dining Contracts Letter and in the Incident Report, Mr. [redacted]’s Code violation has been limited to unauthorized use of Cornell property. My interpretation of the testimony by three witnesses, Mr. Sheal Awaysre, Keeton House Assistant Dean
Sheryl Mauricio, and Respondent, has still led me to the conclusion that there is a lack of Clear and Convincing Evidence that Mr. knowingly violated the Code. I’ll repeat that Mr. was a new student at Cornell – my understanding is that the incident occurred less than 7 weeks into his first semester. Instructions about when Keeton Hall residents are allowed to use the dining hall space outside of official open hours sound ambiguous to the point where I couldn’t even figure out whether there are hard and fast rules communicated to residents for when they are allowed in the dining hall. In fact, at times (and it sounds like many times), students are explicitly encouraged (presumably “authorized”) to use the space to study, despite the posted sign displaying Keeton House dining hours (OJA Substantive Exhibit 1). One example of this was the email sent around to Keeton residents during study week by Keeton House Assistant Dean Sheryl Mauricio, encouraging residents to “Take advantage of studying in the Keeton Dining Room after 8:00 pm every night, too.” (Respondent Exhibit A). In the witness testimony by Mr. Sheal Awsare, another relatively new resident at Keeton House, he described how residents routinely use Keeton House Dining Hall during after-hours. Mr. Awsare testified that the house assistant dean told residents that they could study in the dining hall; and he generally did so at least one evening per week. In addition, he testified that students often took the liberty of using the soda fountain and hot chocolate machines while studying during closed hours. When I asked him during his testimony, Mr. Awsare stated that it was news to him that students weren’t supposed to use the beverage machines during closed hours. One detail that potentially influences whether there was a code violation is the timing of the incident. Mr. incident occurred in the afternoon rather than the evening, and it’s not apparent whether the exact timing of “authorized” closed-hour use was plainly communicated to residents. Mr. Awsare didn’t think it had been made clear to new residents that the dining hall was strictly off limits during the afternoon, if indeed there is a strict rule about this. Mr. testimony of the events put the incident into further perspective. Mr. testified that he had never been told before the incident that the afternoon was different than the evenings regarding student use of Keeton House Dining Hall during closed hours. Indeed, Mr. had filled his water bottle in the dining hall on some other occasions, but rather than being “warned”, dining hall workers interacted with him in an approachable way, if at all.

As I weigh the evidence, charging Mr. with the code violation “To enter or make use of University or private property or facilities without authorization” strikes me as extremely arbitrary, when students are constantly using the space for studying outside of posted dining hall hours. Keeton House is a college residence hall, not a prison. As a residence hall, it thankfully fosters an environment with enough flexibility that students are permitted within reason to use the dining area outside of the official posted hours. Obviously, there have to be limits in terms of dining hall use, but it sounds like there is a fuzzy line, rather than rigid policy. It’s hard to allow some flexibility disregarding strict hours of use, and then at the same time expect that there will never be misunderstandings, with respect to where the exact limits of extended use lie, especially without explicit communication. Moreover, couching Mr. extremely rude and regretful reply to Chef Trigueros in the realm of repeated theft of Cornell property, serves nobody’s best interests, least of all, those of Cornell. For these reasons, I strongly dissent from the decision of the hearing board about this case.

Sincerely,

[Signature]

Professor
Public Record #5
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT

CASE NUMBER: 2017133103

Hearing on the Merits

Procedural History

On November 21, 2017, Cornell University student, [redacted] (Respondent), was referred to the Office of the Judicial Administrator (OJA) for allegedly violating the Campus Code of Conduct (Code), specifically:

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

At the conclusion of the OJA’s investigation, the OJA proposed a summary decision agreement (SDA) to the Respondent. The matter was not resolved by an SDA, and per the Code, a duly constituted University Hearing Board (UHB) convened on February 16th, 2018 for a hearing on the merits.

Relevant Facts

On November 17, 2017 at 12:22 am, the Respondent (along with two other Cornell students) were stopped by Cornell Police Officer Frederick J. Stickane at the intersection of Forest Home Drive and Warren Road, Town of Ithaca. Officer Stickane issued the students appearance tickets returnable to the Village of Cayuga Heights Court for Unlawful Possession of Marijuana, a violation of Section 221.05 of New York State Penal law, and additionally referred the students to the OJA for Unlawful Possession of Marijuana, a violation of Campus Code of Conduct, section 3d.

Officer Stickane’s charges were the result of what he described as suspicious activity he first observed in the university’s A-Lot (parking lot), an area commonly known for drug activity during the overnight hours. The officer checked the vehicle’s plate and learned it was associated with a driver (not the Respondent) who was the subject of a prior marijuana investigation. When the officer eventually stopped the vehicle, he approached it and when the vehicle’s windows were
lowered, he detected a strong odor of marijuana. The driver gave the officer verbal consent to search the vehicle.

In the glove compartment, the officer seized marijuana and assorted marijuana paraphernalia. The Respondent, who was sitting in the back seat of the car, denied knowing that drugs were present in the glove compartment of the automobile. He also denied using marijuana or any other controlled substance. Officer Stickane testified that the Respondent’s eyes were bloodshot, and the Respondent testified that the appearance of his eyes and his blinking was affected by the officer’s flashlight shining in his eyes.

No occupant of the vehicle besides the Respondent was called as a witness at the hearing.

University Hearing Board Decision

After the presentation of witnesses and information by both the Respondent and the OJA, the UHB found the Respondent not responsible for violating the following Code provision(s):

Title Three, Article II, Section A:

- Vote count: 5
- Dissent: 0

Rationale for Findings

The UHB’s decision regarding its determination(s) that the Respondent is not responsible for violating the Code is based on the following:

1. The Board found that there was not clear and convincing evidence that the Respondent had possession of the marijuana located in the glove box. It is undisputed that the Respondent did not own the vehicle, that the Respondent was not seated by the glove box, and that the Respondent was not personally carrying marijuana. Given the lack of other sufficient evidence supporting a conclusion that the Respondent was the owner of or had knowledge of the presence of the marijuana in the glovebox, the Board believed that the clear and convincing evidence standard has not been met.

2. The Board found that there was not clear and convincing evidence to find that the Respondent had used marijuana. The Respondent was not observed using marijuana, and no test was administered at the scene to determine whether the Respondent had been using marijuana or any other illegal substance.
Respectfully submitted

Chair of the UHB

Student/Faculty/Staff

Student/Faculty/Staff

Student/Faculty/Staff

Student/Faculty/Staff

Student/Faculty/Staff
Public Record #6
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT
Scabbard & Blade (in the care of [REDACTED])

Hearing on the Merits

Procedural History

On October 30, 2017, Scabbard & Blade (Respondent), a student university-registered organization, was referred to the Office of the Judicial Administrator (OJA) for allegedly violating the Campus Code of Conduct (Code), specifically:

Title ___III___, Article ___II___, Section ___A___:
- 1 f. "To haze another person, regardless of the person's! consent to participate. 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...

- 1 g. To (1) endanger another person, including but not limited to 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 regulation; theft or use of fire extinguishers; use firecrackers or flares; or any other acts, whether reckless or intentional, that creates a dangerous situation for the safety of another individual (2) threaten or use physical force or violence to endanger, injure, abuse, intimidate, or coerce another person.

Relevant Facts

On October 30, 2017, a report was submitted to Cornell's hazing website, alleging members of Scabbard and Blade were sprinting up and down Libe Slope in pouring rain while being yelled at. The report was submitted anonymously through Cornell's hazing website, and referred by an
administrator in the Division of Student and Campus Life to the Office of the Judicial Administrator (OJA).

The OJA conducted an investigation including interviewing individuals of the Respondent’s Spring 2017 new member class. The investigation included a requirement that all Fall 2017 members of Respondent organization complete a questionnaire about their new member experience.

On December 1, 2017, the OJA placed Scabbard and Blade on notice for allegedly violating the Code, specifically its hazing provision. For several reasons, the investigation timeline was prolonged.

On February 6, 2018, the OJA proposed a summary decision agreement to Scabbard and Blade in the care of [Redacted] in his capacity as the current president of Scabbard and Blade. The parties were unable to reach an agreement, and on February 9, 2018, a charge letter to bring this matter to the UHB was sent. A subsequent and updated SDA was proposed on February 26, 2018. The parties did not reach an agreement.

This matter came before the University Hearing Board for a hearing on March 30, 2018.

University Hearing Board Decision

After the presentation of witnesses and information by both the Respondent and the OJA, the UHB found the Respondent not responsible for violating the following Code provision(s):

Title III, Article II, Section A.

- Provision 1.F.
  - Vote count: 4
  - Dissent: 0
- Provision 1.G.
  - Vote count: 4
  - Dissent: 0

Rationale for Findings

The UHB’s decision regarding its determination(s) that the Respondent is not responsible for violating the Code is based on the following:

In relevant part, the Code’s prohibition on hazing prohibits conduct that “could be seen by a reasonable person as endangering the physical health of an individual or as causing mental distress to an individual.” Keeping this reasonable person standard in mind, the Judicial
Administrator failed to prove by clear and convincing evidence that Respondent’s treatment of its new members endangered their physical health or caused mental distress though intimidating treatment.

The evidence demonstrated that Scabbard and Blade is an honor society composed of individuals who are members of the Reserve Officer Training Corps. There is insufficient evidence to find that a reasonable person would expect the physical training at issue to endanger the new members’ physical health or cause mental distress. The Respondents’ witnesses testified credibly that new members were encouraged not to participate in physical training if they were suffering from any illness or injury, and new members were not penalized if they did not complete or participate in any of the scheduled activities.

Respectfully submitted,

Chair of the UHB

[Signatures of Student/Faculty/Staff]
Public Record #7
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT
(Hidden)

Hearing on the Merits

Procedural History

On March 21st 2018, Cornell University student (Respondent), was referred to the Office of the Judicial Administrator (OJA) for allegedly violating the Campus Code of Conduct (Code), specifically:

Title Three, Article II, Section A.
• 3.g. To destroy evidence of otherwise obstruct the application of this Code.

At the conclusion of the OJA’s investigation, the OJA proposed a summary decision agreement (SDA) to the Respondent. The matter was not resolved by an SDA, and as per the Code, a duly constituted University Hearing Board (UHB) convened on June 12th 2018 for a hearing on the merits.

Relevant Facts
It is alleged that the Respondent obstructed the application of the Code by refusal to complete agreed upon sanctions.

Pre-hearing Decision

1. Objection:
Before the UHB convened, the OJA submitted an objection requesting “that all witnesses/exhibits that the Respondent may move to submit, be excluded due to not adhering to established time-frames”. Some exceptions to this were also listed. Nothing was received from the Respondent and so the Chair granted the OJA’s objection.
In response to the charge read by [redacted] representing the OJA, the Respondent stated that he didn’t think he was really guilty because there were extenuating circumstances. In his opening statement the OJA described the procedural and substantive exhibits, which are summarized below in the rationale for the findings. The Respondent stated that he personally didn’t believe that he had violated the code as there were extenuating circumstances. He then mentioned two concussions that he had received in April. When the Chair asked if it would be helpful to get more details the OJA objected that this was new information that should have been provided prior to the hearing. The Chair granted the objection. Neither the OJA or the Respondent presented witnesses.

In response to questions from the UHB panel members the Respondent stated that he went to the doctor after the second concussion and reached out to professors (but not to the OJA) for accommodations. He apologized for the lack of documentation and admitted that he had not really paid attention to the messages he received from the OJA, until May. The Respondent agreed that the OJA had done everything that it should and that he, the Respondent, did not do his part. He accepts responsibility for not completing the sanctions and should have dealt with this in a timely manner.

In his closing statement the OJA stated that he had met the burden of proof for clear and convincing evidence. He also explained that his objection to providing information about the concussions was not that these were not potential extenuating circumstances, but that this information should have been provided earlier. The Respondent thanked everyone and apologized for all the extra work that he had caused for so many people. He said that he didn’t intend to delay or obstruct; the OJA had been fair and just, and he will do what he needs to do to make amends.

University Hearing Board Decision

After the information by both the Respondent and the OJA, the UHB Panel unanimously found the Respondent in violation of the following Code provision:

Title Three, Article II, Section A:

- 3.g. To destroy evidence or otherwise obstruct the application of this Code.

Rationale for Findings

The UHB’s decision regarding its determination that the Respondent is responsible for violating the Code is based on the following:

When it was clear that the Respondent had failed to complete or submit documentation demonstrating completion of two sanctions (AOD2 and Reflection Paper) the OJA made repeated attempts to contact him, including giving him an automatic extension and offering him the opportunity to provide extenuating circumstances and arrange an additional extension. The respondent failed to reply to any of these communications and his only contact with the OJA, since signing the original SDA on November 14th, 2017, was his appearance at today’s hearing. Because
of the Respondent’s willful negligence in failing to respond to any of the communications from the OJA, the UHB panel found him guilty of obstructing the application of the Code.

Sanctions

The UHB determined, by a 4 to 0 vote, that the following sanctions are appropriate for the violations found:

1. **Alcohol and Other Drug Education: Level 2- Educational Group, Including Fee.** Participate in an Alcohol and Other Drugs Educational Group sponsored by Cornell Health. This includes: attending orientation meeting(s), attending four consecutive group sessions, and attending an exit interview by Friday, December 7th 2018. Information about meeting times and locations will be emailed to you by Cornell Health. The one-time fee for the program must be paid at the time of the orientation meeting at Cornell Health’s cashier’s office. You must be on time for each meeting and must stay the entire time. Any tardiness, early departure, or missed meeting may result in additional fees according to Cornell Health’s policies or ineligibility to complete the sanction at Cornell Health.

2. **Reflection Paper.** Complete a five-page reflection paper on the following topic: “What I learned from AOD2 and the societal ramifications of possessing a fake identification card.” The reflection paper should be double spaced, 12-point font, Times New Roman font with one-inch margins all around. This paper must be submitted to the OJA by Tuesday, January 22nd 2019.

3. **Written Reprimand.** A disciplinary record will be maintained consistent with University policies. A disciplinary record for this matter will be reportable until you graduate from Cornell University.

4. **Community Work.** Complete no less than 5 hours of community work before Thursday, August 23rd 2018 and fulfilling the OJA’s Requirements for Community Service listed below:
   - The site of service must be not-for-profit agency. For work completed outside of Ithaca, the Respondent must have the supervisor send an agency letter on letterhead stating the types of work completed;
   - The Respondent must be supervised by a non-student and this supervisor must verify hours served;
   - The Respondent may not receive compensation or other credit for work; (including credit through a class, Cornell Tradition or Greek organization service hours);
   - The Respondent must complete the verification form, with appropriate signatures;
   - The Respondent must return the verification form on or before the due date to the OJA;
   - No credit will be given for the service until the OJA receives the signed verification form or agency letter; and;
   - The OJA reserves the right to verify community work and/or reject any that is not acceptable.

5. **Additional Reflection Paper.** Complete a four-page reflection paper on the following topic: “Violating the Campus Code by failing to complete the original sanctions; Where did I go wrong, why was it wrong, why it matters and what should I have done?”
reflection paper should be double spaced, 12-point font, Times New Roman font with one-inch margins all around. This paper must be submitted to the OJA by Thursday, August 23rd 2018.

Rationale for Sanctions

The hearing panel members agreed that the Respondent should be subject to the Sanctions originally proposed in the SDA that he signed on November 14th 2017 (# 1-3 above). The only changes being that the AOD2 must be completed at Cornell Health and the reflection paper should consider the societal ramifications of possessing a fake ID, rather than the legal ramifications.

The panel concurred with the removal of the $100 fine in the proposed SDA of May 9th 2018, given that the Respondent has appeared at this hearing. However, they decided that, given his failure to reply to any of the repeated attempts by the OJA to contact him after he signed an SDA on November 14th 2017, additional sanctions were necessary. These are the community work and the additional reflection paper (# 4 & 5 above).

Respectfully submitted,

Clare Fewtrell, Chair of the UHB, on behalf of:

Student
Student
Faculty
Staff
UNIVERSITY REVIEW BOARD DECISION

July 27, 2018

A properly-constituted panel of the University Review Board was held on July 27, 2018 to determine an appeal by the Office of the Judicial Administrator of a decision of the University Hearing Board, rendered on June 24, 2018. The panel consisted of student [redacted] faculty member [redacted]; and staff member [redacted]. URB Chair Andrea J. Mooney facilitated the meeting.

DECISION

The University Review Board (URB) unanimously upholds most of the decision of the University Hearing Board (UHB) for the reasons stated below. The URB agrees with the OJA that the sanction requiring Alcohol and Other Drug Education, Level 2, be removed, as Respondent has completed Alcohol and Other Drug Education, Level 1.\(^1\)

TIMELINE

May 19, 2017, Respondent [redacted], a student, was charged with underage possession of alcohol and possession of a forged driver’s license.

October 30, 2017, after Respondent failed to appear at numerous scheduled meetings with the Office of the Judicial Administrator (OJA), he was sent a proposed Summary Decision Letter (SDA) and subsequently a Charge Letter.

November 14, 2017, Respondent signed the SDA.

November 16, 2017, SDA was finalized.

March 7, 2018, OJA sent notice to Respondent that sanctions in the SDA were past due.

May 3, 2018, OJA sent a second SDA (SDA2) and a subsequent Charge Letter, indicating that the matter would be sent to a University Hearing Board (UHB). The charge against the Respondent was that he had violated Title Three, Article II, Section A, of the Campus Code of Conduct (Code):

3g: “To destroy evidence or otherwise obstruct the application of the Code.”

\(^1\) The appeal notes that Respondent completed AOD 1 on November 2, 2018. For the purposes of this decision, the URB assumes that the correct date is November 2, 2017.
The charge was based on the allegation that Respondent had obstructed the application of the Code by his refusal to complete agreed-upon sanctions.

**June 12, 2018**, UHB held a Hearing on the Merits and unanimously found the Respondent responsible for the alleged violations.

**June 24, 2018**, UHB written decision provided to Respondent.

**July 25, 2018**, OJA filed an appeal on the grounds that the sanctions imposed by the UHB are not commensurate with the violation for which the Respondent was found responsible. Specifically, the OJA seems to argue that the UHB did not have the authority to alter the original SDA by changing the word “legal” to the word “societal.”

**July 27, 2018**, University Review Board Hearing

**RESPONDENT’S LACK OF RESPONSE OR PARTICIPATION THROUGHOUT THESE PROCEEDINGS**

As the UHB Chair noted in her decision, from May, 2017 through June, 2018 the Respondent’s only contact with the OJA was to sign the original SDA in November, 2017 and to appear in person at the University Hearing Board proceeding. ²

At the UHB proceeding, Respondent alleged that he had had two concussions during the pendency of the case, and thus should not be held responsible for violating the Code. The OJA objected to the presentation of new information at that late point, and the Chair granted the objection. No further information was provided about the alleged concussions, either to the University Hearing Board or to the University Review Board.

Respondent did not file any response to the OJA’s appeal of the UHB decision.

---

² In an email between this writer and Associate Judicial Administrator Vincent Ciampolillo, which was copied to the Respondent, Mr. Ciampolillo noted that Respondent had had a few phone calls with an Administrative Assistant in the Office of the Judicial Administrator. These calls were to schedule meetings, which the Respondent then did not attend.
UNIVERSITY HEARING BOARD DECISION

In its decision, the UHB determined that the following sanctions were appropriate:

1) Alcohol and Other Drug Education, Level 2
2) Reflection paper
3) Written reprimand
4) Community work
5) Additional reflection paper

For the most part, these sanctions were similar to sanctions agreed to in the original proposed SDA with the following exceptions:

#s 4 and 5 were additional sanctions added due to Respondent’s repeated failure to reply to any of the repeated attempts by the OJA to contact Respondent after Respondent signed the SDA in November of 2017.

The UHB further required that the Alcohol and Other Drug Education, Level 2, be completed at Cornell Health.

The UHB required that the reflection paper should consider the societal ramifications of possessing false identification, rather than the legal ramifications. This last requirement seems to be the basis for the current appeal.

UNIVERSITY REVIEW BOARD DECISION

The URB agrees with the UHB in its use of the word “societal” rather than “legal." The URB views the change as a reasonable one, not one that significantly changes the underlying structure of the SDA. Further, it is the view of the URB, as it apparently was of the UHB, that the word “societal” is broader and will lead to greater reflection on the part of the Respondent. As one panel member put it, anyone can Google the legal ramifications of an act. But to ask for societal ramifications is to ask the Respondent to think a bit more deeply and broadly. Thus, the URB agrees with the UHB's modest change to the SDA.

DISCUSSION OF UHB AUTHORITY and PRECEDENT

It appears from one paragraph of the appeal that the real concern of the OJA is that the UHB changed the SDA:

“By the UHB altering parts of the original SDA (SDA-One) it stands to set the precedent that a finalized Summary Decision Agreement can be modified, should a Respondent choose not to complete their sanctions. There is no Code process for this action, and allowing such a modification would remove the finality of an
informal resolution process for a Respondent, which would disrupt the peace of mind and growth for the Respondent which occurs when (sic) incident has been resolved.”

The URB did not find that the argument against the UHB altering the SDA was sufficiently articulated. It is the role of the UHB to hear cases precisely when the Respondent has not completed their sanctions, so it is unclear what precedent the OJA is concerned about. As the Code is silent on the ability of the UHB to alter an SDA, it is the URB’s opinion that this should be allowed. Without the freedom to consider sanctions anew, the UHB would serve only as a rubber stamp for decisions made by the Office of the Judicial Administrator.

Further, it is the view of this particular URB that, because the UHB and the URB are comprised of members of the wider University community, the UHB and the URB serve as a check on the authority and power of the OJA.

CONCLUSION

The URB, therefore, finds that the following sanctions are appropriate for the Respondent:

1) Written reprimand as outlined in the UHB decision of June 24, 2018
2) Community work as outlined in the UHB decision of June 24, 2018
3) Reflection papers as outlined in the UHB decision of June 24, 2018:
   a) “What I learned from AOD1 and the societal ramifications of possessing a fake identification card.”
   b) “Violating the Campus Code by failing to complete the original sanctions: Where did I go wrong, why was it wrong, why it matters and what should I have done?”

Respectfully submitted,

Andrea J. Mooney, Chair

3 In its appeal, the OJA acknowledges that Respondent has completed AOD, Level One and thus does not need to complete AOD, Level Two. Therefore, the URB has adjusted the wording of this reflection paper for clarity’s sake.
Appendix D: Codes, Code Changes, and Procedures of the University Hearing Board and the University Review Board

During academic year 2018, two versions of the Campus Code of Conduct governed the University community:

- Code (As of January 23, 2017); and,
- Code (As of June 20, 2018).

The Code was amended, in accordance with Code procedures, “to add language to Title Two, Article II, A. regarding the appointment and duration of the judicial offices, as approved by Resolution 21: UA R21: Updating the Judicial Administrator Reappointment Process and accepted by the president on June 20, 2018.”

In addition to the procedures of the University Assembly regarding the Code, copies of both Codes have been sent to the OJA Cornell University Archives, and will remain digitized and available in the OJA.

---

31 While the OJA does not retain ownership or control of these documents, they were added to this report for completeness.
32 https://www.dfa.cornell.edu/policy/policies/campus-code-conduct
Campus Code of Conduct

As of January 23, 2017

Cornell University
Table of Contents

TITLE ONE: STATEMENT OF PRINCIPLES AND POLICIES ...................................................1
   Article I. Fundamental Principles ........................................................................................1
      A. The Essential Purpose ..................................................................................................1
      B. The University’s Role ..............................................................................................1
      C. The Principle of Freedom with Responsibility ..............................................................2
   Article II. Supporting Policies ............................................................................................2
      A. Basic Policies on University Conduct Regulation in Relation to Public Law Enforcement .........................................................................................................................2
      B. Other Policies on the University’s Role in Public Law Enforcement .............................3
      C. Limitations and Exceptions ..........................................................................................3
   Article III. Responsible Speech and Expression ..................................................................5
      A. Public Speaking Events on Campus ............................................................................5
      B. Protests and Demonstrations on Campus .....................................................................6
      C. Consultation Groups ...................................................................................................9
   Article IV. Amendment of Code ..........................................................................................9
      A. Title Four ......................................................................................................................9
      B. Titles One, Two, and Three ........................................................................................9

TITLE TWO: CONSTITUTIVE PROVISIONS ON JUDICIAL SYSTEM ....................................10
   Article I. Judicial Jurisdiction ............................................................................................10
      A. Jurisdiction in General ..............................................................................................10
      B. Jurisdiction over Students ........................................................................................10
      C. Jurisdiction over Faculty and Other Employees ........................................................10
   Article II. Judicial Offices ................................................................................................11
      A. Office of the Judicial Administrator ..........................................................................11
      B. Office of the Judicial Codes Counselor ......................................................................12
   Article III. Judicial Participants .......................................................................................13
      A. Complainant and Victim ............................................................................................13
      B. Defense Counsel or Advisor ......................................................................................13
   Article IV. Judicial Boards ...............................................................................................14
      A. University Hearing Board ........................................................................................14
      B. University Review Board .........................................................................................14
      C. Pool of Board Members ............................................................................................14

TITLE THREE: REGULATIONS FOR MAINTENANCE OF EDUCATIONAL ENVIRONMENT ..........................................................15
   Article I. Applicability ......................................................................................................15
   Article II. Violations .........................................................................................................16
      A. Listing ........................................................................................................................16
      B. Interpretation ..............................................................................................................18
   Article III. Procedures .....................................................................................................19
      A. Initial Investigation .....................................................................................................19
      B. Interim Measures ....................................................................................................19
TITLE ONE: STATEMENT OF PRINCIPLES AND POLICIES

Preamble. Conduct of the members of the Cornell community is an appropriate area of concern for the University. This statement sets forth several basic principles and important policies regarding the scope, manner, and standards of regulating that conduct.

This Title is necessarily general. Its purpose is to inform the Cornell community of the general principles and policies upon which the Cornell judicial system operates, and to give general guidance to the judicial system as it handles specific cases arising under regulations authorized by the Board of Trustees, including legislation adopted by the University Assembly (or its successor) and approved by the President as representative of the Board.

Article I. Fundamental Principles

A. The Essential Purpose

The essential purpose of the University’s governing of community conduct is to protect and promote the University community’s pursuit of its educational goals. The University, as an educational institution, has a special set of interests and purposes, the protection and promotion of which are essential to its effective functioning. These interests, with respect to the governing of community conduct, include the following:

1. the opportunity of all members of the University community to attain their educational objectives;

2. the generation and maintenance of an intellectual and educational atmosphere throughout the University community; and

3. the protection of the health, safety, welfare, property, and human rights of all members of the University community, and the safety, property, and reputational interests of the University itself. These general interests, of course, are also the subject matter of the public laws of the state and nation.

B. The University’s Role

The University’s role in regulating community conduct is distinguishable from society’s. Therefore, the powers of the University’s judicial boards shall be limited to the enforcement of University conduct regulations and shall not extend to the enforcement of public laws, except to the coincidental extent that such University conduct regulations are similar to provisions of the public law.
C. The Principle of Freedom with Responsibility

1. The principle of freedom with responsibility is central to Cornell University. Freedoms to teach and to learn, to express oneself and to be heard, and to assemble and to protest peaceably and lawfully are essential to academic freedom and the continuing function of the University as an educational institution. Responsible enjoyment and exercise of these rights mean respect for the rights of all. Infringement upon the rights of others or interference with the peaceful and lawful use and enjoyment of University premises, facilities, and programs violates this principle.

2. The Campus Code of Conduct is the University community’s code, and hence is the responsibility of all community members. All members have a duty to cooperate with University officials in this Code’s operation and enforcement.

Article II. Supporting Policies

A. Basic Policies on University Conduct Regulation in Relation to Public Law Enforcement

The following basic policies will apply in situations where misconduct violates both a University conduct regulation and the public law:

1. The following kinds of offenses are adjudicated in the public courts: all felonies, controlled substance offenses, motor vehicle moving violations, assaults upon a peace officer or resisting arrest, refusals by persons to identify themselves, as well as cases in which the complainant wishes to proceed in the courts and cases involving accused persons who are not members of the University community. Still, the Judicial Administrator has discretion to pursue even serious breaches of the law under the Campus Code of Conduct. Timely dealing with alleged misconduct is vital. Nevertheless, the Judicial Administrator should consider whether justice counsels withholding the exercise of University jurisdiction until public officials have disposed of the case by conviction or otherwise.

2. When the Judicial Administrator determines that misconduct does not constitute a serious breach of the law and that the interests of justice would be served by handling such misconduct within the University jurisdiction, he or she shall:

   a. attempt to exercise jurisdiction in a manner to avoid dual punishment for the same act;

   b. cooperate with public officials so that the exercise of University jurisdiction ordinarily will not be followed by public prosecution of the individual’s misconduct; and

   c. withhold the exercise of University jurisdiction, when prompt public prosecution is anticipated or is under way, until public officials have disposed of the case by conviction or otherwise.
3. Policies covering conduct that violates both a University conduct regulation and the public law, where feasible, should be based on jurisdictional understandings and procedures jointly developed and periodically reviewed by University and local officials. To the maximum extent feasible, jurisdictional understandings shall be made known to the University community.

B. Other Policies on the University’s Role in Public Law Enforcement

1. When public officials apprehend an individual for a violation of the public law, whether or not the misconduct is also a violation of a University conduct regulation, the University shall neither request nor agree to specially advantageous disposition of an individual’s case by police, prosecutors, or judges solely because of that individual’s status as a member of the University community. Nonetheless, the University stands ready to assist student defendants and to cooperate with public officials to promote equitable application of the law. Should a student charged with law violation request assistance from the University, a representative of the Office of the Dean of Students or Office of the University Ombudsman will meet with such student and may advise him or her and, if requested, may facilitate the student’s retention of suitable counsel. If the law violation does not also constitute a violation of a University conduct regulation, and if the student defendant consents, the University ordinarily will cooperate with the request of appropriate law enforcement officials for programs of probation or rehabilitation. Notwithstanding the above provisions, if the prosecution, the complainant, and the accused all consent, minor breaches of the law may be handled exclusively within the University jurisdiction, except in case of repeat offenses.

2. The University’s cooperation with law enforcement, at the request of public officials, shall be exercised in each particular case with a view to safeguarding the interests of the educational community, especially that community’s confidence in the University.

C. Limitations and Exceptions

1. Overriding Laws

   a. It is understood that the Board of Trustees, under sections 5708 and 5709 of the New York Education Law, is responsible for the protection of the grounds, buildings, and property of Cornell University, including state property under its supervision and control, and for the prevention of crime and the enforcement of law and order. These and other statutory provisions regarding law enforcement led to the creation of the Cornell Police, staffed by peace officers who are deputy sheriffs of the county. Under section 6430 of the New York Education Law, adopted in 1969, the Board must also adopt regulations for the maintenance of public order and provide penalties in addition to those for the same misconduct under the New York Penal Law. State law makes the trustees responsible for the enforcement of such rules and regulations as the Board makes from time to time. These state laws cannot be superseded by actions of the Board, nor may the Board evade its legal responsibilities by delegation.
b. Under state law, public servants who knowingly refrain from performing a duty imposed upon them by law, or a duty clearly inherent in the nature of their office, may be guilty of a criminal offense. Accordingly, any inflexible internal rule that precludes a peace officer from making an arrest when a crime has occurred would be contrary to law. It is understood, however, that as to minor offenses, law enforcement authorities are permitted a degree of discretion in determining whether to prosecute an offender or to pursue some other appropriate remedy when an alternative disposition would further the interests of justice. Accordingly, the policies enumerated above are understood to constitute policy guidelines to be applied in good faith, and not prohibitions upon the exercise of the law enforcement responsibilities vested in the Board of Trustees and exercised by its authorized peace officers. That is, such peace officers must retain the sole discretion to determine the circumstances in which the public laws must be enforced.

2. Presidential Overrides

a. Public Disorder

The President may alter or suspend the implementation of the policies enumerated above when the President finds that the Regulations for Maintenance of Public Order, constituting Title Four hereof, are insufficient to maintain public order and when there is an imminent and sufficient threat to the University community’s pursuit of its educational goals to warrant such action. Any such action of the President shall be subject to and consistent with the applicable laws of the state and nation.

(1) Should the President exercise such authority, such action shall be made known to the University community immediately, together with a statement explaining the basis of such action. Such deviation from the implementation of said policies should last no longer than necessary to alleviate any pending threat.

(2) It is not intended that the President will seek to suspend the general application of said policies except in cases in which the President finds a threatened imminent and general breakdown in the University’s capacity to enforce law and order. It is not intended, therefore, that the President will exercise such authority in cases involving individual misconduct.

b. Grave Misconduct

An individual’s exceptionally grave misconduct, particularly misconduct that threatens or attempts to cause physical or mental harassment, may demonstrate such flagrant disrespect for the basic integrity and rights of others as to call into question continuance of the individual’s membership in the University community, because (1) his or her presence would adversely affect the ability of others to pursue their educational goals or (2) his or her misconduct grossly violated standards of behavior requisite to the maintenance of an educational community. In the event of such conduct, if the conduct is not covered by any specific provision of a University regulation or statement regulating conduct or if the relevant regulation does not provide a sanction adequate to protect the safety of the University community, nothing in this Code shall preclude the President or his or her
designee, under the authority of the Board of Trustees as expressed in the University Bylaws, from taking appropriate and lawful action. But such authorization constitutes a procedure parallel to this Code, not an authority to review or revise a decision made under this Code.

Article III. Responsible Speech and Expression

A. Public Speaking Events on Campus

1. Arrangements for Invited Speakers

Any recognized campus organization is free to invite a speaker to address its own membership in a private, closed meeting under ground rules set by the inviting organization. A closed meeting can serve many legitimate purposes, including creation of a more informal atmosphere, maximizing the opportunity of organization members to ask questions, allowing the speaker to talk “off the record,” and ensuring a particular kind of discussion because of advance preparation by the organization’s membership. If a speaker is likely to attract widespread interest among nonmembers, however, the group would often be wise to open the meeting to nonmembers, including those with views contrary to those of the speaker. Nevertheless, the University does not insist that the group do so.

If the group chooses to open the event to the University community, it should seek to arrange adequate space to accommodate the reasonably expected audience. In such a public event, the inviting group may also decide whether there is to be a question-and-answer period and, if so, its length and general format. The speaker or moderator should also be allowed reasonable discretion in requiring questioners to be concise, not to abuse the speaker, and not to monopolize the proceedings or otherwise interfere with their purpose. If a question-and-answer period is held, however, neither the speaker nor the moderator should be allowed in recognizing speakers to discriminate on such grounds as ethnicity, gender, national origin, political persuasion, race, religion, sexual orientation or affectional preference, or other suspect or invidious categories. By the same token, at a public event, the sponsoring organization should not be allowed to bar attendance or give preferred seating on the basis of such suspect or invidious categories.

Only members of the Cornell community may hold or host events on Cornell-owned property. External groups must be sponsored by a member of the Cornell community and the sponsor must have a representative present during the actual event. For these purposes, appropriate Cornell sponsors are: registered student organizations, departments and units of the university, and university-sponsored organizations and offices (e.g., Dean of Faculty, Faculty Senate, University Assembly, etc.).

2. Disruption of Invited Speakers

Freedom of speech, within commonly accepted limits of safety and civility, is a paramount value in a university community. In a university community, as in society as a whole, freedom of speech cannot be absolute. Speech that is libelous, or that incites a crowd to riot, deserves no protection. Perhaps no one, in real life, has ever falsely shouted “Fire!” in a crowded theater, but surely no one has a right to do so. Within such commonly accepted limits, however, freedom of speech should be the paramount value in a university community. Because it is a special kind of community, whose purpose is the discovery of truth through the practice of free inquiry, a university has an essential dependence on a commitment to the values of unintimidated speech. To curb speech on the grounds that an invited speaker is noxious, that a cause is evil, or that such ideas will offend some listeners is therefore inconsistent with a
university’s purpose. One may argue against inviting a speaker on the grounds that the speaker has nothing of importance to say. But once members of the university community extend an invitation, others may not disrupt the speech on the grounds that they find it stupid, immoral, or dangerous.

Those who dislike what an invited speaker is saying also have rights. The rights include distributing leaflets outside the meeting room, picketing peacefully, boycotting the speech, walking out, asking pointed questions, and, within limits set by the moderator, expressing displeasure with evasive answers. Those who oppose a speaker may thus make their views known, so long as they do not thereby interfere with the speaker’s ability to be heard or the right of others to listen. Name-calling and the shouting of obscenities, even when they are not carried so far as to abridge freedom of speech, are nevertheless deplorable in a community devoted to rational persuasion and articulate controversy. Civility is a fragile virtue, but one upon which a university ultimately depends.

The American conception of academic freedom includes the principle that professors may participate in political demonstrations and speak out on controversial issues without jeopardizing their employment. In a campus setting, however, academic freedom carries with it certain responsibilities. Scholars not only should respect the professional demands of their discipline and the pedagogical requirements of the teacher-student relationship, but also should not encourage efforts to abridge the free expression of controversial viewpoints. As citizens, professors may or may not be especially solicitous about freedom of speech; as scholars, they are morally bound to defend it. Professors traduce their calling by any deliberate action demonstrating contempt for freedom of speech.

Civil disobedience is not a ground for exonerating one from penalties for violating conduct regulations regarding free expression, nor should it be a circumstance mitigating the penalty. Although nonviolent civil disobedience can be an honorable way of expressing moral outrage, in a university community where the free flow of ideas is paramount, it is contradictory and misguided to employ it to deny that very right of expression to another.

B. Protests and Demonstrations on Campus

1. Protected Expressive Conduct in General

The University will treat as within the basic protection of a right to free expression such lawful conduct as satisfies the following tests, where lawful means not in violation of state or federal law. The conduct should (a) be intended for expressive purposes, (b) be reasonably understood as such by the University community, and (c) comply with such reasonable time, place, and manner restrictions as are consistent with the other provisions of this Article and as may be authorized from time to time by the President.

Even in regard to conduct that is intentionally expressive and perceived as such, the University may impose reasonable time, place, and manner restrictions on such conduct to preserve other important values and interests of the University community. An accused charged with such conduct may assert as a defense that he or she has complied with such time, place, and manner restrictions.
All protection and regulation of expressive conduct should be content-neutral. A group’s persuasion or point of view should have no bearing on the grant of permission or the conditions regulating that group’s expressive conduct.

2. Symbolic Structures

Symbolic structures will be allowed in accordance with an express permit issued by the Vice President for Student and Academic Services or other presidential designee. Such structures must be temporary and must conform to the conditions contained in the permit. In regulating by permit the duration, size, location, and other features of symbolic structures, the administration will be guided by attention to the following, or similar, kinds of University community interests that such structures could infringe upon:

(a) protecting health and safety;

(b) preventing damage and risk of damage to University grounds and property;

(c) preserving unimpeded mobility on pathways and streets, entrance to and departure from buildings, and unimpeded mobility within buildings;

(d) providing for competing uses of campus grounds and property;

(e) avoiding interference with other University activities;

(f) reasonably limiting costs to the University of increased campus police protection, potential University liability, insurance coverage, and cleanup and repair after an event; and

(g) preserving campus aesthetic values.

In addition to such limits, other restrictions on symbolic structures may also be imposed. For example, depending on experience and context, the President may impose any of the following restrictions: requiring portability so that structures do not remain overnight; prohibiting overnight sleeping in structures; and requiring continual daytime physical presence of persons responsible for the expressive activity.

3. Demonstrations Not Involving Structures

Outdoor picketing, marches, rallies, and other demonstrations are traditional and legitimate forms of self-expression and dissent on campus. Such activities are allowed so long as demonstrators do not disrupt other functions, including, without limitation, regular and special curricular activities, extracurricular activities, academic processions and events, conduct of University business, and employment interviews. The right to free expression here, as in other contexts, requires respect for the rights of others. Outdoor picketing, marches, rallies, and other demonstrations generally pose no threat of long-lasting exclusive use of University grounds or property. No university permit is required for such outdoor activities. The presence of a counter-protest does not itself constitute a disruption to a University function or
authorized event. Moreover, those who oppose a speaker may thus make their views known. Everyone has the right to be heard and to listen to others.

Use of public address systems and amplified sound will be permitted without prior approval during the hours of 12:00 p.m. and 1:00 p.m., at Ho Plaza and in front of Day Hall. Public address systems and amplified sound will be permitted in other outdoor locations only with prior approval. Approval may be obtained using the Event Registration Form located at: https://activities.cornell.edu/EventReg/.

As to indoor demonstrations such as sit-ins, owners of private property, and even the administrators of public property, are not required to permit the occupation of buildings by those who are not present to transact the business or pursue the other purposes that the offices in the building are intended to serve. Classrooms, libraries, laboratories, living units, and faculty and administrative offices are dedicated to specific purposes, which the University must be free to pursue without disruption. The law of trespass and the right of free speech are not mutually exclusive and, indeed, have always coexisted in our legal system.

Accordingly, the President may authorize regulations permitting the use of specific portions of University buildings, provided that such regulations shall not permit the disruption of classrooms, libraries, laboratories, living units, or offices and shall ensure the continuing conduct of University business. No such use shall be permitted beyond 5:00 p.m. or the close of normal business hours, whichever is earlier. Nevertheless, as pointed out elsewhere in this Article, University rooms set aside for the purpose of gatherings involving speech and expression should not be licensed in a manner to deny access to groups sponsoring an unpopular point of view.

Deans, directors, or other heads of each college, school, or other academic unit described in Article I, section 7, of the University Bylaws may submit proposals to the President on the promulgation of such regulations for the use of University buildings assigned to the use of such college, school, or unit. No such regulation shall take effect or continue in effect without the approval of the President.

The President may promulgate regulations governing the use of Day Hall or any other University building not otherwise governed by such regulations. As a practical matter, although demonstrations inside virtually any University building would be disruptive, the working space within Day Hall is especially compact. Almost any assemblage of demonstrators inside the building could be disruptive to Day Hall staff and to others, especially students, seeking access to a Day Hall office for normal business purposes.

4. Disruption of Recruiters

As long as a recruiter is on campus in accordance with ordinary University processes, a demonstration or protest that intentionally disrupts recruitment activity should be and is a violation of University conduct regulations and should not be tolerated.

The right to express one’s views should not extend so far as to infringe upon another University community member’s right to participate in a recruitment interview or information session with a recruiter who is on campus in accordance with ordinary University processes.
C. Consultation Groups

The President is authorized and encouraged to appoint a standing committee to study and report to the President on significant policy issues concerning the protection of freedom of expression on campus. The committee should study any issue presented to it by the President. It should also receive petitions or inquiries from members of the University community, but should limit its attention to issues that involve important matters of a policy nature. Thus, the committee could study an individual’s charge that University officials are not adequately enforcing the policy against disrupting public speakers or that they are imposing unreasonable constraints upon the right to protest or demonstrate peacefully and lawfully on campus. The committee should not function as an adjudicatory body, or receive any complaint about or continue considering any issue arising from a campus incident after a disciplinary proceeding growing out of that incident and involving the same or similar issues has been initiated, until any such disciplinary proceeding has been completed. Any report issued by the committee should go to the President and should be available thereafter to the University community. The report would be advisory only.

The President may consult with the Executive Committee of the University Assembly, or appoint an ad hoc committee to advise the President, concerning appropriate administrative policy in the face of protest and demonstrations.

Article IV. Amendment of Code

A. Title Four

The Regulations for Maintenance of Public Order were adopted by the Board of Trustees and may be amended only by action of the Board of Trustees, upon the recommendation of or after consultation with the University Assembly.

B. Titles One, Two, and Three

All other Titles of this Code may be amended by the University Assembly, subject to the approval of the President.
TITLE TWO: CONSTITUTIVE PROVISIONS ON JUDICIAL SYSTEM

Article I. Judicial Jurisdiction

A. Jurisdiction in General

All violations of the Campus Code of Conduct by a student, member of the University faculty, other employee of the University, or University-registered organization shall be processed through the campus judicial system, consistent with the principles stated in Article II of Title One, except as otherwise provided in Section C below.

B. Jurisdiction over Students

1. The term student shall be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with the University as:
   a. a degree candidate in any of Cornell’s undergraduate or graduate divisions;
   b. a special student in the undergraduate divisions; or
   c. a non-degree-candidate in the graduate school.

2. The term student shall be interpreted to mean also persons not officially registered, and not faculty members or other University employees, if they are:
   a. currently enrolled in or taking classes at the University;
   b. currently using University facilities or property, or the property of a University-related residential organization, in connection with academic activities; or
   c. currently on leave of absence or under suspension from being a student of the University.

C. Jurisdiction over Faculty and Other Employees

1. Faculty members and other University employees include those who are incidentally taking classes at the University.

2. The procedures of this Code shall not apply to faculty members or other University employees who are accused of employment-related misconduct. Instead, the applicable administrative process shall apply, such as that described in Cornell University Policy 6.11.3.
a. Should any accusation or complaint of a Code violation be made to or by a department head, dean, supervisor, or the Judicial Administrator and involve conduct by a faculty member or other University employee clearly arising in the course of employment, then the department head, dean, or appropriate University administrative authority shall determine whether there was a Code violation and shall also assess penalties and/or remedies where appropriate.

(1) The accused may make a jurisdictional appeal to the Judicial Administrator, i.e., raise a question whether the alleged conduct arose in the course of employment and so call for rechanneling into the judicial system.

(2) The accused may make an appeal on the merits of the administrative disposition through appropriate faculty channels or the employee grievance procedure, but not through the judicial system.

b. If an accusation or complaint of a Code violation comes before a department head, dean, or supervisor about conduct by a faculty member or other University employee not arising in the course of employment, or there is uncertainty whether it does, the accusation or complaint shall be referred to the Judicial Administrator for channeling into the administrative process or the judicial system.

c. The criterion on which the Judicial Administrator shall channel between the administrative process and the judicial system is whether the conduct is employment-related. In reaching such a decision, the Judicial Administrator shall consult with the Dean of the Faculty if the case involves a faculty member or the Vice President for Human Resources if the case involves a nonfaculty employee. The Judicial Administrator shall make his or her own decision after such consultation.

d. Upon imposition of a penalty of suspension or dismissal upon a faculty member by the University Hearing Board, the faculty member may choose to appeal to an arbitration committee (as described in Cornell University Policy 6.2.10) in lieu of appeal to the University Review Board. Any penalty imposed on a nonfaculty employee is subject to review either pursuant to the applicable grievance process (such as that described in Cornell University Policy 6.11.4) or by appeal to the University Review Board, as the employee may choose.

Article II. Judicial Offices

A. Office of the Judicial Administrator

1. The Office of the Judicial Administrator receives, investigates, and pursues accusations of violations of the Campus Code of Conduct, or of any other regulation as the University Assembly or Board of Trustees may direct. Anyone can direct such accusations, or any questions about the judicial system, to that office.
2. No employee of the Office of the Judicial Administrator shall be a member of the University, Student, Graduate and Professional, or Employee Assembly, or any of their committees or boards, or of a judicial board. The Judicial Administrator may hire students who have had some legal training to act for the Judicial Administrator.

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 preceding the expiration of the term of the Judicial Administrator, or 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 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.

4. The Judicial Administrator shall be solely responsible for the Office of the Judicial Administrator. The Judicial Administrator shall be independent, although an administrative relationship should exist with the University administration that will support that office. 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.

5. The Judicial Administrator shall annually report to the President, the University Assembly, and its Codes and Judicial Committee on the operation of the office and the judicial system as a whole.

B. Office of the Judicial Codes Counselor

1. The Office of the Judicial Codes Counselor provides free assistance and representation within the judicial system to those charged with violations of the Campus Code of Conduct and to students charged with violations of the Code of Academic Integrity.

2. To the extent permitted by law, the Judicial Codes Counselor shall not reveal any information provided by the accused, unless the accused expressly requests that the information in question be confided to another person. Although the Judicial Codes Counselor traditionally has had some legal training and is frequently a law school student, the services are not meant to be a substitute for professional legal advice or for the legal assistance provided by an attorney. The Judicial Codes Counselor primarily explains how the judicial system works, and assists the accused in the selection of counsel or an advisor. With the consent of the Judicial Codes Counselor, an accused may choose the Judicial Codes Counselor as the accused’s advisor, in which case the Judicial Codes Counselor may participate fully on behalf of the accused in any hearing.

3. No employee of the Office of the Judicial Codes Counselor shall be a member of the University, Student, Graduate and Professional, or Employee Assembly, or any of their committees or boards, or of a judicial board.
4. The Judicial Codes Counselor shall be appointed for a two-year term. A Judicial Codes Counselor can be reappointed for additional terms. The President shall appoint the Judicial Codes Counselor with the concurrence of the University Assembly, following the procedures for the appointment of the Judicial Administrator.

5. The Judicial Codes Counselor shall be solely responsible for the Office of the Judicial Codes Counselor. The Judicial Codes Counselor shall be independent, although an administrative relationship should exist with the University administration that will support that office. 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.

Article III. Judicial Participants

A. Complainant and Victim

1. Any student, member of the University faculty, or other employee of the University can allege a violation of this Code, of which he or she was the victim, by filing a complaint with the Judicial Administrator.

2. In cases in which such formal complaint is made by one or more individuals, such individuals shall be designated as the complainants. In cases in which no such formal complaint has been made or pursued, and an investigation is initiated by the Judicial Administrator, the University community shall be designated as the complainant. However, in cases concerning violations against the interests of the University, “Cornell University” (the corporation) may be named as complainant.

3. The complainant and the victim, whether or not he or she is a member of the University community, each shall have the right to be present at any relevant hearing. Each shall have the right to be accompanied at every stage by a personal advisor of that person's choice, but that advisor shall not be a witness and shall not participate in a hearing in the capacity of counsel. The Judicial Administrator shall provide to the complainant and the victim information about the University’s Victim Advocate and other relevant resources, including information about how to file a police complaint.

B. Defense Counsel or Advisor

1. When an accused appears before the Judicial Administrator, the University Hearing Board, the University Review Board, or other University officials acting in a judicial capacity, the accused has the right to be advised and accompanied at every stage by an individual of the accused’s choice. Such counsel or advisor for the accused may be any member of the University community or general public, but shall not be a witness and, except for the Judicial Codes Counselor, shall not normally participate in a hearing in the capacity of counsel. However, for suspension or dismissal to be imposed, such counsel or advisor must have had a reasonable opportunity to participate fully in the hearings.
2. The accused shall have the right to act as his or her own counsel.

3. The accused person shall also have the right to be accompanied at every stage by a personal supporter of that person’s choice, but that supporter shall not be a witness and shall not participate in a hearing in the capacity of counsel.

Article IV. Judicial Boards

A. University Hearing Board

A five-person panel of the University Hearing Board shall adjudicate cases under the Campus Code of Conduct. The President shall name at least one person, who is a member of the faculty recommended by the Dean of the Faculty and not a member of the University administration, to be a Hearing Board Chair presiding over five-person Hearing Panels’ proceedings but having no vote; that chair shall be appointed for a two-year term, but can be reappointed for additional terms.

B. University Review Board

A three-person panel of the University Review Board shall hear appeals under the Campus Code of Conduct. The President shall name one person, who is a member of the faculty recommended by the Dean of the Faculty and not a member of the University administration, to be the Review Board Chair presiding over three-person Review Panel’s proceedings but having no vote; that chair shall be appointed for a two-year term, but can be reappointed for additional terms.

C. Pool of Board Members

1. The University Hearing Board and University Review Board pool shall comprise 55 members confirmed by the University Assembly: 25 students, 15 faculty members, and 15 nonfaculty employees. Faculty members are nominated by the Dean of the Faculty. For other candidates, the Office of the Assemblies will solicit written applications, and the Codes and Judicial Committee shall nominate candidates to the University Assembly for its confirmation no later than the last regular meeting of the outgoing University Assembly. The University Assembly Executive Committee may make emergency appointments on a temporary basis.

2. No person shall serve on the University Hearing Board and University Review Board pool who is at the same time a member of the University Assembly or its Codes and Judicial Committee or is an employee of the Office of the Assemblies.

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 June 1 of the year appointed. Any appointment to fill a vacancy or to address an emergency 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.

4. All the members of the University Hearing Board and University Review Board pool shall annually elect one Administrative Chair from among those members.

5. Although the judicial boards decide cases and appeals when sitting in panels, the pool as a group, convened by the Administrative Chair, shall perform the following functions:

   a. The judicial boards shall be responsible for establishing their own internal rules and procedures not specified elsewhere, and making them available through the Offices of the Judicial Administrator and the Judicial Codes Counselor.

   (1) Such rules and procedures must be published in the Cornell Chronicle before going into effect.

   (2) Any changes in rules and procedures must be published in the Cornell Chronicle at least 30 calendar days before taking effect.

   b. Upon request, the judicial boards shall report on their operations to the Codes and Judicial Committee of the University Assembly.

6. Training of the members of the University Hearing Board and University Review Board pool will include special training in handling complaints of sexual harassment, abuse, assault, or rape.

TITLE THREE: REGULATIONS FOR MAINTENANCE OF EDUCATIONAL ENVIRONMENT

Article I. Applicability

This Title shall apply to all students, members of the University faculty, other employees of the University, and University-registered organizations, except that those of the Medical College and the Graduate School of Medical Sciences shall be governed by separate regulations with respect to property and facilities of the Medical College and the Graduate School of Medical Sciences.

This Title shall apply to conduct on any campus of the University, on any other property or facility used by it for educational purposes, or on the property of a University-related residential organization in the Ithaca or Geneva area.

This Title shall also apply to conduct elsewhere if the Judicial Administrator—with the approval of the President or his or her designated representative in the person of the Dean of
Students for conduct by students, the Provost for conduct by faculty, or the Vice President for Human Resources for conduct by other employees—considers the conduct to constitute a serious violation of this Title, in that the conduct poses a substantial threat to the University’s educational mission or property or to the health or safety of University community members.

Article II. 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 6.31.

   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 applicable2.

   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, regardless of the person’s consent to participate. 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 but not limited to 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; use of firecrackers or flares; or any other acts, whether reckless or intentional, that create a dangerous situation for the safety of another individual (2) threaten or use physical force or violence to endanger, injure, abuse, intimidate, or coerce another person.

1 This Code section is subject to the provisions in Appendix A, Article I.
2 This Code section is subject to the provisions in Appendix A, Article I in cases of sexual harassment.
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.

l. To prevent a person from leaving a location (including part of the location, such as one part of a room) or to force a person to go to a location against his or her will. This is a violation whether accomplished through physical or psychological means.

2. It shall be a violation of this Title, as an offense against the University:

   a. To endanger or to cause damage to or loss of property of the University.

   b. To misappropriate University funds.

   c. To bribe a University official.

   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.

   e. To furnish false information to the University with intent to deceive.

   f. To claim falsely to represent the University or a University-registered organization.

   g. To enter upon or make use of University or private property or facilities without authorization.

   h. To fail to leave a University building after a fire alarm has sounded or other notice of fire has been given, whether or not a drill.

   i. To commit a violation of Article II of Title Four.
3. It shall also be a violation of this Title:

   a. To engage in disorderly conduct. Disorderly conduct means intentionally causing, or recklessly creating a risk of, disruption to the University community or local community, including by such acts as (1) violent, tumultuous, or threatening behavior, (2) unreasonably loud or belligerent behavior, or (3) obstruction of vehicular or pedestrian traffic.

   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.

   c. To traffic, for profit or otherwise, in goods or services in a manner incompatible with the interests of the University community or local community.

   d. To unlawfully manufacture, distribute, dispense, possess, use, or sell marijuana or any controlled substances as defined by state or federal law.

   e. To defraud, including by such acts as failure to redeem a bad check.

   f. To publicly urinate or defecate.

   g. To destroy evidence or otherwise obstruct the application of this Code.

   h. To assist another person to violate this Title.

   i. To incite another person toward a likely and imminent violation of this Title.

   j. To attempt to violate this Title.

   k. To refuse to participate, without a substantial reason, as a witness in the campus judicial system, as outlined in Title Three, Article III.E.3.b(6)(c).

   l. To enter any waters of Fall Creek, Cascadilla Creek, or Beebe Lake that are on or traverse the campus (within the City of Ithaca) for the purpose of swimming or bathing, except in those waters officially designated as swimming or bathing waters.

B. Interpretation

Because the judicial system utilizes the decisions of the University Hearing and Review Boards to define or interpret violations, public records of all decisions of those boards shall be kept on file in the Office of the Judicial Administrator, including a brief summary that describes the nature of the case and its disposition but with names of individuals and other identifying information redacted.
Article III. Procedures

A. Initial Investigation

1. The Judicial Administrator shall promptly cause an investigation to be made:
   a. upon receiving a complaint alleging a violation of this Code by a student or University-registered organization or a non-employment-related violation by a faculty member or other University employee;
   b. upon determining that a complaint referred to him or her by a department head, dean, or supervisor, or by means of a jurisdictional appeal, is non-employment-related; or
   c. upon receiving information that a violation of this Code may have occurred when no formal complaint has been made or pursued.

2. During the course of an investigation, the Judicial Administrator, before filing formal charges, may interview the persons involved. Prior to any such interview the Judicial Administrator shall, in writing, inform the person of:
   a. the matter to be discussed and the person’s alleged relationship to it; and
   b. the services of and contact information for the Office of the Judicial Codes Counselor.

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. 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 No-Contact Directive.
   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 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 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 No-Contact Directive or lift such a suspension if he or she determines that the circumstances no longer require such action.

3. Temporary Suspension Pending Resolution

a. Suspension of an Individual

(1) In extraordinary circumstances and for the purpose of ensuring public order and safety, the President or a designated representative shall have discretionary power to suspend the accused pending resolution of the underlying case. Suspension in the case of a student may include the withdrawal of any or all University privileges and services, including class attendance, participation in examinations, and utilization of University premises and facilities, as determined by the President or his or her designee.

(2) The Judicial Administrator may accept from the President this power to suspend temporarily, but only if the Judicial Administrator can exercise the power at his or her own discretion.

b. Suspension of a University-Registered Organization

(1) In extraordinary circumstances and for the purpose of ensuring public order and safety, the President or a designated representative, after consulting with the Office of the Dean of Students and/or other offices as deemed appropriate, shall have discretionary power to suspend the activities of a University-registered organization pending resolution of the underlying case.

(2) The Judicial Administrator may accept from the President this power to suspend temporarily, but only if the Judicial Administrator can exercise the power at his or her own discretion after consulting with the Office of the Dean of Students and/or other offices as deemed appropriate.

c. When the President or his or her designee exercises this power to suspend temporarily, these procedures shall be followed:

(1) In the case of such suspension, the accused may petition the University Hearing Board in writing for a review of the suspension. 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.
(2) If the University Hearing Board determines that (1) good cause has not been shown for the exercise of the President’s suspension power or (2) that circumstances have changed so that suspension is no longer necessary, the suspension shall be lifted immediately.

(3) If the suspension remains in effect after the University Hearing Board’s initial meeting, that board may decide to reconvene, upon motion by any member or the chair of the panel or upon the request of the suspended person or University-registered organization, to determine whether circumstances no longer require suspension.

C. Summary Decision or No Action

1. The Judicial Administrator shall determine, without undue delay, whether to offer a summary decision, to file formal charges, or to take no action.

2. The Judicial Administrator and the accused may agree, in writing, to a summary decision at any time, but typically prior to a matter going to a hearing before the University Hearing Board. If a Summary Decision Agreement is reached, the Judicial Administrator shall:

   a. send a notice of formal accusation and of the provisions of the summary decision to the accused; and

   b. notify the Judicial Codes Counselor of each summary decision as soon as possible, if the Judicial Administrator has learned that the accused has consulted the Judicial Codes Counselor.

3. In the event that this summary procedure is employed:

   a. All penalties and remedies listed in Article IV may be assessed via summary decision. In the case of suspension or dismissal, however, the Judicial Administrator must obtain the approval of a Hearing Board Chair, to insure against the possibility of intimidation or coercion in the negotiations; the Judicial Administrator must do so prior to reaching agreement, but may address the Hearing Board Chair without the participation of the accused.

   b. The accused may withdraw approval of the summary decision by written request to the Judicial Administrator within the two business days following receipt of the notice described in item 2(a) of this section.

4. In the event the Judicial Administrator determines to take no action, the Judicial Administrator shall notify the accused of such decision.

5. Except as noted below, the Judicial Administrator shall notify the complainant no more than five business days after the deadline for the accused to revoke the summary decision or after the Judicial Administrator otherwise decides not to file charges. If the Judicial
Administrator notified the complainant at a time the summary decision may still be revoked by the accused, this information must be provided to the complainant. For University complainants, the Judicial Administrator need notify the complainant only:

i. in a case where the University complainant submitted a written request for notification at the time the complaint is lodged; and

ii. in specific cases, limited to cases involving any violence or threatened violence against another person, violations of the Financial Irregularities Policy, and fraud or theft against the University in an amount exceeding $100.

6. If the complainant is dissatisfied with the summary decision or with the decision of the Judicial Administrator not to file charges, he, she, or it may petition the Judicial Administrator in writing to show cause for the decision before the University Hearing Board. This petition must be received by the Judicial Administrator within eight business days after the complainant’s receipt of the Judicial Administrator’s notice of the nonaction or within three business days after the deadline for the accused to revoke the summary action. The Judicial Administrator shall promptly forward the petition to a Hearing Board Chair. The University Hearing Board shall meet to consider the petition within 21 calendar days of receipt of the petition by the Judicial Administrator. That board can:

a. uphold the decision of the Judicial Administrator in whole or in part;

b. order the Judicial Administrator to reopen the investigation; or

c. order the Judicial Administrator to file charges so that the case can be adjudicated by the University Hearing Board.

D. Formal Charges

1. Notification of Charges

a. If, as a result of an investigation, the Judicial Administrator determines that there is reasonable cause to believe that a violation has been committed, and a Summary Decision Agreement has not been reached, then the Judicial Administrator shall promptly refer the case to the University Hearing Board by filing charges with a Hearing Board Chair.

(1) The Judicial Administrator shall make a good faith effort to serve notice of the charges on the accused (or on an officer of record of an accused University-registered organization) within seven calendar days of the filing of charges:

(a) by personal service; or, if personal service is impossible to effect after diligent effort,

(b) by certified mail, return receipt requested, to the accused’s last known local or permanent address; or, if such mailed notice is impossible to effect,
(c) by a means reasonably calculated to result in actual notice.

(2) Notice of the charges shall contain:

(a) the charges in the form of a formal accusation;

(b) instructions to contact the Judicial Administrator within four business days of
the accused’s receipt of notice, so that a time for appearance of the accused before
the Judicial Administrator may be agreed upon;

(c) notice of the nature of the evidence to be used against the accused; and

(d) a brief summary of the services of and contact information for the Office of the
Judicial Codes Counselor.

b. The Judicial Administrator shall provide a copy of charges made against the accused
on request of University officials, the Judicial Codes Counselor, or any other officer or
board of the judicial system.

2. If the accused does appear, the Judicial Administrator shall again advise the accused of
access to the Office of the Judicial Codes Counselor, and shall refer the accused to this Code
and available supplementary information so that the accused can learn of:

a. the procedures of the Office of the Judicial Administrator and the judicial boards;

b. the accused’s right to be accompanied by counsel or an advisor of the accused’s choice;

c. the alternative administrative process provided for employment-related cases; and

d. other rights and options that may be available to the accused.

3. If the accused fails to respond within the four-day period or to agree to appear within a
reasonable time, the Judicial Administrator may, in his or her discretion, forward the case to
the University Hearing Board. In the alternative, deeming the accused to have waived the right
to a hearing, the Judicial Administrator may proceed to find the accused to have violated this
Code and directly impose a penalty in the form of oral warning, educational steps, community
work, or fine as listed in Article IV. Unless the Judicial Administrator, in his or her discretion,
decides to set aside such default for good cause shown, such direct penalty will stand as the
equivalent of a decision of the University Hearing Board, subject only to appeal to the
University Review Board.

4. Limitations Period

Any charge of a violation of this Code must be initiated by the filing of charges by the
Judicial Administrator within one calendar year of the date of the alleged violation. Exceptions
to this policy that extend the period beyond one year are:

a. In cases where the charge involves fraud, the period shall be one calendar year from
the alleged fraud or 60 calendar days from the filing of a complaint alleging fraud, whichever is longer, but in any event no more than three calendar years from the alleged fraud.

b. In cases where the individual to be charged is absent from the University because of either (1) a leave of absence, (2) a termination of employment, or (3) a withdrawal as a student, a charge may be brought within one calendar year of the alleged violation or within 60 calendar days of his or her return to the jurisdiction of the University judicial system, whichever is later.

c. In cases where the individual to be charged is facing public prosecution involving the same matters, a charge may be brought within 60 calendar days of the final disposition of such prosecution. Should it appear that the individual will leave the University before such time, the President or his or her designee may cause the individual’s degree to be withheld for the period in which the Judicial Administrator may file charges.

d. The Judicial Administrator may request a Hearing Board Chair to extend any limitations period by up to an additional six calendar months, without required notice to any other person but upon a showing of special circumstances justifying such an extension, provided that the Judicial Administrator delivers such written request to a Hearing Board Chair prior to the expiration of that period.

E. Hearing Procedures

1. Circumstances Requiring Hearing

   a. The complainant may petition in writing for a review of the nonaction or summary action by the Judicial Administrator on the complaint.

   b. The accused may petition in writing for a review of his, her, or its temporary suspension imposed by the Judicial Administrator or by the President or his or her designee.

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

   d. The Judicial Administrator may request a hearing by filing charges.

   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.

2. Preparations for Hearing

   a. The University Hearing Board shall hold a hearing within 21 calendar days of receipt of charges or petition by the Hearing Board Chair, unless otherwise provided by the Code, postponed by agreement of the parties, or postponed by the Hearing Board Chair for good cause shown.
b. In any case referred to the University Hearing Board for a hearing:

(1) The Judicial Administrator shall make a good faith effort to give notice of the hearing no later than seven business days in advance of the hearing, unless the accused agrees to a shorter time:

(a) to the accused in the manner for notification of charges;

(b) to the complainant by regular United States mail or by e-mail; and

(c) to the Judicial Codes Counselor by campus mail, e-mail, or telephone, if the Judicial Administrator has learned that the accused has consulted the Judicial Codes Counselor.

(2) This notice shall contain:

(a) the time and place of the hearing;

(b) specification of the charges against the accused; and

(c) statement of the accused’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.

c. Names and written statements of any witnesses to be called 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. The University Hearing Board, in its discretion, may exclude a witness’s testimony if it determines that the Judicial Administrator or the accused has failed to comply with this provision as to that witness.

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.

3. University Hearing Board

a. Composition

(1) In cases involving complaints against students or University-registered organizations, a Hearing Panel shall be composed of three students, one faculty member, and one nonfaculty employee, all drawn from the University Hearing Board and University Review Board pool, except that in cases of sexual harassment, abuse, assault,
or rape the complainant, victim or the accused may opt for a Hearing Panel composed of three faculty members and two nonfaculty employees drawn from that pool.

(2) In cases involving complaints against faculty members, a Hearing Panel shall be composed of three faculty members, one student, and one nonfaculty employee, all from that pool.

(3) In cases involving complaints against nonfaculty employees, a Hearing Panel shall be composed of three nonfaculty employees, one student, and one faculty member, all from that pool.

(4) Selection of a Hearing Panel, whenever one is needed, shall be made randomly by the Administrative Chair of that pool.

(5) A member of the Hearing Panel may voluntarily withdraw from participation in any case by reason of a conflict of interest or any other good cause. Knowledge of the events at issue shall not disqualify a member, unless he or she has first-hand knowledge of the events at issue, has been directly involved in those events, or is personally interested with regard to the outcome, in which circumstance the member shall be excused by vote of the Hearing Panel. Any person aware of such circumstance concerning a member shall call it to the attention of the Hearing Board Chair. In the event that a member withdraws or is excused, an alternate member shall be randomly selected by the Administrative Chair.

b. Panel Procedures

(1) The Hearing Board Chair shall have the right to convene the Hearing Panel. The Hearing Board Chair shall conduct the proceedings and maintain order in the hearing room.

(a) He or she shall make procedural rulings before or at the hearing, applying these procedures and the procedures developed by the University Hearing Board, so as to assure fairness and to avoid undue delay.

(b) However, all procedural rulings of the Hearing Board Chair, other than a decision to postpone the initial convening of a hearing, shall be subject to the approval and concurrence of the Hearing Panel as a whole. The Hearing Panel may overrule the procedural rulings of the Hearing Board Chair by ordinary majority vote.

(2) At least four members of a five-person Hearing Panel must sit for a given case, in addition to the nonvoting Hearing Board Chair, and at least three votes shall be required for any decision.

(3) Cases that present common questions of law or fact and that would come before a panel of like composition may be joined for hearing.
(a) For joint hearing, the Judicial Administrator must affirm in writing that each accused performed acts sufficiently similar that the facts presented in evidence would not differ materially from one accused to another. In such case, the Hearing Board Chair may order joinder of such cases for hearing.

(b) Any accused, whose case is joined, may request in writing to be excluded from the joint hearing on the ground that (i) the accused is not charged with the same offense, at the same time and place, or (ii) that the facts relevant to the accused would differ materially from the facts relevant to the others. Such case, with the consent of the Judicial Administrator or at the direction of the Hearing Board Chair, may be severed from the joint hearing.

(c) The Hearing Panel may permit any accused tried jointly and found to have violated this Code to submit either a written or oral statement regarding mitigating circumstances, and must permit such a statement before imposing a penalty of dismissal or of suspension for the balance of a term or longer. The Hearing Panel shall consider differences among the conduct and circumstances of each accused before imposing any penalty.

(4) At the hearing, the case shall be presented by the Judicial Administrator in the name of the complainant. But failure of an individual complainant to appear at the hearing, unless excused by the Hearing Panel for good cause shown, shall result in a loss of his or her right to the assessment in his or her favor of a remedy (which means restitution to the complainant or order to the offender, as opposed to a penalty) by the Hearing Panel.

(5) The failure of the accused to appear at the time and place designated for the accused’s appearance before the Hearing Panel empowers the Hearing Panel to:

(a) impose a temporary suspension, pending the accused’s appearance;

(b) find the accused to have violated this Code and impose appropriate penalties and/or remedies, but the Hearing Panel may do so only if the Judicial Administrator shows that the accused received notice of the hearing, or that the procedures for notifying the accused were followed, and submits information sufficient to establish the allegations in the charges; or

(c) excuse the failure to appear for good cause shown, in which case the accused shall have the option of having the case heard in absentia, with the privilege of submitting written evidence, or of having a new date set for a hearing.

(6) The Hearing Panel shall endeavor to evaluate all relevant facts of a given case at the hearing. It shall receive relevant information that is reasonably reliable, but need not accept as evidence accounts of the accused’s statements by the Judicial Administrator. Strict rules of evidence shall not apply, and the Hearing Panel shall have the power to establish its own rules of evidence, subject to the following exceptions:
(a) Confidential relationships currently protected under state or federal law shall be protected.

(b) Evidence of a victim’s sexual conduct shall not be admissible unless fairness to the accused requires consideration of such evidence, consistent with practice under section 60.42 of the New York Penal Law.

(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. In particular, to avoid the risk of intimidation in cases of sexual harassment, abuse, assault, or rape, the Hearing Board Chair shall require cross-examination of the complainant or victim to be conducted by written questions submitted in advance or in real time, including follow-up questions, and read aloud to the witness by the Hearing Board Chair, if the witness so requests. 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 nontestifying 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.

(d) No accused person shall be denied the right to present evidence and witnesses in his or her own behalf.

(e) No accused person shall be compelled to testify against himself or herself. The hearing can proceed even if he or she chooses to remain silent.

(7) All hearings shall be private unless (a) the accused notifies the Judicial Administrator, no later than two business days before the hearing, that he or she wishes a public hearing and (b) the Hearing Board Chair determines that a public hearing would not result in undue intimidation of the complainant, the victim, or the witnesses. In cases of sexual harassment, abuse, assault, or rape, all hearings shall be private, with the accused having no option of requesting a public hearing; and in such cases, if either the accused, the complainant, the victim, or the Judicial Administrator requests that the proceedings be conducted in a fashion such that the accused and the complainant or victim
be separated or such that the intimidation of the complainant or victim be otherwise reduced, the Hearing Board Chair, after determining appropriateness, shall make suitable arrangements to accomplish this. In the event of a public hearing, the Hearing Board Chair shall convene it in quarters that accommodate a reasonable number of the public, but may limit the number in the interest of preserving the decorum and dignity of the proceedings. Witnesses shall be excluded from all hearings, except for the period of their questioning. Witnesses shall not see or hear other evidence presented at the hearing, such as any police report, except as the Hearing Board Chair determines to be appropriate. All deliberations by the Hearing Panel and Hearing Board Chair shall be private.

(8) A verbatim record shall be kept of all hearings, but not of deliberations, and made available to the complainant within the allotted time for filing an appeal, and to the accused at any time.

(9) The Hearing Panel shall proceed to a decision as expeditiously as possible, and then shall notify the Judicial Administrator of its decision without delay. All decisions by the Hearing Panel shall be in writing, including a rationale and any dissenting opinions. The burden of proof on violation shall rest on the complainant, and the standard of proof on violation shall be clear and convincing evidence, which is a higher standard than the civil law’s more-likely-than-not standard but a lower standard than the criminal law’s beyond-a-reasonable-doubt standard. After hearing, the Hearing Panel can:

(a) sustain a defense of lack of jurisdiction or other inapplicability of this Code, including that off-campus conduct did not meet the requirement of being a serious violation of this Title, and dismiss the case, although any such defense shall be deemed waived if not raised by the conclusion of the hearing;

(b) find the accused did not violate this Code and dismiss the case; or

(c) find the accused violated this Code and impose a penalty and/or remedy.

(10) The Judicial Administrator shall serve written notice of the decision of the Hearing Panel on the accused and the complainant within five business days of the Judicial Administrator’s receipt of the written decision. The accused shall be provided with a full copy of the decision. The complainant shall be provided a copy of the decision with names of individuals and other identifying information redacted.

F. Appeal Procedures

1. University Review Board

   a. Composition

---

3 For some violations, a different standard of evidence is required. See Appendix A, Article I.
(1) A Review Panel shall consist of three voting members: one student, one faculty member, and one nonfaculty employee.

(2) The members of the Review Panel, for any one appeal, shall be selected in the same manner as the members of a Hearing Panel from the University Hearing Board and University Review Board pool. But no person who served on the Hearing Panel shall sit on the Review Panel in the same case.

b. Panel Procedures

(1) Right to Appeal

(a) An accused against whom a penalty has been imposed or a remedy assessed by a Hearing Panel shall have the right to appeal the decision to the Review Panel.

(b) Any complainant, other than the University community as defined in Article III.A.2 of Title Two, shall have the right to appeal a Hearing Panel decision to the Review Panel if remedies were sought or if other laws or regulations require allowing such appeal.

(c) The Judicial Administrator shall have the right to appeal the penalty imposed by a Hearing Panel.

(2) Appeals may be grounded only upon the complainant’s belief that the remedy awarded the complainant is not commensurate with the injury, upon the Judicial Administrator’s belief that the penalty is not commensurate with the violation, or upon the accused’s belief that:

(a) the Hearing Panel violated the fair application of the procedures established by the Board of Trustees, the University Assembly, or the University Hearing Board, and such violation may have had a prejudicial effect upon the outcome of the hearing;

(b) the Hearing Panel committed a prejudicial error in interpreting this Code or rendered a decision clearly against the evidence;

(c) new evidence was discovered after the hearing and could not have readily been discovered before the hearing, and such evidence might have had an effect upon the outcome of the hearing; or

(d) the penalty and/or remedy imposed upon the accused is unjust.

(3) Notification of Appeal

---

4 For some violations, the complainant must have the same rights of appeal as the accused. See Appendix A, Article I.
5 For some violations, the complainant must have the same rights of appeal as the accused. See Appendix A, Article I.
(a) The appellant shall file written notice of appeal with the Judicial Administrator within ten business days of the appellant’s receipt of the notice of the decision. The Judicial Administrator shall refer the notice of appeal to the Review Board Chair without delay.

(b) The appellant and the respondent (if there is one other than the Judicial Administrator) shall be notified by the Judicial Administrator of the time of the appeal’s hearing no later than seven business days after the notice of appeal is filed, and no fewer than seven business days in advance of the appeal’s hearing.

(4) The Review Board Chair shall have the right to convene the Review Panel and shall conduct the appeal in a manner similar to a Hearing Panel proceeding. The Review Panel shall meet to hear an appeal within 21 calendar days after the notice of appeal is filed, unless a postponement is granted by the Review Board Chair for good cause shown.

(5) Decision of the Review Panel shall be rendered by a majority vote of the members present, and the majority of the members, in addition to the nonvoting Review Board Chair, shall constitute a quorum for any hearing of the appeal.

(6) The Review Panel shall determine whether its hearings shall be conducted in public or in private. However, all deliberations of the Review Panel and Review Board Chair shall be private.

(7) Disposition of Appeal

(a) Any decision of the Review Panel shall be based solely on the record and, in appropriate cases, upon a showing of new evidence relevant to the grounds for appeal. All decisions shall be in writing, including a rationale and dissenting opinions. Findings of fact shall not be set aside unless clearly erroneous, and harmless errors shall be ignored.

(b) The decision shall be affirmance unless the Review Panel sustains one of the above-specified grounds for appeal, in which case the Review Panel can:

   (i) reverse a finding of violation;

   (ii) alter a penalty or modify a remedy, if necessary and appropriate in the interests of justice;

   (iii) remand a case to the Hearing Panel from which it originated for a new hearing; or

   (iv) remand a case to a newly composed Hearing Panel if there were procedural violations.

(c) If the Review Panel calls for new evidence, it shall remand the case to the Hearing Panel from which it originated for a new hearing.
2. No final decision of this judicial system shall be reviewed by any other authority within the University, except that either the Judicial Administrator or the accused may appeal the penalty imposed by the Review Panel for violations involving acts or threats of violence, including sexual assault. Such appeal shall be to the President within fifteen business days of the appellant’s receipt of the Review Panel’s decision. The appeal shall be a written petition with the opportunity for the other party to respond; no oral argument shall be heard. The President may alter the penalty only by a written and reasoned opinion.

G. General Procedures

1. Deadlines

   a. In computing any time period specified in this Code, the day of the event, act, or default that initiates the period shall be excluded.

   b. The Judicial Administrator and other parties to the hearings must make good faith efforts to meet the deadlines for conducting hearings outlined by this Code. If the deadlines cannot be met, however, the hearings must be held as soon as practicable.

2. Legal Advisor

   The Hearing Panel or the Review Panel may appoint an independent legal advisor who shall advise that board on all legal matters relating to the performance of its responsibilities, and who may be present during any hearings and, upon the invitation of that board, during deliberations.

3. Witness Immunity

   The Judicial Administrator, the Hearing Panel, or the Review Panel may grant to witnesses transactional immunity from proceedings within the judicial system.

4. Confidentiality

   a. All who are involved in the complaint, investigation, hearing, appeal, and reporting processes are obliged to maintain confidentiality of the proceedings, except as otherwise specifically provided in this Code. They shall protect the confidentiality of all judicial records, except those records specifically referred to in Article II.B. Copies of judicial records shall not be released to outside sources without written consent of the subject of such record, except as provided in subsection (b) below.

   b. The University will take reasonable measures to ensure the confidentiality of the proceedings and records; however, the University cannot and does not guarantee that confidentiality can or will always be maintained. Additionally, the University may disclose judicial records or otherwise confidential information:

      i. when required by law; or,
ii. when authorized by law and necessary to protect the safety or well-being of the University community members, or to preserve the integrity of proceedings under this Code; or,

iii. with respect to the judicial records of University registered organizations only, when deemed necessary to educate the University community or to provide information to the University community about the organization’s conduct.

c. Notification of the offender’s violations, penalties, and remedies shall be sent as directed by the Hearing Panel or Review Panel to the University officials necessary to make the penalties and remedies effective, and to other persons who might provide counseling assistance to the offender.

5. Record Keeping

a. The Office of the Judicial Administrator shall retain records of all complaints, orders, charges, proceedings, and decisions in accordance with that office’s internal records management practices and Cornell University Policy 4.7.

b. Violations, penalties, and remedies shall be recorded in the Office of the Judicial Administrator and/or Director of Cornell Police in all cases arising under this judicial system. However, only a penalty of written reprimand, probation, suspension, or dismissal creates a disciplinary record.

Article IV. Penalties and Related Provisions

A. Penalties

1. The following penalties may be imposed, or imposed and deferred as specified in the summary decision or board decision, provided that no person shall endure cruel and unusual punishment. In situations where an individual is both taking classes and on the University payroll, appropriate penalties may come from either or both Subsections a and b.

a. Students

(1) Oral warning.

(2) Appropriate educational steps (such as referrals for alcohol or drug education, reflection papers, counseling, letters of apology, or directed study).

(3) Community work, which shall not be more than 80 hours per violation, and must be performed in a manner acceptable to the Judicial Administrator.

(4) Fine of not less than $20 nor more than $500 payable to the University Treasurer.
(5) Restriction or loss of specified privileges for a stated period not to exceed one year, including for example:

(a) in cases of misconduct in connection with University services or facilities, the student being prohibited from further use of those services or facilities other than in the course of his or her work or study; or

(b) in cases of misconduct in connection with University-owned or University-operated housing, the student being ordered to vacate such housing.

(6) Written reprimand.

(7) Probation for a stated period.

(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.

(9) Dismissal, i.e., expulsion from the University.

b. Faculty and Other Employees

(1) Oral warning, educational steps, community work, and fine, as provided for student offenders.

(2) Written reprimand.

(3) Suspension from University duties for a stated period not to exceed one month, with loss of salary but without loss of other rights or privileges.

(4) Dismissal from University employ, with termination of any contract or tenure.

c. University-Registered Organizations

(1) Appropriate educational steps for members of the organization (such as referrals for alcohol or drug education, reflection papers, counseling, letters of apology, or directed study).
(2) Community work performed by members in a manner acceptable to the Judicial Administrator.

(3) Fine of not less than $25 nor more than $500 payable to the University Treasurer.

(4) Restriction or loss of specified privileges for a stated period not to exceed one year.

(5) Written reprimand.

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

(7) Dismissal, i.e., recision of permission to operate on University property.

2. An offender’s prior record of violations under this Code should be considered in the imposition of a penalty.

   a. Ordinarily, the penalty for a second violation, whenever such violation occurs, should be more severe than for a first violation.

   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.

3. Without intending to limit the assessor’s ultimate discretion, certain types of violations are so fundamentally inconsistent with the University’s educational mission that, absent unusual mitigating factors, a sanction of substantial suspension or dismissal ordinarily should be imposed. Such violations include acts of violence, including sexual violence; violations that are motivated by bias based on disability, ethnicity, gender, national origin, race, religion, sexual orientation or affectional preference, or any other suspect or invidious category; or any other violation that substantially threatens the University’s educational mission or property or the health or safety of University community members.

B. Remedies

The following remedies may be imposed:

1. Restitution to the University or to the victim of the violation.

2. Order to the offender to perform, or to cease and desist from, stated actions.
C. Compliance

1. An official transcript issued during the pendency of charges shall indicate that charges are pending, accompanied by a complete recitation of the pending charges. The University, upon request of the person seeking the transcript, shall notify that person of the final judgment in the case. The University may withhold awarding a degree otherwise earned until the completion of proceedings, including compliance with a prescribed penalty or remedy.

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.

3. No official transcript or degree will be granted to any person who has been found in violation of this Code and who has not fulfilled any condition or requirement fixed as a penalty or remedy, but such official transcript or degree shall be granted upon fulfillment of all such outstanding obligations.

D. Other Proceedings

1. Any Title of this Code and the penalties and remedies imposed thereunder shall not be deemed exclusive of and shall not preclude resort to any applicable state, federal, or local law or ordinance or other University regulations and procedures. They shall not be deemed to limit the right of the University or of any person to take such additional action as may seem appropriate or necessary to maintain public order and safety and to protect legal rights.

2. Imposition of any penalty or remedy under any Title shall not preclude the imposition of any other penalty or remedy under this Code.

TITLE FOUR: REGULATIONS FOR MAINTENANCE OF PUBLIC ORDER

Article I. Applicability
This Title shall apply to all persons and organizations, including visitors and other licensees and invitees, on any campus of the University, on any other property or facility used by it for educational purposes, or on the property of a University-related residential organization in the
Ithaca or Geneva area, except that students, members of the University faculty, other employees of the University, and University-registered organizations of the Medical College and the Graduate School of Medical Sciences shall be governed by separate regulations with respect to property and facilities of the Medical College and the Graduate School of Medical Sciences.

Article II. Violations

A. Listing

It shall be a violation of this Title:

1. To disrupt or obstruct or attempt to disrupt or obstruct any instructional, research, service, judicial, or other University operation or function or to interfere with or attempt to interfere with the lawful exercise of freedom of speech, freedom of movement, freedom of peaceable assembly, or other right of an individual, by any action including but not limited to the following:

   a. by intentionally using or threatening physical force or violence to harass, endanger, injure, abuse, intimidate, or coerce another person, or to cause damage to or loss of property;

   b. by intentionally obstructing or causing to be obstructed the lawful use of, access to, or egress from University premises or portions thereof, or by making unauthorized entry upon or use of a University property or facility or by unlawfully remaining in or on the same;

   c. by intentionally obstructing or restraining the lawful movement of another person or obstructing or restraining his or her lawful participation in an authorized activity or event, such as regular and special curricular activities, extracurricular activities, and employment interviews; or

   d. by intentionally inciting another person toward a likely and imminent violation of this Subsection 1.

2. To refuse to comply with any lawful order of a clearly identifiable University official acting in the performance of his or her duties, or with a policy that has been duly promulgated by the University or any college, department, or unit thereof, whether or not the policy has been issued in the standardized University format.

3. To possess, carry, or use firearms (including rifles or shotguns), ammunition, explosives, or other dangerous weapons, instruments, or substances in or upon University premises, except by law enforcement officers or except as specifically authorized by the University.

4. To engage in any action or situation that intentionally or recklessly endangers mental or physical health or involves the forced consumption of alcohol or drugs, for the purpose of initiation into or affiliation with any group or organization.
5. To use ethnicity, gender, national origin, political persuasion, race, religion, or sexual orientation or affectional preference as a criterion for admission or seating at public speaking events advertised as open to the University community.

6. To disrupt or obstruct or attempt to disrupt or obstruct any speaker invited to appear on the campus by the University or a University-recognized organization.

7. To build a structure on the campus without a permit or in violation of the conditions of a permit, and to refuse to dismantle it or discontinue the nonconforming feature upon the lawful direction of an authorized University official.

8. To disrupt or attempt to disrupt intentionally any recruitment activity of a recruiter who is on campus in accordance with ordinary University processes.

9. To fail to comply with any time, place, and manner regulation authorized by Article III of Title One.

B. Interpretation

Consistent with these regulations making it an offense “to interfere with or attempt to interfere with the lawful exercise of freedom of speech, freedom of movement, freedom of peaceable assembly, or other right of an individual,” this Title shall not be interpreted to permit the unlawful interference with such rights, as protected by the constitutions and laws of the United States and the State of New York. Nothing in this Title or any other University regulation, however, shall be interpreted to limit or prevent the University from seeking, without unlawfully interfering with any of the rights described, (1) to enforce the laws respecting trespass or (2) to regulate lawfully the use of University property. Nothing shall be deemed to impair the right of the University to take such action as may be necessary or appropriate for the purposes of construction and repair of facilities, of regulating vehicular and pedestrian traffic, and of maintaining public order and safety. And nothing shall be deemed to impair the right of the University to take such nondisciplinary administrative action as may be necessary or appropriate to maintain public order and safety.

Article III. Procedures

A. Immediate Enforcement

The President or a designated representative shall be responsible for initiating and ensuring the prompt enforcement of this Title. For conduct that violates this Title, individuals and organizations may be ejected from the University campus, property, or facility, or any part thereof by the President or his or her designee acting in the following manner:

1. When the continued presence of an individual poses a clear and present danger to the public order or to the security of any property or the safety of any person, the individual may be ejected, but only until a hearing before the University Hearing Board.

2. In the case of an organization that authorizes conduct posing such a clear and present
danger, the President or his or designee may rescind permission for that organization to operate on University property and rescind the registration of the organization, but only until a hearing before the University Hearing Board.

3. The University Hearing Board shall meet to review such action within five business days after the day on which the alleged offense occurred.

B. Disciplinary Process

For procedures, this Title adopts the provisions of Titles Two and Three prevailing at the time of the violation, except in the following particulars:

1. The President or his or designee shall perform the functions of the Judicial Administrator. In the case of service upon the President of any notice, including a notice of appeal, delivery to the office of the President or his or her designee shall constitute sufficient service.

2. In the event that a violation of this Title should also constitute a violation of other University regulations, including Title Three, the President or his or designee may, in his or her discretion, determine to handle the hearing and appeal of all such violations in one proceeding pursuant to the procedures of this Title.

3. Additionally, the President or his or her designee shall have the right to appeal a Hearing Panel final decision to the Review Panel on the grounds that the Hearing Panel committed a prejudicial error in interpreting this Code or rendered a decision clearly against the evidence, by filing written notice of appeal with the Review Board Chair within five business days of receipt of the notice of decision.

Article IV. Penalties and Related Provisions

For penalties and related provisions, this Title adopts the provisions of Article IV of Title Three prevailing at the time of the violation.
APPENDIX A: Additional Policies Appended To the Code

Article I. Procedures for Violations Involving Sexual Violence and Sexual Assault

Offenses involving sexual violence and sexual harassment, while still violations of the Campus Code of Conduct, will be investigated and adjudicated under Cornell University Policy 6.4 until such time as the Code is amended to fulfill requirements of Title IX.

To assist readers in interpreting the Campus Code of Conduct (the Code), references to this language have been made by footnotes throughout the Code; however, the text may apply to other sections of the Code even if no explicit footnote reference is provided.
Summary of Contents

TITLE ONE: STATEMENT OF PRINCIPLES AND POLICIES ...................................................1
  Article I. Fundamental Principles ..................................................................................1
  Article II. Supporting Policies .......................................................................................2
  Article III. Responsible Speech and Expression ...........................................................5
  Article IV. Amendment of Code ....................................................................................9

TITLE TWO: CONSTITUTIVE PROVISIONS ON JUDICIAL SYSTEM ................................10
  Article I. Judicial Jurisdiction .....................................................................................10
  Article II. Judicial Offices ...........................................................................................11
  Article III. Judicial Participants ..................................................................................14
  Article IV. Judicial Boards ..........................................................................................15

TITLE THREE: REGULATIONS FOR MAINTENANCE OF EDUCATIONAL ENVIRONMENT ..........................................................16
  Article I. Applicability ...............................................................................................16
  Article II. Violations ...................................................................................................17
  Article III. Procedures ...............................................................................................20
  Article IV. Penalties and Related Provisions ...............................................................34

TITLE FOUR: REGULATIONS FOR MAINTENANCE OF PUBLIC ORDER .................................................37
  Article I. Applicability ...............................................................................................37
  Article II. Violations ...................................................................................................38
  Article III. Procedures ...............................................................................................39
  Article IV. Penalties and Related Provisions ...............................................................40

APPENDIX A: Additional Policies Appended To the Code ..................................................41
  Article I. 17 May 2011 Motion Regarding Procedures for Violations Involving Sexual Violence and Sexual Assault .................................................................41

Latest version available online: www.dfa.cornell.edu/policy/policies/campus-code-conduct
# Table of Contents

## TITLE ONE: STATEMENT OF PRINCIPLES AND POLICIES

### Article I. Fundamental Principles

A. The Essential Purpose
B. The University’s Role
C. The Principle of Freedom with Responsibility

### Article II. Supporting Policies

A. Basic Policies on University Conduct Regulation in Relation to Public Law Enforcement
B. Other Policies on the University’s Role in Public Law Enforcement
C. Limitations and Exceptions

### Article III. Responsible Speech and Expression

A. Public Speaking Events on Campus
B. Protests and Demonstrations on Campus
C. Consultation Groups

### Article IV. Amendment of Code

A. Title Four
B. Titles One, Two, and Three

## TITLE TWO: CONSTITUTIVE PROVISIONS ON JUDICIAL SYSTEM

### Article I. Judicial Jurisdiction

A. Jurisdiction in General
B. Jurisdiction over Students
C. Jurisdiction over Faculty and Other Employees

### Article II. Judicial Offices

A. Office of the Judicial Administrator
B. Office of the Judicial Codes Counselor

### Article III. Judicial Participants

A. Complainant and Victim
B. Defense Counsel or Advisor

### Article IV. Judicial Boards

A. University Hearing Board
B. University Review Board
C. Pool of Board Members

## TITLE THREE: REGULATIONS FOR MAINTENANCE OF EDUCATIONAL ENVIRONMENT

### Article I. Applicability

### Article II. Violations

A. Listing
B. Interpretation

### Article III. Procedures

A. Initial Investigation
B. Interim Measures
TITLE ONE: STATEMENT OF PRINCIPLES AND POLICIES

Preamble. Conduct of the members of the Cornell community is an appropriate area of concern for the University. This statement sets forth several basic principles and important policies regarding the scope, manner, and standards of regulating that conduct.

This Title is necessarily general. Its purpose is to inform the Cornell community of the general principles and policies upon which the Cornell judicial system operates, and to give general guidance to the judicial system as it handles specific cases arising under regulations authorized by the Board of Trustees, including legislation adopted by the University Assembly (or its successor) and approved by the President as representative of the Board.

Article I. Fundamental Principles

A. The Essential Purpose

The essential purpose of the University’s governing of community conduct is to protect and promote the University community’s pursuit of its educational goals. The University, as an educational institution, has a special set of interests and purposes, the protection and promotion of which are essential to its effective functioning. These interests, with respect to the governing of community conduct, include the following:

1. the opportunity of all members of the University community to attain their educational objectives;

2. the generation and maintenance of an intellectual and educational atmosphere throughout the University community; and

3. the protection of the health, safety, welfare, property, and human rights of all members of the University community, and the safety, property, and reputational interests of the University itself. These general interests, of course, are also the subject matter of the public laws of the state and nation.

B. The University’s Role

The University’s role in regulating community conduct is distinguishable from society’s. Therefore, the powers of the University’s judicial boards shall be limited to the enforcement of University conduct regulations and shall not extend to the enforcement of public laws, except to the coincidental extent that such University conduct regulations are similar to provisions of the public law.
C. The Principle of Freedom with Responsibility

1. The principle of freedom with responsibility is central to Cornell University. Freedoms to teach and to learn, to express oneself and to be heard, and to assemble and to protest peaceably and lawfully are essential to academic freedom and the continuing function of the University as an educational institution. Responsible enjoyment and exercise of these rights mean respect for the rights of all. Infringement upon the rights of others or interference with the peaceful and lawful use and enjoyment of University premises, facilities, and programs violates this principle.

2. The Campus Code of Conduct is the University community’s code, and hence is the responsibility of all community members. All members have a duty to cooperate with University officials in this Code’s operation and enforcement.

Article II. Supporting Policies

A. Basic Policies on University Conduct Regulation in Relation to Public Law Enforcement

The following basic policies will apply in situations where misconduct violates both a University conduct regulation and the public law:

1. The following kinds of offenses are adjudicated in the public courts: all felonies, controlled substance offenses, motor vehicle moving violations, assaults upon a peace officer or resisting arrest, refusals by persons to identify themselves, as well as cases in which the complainant wishes to proceed in the courts and cases involving accused persons who are not members of the University community. Still, the Judicial Administrator has discretion to pursue even serious breaches of the law under the Campus Code of Conduct. Timely dealing with alleged misconduct is vital. Nevertheless, the Judicial Administrator should consider whether justice counsels withholding the exercise of University jurisdiction until public officials have disposed of the case by conviction or otherwise.

2. When the Judicial Administrator determines that misconduct does not constitute a serious breach of the law and that the interests of justice would be served by handling such misconduct within the University jurisdiction, he or she shall:

   a. attempt to exercise jurisdiction in a manner to avoid dual punishment for the same act;
   b. cooperate with public officials so that the exercise of University jurisdiction ordinarily will not be followed by public prosecution of the individual’s misconduct; and
   c. withhold the exercise of University jurisdiction, when prompt public prosecution is anticipated or is under way, until public officials have disposed of the case by conviction or otherwise.
3. Policies covering conduct that violates both a University conduct regulation and the public law, where feasible, should be based on jurisdictional understandings and procedures jointly developed and periodically reviewed by University and local officials. To the maximum extent feasible, jurisdictional understandings shall be made known to the University community.

B. Other Policies on the University’s Role in Public Law Enforcement

1. When public officials apprehend an individual for a violation of the public law, whether or not the misconduct is also a violation of a University conduct regulation, the University shall neither request nor agree to specially advantageous disposition of an individual’s case by police, prosecutors, or judges solely because of that individual’s status as a member of the University community. Nonetheless, the University stands ready to assist student defendants and to cooperate with public officials to promote equitable application of the law. Should a student charged with law violation request assistance from the University, a representative of the Office of the Dean of Students or Office of the University Ombudsman will meet with such student and may advise him or her and, if requested, may facilitate the student’s retention of suitable counsel. If the law violation does not also constitute a violation of a University conduct regulation, and if the student defendant consents, the University ordinarily will cooperate with the request of appropriate law enforcement officials for programs of probation or rehabilitation. Notwithstanding the above provisions, if the prosecution, the complainant, and the accused all consent, minor breaches of the law may be handled exclusively within the University jurisdiction, except in case of repeat offenses.

2. The University’s cooperation with law enforcement, at the request of public officials, shall be exercised in each particular case with a view to safeguarding the interests of the educational community, especially that community’s confidence in the University.

C. Limitations and Exceptions

1. Overriding Laws

   a. It is understood that the Board of Trustees, under sections 5708 and 5709 of the New York Education Law, is responsible for the protection of the grounds, buildings, and property of Cornell University, including state property under its supervision and control, and for the prevention of crime and the enforcement of law and order. These and other statutory provisions regarding law enforcement led to the creation of the Cornell Police, staffed by peace officers who are deputy sheriffs of the county. Under section 6430 of the New York Education Law, adopted in 1969, the Board must also adopt regulations for the maintenance of public order and provide penalties in addition to those for the same misconduct under the New York Penal Law. State law makes the trustees responsible for the enforcement of such rules and regulations as the Board makes from time to time. These state laws cannot be superseded by actions of the Board, nor may the Board evade its legal responsibilities by delegation.
b. Under state law, public servants who knowingly refrain from performing a duty imposed upon them by law, or a duty clearly inherent in the nature of their office, may be guilty of a criminal offense. Accordingly, any inflexible internal rule that precludes a peace officer from making an arrest when a crime has occurred would be contrary to law. It is understood, however, that as to minor offenses, law enforcement authorities are permitted a degree of discretion in determining whether to prosecute an offender or to pursue some other appropriate remedy when an alternative disposition would further the interests of justice. Accordingly, the policies enumerated above are understood to constitute policy guidelines to be applied in good faith, and not prohibitions upon the exercise of the law enforcement responsibilities vested in the Board of Trustees and exercised by its authorized peace officers. That is, such peace officers must retain the sole discretion to determine the circumstances in which the public laws must be enforced.

2. Presidential Overrides

a. Public Disorder

The President may alter or suspend the implementation of the policies enumerated above when the President finds that the Regulations for Maintenance of Public Order, constituting Title Four hereof, are insufficient to maintain public order and when there is an imminent and sufficient threat to the University community’s pursuit of its educational goals to warrant such action. Any such action of the President shall be subject to and consistent with the applicable laws of the state and nation.

(1) Should the President exercise such authority, such action shall be made known to the University community immediately, together with a statement explaining the basis of such action. Such deviation from the implementation of said policies should last no longer than necessary to alleviate any pending threat.

(2) It is not intended that the President will seek to suspend the general application of said policies except in cases in which the President finds a threatened imminent and general breakdown in the University’s capacity to enforce law and order. It is not intended, therefore, that the President will exercise such authority in cases involving individual misconduct.

b. Grave Misconduct

An individual’s exceptionally grave misconduct, particularly misconduct that threatens or attempts to cause physical or mental harassment, may demonstrate such flagrant disrespect for the basic integrity and rights of others as to call into question continuance of the individual’s membership in the University community, because (1) his or her presence would adversely affect the ability of others to pursue their educational goals or (2) his or her misconduct grossly violated standards of behavior requisite to the maintenance of an educational community. In the event of such conduct, if the conduct is not covered by any specific provision of a University regulation or statement regulating conduct or if the relevant regulation does not provide a sanction adequate to protect the safety of the University community, nothing in this Code shall preclude the President or his or her
designee, under the authority of the Board of Trustees as expressed in the University Bylaws, from taking appropriate and lawful action. But such authorization constitutes a procedure parallel to this Code, not an authority to review or revise a decision made under this Code.

Article III. Responsible Speech and Expression

A. Public Speaking Events on Campus

1. Arrangements for Invited Speakers

Any recognized campus organization is free to invite a speaker to address its own membership in a private, closed meeting under ground rules set by the inviting organization. A closed meeting can serve many legitimate purposes, including creation of a more informal atmosphere, maximizing the opportunity of organization members to ask questions, allowing the speaker to talk “off the record,” and ensuring a particular kind of discussion because of advance preparation by the organization’s membership. If a speaker is likely to attract widespread interest among nonmembers, however, the group would often be wise to open the meeting to nonmembers, including those with views contrary to those of the speaker. Nevertheless, the University does not insist that the group do so.

If the group chooses to open the event to the University community, it should seek to arrange adequate space to accommodate the reasonably expected audience. In such a public event, the inviting group may also decide whether there is to be a question-and-answer period and, if so, its length and general format. The speaker or moderator should also be allowed reasonable discretion in requiring questioners to be concise, not to abuse the speaker, and not to monopolize the proceedings or otherwise interfere with their purpose. If a question-and-answer period is held, however, neither the speaker nor the moderator should be allowed in recognizing speakers to discriminate on such grounds as ethnicity, gender, national origin, political persuasion, race, religion, sexual orientation or affectional preference, or other suspect or invidious categories. By the same token, at a public event, the sponsoring organization should not be allowed to bar attendance or give preferred seating on the basis of such suspect or invidious categories.

Only members of the Cornell community may hold or host events on Cornell-owned property. External groups must be sponsored by a member of the Cornell community and the sponsor must have a representative present during the actual event. For these purposes, appropriate Cornell sponsors are: registered student organizations, departments and units of the university, and university-sponsored organizations and offices (e.g., Dean of Faculty, Faculty Senate, University Assembly, etc.).

2. Disruption of Invited Speakers

Freedom of speech, within commonly accepted limits of safety and civility, is a paramount value in a university community. In a university community, as in society as a whole, freedom of speech cannot be absolute. Speech that is libelous, or that incites a crowd to riot, deserves no protection. Perhaps no one, in real life, has ever falsely shouted “Fire!” in a crowded theater, but surely no one has a right to do so. Within such commonly accepted limits, however, freedom of speech should be the paramount value in a university community. Because it is a special kind of community, whose purpose is the discovery of truth through the practice of free inquiry, a university has an essential dependence on a commitment to the values of unintimidated speech. To curb speech on the grounds that an invited speaker is noxious, that a cause is evil, or that such ideas will offend some listeners is therefore inconsistent with a
university’s purpose. One may argue against inviting a speaker on the grounds that the speaker has nothing of importance to say. But once members of the university community extend an invitation, others may not disrupt the speech on the grounds that they find it stupid, immoral, or dangerous.

Those who dislike what an invited speaker is saying also have rights. The rights include distributing leaflets outside the meeting room, picketing peacefully, boycotting the speech, walking out, asking pointed questions, and, within limits set by the moderator, expressing displeasure with evasive answers. Those who oppose a speaker may thus make their views known, so long as they do not thereby interfere with the speaker’s ability to be heard or the right of others to listen. Name-calling and the shouting of obscenities, even when they are not carried so far as to abridge freedom of speech, are nevertheless deplorable in a community devoted to rational persuasion and articulate controversy. Civility is a fragile virtue, but one upon which a university ultimately depends.

The American conception of academic freedom includes the principle that professors may participate in political demonstrations and speak out on controversial issues without jeopardizing their employment. In a campus setting, however, academic freedom carries with it certain responsibilities. Scholars not only should respect the professional demands of their discipline and the pedagogical requirements of the teacher-student relationship, but also should not encourage efforts to abridge the free expression of controversial viewpoints. As citizens, professors may or may not be especially solicitous about freedom of speech; as scholars, they are morally bound to defend it. Professors traduce their calling by any deliberate action demonstrating contempt for freedom of speech.

Civil disobedience is not a ground for exonerating one from penalties for violating conduct regulations regarding free expression, nor should it be a circumstance mitigating the penalty. Although nonviolent civil disobedience can be an honorable way of expressing moral outrage, in a university community where the free flow of ideas is paramount, it is contradictory and misguided to employ it to deny that very right of expression to another.

B. Protests and Demonstrations on Campus

1. Protected Expressive Conduct in General

The University will treat as within the basic protection of a right to free expression such lawful conduct as satisfies the following tests, where lawful means not in violation of state or federal law. The conduct should (a) be intended for expressive purposes, (b) be reasonably understood as such by the University community, and (c) comply with such reasonable time, place, and manner restrictions as are consistent with the other provisions of this Article and as may be authorized from time to time by the President.

Even in regard to conduct that is intentionally expressive and perceived as such, the University may impose reasonable time, place, and manner restrictions on such conduct to preserve other important values and interests of the University community. An accused charged with such conduct may assert as a defense that he or she has complied with such time, place, and manner restrictions.
All protection and regulation of expressive conduct should be content-neutral. A group’s persuasion or point of view should have no bearing on the grant of permission or the conditions regulating that group’s expressive conduct.

2. Symbolic Structures

Symbolic structures will be allowed in accordance with an express permit issued by the Vice President for Student and Academic Services or other presidential designee. Such structures must be temporary and must conform to the conditions contained in the permit. In regulating by permit the duration, size, location, and other features of symbolic structures, the administration will be guided by attention to the following, or similar, kinds of University community interests that such structures could infringe upon:

(a) protecting health and safety;

(b) preventing damage and risk of damage to University grounds and property;

(c) preserving unimpeded mobility on pathways and streets, entrance to and departure from buildings, and unimpeded mobility within buildings;

(d) providing for competing uses of campus grounds and property;

(e) avoiding interference with other University activities;

(f) reasonably limiting costs to the University of increased campus police protection, potential University liability, insurance coverage, and cleanup and repair after an event; and

(g) preserving campus aesthetic values.

In addition to such limits, other restrictions on symbolic structures may also be imposed. For example, depending on experience and context, the President may impose any of the following restrictions: requiring portability so that structures do not remain overnight; prohibiting overnight sleeping in structures; and requiring continual daytime physical presence of persons responsible for the expressive activity.

3. Demonstrations Not Involving Structures

Outdoor picketing, marches, rallies, and other demonstrations are traditional and legitimate forms of self-expression and dissent on campus. Such activities are allowed so long as demonstrators do not disrupt other functions, including, without limitation, regular and special curricular activities, extracurricular activities, academic processions and events, conduct of University business, and employment interviews. The right to free expression here, as in other contexts, requires respect for the rights of others. Outdoor picketing, marches, rallies, and other demonstrations generally pose no threat of long-lasting exclusive use of University grounds or property. No university permit is required for such outdoor activities. The presence of a counter-protest does not itself constitute a disruption to a University function or
authorized event. Moreover, those who oppose a speaker may thus make their views known. Everyone has the right to be heard and to listen to others.

Use of public address systems and amplified sound will be permitted without prior approval during the hours of 12:00 p.m. and 1:00 p.m., at Ho Plaza and in front of Day Hall. Public address systems and amplified sound will be permitted in other outdoor locations only with prior approval. Approval may be obtained using the Event Registration Form located at: https://activities.cornell.edu/EventReg/.

As to indoor demonstrations such as sit-ins, owners of private property, and even the administrators of public property, are not required to permit the occupation of buildings by those who are not present to transact the business or pursue the other purposes that the offices in the building are intended to serve. Classrooms, libraries, laboratories, living units, and faculty and administrative offices are dedicated to specific purposes, which the University must be free to pursue without disruption. The law of trespass and the right of free speech are not mutually exclusive and, indeed, have always coexisted in our legal system.

Accordingly, the President may authorize regulations permitting the use of specific portions of University buildings, provided that such regulations shall not permit the disruption of classrooms, libraries, laboratories, living units, or offices and shall ensure the continuing conduct of University business. No such use shall be permitted beyond 5:00 p.m. or the close of normal business hours, whichever is earlier. Nevertheless, as pointed out elsewhere in this Article, University rooms set aside for the purpose of gatherings involving speech and expression should not be licensed in a manner to deny access to groups sponsoring an unpopular point of view.

Deans, directors, or other heads of each college, school, or other academic unit described in Article I, section 7, of the University Bylaws may submit proposals to the President on the promulgation of such regulations for the use of University buildings assigned to the use of such college, school, or unit. No such regulation shall take effect or continue in effect without the approval of the President.

The President may promulgate regulations governing the use of Day Hall or any other University building not otherwise governed by such regulations. As a practical matter, although demonstrations inside virtually any University building would be disruptive, the working space within Day Hall is especially compact. Almost any assemblage of demonstrators inside the building could be disruptive to Day Hall staff and to others, especially students, seeking access to a Day Hall office for normal business purposes.

4. Disruption of Recruiters

As long as a recruiter is on campus in accordance with ordinary University processes, a demonstration or protest that intentionally disrupts recruitment activity should be and is a violation of University conduct regulations and should not be tolerated.

The right to express one’s views should not extend so far as to infringe upon another University community member’s right to participate in a recruitment interview or information session with a recruiter who is on campus in accordance with ordinary University processes.
C. Consultation Groups

The President is authorized and encouraged to appoint a standing committee to study and report to the President on significant policy issues concerning the protection of freedom of expression on campus. The committee should study any issue presented to it by the President. It should also receive petitions or inquiries from members of the University community, but should limit its attention to issues that involve important matters of a policy nature. Thus, the committee could study an individual’s charge that University officials are not adequately enforcing the policy against disrupting public speakers or that they are imposing unreasonable constraints upon the right to protest or demonstrate peacefully and lawfully on campus. The committee should not function as an adjudicatory body, or receive any complaint about or continue considering any issue arising from a campus incident after a disciplinary proceeding growing out of that incident and involving the same or similar issues has been initiated, until any such disciplinary proceeding has been completed. Any report issued by the committee should go to the President and should be available thereafter to the University community. The report would be advisory only.

The President may consult with the Executive Committee of the University Assembly, or appoint an ad hoc committee to advise the President, concerning appropriate administrative policy in the face of protest and demonstrations.

Article IV. Amendment of Code

A. Title Four

The Regulations for Maintenance of Public Order were adopted by the Board of Trustees and may be amended only by action of the Board of Trustees, upon the recommendation of or after consultation with the University Assembly.

B. Titles One, Two, and Three

All other Titles of this Code may be amended by the University Assembly, subject to the approval of the President.
TITLE TWO: CONSTITUTIVE PROVISIONS ON JUDICIAL SYSTEM

Article I. Judicial Jurisdiction

A. Jurisdiction in General

All violations of the Campus Code of Conduct by a student, member of the University faculty, other employee of the University, or University-registered organization shall be processed through the campus judicial system, consistent with the principles stated in Article II of Title One, except as otherwise provided in Section C below.

B. Jurisdiction over Students

1. The term student shall be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with the University as:

   a. a degree candidate in any of Cornell’s undergraduate or graduate divisions;

   b. a special student in the undergraduate divisions; or

   c. a non-degree-candidate in the graduate school.

2. The term student shall be interpreted to mean also persons not officially registered, and not faculty members or other University employees, if they are:

   a. currently enrolled in or taking classes at the University;

   b. currently using University facilities or property, or the property of a University-related residential organization, in connection with academic activities; or

   c. currently on leave of absence or under suspension from being a student of the University.

C. Jurisdiction over Faculty and Other Employees

1. Faculty members and other University employees include those who are incidentally taking classes at the University.

2. The procedures of this Code shall not apply to faculty members or other University employees who are accused of employment-related misconduct. Instead, the applicable administrative process shall apply, such as that described in Cornell University Policy 6.11.3.
a. Should any accusation or complaint of a Code violation be made to or by a department head, dean, supervisor, or the Judicial Administrator and involve conduct by a faculty member or other University employee clearly arising in the course of employment, then the department head, dean, or appropriate University administrative authority shall determine whether there was a Code violation and shall also assess penalties and/or remedies where appropriate.

(1) The accused may make a jurisdictional appeal to the Judicial Administrator, i.e., raise a question whether the alleged conduct arose in the course of employment and so call for rechanneling into the judicial system.

(2) The accused may make an appeal on the merits of the administrative disposition through appropriate faculty channels or the employee grievance procedure, but not through the judicial system.

b. If an accusation or complaint of a Code violation comes before a department head, dean, or supervisor about conduct by a faculty member or other University employee not arising in the course of employment, or there is uncertainty whether it does, the accusation or complaint shall be referred to the Judicial Administrator for channeling into the administrative process or the judicial system.

c. The criterion on which the Judicial Administrator shall channel between the administrative process and the judicial system is whether the conduct is employment-related. In reaching such a decision, the Judicial Administrator shall consult with the Dean of the Faculty if the case involves a faculty member or the Vice President for Human Resources if the case involves a nonfaculty employee. The Judicial Administrator shall make his or her own decision after such consultation.

d. Upon imposition of a penalty of suspension or dismissal upon a faculty member by the University Hearing Board, the faculty member may choose to appeal to an arbitration committee (as described in Cornell University Policy 6.2.10) in lieu of appeal to the University Review Board. Any penalty imposed on a nonfaculty employee is subject to review either pursuant to the applicable grievance process (such as that described in Cornell University Policy 6.11.4) or by appeal to the University Review Board, as the employee may choose.

Article II. Judicial Offices

A. Office of the Judicial Administrator

1. The Office of the Judicial Administrator receives, investigates, and pursues accusations of violations of the Campus Code of Conduct, or of any other regulation as the University Assembly or Board of Trustees may direct. Anyone can direct such accusations, or any questions about the judicial system, to that office.
2. No employee of the Office of the Judicial Administrator shall be a member of the University, Student, Graduate and Professional, or Employee Assembly, or any of their committees or boards, or of a judicial board. The Judicial Administrator may hire students who have had some legal training to act for the Judicial Administrator.

3. The Judicial Administrator shall be appointed by the President with the concurrence of the University Assembly. Upon the University Assembly chair’s receipt of notice of the Judicial Administrator’s resignation or removal, the chair shall convene a search committee, composed of no more than four members appointed by the University Assembly and no more than two members appointed by the President, to propose two or more nominees to the President. A chair for the search committee shall be jointly selected by the President and University Assembly Executive Committee from one of the appointed members. The President shall appoint a candidate with the concurrence of the University Assembly. The President may ask the search committee to present additional candidates if he or she does not feel that any of the nominees presented merit hire. In the event of an unexpected vacancy, the President shall, with the concurrence of the University Assembly, appoint the Associate Judicial Administrator or other qualified person to serve in an interim capacity until a permanent Judicial Administrator is appointed.

4. The Judicial Administrator shall undergo an annual review, overseen by the Chair of the University Assembly (or designee) and a designee of the President with full participation by the following representatives of the University Assembly and the administration: the Judicial Codes Councilor or their designee, the Chair of the University Assembly’s Codes and Judicial Committee or their designee, two additional members of the University Assembly, and one appointee from the Division of Human Resources. The review shall include both public and private components.

   a. The public component shall afford a general opportunity for the University Community to provide feedback on the performance of the Judicial Administrator. It shall include opportunities for individuals and groups to privately share experiences in specific areas, if any, needing improvement, specific concerns, or instances of dissatisfaction as well as positive experiences and areas of praise. The evaluation process shall also include the opportunity for a reasonable number of those with interactions with the Campus Judicial System such as, but not limited to: chairs and members of the judicial boards, complainants and respondents, other members of the Office of the Judicial Administrator, and Office of the Judicial Codes Councilor to provide feedback in addition to general members of the public. This feedback shall be conveyed privately to the Chair of the University Assembly (or designee) and the President’s designee who shall communicate it as needed to relevant parties such as the Judicial Administrator.

   b. Performance feedback shall be given to the Judicial Administrator by the Chair of the University Assembly and the President’s designee, consistent with the University’s regular system of annual evaluation.

5. The Judicial Administrator shall be solely responsible for the Office of the Judicial Administrator. The Judicial Administrator shall be independent, although an administrative relationship should exist with the University administration that will support that office. He or she shall be subject to removal only by action of the University Assembly or the President.
with the concurrence of the other.

a. The University Assembly may take steps to remove the Judicial Administrator by a majority vote of its seated membership taken at a regularly scheduled meeting. Should the President agree with the action of the University Assembly, the termination of the Judicial Administrator will be implemented. Should the President not agree, and no mutually agreeable resolution is found, the University Assembly may recommend the removal of the Judicial Administrator to the Board of Trustees. The Board of Trustees’ decisions and actions in response to the University Assembly’s recommendation are final.

b. The President may take steps to remove the Judicial Administrator by notifying the Chair of the University Assembly. Should the University Assembly agree with the action of the President via a majority vote of its seated membership taken at a regularly scheduled meeting, the termination of the Judicial Administrator will be implemented. Should the University Assembly not agree after taking a formal vote at a regularly scheduled meeting, and no mutually agreeable resolution is found, the President may recommend the removal of the Judicial Administrator to the Board of Trustees. The Board of Trustees’ decisions and actions in response to the President’s recommendation are final.

6. The Judicial Administrator shall annually report to the President, the University Assembly, and its Codes and Judicial Committee on the operation of the office and the judicial system as a whole.

B. Office of the Judicial Codes Counselor

1. The Office of the Judicial Codes Counselor provides free assistance and representation within the judicial system to those charged with violations of the Campus Code of Conduct and to students charged with violations of the Code of Academic Integrity.

2. To the extent permitted by law, the Judicial Codes Counselor shall not reveal any information provided by the accused, unless the accused expressly requests that the information in question be confided to another person. Although the Judicial Codes Counselor traditionally has had some legal training and is frequently a law school student, the services are not meant to be a substitute for professional legal advice or for the legal assistance provided by an attorney. The Judicial Codes Counselor primarily explains how the judicial system works, and assists the accused in the selection of counsel or an advisor. With the consent of the Judicial Codes Counselor, an accused may choose the Judicial Codes Counselor as the accused’s advisor, in which case the Judicial Codes Counselor may participate fully on behalf of the accused in any hearing.

3. No employee of the Office of the Judicial Codes Counselor shall be a member of the University, Student, Graduate and Professional, or Employee Assembly, or any of their committees or boards, or of a judicial board.

4. The Judicial Codes Counselor shall be appointed for a two-year term. A Judicial Codes Counselor can be reappointed for additional terms. The President shall appoint the Judicial Codes Counselor with the concurrence of the University Assembly, following the procedures
for the appointment of the Judicial Administrator.

5. The Judicial Codes Counselor shall be solely responsible for the Office of the Judicial Codes Counselor. The Judicial Codes Counselor shall be independent, although an administrative relationship should exist with the University administration that will support that office. 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.

Article III. Judicial Participants

A. Complainant and Victim

1. Any student, member of the University faculty, or other employee of the University can allege a violation of this Code, of which he or she was the victim, by filing a complaint with the Judicial Administrator.

2. In cases in which such formal complaint is made by one or more individuals, such individuals shall be designated as the complainants. In cases in which no such formal complaint has been made or pursued, and an investigation is initiated by the Judicial Administrator, the University community shall be designated as the complainant. However, in cases concerning violations against the interests of the University, “Cornell University” (the corporation) may be named as complainant.

3. The complainant and the victim, whether or not he or she is a member of the University community, each shall have the right to be present at any relevant hearing. Each shall have the right to be accompanied at every stage by a personal advisor of that person's choice, but that advisor shall not be a witness and shall not participate in a hearing in the capacity of counsel. The Judicial Administrator shall provide to the complainant and the victim information about the University’s Victim Advocate and other relevant resources, including information about how to file a police complaint.

B. Defense Counsel or Advisor

1. When an accused appears before the Judicial Administrator, the University Hearing Board, the University Review Board, or other University officials acting in a judicial capacity, the accused has the right to be advised and accompanied at every stage by an individual of the accused’s choice. Such counsel or advisor for the accused may be any member of the University community or general public, but shall not be a witness and, except for the Judicial Codes Counselor, shall not normally participate in a hearing in the capacity of counsel. However, for suspension or dismissal to be imposed, such counsel or advisor must have had a reasonable opportunity to participate fully in the hearings.

2. The accused shall have the right to act as his or her own counsel.

3. The accused person shall also have the right to be accompanied at every stage by a
personal supporter of that person’s choice, but that supporter shall not be a witness and shall not participate in a hearing in the capacity of counsel.

Article IV. Judicial Boards

A. University Hearing Board

A five-person panel of the University Hearing Board shall adjudicate cases under the Campus Code of Conduct. The President shall name at least one person, who is a member of the faculty recommended by the Dean of the Faculty and not a member of the University administration, to be a Hearing Board Chair presiding over five-person Hearing Panels’ proceedings but having no vote; that chair shall be appointed for a two-year term, but can be reappointed for additional terms.

B. University Review Board

A three-person panel of the University Review Board shall hear appeals under the Campus Code of Conduct. The President shall name one person, who is a member of the faculty recommended by the Dean of the Faculty and not a member of the University administration, to be the Review Board Chair presiding over three-person Review Panel’s proceedings but having no vote; that chair shall be appointed for a two-year term, but can be reappointed for additional terms.

C. Pool of Board Members

1. The University Hearing Board and University Review Board pool shall comprise 55 members confirmed by the University Assembly: 25 students, 15 faculty members, and 15 nonfaculty employees. Faculty members are nominated by the Dean of the Faculty. For other candidates, the Office of the Assemblies will solicit written applications, and the Codes and Judicial Committee shall nominate candidates to the University Assembly for its confirmation no later than the last regular meeting of the outgoing University Assembly. The University Assembly Executive Committee may make emergency appointments on a temporary basis.

2. No person shall serve on the University Hearing Board and University Review Board pool who is at the same time a member of the University Assembly or its Codes and Judicial Committee or is an employee of the Office of the Assemblies.

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 June 1 of the year appointed. Any appointment to fill a vacancy or to address an emergency 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.

4. All the members of the University Hearing Board and University Review Board pool shall annually elect one Administrative Chair from among those members.

5. Although the judicial boards decide cases and appeals when sitting in panels, the pool as a group, convened by the Administrative Chair, shall perform the following functions:

   a. The judicial boards shall be responsible for establishing their own internal rules and procedures not specified elsewhere, and making them available through the Offices of the Judicial Administrator and the Judicial Codes Counselor.

      (1) Such rules and procedures must be published in the Cornell Chronicle before going into effect.

      (2) Any changes in rules and procedures must be published in the Cornell Chronicle at least 30 calendar days before taking effect.

   b. Upon request, the judicial boards shall report on their operations to the Codes and Judicial Committee of the University Assembly.

6. Training of the members of the University Hearing Board and University Review Board pool will include special training in handling complaints of sexual harassment, abuse, assault, or rape.

**TITLE THREE: REGULATIONS FOR MAINTENANCE OF EDUCATIONAL ENVIRONMENT**

**Article I. Applicability**

This Title shall apply to all students, members of the University faculty, other employees of the University, and University-registered organizations, except that those of the Medical College and the Graduate School of Medical Sciences shall be governed by separate regulations with respect to property and facilities of the Medical College and the Graduate School of Medical Sciences.

This Title shall apply to conduct on any campus of the University, on any other property or facility used by it for educational purposes, or on the property of a University-related residential organization in the Ithaca or Geneva area.

This Title shall also apply to conduct elsewhere if the Judicial Administrator—with the approval of the President or his or her designated representative in the person of the Dean of Students for conduct by students, the Provost for conduct by faculty, or the Vice President for Human Resources for conduct by other employees—considers the conduct to constitute a serious
violation of this Title, in that the conduct poses a substantial threat to the University’s educational mission or property or to the health or safety of University community members.

Article II. 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\(^1\).

   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\(^2\).

   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, regardless of the person’s consent to participate. 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 but not limited to 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; use of firecrackers or flares; or any other acts, whether reckless or intentional, that create a dangerous situation for the safety of another individual (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.

\(^1\) This Code section is subject to the provisions in Appendix A, Article I.
\(^2\) This Code section is subject to the provisions in Appendix A, Article I in cases of sexual harassment.
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.

l. To prevent a person from leaving a location (including part of the location, such as one part of a room) or to force a person to go to a location against his or her will. This is a violation whether accomplished through physical or psychological means.

2. It shall be a violation of this Title, as an offense against the University:

a. To endanger or to cause damage to or loss of property of the University.

b. To misappropriate University funds.

c. To bribe a University official.

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.

e. To furnish false information to the University with intent to deceive.

f. To claim falsely to represent the University or a University-registered organization.

g. To enter upon or make use of University or private property or facilities without authorization.

h. To fail to leave a University building after a fire alarm has sounded or other notice of fire has been given, whether or not a drill.

i. To commit a violation of Article II of Title Four.

3. It shall also be a violation of this Title:
a. To engage in disorderly conduct. Disorderly conduct means intentionally causing, or recklessly creating a risk of, disruption to the University community or local community, including by such acts as (1) violent, tumultuous, or threatening behavior, (2) unreasonably loud or belligerent behavior, or (3) obstruction of vehicular or pedestrian traffic.

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.

c. To traffic, for profit or otherwise, in goods or services in a manner incompatible with the interests of the University community or local community.

d. To unlawfully manufacture, distribute, dispense, possess, use, or sell marijuana or any controlled substances as defined by state or federal law.

e. To defraud, including by such acts as failure to redeem a bad check.

f. To publicly urinate or defecate.

g. To destroy evidence or otherwise obstruct the application of this Code.

h. To assist another person to violate this Title.

i. To incite another person toward a likely and imminent violation of this Title.

j. To attempt to violate this Title.

k. To refuse to participate, without a substantial reason, as a witness in the campus judicial system, as outlined in Title Three, Article III.E.3.b(6)(c).

l. To enter any waters of Fall Creek, Cascadilla Creek, or Beebe Lake that are on or traverse the campus (within the City of Ithaca) for the purpose of swimming or bathing, except in those waters officially designated as swimming or bathing waters.

B. Interpretation

Because the judicial system utilizes the decisions of the University Hearing and Review Boards to define or interpret violations, public records of all decisions of those boards shall be kept on file in the Office of the Judicial Administrator, including a brief summary that describes the nature of the case and its disposition but with names of individuals and other identifying information redacted.
Article III. Procedures

A. Initial Investigation

1. The Judicial Administrator shall promptly cause an investigation to be made:

   a. upon receiving a complaint alleging a violation of this Code by a student or University-registered organization or a non-employment-related violation by a faculty member or other University employee;

   b. upon determining that a complaint referred to him or her by a department head, dean, or supervisor, or by means of a jurisdictional appeal, is non-employment-related; or

   c. upon receiving information that a violation of this Code may have occurred when no formal complaint has been made or pursued.

2. During the course of an investigation, the Judicial Administrator, before filing formal charges, may interview the persons involved. Prior to any such interview the Judicial Administrator shall, in writing, inform the person of:

   a. the matter to be discussed and the person’s alleged relationship to it; and

   b. the services of and contact information for the Office of the Judicial Codes Counselor.

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. 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 No-Contact Directive.

   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 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 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 No-Contact Directive or lift such a suspension if he or she determines that the circumstances no longer require such action.

3. Temporary Suspension Pending Resolution

a. Suspension of an Individual

(1) In extraordinary circumstances and for the purpose of ensuring public order and safety, the President or a designated representative shall have discretionary power to suspend the accused pending resolution of the underlying case. Suspension in the case of a student may include the withdrawal of any or all University privileges and services, including class attendance, participation in examinations, and utilization of University premises and facilities, as determined by the President or his or her designee.

(2) The Judicial Administrator may accept from the President this power to suspend temporarily, but only if the Judicial Administrator can exercise the power at his or her own discretion.

b. Suspension of a University-Registered Organization

(1) In extraordinary circumstances and for the purpose of ensuring public order and safety, the President or a designated representative, after consulting with the Office of the Dean of Students and/or other offices as deemed appropriate, shall have discretionary power to suspend the activities of a University-registered organization pending resolution of the underlying case.

(2) The Judicial Administrator may accept from the President this power to suspend temporarily, but only if the Judicial Administrator can exercise the power at his or her own discretion after consulting with the Office of the Dean of Students and/or other offices as deemed appropriate.

c. When the President or his or her designee exercises this power to suspend temporarily, these procedures shall be followed:

(1) In the case of such suspension, the accused may petition the University Hearing Board in writing for a review of the suspension. 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.
(2) If the University Hearing Board determines that (1) good cause has not been shown for the exercise of the President’s suspension power or (2) that circumstances have changed so that suspension is no longer necessary, the suspension shall be lifted immediately.

(3) If the suspension remains in effect after the University Hearing Board’s initial meeting, that board may decide to reconvene, upon motion by any member or the chair of the panel or upon the request of the suspended person or University-registered organization, to determine whether circumstances no longer require suspension.

C. Summary Decision or No Action

1. The Judicial Administrator shall determine, without undue delay, whether to offer a summary decision, to file formal charges, or to take no action.

2. The Judicial Administrator and the accused may agree, in writing, to a summary decision at any time, but typically prior to a matter going to a hearing before the University Hearing Board. If a Summary Decision Agreement is reached, the Judicial Administrator shall:

   a. send a notice of formal accusation and of the provisions of the summary decision to the accused; and

   b. notify the Judicial Codes Counselor of each summary decision as soon as possible, if the Judicial Administrator has learned that the accused has consulted the Judicial Codes Counselor.

3. In the event that this summary procedure is employed:

   a. All penalties and remedies listed in Article IV may be assessed via summary decision. In the case of suspension or dismissal, however, the Judicial Administrator must obtain the approval of a Hearing Board Chair, to insure against the possibility of intimidation or coercion in the negotiations; the Judicial Administrator must do so prior to reaching agreement, but may address the Hearing Board Chair without the participation of the accused.

   b. The accused may withdraw approval of the summary decision by written request to the Judicial Administrator within the two business days following receipt of the notice described in item 2(a) of this section.

4. In the event the Judicial Administrator determines to take no action, the Judicial Administrator shall notify the accused of such decision.

5. Except as noted below, the Judicial Administrator shall notify the complainant no more than five business days after the deadline for the accused to revoke the summary decision or after the Judicial Administrator otherwise decides not to file charges. If the Judicial
Administrator notified the complainant at a time the summary decision may still be revoked by the accused, this information must be provided to the complainant. For University complainants, the Judicial Administrator need notify the complainant only:

i. in a case where the University complainant submitted a written request for notification at the time the complaint is lodged; and

ii. in specific cases, limited to cases involving any violence or threatened violence against another person, violations of the Financial Irregularities Policy, and fraud or theft against the University in an amount exceeding $100.

6. If the complainant is dissatisfied with the summary decision or with the decision of the Judicial Administrator not to file charges, he, she, or it may petition the Judicial Administrator in writing to show cause for the decision before the University Hearing Board. This petition must be received by the Judicial Administrator within eight business days after the complainant’s receipt of the Judicial Administrator’s notice of the nonaction or within three business days after the deadline for the accused to revoke the summary action. The Judicial Administrator shall promptly forward the petition to a Hearing Board Chair. The University Hearing Board shall meet to consider the petition within 21 calendar days of receipt of the petition by the Judicial Administrator. That board can:

a. uphold the decision of the Judicial Administrator in whole or in part;

b. order the Judicial Administrator to reopen the investigation; or

c. order the Judicial Administrator to file charges so that the case can be adjudicated by the University Hearing Board.

D. Formal Charges

1. Notification of Charges

a. If, as a result of an investigation, the Judicial Administrator determines that there is reasonable cause to believe that a violation has been committed, and a Summary Decision Agreement has not been reached, then the Judicial Administrator shall promptly refer the case to the University Hearing Board by filing charges with a Hearing Board Chair.

1) The Judicial Administrator shall make a good faith effort to serve notice of the charges on the accused (or on an officer of record of an accused University-registered organization) within seven calendar days of the filing of charges:

(a) by personal service; or, if personal service is impossible to effect after diligent effort,

(b) by certified mail, return receipt requested, to the accused’s last known local or permanent address; or, if such mailed notice is impossible to effect,
(c) by a means reasonably calculated to result in actual notice.

(2) Notice of the charges shall contain:

(a) the charges in the form of a formal accusation;

(b) instructions to contact the Judicial Administrator within four business days of the accused’s receipt of notice, so that a time for appearance of the accused before the Judicial Administrator may be agreed upon;

(c) notice of the nature of the evidence to be used against the accused; and

(d) a brief summary of the services of and contact information for the Office of the Judicial Codes Counselor.

b. The Judicial Administrator shall provide a copy of charges made against the accused on request of University officials, the Judicial Codes Counselor, or any other officer or board of the judicial system.

2. If the accused does appear, the Judicial Administrator shall again advise the accused of access to the Office of the Judicial Codes Counselor, and shall refer the accused to this Code and available supplementary information so that the accused can learn of:

a. the procedures of the Office of the Judicial Administrator and the judicial boards;

b. the accused’s right to be accompanied by counsel or an advisor of the accused’s choice;

c. the alternative administrative process provided for employment-related cases; and

d. other rights and options that may be available to the accused.

3. If the accused fails to respond within the four-day period or to agree to appear within a reasonable time, the Judicial Administrator may, in his or her discretion, forward the case to the University Hearing Board. In the alternative, deeming the accused to have waived the right to a hearing, the Judicial Administrator may proceed to find the accused to have violated this Code and directly impose a penalty in the form of oral warning, educational steps, community work, or fine as listed in Article IV. Unless the Judicial Administrator, in his or her discretion, decides to set aside such default for good cause shown, such direct penalty will stand as the equivalent of a decision of the University Hearing Board, subject only to appeal to the University Review Board.

4. Limitations Period

Any charge of a violation of this Code must be initiated by the filing of charges by the Judicial Administrator within one calendar year of the date of the alleged violation. Exceptions to this policy that extend the period beyond one year are:

a. In cases where the charge involves fraud, the period shall be one calendar year from
the alleged fraud or 60 calendar days from the filing of a complaint alleging fraud, whichever is longer, but in any event no more than three calendar years from the alleged fraud.

b. In cases where the individual to be charged is absent from the University because of either (1) a leave of absence, (2) a termination of employment, or (3) a withdrawal as a student, a charge may be brought within one calendar year of the alleged violation or within 60 calendar days of his or her return to the jurisdiction of the University judicial system, whichever is later.

c. In cases where the individual to be charged is facing public prosecution involving the same matters, a charge may be brought within 60 calendar days of the final disposition of such prosecution. Should it appear that the individual will leave the University before such time, the President or his or her designee may cause the individual’s degree to be withheld for the period in which the Judicial Administrator may file charges.

d. The Judicial Administrator may request a Hearing Board Chair to extend any limitations period by up to an additional six calendar months, without required notice to any other person but upon a showing of special circumstances justifying such an extension, provided that the Judicial Administrator delivers such written request to a Hearing Board Chair prior to the expiration of that period.

E. Hearing Procedures

1. Circumstances Requiring Hearing

   a. The complainant may petition in writing for a review of the nonaction or summary action by the Judicial Administrator on the complaint.

   b. The accused may petition in writing for a review of his, her, or its temporary suspension imposed by the Judicial Administrator or by the President or his or her designee.

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

   d. The Judicial Administrator may request a hearing by filing charges.

   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.

2. Preparations for Hearing

   a. The University Hearing Board shall hold a hearing within 21 calendar days of receipt of charges or petition by the Hearing Board Chair, unless otherwise provided by the Code, postponed by agreement of the parties, or postponed by the Hearing Board Chair for good cause shown.
b. In any case referred to the University Hearing Board for a hearing:

(1) The Judicial Administrator shall make a good faith effort to give notice of the hearing no later than seven business days in advance of the hearing, unless the accused agrees to a shorter time:

(a) to the accused in the manner for notification of charges;

(b) to the complainant by regular United States mail or by e-mail; and

(c) to the Judicial Codes Counselor by campus mail, e-mail, or telephone, if the Judicial Administrator has learned that the accused has consulted the Judicial Codes Counselor.

(2) This notice shall contain:

(a) the time and place of the hearing;

(b) specification of the charges against the accused; and

(c) statement of the accused’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.

c. Names and written statements of any witnesses to be called 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. The University Hearing Board, in its discretion, may exclude a witness’s testimony if it determines that the Judicial Administrator or the accused has failed to comply with this provision as to that witness.

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.

3. University Hearing Board

a. Composition

(1) In cases involving complaints against students or University-registered organizations, a Hearing Panel shall be composed of three students, one faculty member, and one nonfaculty employee, all drawn from the University Hearing Board and University Review Board pool, except that in cases of sexual harassment, abuse, assault,
or rape the complainant, victim or the accused may opt for a Hearing Panel composed of three faculty members and two nonfaculty employees drawn from that pool.

2) In cases involving complaints against faculty members, a Hearing Panel shall be composed of three faculty members, one student, and one nonfaculty employee, all from that pool.

3) In cases involving complaints against nonfaculty employees, a Hearing Panel shall be composed of three nonfaculty employees, one student, and one faculty member, all from that pool.

4) Selection of a Hearing Panel, whenever one is needed, shall be made randomly by the Administrative Chair of that pool.

5) A member of the Hearing Panel may voluntarily withdraw from participation in any case by reason of a conflict of interest or any other good cause. Knowledge of the events at issue shall not disqualify a member, unless he or she has first-hand knowledge of the events at issue, has been directly involved in those events, or is personally interested with regard to the outcome, in which circumstance the member shall be excused by vote of the Hearing Panel. Any person aware of such circumstance concerning a member shall call it to the attention of the Hearing Board Chair. In the event that a member withdraws or is excused, an alternate member shall be randomly selected by the Administrative Chair.

b. Panel Procedures

1) The Hearing Board Chair shall have the right to convene the Hearing Panel. The Hearing Board Chair shall conduct the proceedings and maintain order in the hearing room.

(a) He or she shall make procedural rulings before or at the hearing, applying these procedures and the procedures developed by the University Hearing Board, so as to assure fairness and to avoid undue delay.

(b) However, all procedural rulings of the Hearing Board Chair, other than a decision to postpone the initial convening of a hearing, shall be subject to the approval and concurrence of the Hearing Panel as a whole. The Hearing Panel may overrule the procedural rulings of the Hearing Board Chair by ordinary majority vote.

2) At least four members of a five-person Hearing Panel must sit for a given case, in addition to the nonvoting Hearing Board Chair, and at least three votes shall be required for any decision.

3) Cases that present common questions of law or fact and that would come before a panel of like composition may be joined for hearing.
(a) For joint hearing, the Judicial Administrator must affirm in writing that each accused performed acts sufficiently similar that the facts presented in evidence would not differ materially from one accused to another. In such case, the Hearing Board Chair may order joinder of such cases for hearing.

(b) Any accused, whose case is joined, may request in writing to be excluded from the joint hearing on the ground that (i) the accused is not charged with the same offense, at the same time and place, or (ii) that the facts relevant to the accused would differ materially from the facts relevant to the others. Such case, with the consent of the Judicial Administrator or at the direction of the Hearing Board Chair, may be severed from the joint hearing.

(c) The Hearing Panel may permit any accused tried jointly and found to have violated this Code to submit either a written or oral statement regarding mitigating circumstances, and must permit such a statement before imposing a penalty of dismissal or of suspension for the balance of a term or longer. The Hearing Panel shall consider differences among the conduct and circumstances of each accused before imposing any penalty.

4. At the hearing, the case shall be presented by the Judicial Administrator in the name of the complainant. But failure of an individual complainant to appear at the hearing, unless excused by the Hearing Panel for good cause shown, shall result in a loss of his or her right to the assessment in his or her favor of a remedy (which means restitution to the complainant or order to the offender, as opposed to a penalty) by the Hearing Panel.

5. The failure of the accused to appear at the time and place designated for the accused’s appearance before the Hearing Panel empowers the Hearing Panel to:

   (a) impose a temporary suspension, pending the accused’s appearance;

   (b) find the accused to have violated this Code and impose appropriate penalties and/or remedies, but the Hearing Panel may do so only if the Judicial Administrator shows that the accused received notice of the hearing, or that the procedures for notifying the accused were followed, and submits information sufficient to establish the allegations in the charges; or

   (c) excuse the failure to appear for good cause shown, in which case the accused shall have the option of having the case heard in absentia, with the privilege of submitting written evidence, or of having a new date set for a hearing.

6. The Hearing Panel shall endeavor to evaluate all relevant facts of a given case at the hearing. It shall receive relevant information that is reasonably reliable, but need not accept as evidence accounts of the accused’s statements by the Judicial Administrator. Strict rules of evidence shall not apply, and the Hearing Panel shall have the power to establish its own rules of evidence, subject to the following exceptions:
(a) Confidential relationships currently protected under state or federal law shall be protected.

(b) Evidence of a victim’s sexual conduct shall not be admissible unless fairness to the accused requires consideration of such evidence, consistent with practice under section 60.42 of the New York Penal Law.

(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. In particular, to avoid the risk of intimidation in cases of sexual harassment, abuse, assault, or rape, the Hearing Board Chair shall require cross-examination of the complainant or victim to be conducted by written questions submitted in advance or in real time, including follow-up questions, and read aloud to the witness by the Hearing Board Chair, if the witness so requests. 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 nontestifying 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.

(d) No accused person shall be denied the right to present evidence and witnesses in his or her own behalf.

(e) No accused person shall be compelled to testify against himself or herself. The hearing can proceed even if he or she chooses to remain silent.

(7) All hearings shall be private unless (a) the accused notifies the Judicial Administrator, no later than two business days before the hearing, that he or she wishes a public hearing and (b) the Hearing Board Chair determines that a public hearing would not result in undue intimidation of the complainant, the victim, or the witnesses. In cases of sexual harassment, abuse, assault, or rape, all hearings shall be private, with the accused having no option of requesting a public hearing; and in such cases, if either the accused, the complainant, the victim, or the Judicial Administrator requests that the proceedings be conducted in a fashion such that the accused and the complainant or victim
be separated or such that the intimidation of the complainant or victim be otherwise reduced, the Hearing Board Chair, after determining appropriateness, shall make suitable arrangements to accomplish this. In the event of a public hearing, the Hearing Board Chair shall convene it in quarters that accommodate a reasonable number of the public, but may limit the number in the interest of preserving the decorum and dignity of the proceedings. Witnesses shall be excluded from all hearings, except for the period of their questioning. Witnesses shall not see or hear other evidence presented at the hearing, such as any police report, except as the Hearing Board Chair determines to be appropriate. All deliberations by the Hearing Panel and Hearing Board Chair shall be private.

(8) A verbatim record shall be kept of all hearings, but not of deliberations, and made available to the complainant within the allotted time for filing an appeal, and to the accused at any time.

(9) The Hearing Panel shall proceed to a decision as expeditiously as possible, and then shall notify the Judicial Administrator of its decision without delay. All decisions by the Hearing Panel shall be in writing, including a rationale and any dissenting opinions. The burden of proof on violation shall rest on the complainant, and the standard of proof on violation shall be clear and convincing evidence, which is a higher standard than the civil law’s more-likely-than-not standard but a lower standard than the criminal law’s beyond-a-reasonable-doubt standard. After hearing, the Hearing Panel can:

(a) sustain a defense of lack of jurisdiction or other inapplicability of this Code, including that off-campus conduct did not meet the requirement of being a serious violation of this Title, and dismiss the case, although any such defense shall be deemed waived if not raised by the conclusion of the hearing;

(b) find the accused did not violate this Code and dismiss the case; or

(c) find the accused violated this Code and impose a penalty and/or remedy.

(10) The Judicial Administrator shall serve written notice of the decision of the Hearing Panel on the accused and the complainant within five business days of the Judicial Administrator’s receipt of the written decision. The accused shall be provided with a full copy of the decision. The complainant shall be provided a copy of the decision with names of individuals and other identifying information redacted.

F. Appeal Procedures

1. University Review Board

   a. Composition

   3 For some violations, a different standard of evidence is required. See Appendix A, Article I.
(1) A Review Panel shall consist of three voting members: one student, one faculty member, and one nonfaculty employee.

(2) The members of the Review Panel, for any one appeal, shall be selected in the same manner as the members of a Hearing Panel from the University Hearing Board and University Review Board pool. But no person who served on the Hearing Panel shall sit on the Review Panel in the same case.

b. Panel Procedures

(1) Right to Appeal

(a) An accused against whom a penalty has been imposed or a remedy assessed by a Hearing Panel shall have the right to appeal the decision to the Review Panel.

(b) Any complainant, other than the University community as defined in Article III.A.2 of Title Two, shall have the right to appeal a Hearing Panel decision to the Review Panel if remedies were sought or if other laws or regulations require allowing such appeal.

(c) The Judicial Administrator shall have the right to appeal the penalty imposed by a Hearing Panel.

(2) Appeals may be grounded only upon the complainant’s belief that the remedy awarded the complainant is not commensurate with the injury, upon the Judicial Administrator’s belief that the penalty is not commensurate with the violation, or upon the accused’s belief that:

(a) the Hearing Panel violated the fair application of the procedures established by the Board of Trustees, the University Assembly, or the University Hearing Board, and such violation may have had a prejudicial effect upon the outcome of the hearing;

(b) the Hearing Panel committed a prejudicial error in interpreting this Code or rendered a decision clearly against the evidence;

(c) new evidence was discovered after the hearing and could not have readily been discovered before the hearing, and such evidence might have had an effect upon the outcome of the hearing; or

(d) the penalty and/or remedy imposed upon the accused is unjust.

(3) Notification of Appeal

---

4 For some violations, the complainant must have the same rights of appeal as the accused. See Appendix A, Article I.
5 For some violations, the complainant must have the same rights of appeal as the accused. See Appendix A, Article I.
(a) The appellant shall file written notice of appeal with the Judicial Administrator within ten business days of the appellant’s receipt of the notice of the decision. The Judicial Administrator shall refer the notice of appeal to the Review Board Chair without delay.

(b) The appellant and the respondent (if there is one other than the Judicial Administrator) shall be notified by the Judicial Administrator of the time of the appeal’s hearing no later than seven business days after the notice of appeal is filed, and no fewer than seven business days in advance of the appeal’s hearing.

(4) The Review Board Chair shall have the right to convene the Review Panel and shall conduct the appeal in a manner similar to a Hearing Panel proceeding. The Review Panel shall meet to hear an appeal within 21 calendar days after the notice of appeal is filed, unless a postponement is granted by the Review Board Chair for good cause shown.

(5) Decision of the Review Panel shall be rendered by a majority vote of the members present, and the majority of the members, in addition to the nonvoting Review Board Chair, shall constitute a quorum for any hearing of the appeal.

(6) The Review Panel shall determine whether its hearings shall be conducted in public or in private. However, all deliberations of the Review Panel and Review Board Chair shall be private.

(7) Disposition of Appeal

(a) Any decision of the Review Panel shall be based solely on the record and, in appropriate cases, upon a showing of new evidence relevant to the grounds for appeal. All decisions shall be in writing, including a rationale and dissenting opinions. Findings of fact shall not be set aside unless clearly erroneous, and harmless errors shall be ignored.

(b) The decision shall be affirmance unless the Review Panel sustains one of the above-specified grounds for appeal, in which case the Review Panel can:

(i) reverse a finding of violation;

(ii) alter a penalty or modify a remedy, if necessary and appropriate in the interests of justice;

(iii) remand a case to the Hearing Panel from which it originated for a new hearing; or

(iv) remand a case to a newly composed Hearing Panel if there were procedural violations.

(c) If the Review Panel calls for new evidence, it shall remand the case to the Hearing Panel from which it originated for a new hearing.
2. No final decision of this judicial system shall be reviewed by any other authority within the University, except that either the Judicial Administrator or the accused may appeal the penalty imposed by the Review Panel for violations involving acts or threats of violence, including sexual assault. Such appeal shall be to the President within fifteen business days of the appellant’s receipt of the Review Panel’s decision. The appeal shall be a written petition with the opportunity for the other party to respond; no oral argument shall be heard. The President may alter the penalty only by a written and reasoned opinion.

G. General Procedures

1. Deadlines

   a. In computing any time period specified in this Code, the day of the event, act, or default that initiates the period shall be excluded.

   b. The Judicial Administrator and other parties to the hearings must make good faith efforts to meet the deadlines for conducting hearings outlined by this Code. If the deadlines cannot be met, however, the hearings must be held as soon as practicable.

2. Legal Advisor

   The Hearing Panel or the Review Panel may appoint an independent legal advisor who shall advise that board on all legal matters relating to the performance of its responsibilities, and who may be present during any hearings and, upon the invitation of that board, during deliberations.

3. Witness Immunity

   The Judicial Administrator, the Hearing Panel, or the Review Panel may grant to witnesses transactional immunity from proceedings within the judicial system.

4. Confidentiality

   a. All who are involved in the complaint, investigation, hearing, appeal, and reporting processes are obliged to maintain confidentiality of the proceedings, except as otherwise specifically provided in this Code. They shall protect the confidentiality of all judicial records, except those records specifically referred to in Article II.B. Copies of judicial records shall not be released to outside sources without written consent of the subject of such record, except as provided in subsection (b) below.

   b. The University will take reasonable measures to ensure the confidentiality of the proceedings and records; however, the University cannot and does not guarantee that confidentiality can or will always be maintained. Additionally, the University may disclose judicial records or otherwise confidential information:

      i. when required by law; or,
ii. when authorized by law and necessary to protect the safety or well-being of the University community members, or to preserve the integrity of proceedings under this Code; or,

iii. with respect to the judicial records of University registered organizations only, when deemed necessary to educate the University community or to provide information to the University community about the organization’s conduct.

c. Notification of the offender’s violations, penalties, and remedies shall be sent as directed by the Hearing Panel or Review Panel to the University officials necessary to make the penalties and remedies effective, and to other persons who might provide counseling assistance to the offender.

5. Record Keeping

a. The Office of the Judicial Administrator shall retain records of all complaints, orders, charges, proceedings, and decisions in accordance with that office’s internal records management practices and Cornell University Policy 4.7.

b. Violations, penalties, and remedies shall be recorded in the Office of the Judicial Administrator and/or Director of Cornell Police in all cases arising under this judicial system. However, only a penalty of written reprimand, probation, suspension, or dismissal creates a disciplinary record.

Article IV. Penalties and Related Provisions

A. Penalties

1. The following penalties may be imposed, or imposed and deferred as specified in the summary decision or board decision, provided that no person shall endure cruel and unusual punishment. In situations where an individual is both taking classes and on the University payroll, appropriate penalties may come from either or both Subsections a and b.

   a. Students

      (1) Oral warning.

      (2) Appropriate educational steps (such as referrals for alcohol or drug education, reflection papers, counseling, letters of apology, or directed study).

      (3) Community work, which shall not be more than 80 hours per violation, and must be performed in a manner acceptable to the Judicial Administrator.

      (4) Fine of not less than $20 nor more than $500 payable to the University Treasurer.
(5) Restriction or loss of specified privileges for a stated period not to exceed one year, including for example:

(a) in cases of misconduct in connection with University services or facilities, the student being prohibited from further use of those services or facilities other than in the course of his or her work or study; or

(b) in cases of misconduct in connection with University-owned or University-operated housing, the student being ordered to vacate such housing.

(6) Written reprimand.

(7) Probation for a stated period.

(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.

(9) Dismissal, i.e., expulsion from the University.

b. Faculty and Other Employees

(1) Oral warning, educational steps, community work, and fine, as provided for student offenders.

(2) Written reprimand.

(3) Suspension from University duties for a stated period not to exceed one month, with loss of salary but without loss of other rights or privileges.

(4) Dismissal from University employ, with termination of any contract or tenure.

c. University-Registered Organizations

(1) Appropriate educational steps for members of the organization (such as referrals for alcohol or drug education, reflection papers, counseling, letters of apology, or directed study).
(2) Community work performed by members in a manner acceptable to the Judicial Administrator.

(3) Fine of not less than $25 nor more than $500 payable to the University Treasurer.

(4) Restriction or loss of specified privileges for a stated period not to exceed one year.

(5) Written reprimand.

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

(7) Dismissal, i.e., recision of permission to operate on University property.

2. An offender’s prior record of violations under this Code should be considered in the imposition of a penalty.

   a. Ordinarily, the penalty for a second violation, whenever such violation occurs, should be more severe than for a first violation.

   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.

3. Without intending to limit the assessor’s ultimate discretion, certain types of violations are so fundamentally inconsistent with the University’s educational mission that, absent unusual mitigating factors, a sanction of substantial suspension or dismissal ordinarily should be imposed. Such violations include acts of violence, including sexual violence; violations that are motivated by bias based on disability, ethnicity, gender, national origin, race, religion, sexual orientation or affectional preference, or any other suspect or invidious category; or any other violation that substantially threatens the University’s educational mission or property or the health or safety of University community members.

B. Remedies

The following remedies may be imposed:

1. Restitution to the University or to the victim of the violation.

2. Order to the offender to perform, or to cease and desist from, stated actions.
C. Compliance

1. An official transcript issued during the pendency of charges shall indicate that charges are pending, accompanied by a complete recitation of the pending charges. The University, upon request of the person seeking the transcript, shall notify that person of the final judgment in the case. The University may withhold awarding a degree otherwise earned until the completion of proceedings, including compliance with a prescribed penalty or remedy.

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.

3. No official transcript or degree will be granted to any person who has been found in violation of this Code and who has not fulfilled any condition or requirement fixed as a penalty or remedy, but such official transcript or degree shall be granted upon fulfillment of all such outstanding obligations.

D. Other Proceedings

1. Any Title of this Code and the penalties and remedies imposed thereunder shall not be deemed exclusive of and shall not preclude resort to any applicable state, federal, or local law or ordinance or other University regulations and procedures. They shall not be deemed to limit the right of the University or of any person to take such additional action as may seem appropriate or necessary to maintain public order and safety and to protect legal rights.

2. Imposition of any penalty or remedy under any Title shall not preclude the imposition of any other penalty or remedy under this Code.

TITLE FOUR: REGULATIONS FOR MAINTENANCE OF PUBLIC ORDER

Article I. Applicability
This Title shall apply to all persons and organizations, including visitors and other licensees and invitees, on any campus of the University, on any other property or facility used by it for educational purposes, or on the property of a University-related residential organization in the
Ithaca or Geneva area, except that students, members of the University faculty, other employees of the University, and University-registered organizations of the Medical College and the Graduate School of Medical Sciences shall be governed by separate regulations with respect to property and facilities of the Medical College and the Graduate School of Medical Sciences.

**Article II. Violations**

**A. Listing**

It shall be a violation of this Title:

1. To disrupt or obstruct or attempt to disrupt or obstruct any instructional, research, service, judicial, or other University operation or function or to interfere with or attempt to interfere with the lawful exercise of freedom of speech, freedom of movement, freedom of peaceable assembly, or other right of an individual, by any action including but not limited to the following:

   a. by intentionally using or threatening physical force or violence to harass, endanger, injure, abuse, intimidate, or coerce another person, or to cause damage to or loss of property;

   b. by intentionally obstructing or causing to be obstructed the lawful use of, access to, or egress from University premises or portions thereof, or by making unauthorized entry upon or use of a University property or facility or by unlawfully remaining in or on the same;

   c. by intentionally obstructing or restraining the lawful movement of another person or obstructing or restraining his or her lawful participation in an authorized activity or event, such as regular and special curricular activities, extracurricular activities, and employment interviews; or

   d. by intentionally inciting another person toward a likely and imminent violation of this Subsection 1.

2. To refuse to comply with any lawful order of a clearly identifiable University official acting in the performance of his or her duties, or with a policy that has been duly promulgated by the University or any college, department, or unit thereof, whether or not the policy has been issued in the standardized University format.

3. To possess, carry, or use firearms (including rifles or shotguns), ammunition, explosives, or other dangerous weapons, instruments, or substances in or upon University premises, except by law enforcement officers or except as specifically authorized by the University.

4. To engage in any action or situation that intentionally or recklessly endangers mental or physical health or involves the forced consumption of alcohol or drugs, for the purpose of initiation into or affiliation with any group or organization.
5. To use ethnicity, gender, national origin, political persuasion, race, religion, or sexual orientation or affectional preference as a criterion for admission or seating at public speaking events advertised as open to the University community.

6. To disrupt or obstruct or attempt to disrupt or obstruct any speaker invited to appear on the campus by the University or a University-recognized organization.

7. To build a structure on the campus without a permit or in violation of the conditions of a permit, and to refuse to dismantle it or discontinue the nonconforming feature upon the lawful direction of an authorized University official.

8. To disrupt or attempt to disrupt intentionally any recruitment activity of a recruiter who is on campus in accordance with ordinary University processes.

9. To fail to comply with any time, place, and manner regulation authorized by Article III of Title One.

B. Interpretation

Consistent with these regulations making it an offense "to interfere with or attempt to interfere with the lawful exercise of freedom of speech, freedom of movement, freedom of peaceable assembly, or other right of an individual," this Title shall not be interpreted to permit the unlawful interference with such rights, as protected by the constitutions and laws of the United States and the State of New York. Nothing in this Title or any other University regulation, however, shall be interpreted to limit or prevent the University from seeking, without unlawfully interfering with any of the rights described, (1) to enforce the laws respecting trespass or (2) to regulate lawfully the use of University property. Nothing shall be deemed to impair the right of the University to take such action as may be necessary or appropriate for the purposes of construction and repair of facilities, of regulating vehicular and pedestrian traffic, and of maintaining public order and safety. And nothing shall be deemed to impair the right of the University to take such nondisciplinary administrative action as may be necessary or appropriate to maintain public order and safety.

Article III. Procedures

A. Immediate Enforcement

The President or a designated representative shall be responsible for initiating and ensuring the prompt enforcement of this Title. For conduct that violates this Title, individuals and organizations may be ejected from the University campus, property, or facility, or any part thereof by the President or his or her designee acting in the following manner:

1. When the continued presence of an individual poses a clear and present danger to the public order or to the security of any property or the safety of any person, the individual may be ejected, but only until a hearing before the University Hearing Board.

2. In the case of an organization that authorizes conduct posing such a clear and present
danger, the President or his or designee may rescind permission for that organization to operate on University property and rescind the registration of the organization, but only until a hearing before the University Hearing Board.

3. The University Hearing Board shall meet to review such action within five business days after the day on which the alleged offense occurred.

B. Disciplinary Process

For procedures, this Title adopts the provisions of Titles Two and Three prevailing at the time of the violation, except in the following particulars:

1. The President or his or designee shall perform the functions of the Judicial Administrator. In the case of service upon the President of any notice, including a notice of appeal, delivery to the office of the President or his or her designee shall constitute sufficient service.

2. In the event that a violation of this Title should also constitute a violation of other University regulations, including Title Three, the President or his or designee may, in his or her discretion, determine to handle the hearing and appeal of all such violations in one proceeding pursuant to the procedures of this Title.

3. Additionally, the President or his or her designee shall have the right to appeal a Hearing Panel final decision to the Review Panel on the grounds that the Hearing Panel committed a prejudicial error in interpreting this Code or rendered a decision clearly against the evidence, by filing written notice of appeal with the Review Board Chair within five business days of receipt of the notice of decision.

Article IV. Penalties and Related Provisions

For penalties and related provisions, this Title adopts the provisions of Article IV of Title Three prevailing at the time of the violation.
APPENDIX A: Additional Policies Appended To the Code

Article I.  Procedures for Violations Involving Sexual Violence and Sexual Assault

Offenses involving sexual violence and sexual harassment, while still violations of the Campus Code of Conduct, will be investigated and adjudicated under Cornell University Policy 6.4 until such time as the Code is amended to fulfill requirements of Title IX.

To assist readers in interpreting the Campus Code of Conduct (the Code), references to this language have been made by footnotes throughout the Code; however, the text may apply to other sections of the Code even if no explicit footnote reference is provided.
I. Overriding Principles.

II. Procedures That Apply to All Hearings.

III. Types of Hearings and Unique Procedures for Each.

IV. Dates of Acceptance of Procedures, Publication in the Chronicle and When Procedures Effective.

V. Miscellaneous.

I. Overriding Principles.

   A. Every person involved in Cornell University’s disciplinary system is expected to follow the procedures and policies of the Cornell University Campus Code of Conduct (Code) and the procedures articulated in this document (UHB Procedures).

   B. The UHB Procedures explain and interpret the Code. To the extent the UHB Procedures, or any individual procedure, is determined to be inconsistent with the Code, it is null and void.

II. Procedures That Apply to All Hearings.

   A. Selection of the Five-person Panel.

      1. Random selection of panel members. The Administrative Chair\(^1\) shall, in the presence of the Judicial Administrator or his/her designated representative, randomly select the members and alternates for a hearing panel from the pool of qualified University Hearing and Review Board members. The Judicial Administrator or his/her designated representative and the Administrative Chair shall certify in writing the random selection of hearing panels and alternates.

      2. Unavailable panel members. Should a panel member be unable to attend a hearing, he/she shall notify the Judicial Administrator of the reason for his/her inability to attend as far in advance of the hearing as possible so that another panel member may be selected. The UHB Chair may remove from the pool any UHB member 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. Code, Title

---

\(^1\) The Code provides, “All the members of the University Hearing Board and University Review Board pool shall annually elect one Administrative Chair from among those members.” Code, Title Two, Article IV, Section C.4.
3. Removal of panel members.

a. Name recognition; certification of being fair and impartial. Each panel member will contact the JA prior to the hearing to learn the names of the parties and the general nature of the hearing. The panel member must certify to the JA that she or he will be able to be fair and impartial at the hearing, even if she or he knows one of the parties or has some indirect knowledge of the underlying incident.

b. Removal of panel member by himself or herself. If a panel member knows she or he has a conflict of interest, cannot be fair and impartial, or has any other good cause, she or he may voluntarily remove herself or himself from the panel. While it is preferable that this would be determined prior to the commencement of the hearing and communicated to the JA, if the panel member determines this during the hearing, she or he should ask for a break in the proceedings, speak to the UHB Chair about the situation and remove herself or himself at that time. The Chair, in his or her sole discretion, will determine whether to proceed with the remaining panel members or to recommence the hearing with a new panel at a later date.

c. Removal of a panel member at the request of a party. As noted in the Code, “Knowledge of the events at issue shall not disqualify a member, unless he or she has first-hand knowledge of the events at issue, has been directly involved in those events, or is personally interested with regard to the outcome. . .” (Code, Title Three, Article III., E.3.a.(5)) If the JA, the complainant, or the accused person believes one or more of the panel members would be unable to serve based on this criteria, he or she will bring a pre-hearing motion to the Chair (via electronic mail) and copied to the other party stating the basis for the concern and requesting the Chair to interview the panel member regarding his/her ability to serve. The opposing party must respond promptly to allow the Chair to take the next steps.

The Chair may recommend to the panel member that she or he voluntarily withdraw from the panel. If the panel member continues to wish to serve, the Chair will contact the remaining panel members, inform them of the information gathered by the Chair, and ask the remaining panel members to vote on the pre-hearing motion. A majority or a tie vote will result in disqualification of the panel member.

The JA will endeavor to provide notice to the parties of the names and
constituency of panel members 48 hours in advance and the moving party will bring its pre-hearing motion to the Chair 24 hours in advance, unless good cause is shown why the motion was brought less than 24 hours in advance. Additionally, it is acknowledged that panels are sometimes not established until right before a hearing, in which case the JA and parties will operate in good faith to accomplish these things as soon as practicable to avoid the necessity of a continuance.

d. Replacement of removed panel member. If a panel member is removed, the next eligible and available UHB member of that constituency group chosen by the Administrative Chair will serve on the panel instead.

B. Pre-hearing motions. If the JA or a party has a pre-hearing motion, it must be submitted to the Chair (via electronic mail) and copied to the opposing party no later than 48 hours before the hearing, unless good cause is shown why the motion was brought less than 48 hours in advance. The opposing party must respond promptly to allow the Chair the opportunity to rule on the motion prior to the hearing.

C. Appropriate decorum. All hearings shall be conducted in an orderly manner. No smoking, photography, or tape recording is permitted during the hearing. All persons involved in the process must be treated with dignity and respect and are expected to treat others in the process with dignity and respect. The Chair may request that anyone disrupting the decorum refrain from further disruption or leave. If that person shall continue to be disruptive, he/she may be excluded from the hearing. If the Chair excludes a person from the hearing, any rights attendant to his/her presence at the hearing will be deemed to have been waived.

D. Decisions of the UHB Panel. Decisions of a panel shall be based solely on the information gathered at the hearing, not information learned through media, gossip or other sources prior to the hearing. The Chair does not have a vote and shall remain neutral, but may lead the discussion of the panel members, including but not limited to: ensuring that all panel members have a chance to be heard; offering information about the Code, precedent and procedures; and reminding the panel of the availability of counsel. Three panel members must agree on any particular decision; the Chair may not break a tie.

E. Confidentiality. Members of the panel of the hearing board and all participants in the hearing shall consider all information at the hearing to be of a confidential nature and shall in no way divulge the information. In public hearings, only members of the panel shall consider all information at the hearing to be of a confidential nature and shall in no way divulge the information. All deliberations of the panel shall be held in a closed session and shall at all times be strictly confidential. The confidentiality described in this paragraph must be maintained even from other members of the hearing and review boards who were not on the panel at the hearing.
F. Written Decision. The UHB Chair will write the decision with input from the panel, and sign it on behalf of the panel. All decisions shall include:

1. the Code sections charged and the final disposition of each charge;
2. the panel’s bases for each decision;
3. the penalty and/or remedy (if any) imposed with respect to each charge;
4. names and constituencies of panel members; and
5. any panelist who intends to file a separate opinion (dissenting or concurring), must notify the Chair within (48) hours of the conclusion of the hearing;
6. the dissenting or concurring opinion must be filed within (72) hours of the circulation of the majority opinion.

III. Types of Hearings and Unique Procedures for Each.

A. Hearings based on written petitions. The Code references several types of hearings that are based on the written petition of one of the parties, including request by the complainant for a review of the nonaction or summary action by the Judicial Administrator (JA), appeals of temporary suspensions, request to return from an indefinite suspension, and review of penalty imposed by JA for noncompliance or violation of probation. (See, Code, Title Three, Article III, E.1.).

1. The format for these hearings will be: motion, reply, response. Typically, this means the accused person or the complainant writes to the UHB to explain what it wants to happen.\(^2\) The JA has forms available that the party may fill out to guide its request.\(^3\) The JA replies in writing. Then the party responds to the issues the JA raised that he/she did not anticipate in his/her motion.

2. The UHB Chair will determine due dates for the various written documents described above.

3. While it is anticipated that these hearings will be exclusively in writing, the panel of the UHB may request live argument if needed to reach a decision. At its initial meeting, the panel would consider whether it needs oral argument and, if so, would pick a date and time (typically a few days later) to hear from the parties. Or, the panel may simply have some questions and ask the parties these questions via telephone conference call on the same day. Any oral arguments or questioning of parties must be recorded.

4. The UHB Chair will then issue a written decision on behalf of the panel.

B. Hearings on the Merits of a Case. The most common type of hearing is a hearing on the merits of a case. (See, Code, Title Three, Article III, E.1.d.).

---

\(^2\) Drop this off at the JA’s Office or send it via electronic mail to judadmin@cornell.edu. The JA’s Office will deliver it to the UHB members.

\(^3\) These forms are available from the JA’s Office or on line at judicialadministrator.cornell.edu.
1. **Bifurcated hearing.** The panel of the UHB must first determine whether there is clear and convincing evidence that the accused violated the Code. The panel will typically hear testimony, receive exhibits and hear arguments before reaching this conclusion; other times the parties may have stipulated to facts or to the fact of a violation. If, at the conclusion of the “violation stage” the panel determines there is not clear and convincing evidence, the hearing ends. If it determines that there is clear and convincing evidence of a violation, the hearing will resume to the “sanction stage” and the panel will consider what the appropriate sanction should be. Information about the prior misconduct of the accused will be reserved for the sanction stage of the hearing, except if the accused or other witness testifies at the violation stage, and if the prior misconduct is relevant with respect to credibility (for example, if the prior offense dealt with dishonesty or if the accused person asserts he/she has no prior disciplinary record, etc.), then the opposing party may have the option to examine the witness on this testimony or present rebuttal evidence. In such circumstance, only directly relevant prior misconduct may be addressed, and the examination or rebuttal should be specific and relevant. Whenever a party intends to use such evidence, the issue of relevancy should be addressed in the pre-hearing motions, to the extent practicable, in an attempt to determine the issue before the hearing.

2. **Order of the hearing.** The UHB Chair runs the hearing as would a Chair of a meeting. The order of the hearing, like an agenda, typically follows this format, subject to changes by the Chair as needed:

1. Call to order.
2. State constituency of panel members for record.
3. State names of accused, complainant, counsel and others present for the record.
4. Cite case and accused's name.
5. Be assured that accused is aware of the protections afforded to him or her by the Code, Title Three, Article III (for example, the ability to be represented by the Judicial Codes Counselor, to refuse to comment on the matter, to confront accusers and to produce his or her own witnesses and evidence).
6. Ask Judicial Administrator to read charge against the accused.
7. Ask the accused if he or she understands the charge. Ask whether the accused believes he or she violated the Code.
8. Request Judicial Administrator to present opening statement.
9. Request accused to present opening statement.
10. Request Judicial Administrator to present case and witnesses, allowing questions from accused (or his/her advisor) and board.
11. Request accused to present case and witnesses, allowing questions from the Judicial Administrator and board.
12. Any final questions?
15. Final and concluding questions?
16. Panel deliberation in closed session.
17. Read decision into minutes.
18. If accused is found in violation, request the Judicial Administrator to present arguments and/or witnesses regarding sanction.
19. Accused may present arguments and/or witnesses regarding sanction.
20. Any response from the Judicial Administrator?
21. Any response from the accused?
22. Any final questions?
23. Closed session -- panel deliberation on sanction.
24. Read decision into minutes.
25. Inform accused of the right to appeal.
26. Close case if there are no further comments.

3. Common procedural issues. Following are a list of procedural issues that are common in hearings on the merits of cases. These particular procedures are documented here to provide comparable treatment of issues regardless of composition of the panel or who is the Chair.

a. Panel overruling the Chair. As noted in the Code, the Chair makes initial rulings on procedural issues that are subject to being overruled by the UHB panel. Code, Title Three, Article III. E.3.b.(1). For matters determined by the Chair prior to the hearing, the Chair will state the pre-hearing motion and his/her ruling on the record at the outset of the hearing. Other rulings will be made during the course of the hearing. Any party has the right to ask the panel to overrule the Chair’s procedural rulings. Any panel member has the right at any time to request a closed session to discuss a procedural or substantive point material to the hearing. For purposes of this provision, a procedural point shall include all action taken by the Chair.

b. Panel asking questions. Panel members may direct questions to the complainant, witnesses, and accused at any time, subject only to the Chair's responsibility of maintaining an orderly hearing.

c. Exhibits. Exhibits are exchanged by the parties three days before a hearing and objections are heard by the Chair the day before the hearing, pursuant to Code, Title Three, Article III.E.2.d. If there are no objections to an exhibit, it is admitted into evidence prior to the hearing and provided to the board at the outset of the hearing. If there is an objection to an exhibit and the Chair overrules the objection, the party who wishes to keep the exhibit out of evidence may request that the exhibit be withheld from the panel to allow the party to ask the panel to overrule the Chair. If there is an objection to an exhibit and the Chair sustains the objection, the party who wishes to submit the exhibit may propose its admission into evidence at the appropriate time in the hearing, allowing the Chair to reconsider his/her prior ruling or the panel to overrule the Chair. The parties must provide at least 10 hard copies of each documentary exhibit to the JA’s Office.
d. **Affirmative defenses.** The JA has the burden of proof and persuasion to prove a violation of the Code. The accused, however, shall have the burden of proof and persuasion for any affirmative defenses asserted. An affirmative defense is a new matter that constitutes a defense to the complaint; for example, an accused charged with theft could raise a prior payment as an affirmative defense.

e. **Evidence.** While the strict rules of evidence do not apply, the panel may admit all of the relevant evidence of a given case that is not unduly prejudicial or unfair. A hearing panel shall, in every case, admit evidence it considers necessary to make a fair decision. The Chair should make the initial determination of whether a particular piece of evidence (particularly hearsay) is relevant and not unduly prejudicial. For example, while the notes taken by a party or the JA of a conversation are not automatically admissible (and JA notes should not be used during the presentation of the JA’s case), they may be used on cross examination to demonstrate a prior inconsistent statement of a witness; a statement of a non-testifying witness may serve as corroborating evidence; or business records may be used to establish details witnesses cannot remember.

f. **Use of screens.** When measures are taken to separate the parties (most commonly a screen that prevents them from seeing each other) (see, Code, Title Three, Article III, E.), efforts will be made to allow the accused person’s advisor and the JA to see all witnesses. The advisor and the JA will maintain a respectful distance from opposing parties and witnesses.

g. **Use of cross-examination through UHB Chair.** When cross-examination is conducted through the UHB Chair (see, Code, Title Three, Article III, E.), efforts will be made to ensure a full and speedy cross-examination. For example, technology such as “Instant Messaging” might allow more flexibility and speed.

h. **Limitations on testimony.** The Chair may fix a limit to the length of a witness' testimony should it appear to belabor the point or become too repetitious.

i. **Need for additional or clarifying information.** In the event the panel feels the need for additional or clarifying information, whether prior to or after entering a closed session, the Chair may:
   - order a continuance of the hearing and re-opening the investigation for good cause shown;
   - recall a witness immediately for the purpose of clarifying
specified points of that witness’ testimony, if s/he is still available and the information is desired;
- order a continuance until a witness may be recalled if the witness has departed and the clarifying information is necessary. This privilege shall not impair the right of the accused, complainant, or Judicial Administrator to question the witness; or
- allow the panel to interrupt its closed session prior to reaching a decision, for the purpose of clarifying specific aspects of testimony heard or other matters on which the panel feels the need for further information, from any parties to the hearing who might be present. The specific reasons for interrupting the closed session shall be stated for the record. The panel shall not ask questions or receive responses, which, in the opinion of the Chair, are not germane to the stated reason for interrupting the closed session. All parties must be present for these discussions and the discussions shall be held on the record.

k. **Continuance, including based on the late hour.** The Chair may adjourn the hearing until another day for good cause shown, including lateness of the hour. Typically, hearings should not go past midnight on any given night to allow parties sufficient rest for their work and classes the following day. The Chair shall consult all interested parties before fixing the rescheduled date. The JA and the accused shall be notified of the new date.

l. **Joinder of cases.** When cases are joined pursuant to Code, Title Three, Article III. E.3.b.(3), it is contemplated that the joinder will be for the violation stage of the hearing, not the sanction phase of the hearing. The parties, the JA, the Chair or a member of the panel may request joinder of the sanction phase, however, if it serves the interests of justice. Once all parties have opined on the issue, the decision is left to the Chair, subject to being overruled by the panel.

m. **No jurisdiction.** In cases in which the panel of the UHB finds there is no jurisdiction, the Chair shall notify the Codes and Judicial Committee of the rationale of the panel.

4. **Procedural Issues Unique to Public Hearings.** The procedures for a public hearing shall be the same as for a regular hearing, except that:

a. The accused and the JA shall submit to the Chair and opposing party (i.) a list of witnesses who will be called at the hearing and (ii.) a designation of advisor. The list and designation shall be presented no later than 48 hours prior to the commencement of the hearing. The JA will provide both lists to the panel 24 hours in advance of the hearing.

b. A reasonable effort shall be made to accommodate an expected
audience.

c. Those directly involved in the hearing (parties, counsel, etc.) shall be located separately from the public.

d. The Chair must exclude witnesses from the hearing so that witnesses may not listen to the testimony of other witnesses who testify prior to them.

e. Either the JA, the complainant, the accused student or a witness may request that some testimony remain private. The panel, in its sole discretion, may grant this request, removing the public during such testimony. Such private testimony will be summarized for the benefit of the public at its conclusion, deleting the witness' name.

IV. Dates of Acceptance of Procedures, Publication in the Cornell Chronicle and When Procedures Effective.

These procedures were approved by a majority of the University Hearing and Review Board pool on October 22, 2013. They were published in the Cornell Chronicle on ____________, and became effective thirty days later, that is on ________________.

V. Miscellaneous

A. The University Hearing Board should meet at least once each academic year for the purpose of reviewing and updating these procedures of the University Hearing Board. Amendments shall be made by majority vote of the membership of the Board.

B. The term of office of the Administrative Chair shall be one (1) academic year. Elections shall be held as early in the academic year as possible.

C. These Procedures have been developed in accordance with the Cornell Campus Code of Conduct and augment the procedures outlined therein. Any current or future Code provisions that contradict these Procedures shall supersede these Procedures or sections thereof.

D. A copy of these Procedures of the University Hearing Board shall be made available as follows:

1. to all parties - at the time the Office of the Judicial Administrator notifies the parties of the charge and date of hearing, or upon request;

2. to other interested parties - in the offices of the Judicial Administrator and Judicial Codes Counselor upon request.
Procedures of the University Review Board
adopted by unanimous vote of the URB

I. General Rules and Guidelines

A. Members of the URB shall consider all information and material coming before the Review Board to be of a confidential nature and shall in no way divulge the proceedings of a hearing—public hearings excepted. All deliberations of the Review Board shall be held in Executive session and shall at all times be strictly confidential.

B. No new evidence may be introduced into the record on appeal. New evidence discovered after the hearing below shall be considered by the URB only to the extent necessary to decide whether to remand the case to the University Hearing Board (UHB) for a new hearing.

C. A case heard privately by the UHB shall be heard privately by the URB, unless no party to the case objects to a public hearing and the URB approves of it. A case heard publicly by the UHB may be heard privately by the URB, if no party to the case objects and the URB approves.

D. All Grounds upon which an appeal is based must be introduced through the Appeal Request Form which must be filled out and submitted to the Office of the Judicial Administrator. The decision shall be based solely upon such grounds.

E. The URB may arrive at any of the following decisions regarding any appeal before it:

1. uphold the Hearing Board decision;
2. reverse or modify the Hearing Board decision, however, the URB may not increase a penalty;
3. remand the case to the Hearing Board—either to the same panel that heard the case below or to new panel.

F. URB members may request that legal counsel be retained to advise the URB. Should a URB member request legal counsel, such request shall not necessarily halt the hearing of the case, unless the Board so moves. However, in no case shall the panel proceed to consideration of a decision until counsel has been consulted or a Board member withdraws his/her request.

II. University Review Board Hearings

A. The URB chairperson shall preside at all hearings of the Board. The chair shall cause the written record of the UHB panel’s hearing and other pertinent documents to be circulated before the hearing.

B. All hearings shall be conducted in an orderly manner. The chair of the Review Board may request that anyone disrupting the decorum either refrain from further disruption
or leave. If any person shall continue to be disruptive, s/he may be excluded from the hearing. Any rights attendant on her/his presence at the hearing will be deemed to have been waived.

C. The appellant (person who filed the appeal) will present his/her case first, followed by the appellee. The parties may present the cases themselves, or by and through their advisor. Normally, the cases presented to the URB will be in the form of appellate argument based upon the record of the proceedings before the UHB.

D. Those cases where new evidence is presented to the URB in the form of witnesses, the URB chair may at his/her discretion, fix a limit to the length of the witness’ testimony, should it appear to belabor the point or become too repetitious.

E. The URB chair may adjourn the hearing until another day under exceptional circumstances. The Board shall consult all interested parties before fixing the date for reconvening the Board.

F. Prior to entering executive session, the URB shall reserve privilege of recalling witnesses who are still present for the purpose of clarifying points of those witnesses’ testimony. This privilege shall not impair the right of the parties to the appeal to question the witnesses.

G. The URB may interrupt the executive session for the purpose of clarifying specific testimony or specific arguments.

H. The appellant shall be informed without delay of the decision of the Board. Such decision shall be read into the verbatim record of the hearing by a member of the URB.

III. Public URB Hearings

A. The procedures for a public hearing shall be the same as for a private hearing, except that:

1. the appellant and the appellee shall submit a list of witnesses, if any, who will be called at the hearing. The list shall be presented to the Review Board chair prior to the commencement of the hearing. The chair may, at his/her discretion, allow witnesses to testify whose names are not on the list;

2. those directly involved in the hearing (witnesses, counsel, etc.) shall be located separately from the public.

B. All deliberations of the Board shall be held in executive session.

IV. Appellant's Failure to Appear
It is to the appellant's advantage to appear in person. However, the hearing may proceed in his/her absence, or with his/her designated advisor, unless the appellant applies in writing to the chairperson of the URB for a postponement. The Review Board may either grant or deny the petition for postponement.

V. Records of Decisions

A. Pursuant to the University Assembly legislation, a verbatim record shall be kept of all hearings of the URB.

1. The record shall indicate the names of the members of the URB who are hearing the appeal.
2. The record shall include the names of the appellant and all others appearing before the Board, including their status in relation to the hearing.
3. Any member of the URB may append a separate opinion (dissenting or concurring) to the record within two weeks of the conclusion of the hearing.
4. The record shall be signed by the URB chair to certify the record as an accurate report of the proceedings.

B. A written record of the decision of the URB, including rationale and dissenting opinions, shall be filed with the chairperson as well as with the Judicial Administrator. This report, with the exclusion of the names of individuals involved, shall be made available to the public upon request.

VI. Miscellaneous

A. The URB shall review and update its procedures as needed. Amendment shall be by a majority vote of the membership of the Board.

B. These Procedures have been developed in accordance with the Campus Code of Conduct. To the extent that these Procedures are inconsistent with the Code, or any amendments thereto, they are null and void.

C. A copy of these Procedures of the University Review Board shall be made available to all appellants and appellees, as well as to other interested parties, in the offices of the Judicial Administrator and Judicial Advisor.