Office of the Judicial Administrator: Annual Report
Academic Year 2020

Prepared by Barbara L. Krause, Interim Judicial Administrator
October 30, 2020
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Executive Summary

Academic Year 2020\(^1\) (AY 2020) will forever be known as the year when COVID-19 arrived and fundamentally altered how members of the Cornell community study, teach, learn, and work. When the Office of the Judicial Administrator (OJA) closed its doors on Friday, March 13, 2020, staff members left with a plan to work remotely for at least three weeks. As of the date of this report, over seven months later, OJA employees remain working remotely.

In addition to the COVID-19 disruption, the OJA saw a leadership change in AY 2020. Former Judicial Administrator Michelle Horvath announced in February that she had accepted a position at another institution. Effective March 23, 2020, Barbara Krause began serving as Interim Judicial Administrator and continues to serve in that role as of this time.

It was anticipated that the Spring of 2020 would see discussion and adoption of a significant revision to the Campus Code of Conduct. For years, the Code’s complex and highly legalistic procedures have been the subject of discussion and some controversy. More fundamentally, the operational placement of student conduct in its own “silo,” reporting directly to the President rather than operating under the umbrella of Student and Campus Life, often makes it difficult to sustain administrative and functional connections that would benefit students.

In September of 2018, President Pollack had requested that the University Assembly review the Campus Code of Conduct in light of the following recommended changes that resulted from the work of the Presidential Task Force on Campus Climate\(^2\):

- Reworking the Code to have an educational and aspirational rather than punitive, quasi-criminal tone.
- Significantly simplifying the Code and having it use “plain English.”
- Narrowing its focus to students.
- Separating standards of behavior from administrative procedures for managing misconduct.
- Simplifying the administrative procedures.
- Expanding the treatment of Harassment.

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\(^1\) July 1, 2019-June 30, 2020.

\(^2\) The full final report of the Presidential Task Force on Campus Climate appears at this link. The Task Force was convened in September 2017, and final reports from various subcommittees were released on June 8, 2018. The work most relevant to Code revisions is that of the Subcommittee on the Regulation of Speech and Harassment, which can be found at this link.
• Permitting enhanced penalties for Harassment or Assault that are motivated by bias.
• Considering moving less serious types of misconduct to the Office of the Dean of Students for resolution.

Reflecting her view of the importance of this work, the President’s letter to the UA in September 2018 indicated that she looked forward to working with the UA “to implement these code revisions over the coming months.”

This annual report will not attempt to recount the UA’s efforts to fulfill this charge but simply notes that late in the spring of 2020, the UA received two separate proposed revisions of the Code, one from the UA’s Codes and Judicial Committee (CJC) and the other from the Office of the Student Advocate (OSA). At its concluding meeting in the spring of 2020, the UA adopted Resolution 8: Recommendation for Revision of the Campus Code of Conduct. Noting that the UA and the CJC had been engaged in revising the Code for multiple academic semesters, the Resolution asked the University Counsel to take the work from the CJC and the OSA and combine aspects from both documents to create a new proposed Code. At the time of this report, a new proposed Code has been posted and is available for public comment on the UA website.

The OJA is hopeful that in the Fall of 2020, at long last, Cornell will adopt a new student conduct code that locates the conduct function within Student and Campus Life and adopts other practices that respect the rights of all parties and of the campus community as a whole.

In addition to participating in discussions about the proposed Code revisions, the OJA was busy during AY 2020 with case referrals, service on campus committees, and external activities that benefit Cornell and its students. The University’s decision to move to remote delivery of education as of March 13, 2020, of course, resulted in a decrease in the number of Code referrals during the last four months of AY 2020, and hearings that had been scheduled for the March through May period were deferred until the Fall 2020. This report includes similar statistical reporting as provided in prior years; however, it is important to note that Cornell’s decision to send students home in March significantly affected all statistical reporting for AY 2020.
Personnel and Committee Membership

The core staffing in the OJA during AY 2020 included the Judicial Administrator (or Interim Judicial Administrator), two Associate Judicial Administrators, one Case Manager, and one Administrative Assistant. The office also benefitted from the services of a part-time Assistant Judicial Administrators and two part-time Graduate Assistants.

Michelle Horvath completed approximately 3½ years as Judicial Administrator before accepting a position as Assistant Dean of Students at Florida International University. Her departure was announced in February, and the office takes this opportunity to thank Michelle for her contributions to Cornell, Cornell students, and the OJA.

Barbara Krause began serving as Interim Judicial Administrator on March 23, 2020. She worked as an attorney and administrator in higher education for nearly 35 years before retiring in 2018. Her earlier appointments at Cornell (nearly 11 years of service, including 3½ as JA) helped ease her transition into the interim position.

Christina Liang continued her service as an Associate Judicial Administrator (AJA). In addition to her work at Cornell, she served a third year as Treasurer of the Association for Student Conduct Administration (ASCA), served on the faculty for the Student Organization Misconduct track at the 2019 Gehring Academy, and presented at ASCA’s annual conference on student organization misconduct and free speech issues. At Cornell, Christina continued her service as the vice-chair of Cornell’s Women of Color Colleague Networking Group.

Vin Ciampolillo continued his service as an AJA. He also continued his active membership with ASCA and coordinated the OJA’s partnership with the Scheinman Institute on Conflict Resolution.

Janey Bosch continued as the OJA’s Case Manager. In addition to overseeing the office’s case management, Janey continues to develop and oversee the Probation curriculum, manages scheduling and panel selection for proceedings before the University Hearing and Review Boards, coordinates all required OJA reporting for the Cleary Compliance Act, and is the primary responder to requests for disciplinary record checks.

Steve Morey continued his service as Administrative Assistant. Steve remains the first point of contact for those contacting the OJA; he also manages the JA’s calendar, schedules a
A large percentage of the office’s meetings, especially Zoom meetings that were necessitated by the move to remote operations, and assists with disciplinary record checks.

Francheska Alers-Rojas completed her appointment as part-time Assistant Judicial Administrator at the end of AY 2020. Francheska contributed to the OJA in many significant ways; her departure was a loss for the office, but we celebrate her recent completion of her doctoral degree from the University of Michigan and her post-doc appointment at the University of Texas (Austin).

Finally, the OJA benefitted greatly from the services of two Graduate Assistants during AY 2020: Gabriela de la Llana and Steven Yu.

Members of the OJA staff served on multiple University committees and working groups in AY 2020 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)
- COFHE/Ivy Plus
- Council on Sexual Violence Prevention (Renamed SHARE Committee)
- Hazing (HARP) Committee
- Human Resources Excellence Awards Committee
- Public Safety Advisory Committee
- Senior Business Group
- Senior Finance Group
- Sorority and Fraternity Judicial Review Committee
- Various search committees

This committee work is important because it allows members of the OJA to gain a better perspective on the work of the campus as a whole. We trust that our membership also adds an important perspective to the work of these groups.
Accomplishments and Observations of Note

Due to the change in leadership of the OJA and the disruption caused by the COVID-19 pandemic in the spring of 2020, it is difficult for the author of this report to make broad observations or generalizations about AY 2020. Instead, this report will simply note several areas of focus and accomplishment for the OJA during the past year:

- The OJA is proud to conduct its work based on a commitment to the fundamental principles underlying the Code – in particular, to the Code’s purpose of promoting a supportive educational environment for all Cornell students. It is this same commitment that leads the OJA to support a fundamental Code revision that better balances the rights of complainants, respondents, and the campus community as a whole; is less legalistic and less adversarial; and is firmly centered in the work of the Division of Student and Campus Life, so that resolution of conduct issues can be better integrated into the student experience.

- The OJA is committed to educational sanctioning, examples of which include our decision-making class, probation curriculum, and suspension reintegration program. And while we recognize that suspension and expulsion are most often viewed as punitive, the OJA believes that such sanctions also are educational in the sense that they send the strongest possible messages of what it means to have the privilege of participating in Cornell’s educational community.

- Despite the challenges of COVID, the office has continued to function effectively since the University moved to remote operations on March 13, 2020. This was due in no small part to the foresight of former JA Michelle Horvath in two areas: one, to move the office to almost entirely paperless operations; and second, to anticipate that the office would work remotely for some period of time (at least three weeks). The office has conducted case intake, held student meetings and interviews, and adjudicated cases since March of 2020 with only minor interruptions.

- The author of this report wishes to acknowledge the strong commitment and resiliency of the OJA staff members, who have persevered with good humor and a deep dedication to the office’s work during the past year.
This report would not be complete without mentioning a significant matter handled by the office in AY 2020: referrals of individual students who were members of the Phi Kappa Psi fraternity. The referrals related to a “Christmas in October” “dirty rush” event hosted by fraternity members at the university-owned chapter house on October 24, 2019.

The fraternity faced disciplinary proceedings as an organization under procedures of the Office of Sorority and Fraternity Life; a summary of the findings and outcome of that process can be found at the “Hazing at Cornell” website. Forty-seven individuals, including fraternity members and other guests, were referred to the OJA in late April 2020 for alleged violations of the Campus Code of Conduct. Resolutions of the individual cases were not reached until late summer and fall of 2020, so those outcomes are not part of the statistical reporting included in this annual report. In any case, of course, federal law and the Code’s confidentiality provisions will preclude the OJA from reporting on individual outcomes.

It is important to mention this case here, however, because hazing has been a persistent concern at Cornell (as it is on other college campuses). Under President Pollack’s leadership, efforts to address this serious public health problem have received heightened attention. On the organizational side, Student and Campus Life’s Organization Scorecard now reports various information including judicial history reports; and the Hazing at Cornell website reports on organizations involved in hazing. In addition, officers and other members of an organization may be referred to the OJA and face consequences as an individual for alleged violations of the Code.

In the Phi Kappa Psi case, individual members and officers were referred to the OJA in late April, prompting an investigation that required a significant time commitment from the OJA during AY 2020. As of the date of this report, 45 of the 47 referrals have been resolved. Findings of individual responsibility were made for hazing, endangerment, providing alcohol to individuals under the age of 21, assisting another to violate the Code, and other Code violations. Sanctions imposed on various individuals fell in a range that included deferred dismissal, suspension, deferred suspension, probation, deferred probation, reflection exercises, restriction from joining another Greek organization, and/or written reprimands. The sanctions resulted in disciplinary records reportable for various periods of time ranging from the date of graduation to a permanent record. Again, as stated above, these statistics are not reflected in this annual report, since the resolutions were not reached until after AY 2020 had concluded, but they will be included in next year’s report.
The OJA would be remiss not to note here that a member of the Cornell community, Antonio Tsialas ’23, died after having attended this event. While no student was referred under the Code for allegations directly related to his death, the OJA notes with deep sadness the tragedy of this student death – not only for Antonio’s parents, for whom the grief is immense and incomparable; but for the entire Cornell community, including the students referred. The OJA is committed to working with colleagues across campus to achieve a culture change so that such incidents no longer occur.

**Projected Needs**

If a revised Code is adopted that results in student conduct being moved under the Division of Student and Campus Life, it will require a significant effort to re-tool office operations, including training of all offices and staff members who are involved in the student conduct process. Otherwise, at this time, there are no major projected needs for the OJA which have not already been shared with campus partners.

**Future Considerations and Projects**

In anticipation that a significant Code revision will be adopted, and in light of the office’s interim leadership, the OJA has not identified significant new projects to undertake at this time.
Appendix A: Three-Year Comparative Analytics

For purposes of all data reported in this appendix, it is important to note that as of March 13, 2020, when Cornell moved to remote operations due to the COVID-19 pandemic, all students were asked to return home. This action drastically reduced the number of students who lived on campus and in Ithaca, undoubtedly affecting the number of referrals for AY 2020 as well as other statistics that flow from the reduced referrals.

In most cases, this report will include statistics as reported in prior years. In some cases, however, we have chosen not to report AY 2020 statistics because of the variety of factors that would make comparisons unreliable.

### Total Annual Referrals

<table>
<thead>
<tr>
<th>Academic Year</th>
<th>Referral Totals $^4$</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-2018</td>
<td>640</td>
<td>N/A</td>
</tr>
<tr>
<td>2018-2019</td>
<td>820</td>
<td>+28.12%</td>
</tr>
<tr>
<td>2019-2020</td>
<td>697</td>
<td>-16.21%</td>
</tr>
</tbody>
</table>

### Good Samaritan Protocol (GSP)

<table>
<thead>
<tr>
<th>Academic Year</th>
<th>Referral Totals</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-2018</td>
<td>131</td>
<td>N/A</td>
</tr>
<tr>
<td>2018-2019</td>
<td>121</td>
<td>-7.9</td>
</tr>
<tr>
<td>2019-2020</td>
<td>80</td>
<td>-40.8</td>
</tr>
</tbody>
</table>

### Number of Hearings by Academic Year

<table>
<thead>
<tr>
<th>Academic Year:</th>
<th>Number of Hearings</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-2018</td>
<td>8</td>
<td>N/A</td>
</tr>
<tr>
<td>2018-2019</td>
<td>23</td>
<td>+187.5%</td>
</tr>
<tr>
<td>2019-2020</td>
<td>15</td>
<td>-34.7</td>
</tr>
</tbody>
</table>

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$^3$ Every three years, the OJA evaluates referral demographics in comparison to community demographics to examine any unconscious biases regarding referrals. This evaluation was conducted for and reported in the AY 2019 Annual Report.

$^4$ Academic year dates run from July 1 to June 30. If a referral was received but a respondent could not be identified or the behavior did not meet the jurisdictional requirements of the Code, the incident is reflected in the referral number, but not the findings. Due to reporting period, some cases which are referred in one year may not be included in the data until the next annual report, because adjudication was not finalized by the date of the data pull. Unless noted otherwise, this timing issue explains any discrepancies in the summation of some data categories.
## Findings (Responsible/Not Responsible)\(^5\)

<table>
<thead>
<tr>
<th>Academic Year</th>
<th>Number of alleged violations</th>
<th>Findings of Responsible</th>
<th>Findings of Not Responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-2018</td>
<td>841</td>
<td>318 (38%)</td>
<td>272 (32%)</td>
</tr>
<tr>
<td>2018-2019</td>
<td>1030</td>
<td>377 (36%)</td>
<td>375 (36%)</td>
</tr>
<tr>
<td>Percentage change AY18-AY19</td>
<td>+22.47%</td>
<td>+18.55%</td>
<td>+37.86%</td>
</tr>
<tr>
<td>2019-2020</td>
<td>539</td>
<td>381 (70.7%)</td>
<td>158 (29.3%)</td>
</tr>
<tr>
<td>Percentage change AY19-AY20</td>
<td>-47.7%</td>
<td>+1.1%</td>
<td>-57.9%</td>
</tr>
</tbody>
</table>

## Gender of Respondent\(^6\)

<table>
<thead>
<tr>
<th></th>
<th>Male</th>
<th>Female</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-2018</td>
<td>385</td>
<td>221</td>
<td>11</td>
</tr>
<tr>
<td>2018-2019</td>
<td>477</td>
<td>320</td>
<td>6</td>
</tr>
<tr>
<td>Percentage change AY18 to AY19</td>
<td>+23.89%</td>
<td>+44.79%</td>
<td>-45.45%</td>
</tr>
<tr>
<td>2019-2020(^7)</td>
<td>449</td>
<td>227</td>
<td>2</td>
</tr>
<tr>
<td>Percentage change AY19 to AY20</td>
<td>+0.4%</td>
<td>-29.0%</td>
<td>-66.6%</td>
</tr>
</tbody>
</table>

## Classification of Respondent (Year in School)\(^8\)

<table>
<thead>
<tr>
<th></th>
<th>Freshmen</th>
<th>Sophomore</th>
<th>Junior</th>
<th>Senior</th>
<th>Graduate or Professional</th>
<th>Faculty &amp; Staff</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<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>2018-2019</td>
<td>523 (66%)</td>
<td>136 (17%)</td>
<td>58 (7%)</td>
<td>48 (6%)</td>
<td>19 (2%)</td>
<td>4 (0.05%)</td>
<td>6 (0.07%)</td>
</tr>
<tr>
<td>Percentage change AY18-AY19</td>
<td>+19%</td>
<td>-6%</td>
<td>-4%</td>
<td>-5%</td>
<td>No change</td>
<td>-0.55%</td>
<td>-1.63%</td>
</tr>
<tr>
<td>2019-2020(^9)</td>
<td>384 (56.8%)</td>
<td>125 (18.6%)</td>
<td>83 (12.3%)</td>
<td>61 (9.1%)</td>
<td>16 (2.4%)</td>
<td>2 (0.3%)</td>
<td>2 (0.7%)</td>
</tr>
<tr>
<td>Percentage change AY19-AY20</td>
<td>-26.1%</td>
<td>-8.1%</td>
<td>+43.1%</td>
<td>+27.1%</td>
<td>-15.8%</td>
<td>-50.0%</td>
<td>-66.6%</td>
</tr>
</tbody>
</table>

\(^5\) Findings of “Not Responsible” reflect one of two things: either that the allegations as presented in an Incident Report, even if true, would not establish a Code violation; or that a matter has been resolved and the Code’s standard of proof of “clear and convincing” could not be met. The number of Responsible and Not Responsible findings do not add up to the total number of alleged violations in some years; this difference may be due to factors including how Good Samaritan Protocol cases are counted, cases in which no action was taken, etc.

\(^6\) Data is automatically merged from PeopleSoft if available.

\(^7\) Note: There were 19 cases in which the gender field in PeopleSoft was not entered.

\(^8\) Data is automatically merged from PeopleSoft, if available.

\(^9\) One referral not counted in this table was labeled as “no active term.”
Location of Alleged Violation (Top 10 locations)

<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>Cascadilla Hall</td>
<td>14</td>
<td>2.2%</td>
</tr>
<tr>
<td>Multiple locations</td>
<td>14</td>
<td>2.2%</td>
</tr>
<tr>
<td>Mews Hall</td>
<td>13</td>
<td>2.0%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of Incidents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mary Donlon Hall</td>
<td>55</td>
<td>6.7%</td>
</tr>
<tr>
<td>Mews Residence Hall</td>
<td>51</td>
<td>6.2%</td>
</tr>
<tr>
<td>Clara Dickson Hall</td>
<td>45</td>
<td>5.5%</td>
</tr>
<tr>
<td>Day Hall</td>
<td>45</td>
<td>5.5%</td>
</tr>
<tr>
<td>North Campus Townhouse B</td>
<td>37</td>
<td>4.5%</td>
</tr>
<tr>
<td>Bauer Hall</td>
<td>34</td>
<td>4.1%</td>
</tr>
<tr>
<td>George Jameson Hall</td>
<td>32</td>
<td>3.9%</td>
</tr>
<tr>
<td>Court Residence Hall</td>
<td>28</td>
<td>3.4%</td>
</tr>
<tr>
<td>Low Rise 6</td>
<td>28</td>
<td>3.4%</td>
</tr>
<tr>
<td>Low Rise 7</td>
<td>28</td>
<td>3.4%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of Incidents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mary Donlon Hall</td>
<td>52</td>
<td>13.6%</td>
</tr>
<tr>
<td>Misc. Outdoor Locations</td>
<td>33</td>
<td>8.7%</td>
</tr>
<tr>
<td>The Cornell Store</td>
<td>31</td>
<td>8.1%</td>
</tr>
<tr>
<td>George Jameson Hall</td>
<td>25</td>
<td>6.6%</td>
</tr>
<tr>
<td>Day Hall</td>
<td>20</td>
<td>5.2%</td>
</tr>
<tr>
<td>Townhouses</td>
<td>15</td>
<td>3.9%</td>
</tr>
<tr>
<td>Balch</td>
<td>12</td>
<td>3.1%</td>
</tr>
<tr>
<td>Hans Bethe</td>
<td>12</td>
<td>3.1%</td>
</tr>
<tr>
<td>Court/Kay/Bauer</td>
<td>11</td>
<td>2.9%</td>
</tr>
<tr>
<td>Mews Residence Hall</td>
<td>9</td>
<td>2.4%</td>
</tr>
</tbody>
</table>

Note: The location of Day Hall almost always denotes an obstruction case.
Recidivism Rates

<table>
<thead>
<tr>
<th></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>2017-2018</td>
<td>50</td>
<td>24</td>
</tr>
<tr>
<td>2018-2019</td>
<td>47</td>
<td>27</td>
</tr>
<tr>
<td>Percentage change AY18-AY19</td>
<td>-6%</td>
<td>+12.5%</td>
</tr>
<tr>
<td>2019-2020</td>
<td>56</td>
<td>24</td>
</tr>
<tr>
<td>Percentage change AY19-AY20</td>
<td>+19.1%</td>
<td>-11.1%</td>
</tr>
</tbody>
</table>

Sanctions

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>
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<td>0.2%</td>
</tr>
<tr>
<td>Suspension</td>
<td>11</td>
<td>0.1%</td>
</tr>
<tr>
<td>Counseling</td>
<td>1</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

11 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.
### Sanctions 2018-2019

<table>
<thead>
<tr>
<th>Sanction</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written Reprimand</td>
<td>341</td>
<td>42.4%</td>
</tr>
<tr>
<td>AOD Level 1 – BASICS</td>
<td>268</td>
<td>33.3%</td>
</tr>
<tr>
<td>Reflection Paper</td>
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<td>6.6%</td>
</tr>
<tr>
<td>AOD Level 2</td>
<td>23</td>
<td>2.8%</td>
</tr>
<tr>
<td>Letter of Apology</td>
<td>10</td>
<td>1.2%</td>
</tr>
<tr>
<td>Facilitated Dialogue</td>
<td>9</td>
<td>1.1%</td>
</tr>
<tr>
<td>Disciplinary Probation</td>
<td>8</td>
<td>0.9%</td>
</tr>
<tr>
<td>Directed Study: Emergency Health and Safety</td>
<td>7</td>
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<tr>
<td>Restitution</td>
<td>6</td>
<td>0.7%</td>
</tr>
<tr>
<td>AOD Level 1.5</td>
<td>5</td>
<td>0.6%</td>
</tr>
<tr>
<td>Suspension</td>
<td>4(^{13})</td>
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</tr>
<tr>
<td>Counseling</td>
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<tr>
<td>Oral Warning</td>
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</tr>
<tr>
<td>AOD Level 3 – Counseling</td>
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</tr>
<tr>
<td>Research Paper</td>
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<td>0.1%</td>
</tr>
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</table>

### Sanctions 2019-2020

<table>
<thead>
<tr>
<th>Sanction</th>
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<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>Written Reprimand</td>
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</tr>
<tr>
<td>Other Reflective Component</td>
<td>132</td>
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</tr>
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<td>AOD Level 1 – BASICS</td>
<td>127</td>
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<tr>
<td>Reflection Paper</td>
<td>115</td>
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<tr>
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<tr>
<td>Oral Warning</td>
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<td>6.5%</td>
</tr>
<tr>
<td>Directed Study</td>
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<td>2.9%</td>
</tr>
<tr>
<td>Deferred Sanctions</td>
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</tr>
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<td>Letter of Apology</td>
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<td>Research Paper</td>
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</tr>
<tr>
<td>Facilitated Dialogue</td>
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<td>0.4%</td>
</tr>
<tr>
<td>Suspension</td>
<td>3(^{13})</td>
<td>0.4%</td>
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<tr>
<td>Disciplinary Probation</td>
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</tr>
<tr>
<td>AOD Level 3 – Counseling</td>
<td>2</td>
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</tr>
<tr>
<td>Restitution</td>
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<td>0.2%</td>
</tr>
<tr>
<td>AOD Level 2</td>
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<td>0.1%</td>
</tr>
<tr>
<td>AOD Level 1.5</td>
<td>1</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

---

12 Includes GSP cases where sanctions are tracked for completion only, but a warning or reprimand is not issued.  
13 The suspension lengths were four years, two years, one year, and one semester.  
14 Does not include Policy 6.4 sanctions, whose completions are tracked by the OJA.  
15 The suspension lengths were two years, one year, and one semester.
Appendix B: Public Records AY 2020
**Campus Code of Conduct – Academic Year 2020 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 – Graduate Student</td>
<td>August 30, 2019 (Cont. September 27, 2019)</td>
<td>Hearing on the merits</td>
<td>Professor Thomas R. Overton</td>
</tr>
<tr>
<td>2</td>
<td>Respondent – Undergraduate Student</td>
<td>September 6, 2019</td>
<td>Hearing on the merits</td>
<td>Professor Thomas R. Overton</td>
</tr>
<tr>
<td>3</td>
<td>Respondent – University Registered Organization</td>
<td>September 18, 2018</td>
<td>Petition of Temporary Suspension</td>
<td>Professor Thomas R. Overton</td>
</tr>
<tr>
<td>4</td>
<td>Respondent – Undergraduate Student¹</td>
<td>September 20, 2019</td>
<td>Appeal of the decision of the UHB</td>
<td>Professor Andrea Mooney</td>
</tr>
<tr>
<td></td>
<td></td>
<td>January 10, 2020</td>
<td>Presidential Appeal</td>
<td>President Martha Pollack</td>
</tr>
<tr>
<td>5</td>
<td>Respondent – Undergraduate Student</td>
<td>September 24, 2019</td>
<td>Hearing on the merits</td>
<td>Professor Thomas R. Overton</td>
</tr>
<tr>
<td>6</td>
<td>Respondent – Undergraduate Student</td>
<td>October 29, 2019 (Cont. February 18, 2020)</td>
<td>Hearing on the merits</td>
<td>Professor Thomas R. Overton</td>
</tr>
<tr>
<td>7</td>
<td>Respondent – Undergraduate Student</td>
<td>November 13, 2019</td>
<td>Hearing on the merits</td>
<td>Professor Tracy Carrick</td>
</tr>
<tr>
<td>8</td>
<td>Respondent – Undergraduate Student</td>
<td>November 15, 2019</td>
<td>Sanctions only hearing</td>
<td>Professor Timothy Devoogd</td>
</tr>
<tr>
<td>9</td>
<td>Respondent – Undergraduate Student</td>
<td>November 19, 2019</td>
<td>Hearing on the merits</td>
<td>Professor Thomas R. Overton</td>
</tr>
<tr>
<td>10</td>
<td>Respondent – Undergraduate Student</td>
<td>November 22, 2019</td>
<td>Hearing on the merits</td>
<td>Professor Thomas R. Overton</td>
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</tbody>
</table>

¹ Public record AY2020-04 is the continued adjudication of Public Record AY2019-09.
<table>
<thead>
<tr>
<th></th>
<th>Respondent – Undergraduate Student</th>
<th>December 3, 2019</th>
<th>Sanctions only hearing</th>
<th>Professor Tracy Carrick</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>March 9, 2020</td>
<td>Appeal of the decision of the UHB</td>
<td>Professor Andrew Mooney</td>
</tr>
<tr>
<td>11</td>
<td>Respondent – Graduate Student</td>
<td>December 10, 2019</td>
<td>Hearing on the merits</td>
<td>Professor Tracy Carrick</td>
</tr>
<tr>
<td>12</td>
<td>Respondent – Undergraduate Student</td>
<td>February 14, 2020</td>
<td>Hearing on the merits</td>
<td>Professor Thomas R. Overton</td>
</tr>
</tbody>
</table>
Public Record 2020-01.
UNIVERSITY HEARING BOARD

COMPLAINANT

RESPONDENT

Hearing on the Merits

Procedural History

On March 5, 2019 an incident report was filed by Investigator from Cornell University Police (CUPD) with the Office of the Judicial Administrator (OJA) describing the theft of an unattended Sony Vaio laptop and Ipad Pro belonging to the Complainant from atop the lockers in the women’s bathroom located in the basement of . Following investigation, the OJA determined that there was reasonable cause to believe that the Respondent had violated the following Code provisions:

Title Three, Article II, Section A:

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

The OJA and Respondent were not able to reach a Summary Decision Agreement. Accordingly, the OJA referred the case to the University Hearing Board (UHB) on April 3, 2019. A UHB was constituted and scheduled for April 23, 2019; however, a personal emergency for the UHB Chair on that day caused the hearing to need to be postponed. Following scheduling delays related to the end of the semester and Summer Break, a duly constituted University Hearing Board (UHB) convened on the mutually agreeable date of August 30, 2019 for a Hearing on the Merits.

Allegations

It is alleged that the Respondent stole two different electronic devices from the Complainant.

Pre-hearing Decisions

Following exchange of witnesses and exhibits between the OJA and Respondent, there were several pre-hearing motions and objections submitted that required pre-hearing decisions by the UHB Chair.

1. The Respondent submitted a pre-hearing motion to compel the OJA to provide to all tangible evidence relating to the case. After reviewing arguments of both Respondent and OJA, the UHB Chair determined that the Respondent was not entitled to discovery under
the Code and denied the motion, but that the OJA would be limited to presenting documents disclosed and cross-examination would be allowed.

2. The Respondent submitted a pre-hearing objection to the testimony of CUPD Investigator [redacted] unless he provided the CUPD case file to the Respondent. After reviewing arguments of both the Respondent and OJA, the UHB chair determined that the Respondent was not entitled to discovery under the Code, that the testimony would be relevant, that the Respondent would be allowed to cross-examine the witness, and denied the objection.

3. The Respondent submitted a pre-hearing objection to the testimony of Cornell University IT [redacted] unless [redacted] provided the detailed reports related to the Mac Watcher ID logs. After reviewing arguments of both the Respondent and OJA, the UHB chair determined that the Respondent was not entitled to discovery under the Code, that the testimony would be relevant, that the Respondent would be allowed to cross-examine the witness, and denied the objection.

4. The OJA submitted a pre-hearing objection to the testimony of [redacted] on the basis that a support person cannot also be a witness. After reviewing arguments from both the OJA and Respondent, the UHB Chair denied the objection based upon the interpretation that a support person during the hearing could not also be a witness and that [redacted] would be allowed as a witness. Furthermore, [redacted] would not be allowed as a witness as was not disclosed by the exchange deadline of 5:30 PM on Thursday, April 18, 2019.

5. The OJA submitted a pre-hearing objection to the testimony of [redacted] on the basis that nothing that [redacted] could provide as a witness would be germane to the underlying case. After reviewing arguments from both the OJA and Respondent, the UHB Chair granted the objection on the basis that the UHB is tasked to determine whether the Respondent is responsible or not responsible for a Code violation, and the [redacted] testimony would not be relevant.

6. The OJA submitted a pre-hearing objection to the testimony of [redacted] on the basis that nothing that [redacted] could provide as a witness would be germane to the underlying case. After reviewing arguments from both the OJA and Respondent, the UHB Chair granted the objection on the basis that the UHB is tasked to determine whether the Respondent is responsible or not responsible for a Code violation, and the [redacted] testimony would not be relevant.

7. The OJA submitted a pre-hearing objection to Respondent Substantive Exhibit 2 in the hearing packet on the basis that it was not certified and therefore unreliable. Respondent Substantive Exhibit 2 consisted of an iPhone screenshot of a credit card receipt for fuel purchase in [redacted] After reviewing arguments from both the OJA and Respondent, the UHB Chair denied the objection with the rationale that relevance and reliability would be determined during testimony.

8. The OJA submitted a pre-hearing objection to Respondent Substantive Exhibit 4 in the hearing packet on the basis that it was irrelevant and not germane to the facts of the case. Respondent Substantive Exhibit 4 consisted of a newsletter published by the [redacted] in September, 2018. After reviewing arguments from both the OJA and Respondent, the UHB Chair denied the objection with the rationale that relevance and reliability would be determined during testimony.

9. The OJA submitted a pre-hearing objection to Respondent Substantive Exhibit 5 in the hearing packet on the basis that it was irrelevant and not germane to the facts of the case. Respondent Substantive Exhibit 5 consisted of a mid-semester newsletter with various
reminders sent by the [redacted] in October, 2018. After reviewing arguments from both the OJA and Respondent, the UHB Chair denied the objection with the rationale that relevance and reliability would be determined during testimony.

10. The OJA submitted a pre-hearing objection to Respondent Substantive Exhibit 6 in the hearing packet on the basis that it was irrelevant and not germane to the facts of the case. Respondent Substantive Exhibit 6 consisted of an email sent by [redacted] in March 2019 detailing changes in [redacted] access because of security concerns. After reviewing arguments from both the OJA and Respondent, the UHB Chair denied the objection with the rationale that relevance and reliability would be determined during testimony.

11. The OJA submitted a pre-hearing objection to Respondent Substantive Exhibit 7 in the hearing packet on the basis that it was irrelevant and not germane to the facts of the case. Respondent Substantive Exhibit 7 consisted of an email sent by [redacted] in March 2019 detailing various items related to security. After reviewing arguments from both the OJA and Respondent, the UHB Chair denied the objection with the rationale that relevance and reliability would be determined during testimony.

12. The OJA submitted a pre-hearing objection to Respondent Substantive Exhibit 10 in the hearing packet on the basis that it was irrelevant and not germane to the facts of the case. Respondent Substantive Exhibit 10 consisted of screenshots of various correspondence. After reviewing arguments from both the OJA and Respondent, the UHB Chair denied the objection with the rationale that relevance and reliability would be determined during testimony.

13. The OJA submitted a pre-hearing objection to Respondent Substantive Exhibit 12 in the hearing packet on the basis that the exhibit had been altered. Respondent Substantive Exhibit 12 consisted of a list of items that the Respondent had requested but had not been provided. After reviewing arguments from both the OJA and Respondent, the UHB Chair granted the objection with the rationale that the record of requests with full context is already contained in Procedural Exhibits 25 and 26.

University Hearing Board Proceedings and Decision

The UHB panel and parties convened and began proceedings shortly after the scheduled start time of 5:00 PM on Friday, August 30, 2019. One of the student panelists did not appear, so the UHB voted 4 to 0 to proceed with the hearing under provisions of the Code (Title Three, Article III, Section E, b.2; 2018). Prior to beginning the hearing, the Respondent questioned whether rules relating to the formation of the UHB had been followed. Following deliberation in private, the UHB determined by consensus that there was no evidence that the panel was selected in any way other than randomly.

Given the postponement of the original hearing in April 2019 and the lag in scheduling the actual hearing until August, 2019, several issues arose that were considered by the UHB. First, exchange of evidence and witness lists occurred in April and there was no provision in the Code for re-exchange in advance of a postponed hearing; therefore, additional exchange was not considered. Second, with the resolution of [redacted] in July 2019, the Respondent was in possession of exhibits that [redacted] sought to enter into the proceedings. The UHB considered these exhibits on
the basis of relevancy, whether they were known at the time of original exchange, and admitted many of them as described below into the proceedings.

The AJA called Investigator [redacted], who provided testimony and was cross-examined by the Respondent and asked questions by the UHB panelists.

The AJA called [redacted] with Cornell CIT, who provided testimony and was cross-examined by the Respondent and asked questions by the UHB panelists.

The AJA called [redacted] Complainant, who provided testimony and was cross-examined by the Respondent and asked questions by the UHB panelists.

In the course of the proceedings and testimony, the following exhibits were entered into the proceedings by the Respondent, either during the course of testimony and based upon relevance and lack of prior knowledge as determined by the UHB or based upon the lack of objection from the OJA.

-- Substantive Exhibit 12 (Statement from [redacted] dated 8/23/18)
-- Substantive Exhibit 13 (Letter from [redacted] dated July 5, 2019)
-- Substantive Exhibit 14 (Notice of dismissal of charges from [redacted] dated 7/11/19)
-- Substantive Exhibit 15 (Letter from [redacted] to Claims Department dated 1/15/19)
-- Procedural Exhibit 27 (email from [redacted] to [redacted] dated 4/22/19)
-- Procedural Exhibit 28 (email string starting with email from [redacted] to [redacted] dated 4/23/19)
-- Procedural Exhibit 30 (email strings between [redacted], [redacted], and [redacted] dated April 22 and 23, 2019)
-- Substantive Exhibit 16 (fuel receipt from [redacted] dated 8/3/18)
-- Substantive Exhibit 17 (Receipt of [redacted] from New York City)
-- Substantive Exhibit 18 (credit card transaction supporting fuel receipt from [redacted])

The Respondent made [redacted] opening statement. The Respondent petitioned to allow the testimony of witness [redacted], and the UHB determined that it would allow the testimony.

The UHB Chair (with unanimous concurrence from the panel) ordered a continuance due to late hour (after midnight).

The panel reconvened on the mutually agreeable date of Friday, September 27, 2019 to continue the hearing.
The Respondent called [redacted] who provided testimony and was cross-examined by the Respondent and asked questions by the UHB panelists.

The Respondent testified on [redacted] own behalf and was asked questions by the OJA and by the UHB panelists.

The AJA made [redacted] closing statement.

The Respondent made [redacted] closing statement.

The UHB panelists asked final questions and the UHB panel went into private session to deliberate its decisions.

Following deliberation, the UHB found the Respondent NOT RESPONSIBLE for the following charges under the Code by a vote of 3 to 1:

Title Three, Article II, Section A:

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

Rationale for Findings

The UHB’s decision regarding its determinations was based upon the following:

-- The OJA did not meet the standard of “clear and convincing evidence” based upon the lack of documentary evidence to support witness testimony and conflicting testimony provided by witnesses. Furthermore, the allegations were largely predicated on a single report and this report was never produced by any party.

Respectfully submitted,

Thomas R. Overton, Chair (nonvoting) of the UHB, on behalf of:

[ ] Student
[ ] Student
[ ] Staff
[ ] Faculty
Public Record 2020-02.
UNIVERSITY HEARING BOARD

COMPLAINANT

RESPONDENT

Hearing on the Merits

Procedural History

On April 10, 2019, an incident report was filed by [redacted] from Cornell University Police (CUPD) with the Office of the Judicial Administrator (OJA) describing an account of the Complainant being harassed at a concert at Barton Hall on March 24, 2019 by two former fraternity brothers. Following investigation, the OJA determined that there was reasonable cause to believe that the Respondent had violated the following Code provisions:

Title Three, Art. II, Sec. A.

1.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.

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

3.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.

The OJA and Respondent were not able to reach a Summary Decision Agreement. Accordingly, the OJA referred the case to the University Hearing Board (UHB) on July 12, 2019. Following scheduling delays related to Summer Break, a duly constituted University Hearing Board (UHB) convened on September 6, 2019 for a Hearing on the Merits.
Allegations

It is alleged that the Respondent approached the Complainant at an on-campus concert on more than one occasion and engaged in a one-sided verbal and physical altercation with the Complainant by removing his glasses from his body, pulling on his shirt in a manner that resulted in the student losing balance, and only stopping when the other student repeatedly told him to stop.

Pre-hearing Decisions

Following exchange of witnesses and exhibits between the OJA and Respondent, there were several pre-hearing objections submitted that required pre-hearing decisions by the UHB Chair.

1. The OJA submitted an objection to the witnesses [REDACTED], [REDACTED], and [REDACTED] listed by the Respondent at exchange. After reviewing arguments of both Respondent and OJA, the UHB Chair determined that the Code only requires disclosure of witnesses at exchange, that the OJA would have opportunity to cross-examine witnesses called, and denied the objection.

2. The OJA submitted an objection to Respondent Exhibit A. Respondent Exhibit A was a previous Summary Decision Agreement between the Respondent and OJA for another case. After reviewing arguments from both the Respondent and OJA, the UHB Chair determined that the Respondent had established relevance, allowed the exhibit, and denied the objection.

3. The OJA submitted an objection to Respondent Exhibit D. Respondent Exhibit D was a photograph taken at the concert on the evening of March 24th, 2019. After reviewing arguments from both the Respondent and OJA, the UHB Chair determined that the exhibit would be allowed with the date/time stamp provided and source authenticated during testimony.

4. The OJA submitted an objection to Respondent Exhibit E. Respondent Exhibit E was a string of text messages related to the Sigma Phi Epsilon investigation. After reviewing arguments from both the Respondent and OJA, the UHB Chair determined that the exhibit would be allowed in that it was deemed to not be prejudicial, but also that relevance and reliability would need to be established through testimony.

5. The Respondent (via JCC) submitted an objection to the inclusion of OJA Procedural Exhibit 6, which was an email string that also contained the prehearing timeline for exchange and objections. After reviewing arguments from both the Respondent and OJA, the UHB Chair granted the objection but specified that the actual prehearing timeline without the accompanying emails could be included.

University Hearing Board Proceedings and Decision

The UHB panel and parties convened and began proceedings shortly after the scheduled start time of 3:00 PM on Friday, September 6, 2019. At the beginning of the hearing, both the AJA and Respondent were provided the opportunity to renew any of their pre-hearing objections for decision by the UHB panel, but neither chose to do so.
The AJA called the Complainant and as witnesses, who provided testimony and were cross-examined by the Respondent (via JCC) and asked questions by the UHB panelists.

The Respondent testified on his own behalf and was asked questions by his advisor, the AJA, and by the UHB panelists. The Respondent called witnesses and, who provided testimony and were cross-examined by the AJA and asked questions by UHB panelists.

The AJA made her final statement, yielding (pending the UHB concurrence) on the charges 1.h. To endanger or to cause damage to or loss of property of another person and 3.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.

The Respondent (via advisor) made his closing statement. The UHB went into private session to deliberate its decisions.

Following deliberation, the UHB found the Respondent NOT RESPONSIBLE by a unanimous vote of 5 to 0 for the following charges under the Code:

Title Three, Art. II, Sec. A.

1.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.

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

3.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.

Rationale for Findings
The UHB’s decision regarding its determinations was based upon the following:

The unanimous view of the panel was that the OJA did not meet the standard of proof of “clear and convincing evidence”. The testimonies of both the Complainant and the other witness called by the OJA were inconsistent in a number of important ways, including the overall timeline of the events of question, the order of the events of question, where the Complainant and witness were actually located, and whether or not a bystander helped the Complainant recover his glasses. Furthermore, it was questioned whether in a loud, dark, and crowded concert environment, how well individuals could be identified, especially by only their hand.

Respectfully submitted,

Thomas R. Overton, Chair (nonvoting) of the UHB, on behalf of:

, Student
, Student
, Student
, Staff
, Faculty
Public Record 2020-03.
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT
Cornell Mock Trial

Temporary Suspension Petition

Procedural History

On April 22, 2019, a Hazing Report was filed through Cornell’s Hazing website. Cornell University registered organization Cornell Mock Trial, through their President [redacted], was notified of its referral to the Office of the Judicial Administrator (OJA) on June 19, 2019 for allegedly violating the Campus Code of Conduct (Code):

Title Three, 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, (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.

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

A Summary Decision Agreement was proposed on August 14th, 2019 which was not agreed to by the Respondent. On August 27, 2019, the Judicial Administrator temporarily suspended the Respondent. The Respondent exercised its right under the Code to petition this temporary suspension on September 11, 2019. The OJA’s response to the Respondent’s petition was submitted on September 17, 2019.

A University Hearing Board (UHB) convened on September 18th, 2019 to discuss Respondent’s petition.
Relevant Code provisions

Under the Code,

3. Temporary Suspension Pending Resolution

b. Suspension of a University-Registered Organization (Title III, Art. II., Sec. B.3.b and c, Pg. 21-22, 2018)

(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.

University Hearing Board Decision

After reviewing the Respondent’s petition, and the OJA’s response to the petition, the UHB:

1. Upheld the decision of the Judicial Administrator to temporarily suspend the Respondent;
   a. Vote count: 5
   b. Dissent: 0

Rationale for Decision

The UHB’s decision is based on the following rationale:
1. The UHB had the unanimous view, given the list of alleged violations of the Code presented by the OJA, that there was good cause shown for exercise of temporary suspension in this case.

2. The UHB was of unanimous view that circumstances had not changed in order to make the temporary suspension no longer necessary, per the Code. The panel based its decision on this issue on their perspective that the circumstances related to the allegations had not changed, regardless of the promise of revised procedures proposed by Cornell Mock Trial.

Respectfully submitted,

[Signature]

Thomas R. Overton, Chair of the UHB, on behalf of [Blurred names]
Public Record 2020-04 (URB).
Respondent

1) Procedural History – Decision of the University Hearing Board

A duly constituted panel of the University Hearing Board (UHB) met on April 30, 2019 to hear allegations that the Respondent violated the Campus Code of Conduct. The UHB adjourned after closing arguments by both sides and reconvened on June 2, 2019 to deliberate. The UHB found the Respondent in violation of the following Code provisions:

Title Three, Article II, Sec. 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 (2) destroys or remove 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.

The UHB unanimously found Respondent RESPONSIBLE.

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 boy 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.

The URB found Respondent RESPONSIBLE, with one member dissenting.

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.

The UHB unanimously found Respondent RESPONSIBLE.

3.h. To assist another person to violate this Title.

The UHB unanimously found Respondent RESPONSIBLE.
3.i. To incite another person toward a likely and imminent violation of this Title.

The UHB unanimously found Respondent RESPONSIBLE.

The UHB found by clear and convincing evidence that:

1) The “Burning Heart” event occurred on May 5, 2018;
2) The Respondent was the only continuing member of Sigma Phi Epsilon present for the majority of activities held during the “Burning Heart” event;
3) As the Sigma Coordinator, the Respondent supervised and directed the activities that occurred at the “Burning Heart” event;
4) the Respondent directed activities that a reasonable person would consider hazing insofar as they endangered the physical health and/or humiliated, demeaned, or intimidated members of the 2018 new member class (Title Three, Article II, Sec. A. 1.f);
5) the Respondent instructed the members of the 2018 new member class to consume alcohol or other substances to excess (Title Three, Article II, Sec. A. 1.f);
6) the Respondent endangered the safety of others by threatening members of the 2018 new member class with an Airsoft gun as they ran to a tree line as directed by the Respondent, and intimidated and used physical force by paddling members of the 2018 new members class when they threw hot dogs out of a window instead of eating them as instructed (Title Three, Article II, Sec. A. 1.g);
7) the Respondent provided alcohol to the members of the 2018 new members class, none of whom were of legal drinking age (Title Three, Article II, Sec. A. 3.b);
8) alcohol was present throughout this event that was supervised by the Respondent (Title Three, Article II, Sec. A. 3.h.);
9) the Respondent directed, either implicitly or explicitly, member of the 2018 new member class to paddle each other and to consume alcohol and other substances to excess (Title Three, Article II, Sec. A. 3.i);

The UHB reconvened for the sanctions phase on May 9, 2019 and determined the following sanctions (with voting record noted):

1) UHB Vote 5-0 Written Reprimand. A disciplinary record will be maintained consistent with University policies. A disciplinary record for this matter will be permanently reportable.
2) UHB Vote 4-1 Suspension from Cornell University. As required by the Code, the Office of the Judicial Administrator (OJA) sought and was granted permission to present suspension as an appropriate sanction. Respondent was suspended from Cornell University for one semester, effective August 29, 2019. Respondent would be eligible to return for the Spring 2020 semester only upon verification of completion of the remaining sanctions imposed by the UHB. The terms of the suspension are as follows: “During this period of suspension, you will not take any classes at Cornell, on any of
Cornell’s campuses, or through any of Cornell’s study-abroad program. While on suspension, you may not earn academic credit at Cornell or elsewhere toward completion of a Cornell degree. You agree to participate in the OJA Circles of Support and Accountability: Suspension Reintegration Program while on suspension. A person no grata (PNG [letter] will be put in place during your suspension and you will contact Cornell University Police before returning to Cornell to request the PNG be amended or lifted. A transcript notation will be placed on your official transcript, consistent with the policies of the Office of the University Registrar.

3) **UHB Vote 5-0 Deferred Dismissal.** As required by the Code, the OJA sought and was granted permission to present dismissal as an appropriate sanction. On March 7, 2019, the UHB Chair stated that dismissal was in the acceptable range of sanctions for the conduct in this case. The dismissal is deferred unless and/or until Respondent fails to comply with the terms of the sanctions or if the Respondent violates the Campus Code of Conduct (“the Code”) before graduation. If there is full compliance with the sanctions and there are no future violations of the Code, the dismissal will not take effect. The dismissal shall be triggered for any conduct that is a violation of the Code.

If the dismissal is triggered, it will be imposed as follows: the dismissal will be permanent; the dismissal will commence immediately upon a finding of “responsible” for the violation(s). Upon dismissal, Respondent will not be permitted on Cornell University property. A persona non grata letter will be issued by the Cornell University Police. A transcript notation will be placed on Respondent’s official transcript, consistent with the policies of the Office of the University Registrar.

In addition to the above, the UHB imposed the following sanctions:

- Disciplinary probation
- Reflection Paper
- Movie Discussion
- Restriction from joining a Cornell-affiliated Greek organization/group
- Research paper and personal reflection paper
- Community service and personal reflection paper
  (See UHB decision, undated)

In its decision, the UHB noted the following regarding its sanctions determinations:

1) The UHB members felt that the Respondent accepted responsibility in good faith for his violations of the Code.

2) Although the UHB members realize that a three-year suspension is likely more procedurally correct they understand that, for this Respondent, a suspension of more than one semester is essentially equivalent to dismissal. They also understand that a suspension period of more than one semester would not just impact the Respondent’s academic progress; it would also significantly and materially impact his future, as the Respondent would either need to repay the U.S. Military for his
3) The UHB members further discussed the proposed sanction of a three-year sanction by considering the underlying purposes of suspension and reasoned that it serves at least two: punitive and protective. Because they did not consider the Respondent to be an ongoing danger to the Cornell community, the UHB members did not feel compelled to assign an extended suspension for his violations of the Code.

4) The UHB member who voted against the one-semester suspension argued that the Respondent should be sanctioned with the proposed three-year suspension, as he knew what he was agreeing to when he signed his ROTC contract.

5) The UHB members acknowledged how difficult it is to change a deeply embedded culture of hazing, and while they found it necessary to hold this student accountable with punitive sanctions, they consider proactive hazing prevention efforts most essential and strongly appeal to the University to deepen and further bolster these efforts.

6) The UHB members found minimally useful topics of the proposed reflection papers and substituted other reflection papers in their stead.

2) Current Appeal – Decision of the University Review Board

A) History
The OJA appealed the decision of the UHB on July 22, 2019. The grounds for the appeal were that the penalty imposed was not commensurate with the violation, and the OJA asked for a three-year suspension rather than the one year imposed by the UHB.

The Respondent also appealed the decision of the UHB on August 16, 2019 on the grounds that the UHB committed a prejudicial error in interpreting this Code or rendered a decision clearly against the evidence.

The URB Chair granted an extension to the Respondent to file his appeal as he was stationed through ROTC outside of the country and therefore unable to consult with his advisor until his return.

The OJA then filed a Response to the Respondent’s appeal on August 30, 2019 and the Respondent, with permission of the Chair, filed a Rebuttal to the Reply filed by the OJA.

B) Bases for Appeals

In its appeal, the OJA argued the following:

1) The penalty imposed did not proportionately address the harm caused by the Respondent’s behavior in that he harmed others as well as the Cornell community.
2) The UHB improperly considered mitigating factors in its sanctions determinations.
The OJA asked for a three-year suspension.

In his appeal, the Respondent argued the following:

1) The OJA did not meet its burden of proving by clear and convincing evidence that the Respondent’s actions meet the Code’s definition of hazing.
   a. The Respondent argued that as the definition of hazing is “...an act that [is required], as an explicit or implicit condition for ...continued membership in a group or organization...” and that as there had been a formal initiation event in February, the activities of May 5, 2018 (hereafter “Burning Heart”) did not constitute hazing. The Respondent argued that there were no restrictions, conditions, or contingencies to be met for membership after the February initiation event and that all Sigma members were full members of the fraternity at the time of Burning Heart.
   b. The Respondent further argued that there was no explicit or implicit threat of expulsion from the fraternity as evidenced by the fact that members who rebelled and threw hot dogs out a cabin window (rather than eating them as instructed) were neither expelled nor threatened with expulsion (although the Respondent acknowledged that he directed members of the group to paddle members who rebelled).

2) OJA’s witness, [redacted], was not credible and the testimony of OJA’s witness, [redacted], was not helpful.

3) The Respondent conceded that he provided alcohol to underage people and that he shot an Airsoft gun at members of the group and allowed members of the group to be paddled.

4) The Respondent asked the URB to have a sense of perspective about the events of the “Burning Heart” and to consider mitigating factors such as Respondent’s participation in ROTC and his contract with the Army; the fact that in 2017 Respondent was involved with the same “Burning Heart” activities and observed no one suffering consequences for such activities.

A duly constituted panel consisting of a student, faculty member and staff member met on September 20, 2019 to review the appeals. Andrea J. Mooney chaired the meeting but did not have a vote.

The Campus Code of Conduct, Title 3, Article III, Section F(1)(7)(b) states with regard to a URB decision: “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) URB decision
The URB found that the sanctions imposed were not commensurate with the violations for which the Respondent was found responsible and determined to modify the remedy imposed by the UHB.

The panel discussed the arguments of both sides and reached the following conclusions:

1) A one-year suspension did not seem commensurate with the behaviors of the Respondent.

a) The behavior of the Respondent was hazing. The URB was not persuaded by the Respondent’s argument that at the “Burning Heart” event, all present were actually members of the fraternity already, and thus hazing did not occur. The URB looked at the Code provision (Title Three, Art. II, Sec. A 1(f)): “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....” (emphasis added)
   Thus, the URB determined that the status of the participants of “Burning Heart” – whether as initiates or as full members – was irrelevant. Regardless of whether the activities were addressed to admission to or continued membership in the fraternity, the events of “Burning Heart” constituted hazing. Nonetheless, the panel believed that the event was one of initiation into the fraternity, not an activity for all members. The only continuing member present at the event was the Respondent; all other participants were new members. In addition, the “Burning Heart” event was conducted off-campus, which means that the Respondent had planned thoroughly for the event, arranging for alcohol (which the Respondent concedes he provided to underage people), a paddle, vinegar for the participants to be made to drink, and an Airsoft gun to be brought to the event.

b) The hazing perpetrated by the Respondent involved both physical and psychological violence.
   i) Despite the Respondent’s attempt to characterize an Airsoft gun as a “toy,” the panel viewed it differently. To the panel, the seventeen people who were shot at as they were running away from the Respondent were likely to be terrified. It is not clear whether they knew the nature of the gun that was being used against them or whether they knew how close the Respondent was to them. The panel noted that an Airsoft gun looks and sounds like a gun and could have seriously hurt someone.
   ii) The act of paddling, which the Respondent conceded, was both violent and humiliating.
   iii) The panel did not consider either side’s arguments about people being wrapped in bubble wrap and made to roll down a hill, or people being made to dig up and move a tree, as the above incidents sufficiently constitute hazing.
c) The seventeen people who were hazed need protection going forward. It is likely that the seventeen people would continue to be present on campus after the Respondent completed a one-year suspension if that were his length of suspension. Given the violent nature of the acts committed against those seventeen people, the panel determined that they should not have to be again subjected to the Respondent during their time at Cornell. The panel was unpersuaded by the Respondent’s argument that the seventeen people signed a letter supporting the Respondent, suggesting that they were not harmed by the events of “Burning Heart.” The panel noted that only these seventeen people and the Respondent were present at the event, so at least one of the seventeen had to have notified the OJA of the events of that night.

2) The UHB erred in accepting the Respondent’s mitigation arguments.

a) The panel thought that the UHB’s determination that Respondent had accepted responsibility for his actions was not accurate. There was insufficient evidence of his apologies to the seventeen people; as the OJA noted, the Respondent was unable to provide details as to when or to whom he had apologized.

b) The panel was not convinced by the argument that a three-year suspension would have grave consequences for Respondent in that he will be unable to complete his ROTC contract.

   i) First, the evidence presented to the UHB was that the consequences of suspension “...may mean disenrollment from the ROTC, loss of scholarship in tuition, and inability to commission as an Officer in the Army.” There was no explanation of what “may” suggested and under what circumstances. Thus, it was unclear as to what the actual consequences of suspension would be. Further, the panel considered that the Respondent understood, or should have understood, the terms of the contract he signed with the Army. He should have understood when he agreed to become a member of the ROTC that his membership was conditional on his conduct. His responsibilities to the Army cannot be a mitigating factor in his sanctions.

   ii) Second, the panel considered the precedent provided by the OJA in its argument (Public Record #2019 – 04) and the argument provided by the Respondent with regard to this precedent. In the opinion of the panel, the University cannot provide sanctions to different students depending on their different obligations. If an ROTC contract is a mitigating factor, then so would be an athletic scholarship, or an appointment as a research assistant or a residence assistant, and so on. The Campus Code of Conduct and its remedies must be applied equally to all, regardless of status.

3) The URB panel took as vital the significant consequences of allowing someone to haze another student and not suffer severe punishment.

It was the panel’s view that hazing is an activity that must be abolished from the Cornell Campus. While the panel respects the UHB’s appeal to the University to deepen and further bolster efforts to prevent hazing, the panel felt that those efforts have to include a strong and serious response to hazing events.
Thus, the University Review Board determined to alter the remedies provided by the University Hearing Board as follows:

1) One-year suspension changed to a three-year suspension. The Respondent is suspended Cornell University for a period of three years and is eligible to return only upon verification of completion for the remaining sanctions in this decision. Return would be not before Fall of 2022.
2) Written reprimand. A disciplinary record will be maintained consistent with University policies.
3) Deferred dismissal as noted in the UHB decision.
4) Restriction from joining a Cornell-affiliated Greek organization or group.

In light of the above sanctions, the remaining sanctions provided by the UHB are rescinded.

Respectfully submitted,

Andrea J. Mooney
Chair, University Review Board

For the University Review Panel:

Chair, Faculty
Chair, Staff
Chair, Student

October 4, 2019
Public Record 2020-04 (Presidential Appeal).
January 10, 2020

Via email to:

Dear [Name],

I have reviewed your written petition of appeal regarding the University Review Board’s determination of October 4, 2019, along with supporting information regarding your case, including the Office of the Judicial Administrator’s November 12, 2019 response.

Procedural History

As you are aware, the University Hearing Board (UHB) determined unanimously that you were responsible for violating the following provisions of the Campus Code of Conduct:

• 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, humiliation, 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.

• 3.h. To assist another person to violate this Title.

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

In addition, the UHB determined by a vote of 4-1 that you were responsible for violating the following provision of the Campus Code of Conduct:

• 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 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.
The UHB imposed the following sanctions: (1) written reprimand; (2) a one semester suspension; (3) deferred dismissal; (4) disciplinary probation; (5) an educational movie discussion; (5) restriction from joining a Cornell-affiliated Greek organization/group; (6) a research and personal reflection paper; and (7) community service and personal reflection paper.

On July 22, 2019, the OJA submitted an appeal of the UHB’s decision to the University Review Board on the grounds that the sanctions were disproportionate and not commensurate with the violations for which you were found responsible; namely, that the one-semester suspension imposed by the UHB was insufficient. You also submitted an appeal on the grounds that the UHB committed a prejudicial error in interpreting the Code or rendered a decision clearly against the evidence; namely, that you did not violate provision 1.f of the Code by engaging in hazing.

The University Review Board reviewed the decision of the UHB upon appeal by both the OJA and you. Upon review, the University Review Board determined that the sanctions imposed by the UHB were not commensurate with the violations for which you were found responsible. The URB instead imposed the following sanctions: (1) a three-year suspension; (2) written reprimand; (3) deferred dismissal; and (4) restriction from joining a Cornell-affiliated Greek organization/group.

Consideration of Appeal

Hazing cannot and will not be tolerated at our University. Your conduct during the event in question is deeply troubling, clearly violative of the Code of Conduct, clearly constituted hazing as defined therein, and calls for significant sanctions.

It is apparent that, although you seek leniency based on your asserted acceptance of responsibility for your actions, you have simultaneously attempted to deny responsibility for hazing throughout the underlying process. Although you state in your appeal to me that you “stand by [your] acceptance of responsibility of breaking the Code of Conduct in the same good faith that [you] provided months ago at [your] UHB hearing”, the record belies that assertion. From your initial hearing before the UHB, where you introduced preprinted “statements” from affected individuals asserting you had not hazed them, through the appeal to the URB, wherein you asserted that the activities at issue did not meet the definition of hazing, you have attempted to minimize your actions and avoid responsibility. As a reminder, this activity you sought to minimize included, but was not limited to: requiring new members to complete physically exerting tasks; requiring new members to consume alcohol, vinegar, and raw hot dogs; instructing new members to paddle one another as punishment for throwing raw hot dogs away in attempt to avoid forced consumption; and shooting at new members with an airsoft gun while they ran, with their backs turned, away from you.

Although I understand you may have found yourself in a difficult position with respect to your contract, I cannot ignore that any such difficulty has been caused solely by your own actions. You accepted terms upon enrolling in the program and are now accountable for any consequences which may arise. Each member of the University community may be uniquely affected by the impact of sanctions that are equitably imposed. That is not a reason to minimize the severity of conduct such as your own, or the sanctions applied for your misconduct. However, I am adjusting the term of the suspension, as set forth below.

Sanctions

I have determined that a two-year suspension is more appropriate in this case, along with restoration of the educational sanctions to support needed personal growth before you rejoin the Cornell community. It is important to impose sanctions that will encourage that reflection, such as those which were thoughtfully developed by the UHB and are set forth in detail below.

I therefore impose the following sanctions:

1. **Suspension from August 29, 2019 through August 20, 2021.** During this time period, you may not take any classes at Cornell, including on any of Cornell’s campuses, in any of Cornell’s study-abroad
programs, as an ex-mural student, or in any other way. You will not be allowed on University premises and a \textit{persona non grata} previously issued by the Cornell Police will continue during the period of suspension. During the suspension, you may not obtain academic credit at any institution toward completion of a Cornell degree. The community work sanction described below must be completed before you can return to campus. You may enroll in classes and return to Cornell for the fall semester, 2021.

2. 
\textbf{Deferred Dismissal}. Dismissal will be deferred unless and/or until you fail to comply with these sanctions or violate the Code before graduation. If there is full compliance with these sanctions and there are no future violations of the Code, the Dismissal will not take effect. The Dismissal shall be triggered for any conduct that is a violation of the Code. If the Dismissal is triggered, it will be imposed as follows:
   a. The Dismissal will be permanent.
   b. The Dismissal will commence immediately upon a finding of “responsible” for the violation(s).
   c. Upon Dismissal, you will not be allowed on Cornell University property. A \textit{persona non grata} (PNG) will be issued by the Cornell University Police. A transcript notation will be placed on your official transcript, consistent with the policies of the Office of the University Registrar.

3. 
\textit{Restriction from joining a Cornell-affiliated Greek organization/group}. You will not join another Cornell-affiliated Greek organization/group for the remainder of your tenure as a student at Cornell University.

4. 
\textbf{Research Paper and Personal Reflection Paper}. You will complete a research paper of 10-12 pages on hazing in the [redacted]. It should include at least 10 reliable and substantive sources. In a separate personal reflection paper of at least 5 pages, consider further the following prompt: Given that, upon graduating from Cornell University, you anticipate holding a significant leadership role in the [redacted], consider both 1) how you will use what you discover in your research to inform your decision and work to resist and change any hazing-related incidents you may experience or witness, and 2) how you will use your research and experiences at Cornell to influence the kind of [redacted] leader you will become. Both papers must be presented in 12-point, Times New Roman font with one-inch margins all around. The research and personal reflection papers must be submitted by May 31, 2020.

5. 
\textbf{Community Service and Personal Reflection Paper}. During your time away from campus, you must complete at least 80 hours of community service. Upon completing your community service, you will compose a reflection paper of at least 5-7 pages in which you describe a meaningful community-building moment from your community service experience and explain why and how it had an impact on you. The reflection paper must be presented in 12-point, Times New Roman font with one-inch margins all around. Your community service must be completed by May 1, 2020 and your personal reflection paper must be submitted by May 31, 2020.

Yours sincerely,

\[\text{\underline{Martha E. Pollack}}\]

cc: [redacted], Adviser for the Respondent
Michelle R. Horvath, Judicial Administrator (mrh263@cornell.edu)
Judicial Administrator Account (judadmin@cornell.edu)
Christina Liang, Associate Judicial Administrator (cl2347@cornell.edu)

Under confidential terms mutually satisfactory to Cornell University and the Respondent in this matter, the period of suspension imposed by this decision was subsequently modified to run for one year, from August 29, 2019 through August 28, 2020. All other sanctions remain as imposed by this decision.
Public Record 2020-05.
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT

Hearing on the Merits

Procedural History

On April 24, 2019, an incident report was filed with the Office of the Judicial Administrator by Associate Judicial Administrator, indicating that the Respondent had overdue sanctions from a previous case (#2018101603) for which a Summary Decision Agreement had been signed by the Respondent on March 14, 2019, specifically completion of BASICS and a reflection paper that were both due on March 25, 2019. An overdue notice had been sent to the Respondent on April 17, 2019. On April 30, 2019, the Office of the Judicial Administrator notified the Respondent of the following alleged violation of the Campus Code of Conduct:

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

Upon request by the OJA to discuss this alleged violation of the Code, the Respondent scheduled a meeting for May 3, 2019 which he subsequently did not attend. The Respondent rescheduled the meeting for May 15, 2019, which he subsequently did not attend. On May 16, 2019, the OJA sent by email a proposed Summary Decision Agreement to the Respondent. The Summary Decision Agreement was not met; therefore, the OJA referred the case to the University Hearing Board (UHB) on May 21, 2019. On May 24, 2019, the OJA requested a postponement of the hearing due to scheduling challenges with summer break, which was granted by the UHB Chair and a hearing date set for Tuesday, September 24, 2019. On June 4, 2019 a letter was sent by email from the OJA to the Respondent outlining the OJA’s proposed timeline for exchange of witnesses and exhibits and prehearing objections, motions, and responses by the other party prior to the hearing. Lacking any response from the Respondent, on June 10, 2019 the OJA sent a letter by email to the Respondent establishing the timeline proposed on June 4, 2019.

Accordingly, a duly constituted University Hearing Board (UHB) convened on September 24, 2019 for a Hearing on the Merits.

Allegations

It is alleged that the Respondent obstructed application of the Code by failing to complete agreed-upon sanctions from a previous case.
University Hearing Board Proceedings and Decision

The UHB panel and the AJA convened and began proceedings shortly after the scheduled start time of 5:30 PM on Tuesday, September 24, 2019. The Respondent did not appear for the Hearing, so the UHB panel first considered the provisions made by the Code when the accused does not appear (Title Three, Article III, Section E; 5) and determined by consensus that the OJA had made sufficient efforts to communicate with the Respondent; therefore, the Hearing would proceed without the Respondent present.

Following the opening statement by the AJA, the AJA called [redacted] as only witness. [redacted] provided testimony and was asked questions by the UHB panelists.

The AJA made closing statement. The UHB panelists were offered the opportunity to ask final questions and the UHB panel went into private session to deliberate its decision.

Following deliberation, the UHB found the Respondent RESPONSIBLE by a vote of 5 to 0 for the following charge under the Code:

   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 was based upon the following:

   The unanimous view of the panel was that the Respondent had not completed the agreed-upon sanctions from the previous case, despite having been provided reminders and ample time to do so.

Sanctions phase

The AJA presented sanctioning arguments, referring to Sanctioning Exhibit 1 (proposed Summary Decision Agreement dated May 16, 2019).

Following a final opportunity for questions from the UHB panel of the AJA, the UHB went into private session to deliberate sanctions.

Sanctions

Following deliberation, the UHB determined by a 5 to 0 vote that the following sanctions are appropriate for the violation found:

1. Written Reprimand: A disciplinary record will be maintained consistent with University policies. A disciplinary record for this matter will be reportable until the Respondent graduates from Cornell University.
2. **Complete sanctions from Case: 2018101603 / Alcohol and Other Drug Level 1 - BASICS:** The Respondent must complete Brief Alcohol Screening and Intervention for College Students (BASICS) alcohol/drug education sponsored by Cornell Health. This includes: contacting Cornell Health to schedule an appointment with a facilitator by either a) calling 607-255-5155 and pressing option 3 or b) scheduling an appointment through the on-line Cornell Health (CH) student portal. The Respondent must complete the BASICS program by October 31, 2019, including completing evaluations requested by Cornell Health. If he fails to contact Cornell Health, misses any meeting, or fails to complete his BASICS education, he may be required to pay fees according to Cornell Health's policies.

3. **Complete sanctions from Case: 2018101603 / Reflection Paper:** The Respondent must complete a five-page reflection paper on the following topic: what were his intentions in this situation, what action steps did he take in this situation that were consistent or inconsistent with the Campus Code of Conduct and led to his referral to the OJA, why he took these actions, and what he will do differently in the future to prevent recurrence. 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 October 31, 2019. The paper should be sent via email to judadmin@cornell.edu and include in his email that this case was in the portfolio of AJA.[removed]

4. **Fine if sanctions 2 and 3 are not completed by October 31, 2019:** Respondent will be fined $200 on November 1, 2019 payable to the University Treasurer if sanctions 2 and 3 above are not completed by October 31, 2019.

**Rationale for Sanctions**

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

1. The sanctions in the Summary Decision Agreement for the previous case signed on March 14, 2019 and agreed-upon by the Respondent (Sanctions 2 and 3) were viewed as appropriately educational and supportive of personal growth of the Respondent.

2. The panel felt that the Respondent had not complied with previous sanctions and correspondence in a timely manner. Thus, to encourage the Respondent to complete the sanctions in a timely manner; the UHB added a fine (Sanction 4) to be paid only if sanctions were not completed by October 31, 2019.

Respectfully submitted,

Thomas R. Overton, Chair (nonvoting) of the UHB, on behalf of:

[removed] Student
[removed] Student
Public Record 2020-06.
UNIVERSITY HEARING BOARD

COMPLAINANT

RESPONDENT

Hearing on the Merits

Procedural History

On April 29, 2019 an incident report was filed by Officer from Cornell University Police (CUPD) with the Office of the Judicial Administrator (OJA) describing a physical altercation between roommates and on the evening of April 28, 2019 in their dormitory room in Mary Donlon Hall. Following investigation, the OJA determined that there was reasonable cause to believe that the Respondent had violated the following Code provisions:

Title Three, Art. II, Sec. A.

- 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 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.

- 3.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.

There was a concurrent case involving as Complainant and as Respondent based upon the same incident; therefore, a request was made on September 17, 2019 by the OJA to join the cases. The assigned UHB Chairs (Rocco Scanza and Thomas Overton) agreed to the joinder and indicated that Thomas Overton would chair the hearing. Subsequently, both Respondents motioned for exclusion of the joint hearing. On September 30, 2019 UHB Chair Overton determined that the hearings should be separated, with the primary rationale of the following “The Code unambiguously states that ‘No accused person shall be compelled to testify against himself or herself.’” In the instant situation, where the two students are both complainants and respondents, I would be concerned that either student could not both meaningfully participate
as a complainant and simultaneously exercise the ability specified in the Code to refuse to testify as a respondent given that the charges arose out of a single incident.

The OJA and Respondent were not able to reach a Summary Decision Agreement. Accordingly, a duly constituted University Hearing Board (UHB) convened on November 19, 2019 for a Hearing on the Merits.

Allegations

It is alleged that engaged in a verbal altercation with his then roommate. This verbal altercation escalated to a physical altercation where he made physical contact with, resulting in sustaining a concussion.

Pre-hearing Decisions

Following exchange of witnesses and exhibits between the OJA and Respondent, there were two objections submitted that required pre-hearing decisions by the UHB Chair.

1. The OJA submitted an objection to the inclusion of Respondent Exhibit F (medical records of from April 29, 2019) based upon inadvertent disclosure from the OJA to the Respondent. After reviewing arguments of both OJA and Respondent, the UHB Chair determined that the exhibit was potentially relevant, not unduly prejudicial, and that the Code was silent relative to how documents were obtained by a party. The UHB Chair allowed the exhibit.

2. The OJA submitted an objection to the inclusion of Respondent Exhibit G (statement of regarding head injuries). After reviewing arguments of both the OJA and Respondent, the UHB Chair determined that the statement was potentially relevant, but that reliability would be considered by panel given lack of associated witness testimony by the author of the statement.

University Hearing Board Proceedings and Decision

The UHB panel and parties convened and began proceedings shortly after the scheduled start time of 4:30 PM on Tuesday, November 19, 2019.

The AJA renewed both of her prehearing objections. After hearing arguments from both the OJA and Respondent, the UHB panel voted 5 to 0 to allow both exhibits into the proceedings.

Opening statements were made by both parties.

The AJA called Complainant, who provided testimony and was cross-examined by the Respondent and asked questions by the UHB panelists.

The AJA called Officer, CUPD, who provided testimony and was cross-examined by the Respondent and asked questions by the UHB panelists.
The AJA called Officer [REDACTED], CUPD, who provided testimony and was cross-examined by the Respondent and asked questions by the UHB panelists.

The Respondent called [REDACTED], who provided testimony and was cross-examined by the AJA and asked questions by the UHB panelists.

The Respondent called [REDACTED], who provided testimony and was cross-examined by the AJA and asked questions by the UHB panelists.

The Respondent called [REDACTED], who provided testimony and was cross-examined by the AJA and asked questions by the UHB panelists.

The AJA made her closing statement.

The JCC made her closing statement on behalf of the Respondent.

The UHB panel went into private session to deliberate its decisions.

Following deliberation, the UHB found the Respondent RESPONSIBLE for the following charge under the Code by a vote of 5 to 0:

Title Three, Art. II, Sec. A.

- 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 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.

Following deliberation, the UHB found the Respondent NOT RESPONSIBLE for the following charges under the Code by a vote of 5 to 0:

- 3.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.

**Rationale for Findings**

The UHB’s decision regarding its determinations was based upon the following:

-- The UHB determined that the Respondent intentionally escalated the situation, had multiple opportunities to de-escalate the situation and chose not to do so, and thereby engaged in the physical altercation.
The UHB did not find that the behavior resulted in the disruption or risk of disruption to the University community as it was confined to their room in Mary Donlon Hall.

Sanctions phase

The AJA presented her sanctioning arguments, referring to Sanctioning Exhibit 2 (proposed Summary Decision Agreement dated September 11, 2019).

The JCC (on behalf of Respondent) presented her sanctioning arguments.

Following a final opportunity for questions from the UHB panel of the AJA and Respondent, the UHB went into private session to deliberate sanctions.

Sanctions

Following deliberation, the UHB determined by a 5 to 0 vote that the following sanctions are appropriate for the violation found:

1. **Written Reprimand**: A disciplinary record will be maintained consistent with University policies. A disciplinary record for this matter will be reportable until the Respondent graduates from Cornell University.

2. **Directed study**: The Respondent needs to complete one of the following options to enhance his skills in conflict management and resolution:

   -- Enroll in and complete EDUC 2610 (Intergroup Dialogue) during either the Spring 2020 or Fall 2020 semesters and arrange and complete (for verification purposes) a minimum one-hour discussion with [Name] to discuss what he has learned about interpersonal interactions and conflict management.

   -- Enroll in and complete (with verification) an online conflict resolution course (see options below) with a minimum one-hour follow-up discussion with [Name], Director of Conflict Programs from The Scheinman Institute on Conflict Resolution, ILR (who must also verify to the OJA that the discussion took place) or a member of the OJA staff. If chosen, this sanction must be completed by February 29, 2020.

Options identified by the UHB include:

- LinkedinLearning – Conflict Resolution Foundations
  [https://www.linkedin.com/learning/conflict-resolution-foundations-4](https://www.linkedin.com/learning/conflict-resolution-foundations-4)

- Coursera – Conflict Resolution Skills
  [https://www.coursera.org/learn/conflict-resolution-skills](https://www.coursera.org/learn/conflict-resolution-skills)

- Alison.com – Introduction to Conflict Management and Negotiation
Rationale for Sanctions

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

1. The Code violation did not seem to rise to the level of Deferred Probation as recommended by the OJA.
2. The sanctions of Directed Study with focus on reading a book with several meetings with OJA to discuss and Reflective Paper (podcast) as proposed originally by the OJA did not seem to fit this particular situation. Furthermore, the recording of a podcast as proposed by the Respondent did not seem to allow for the degree of self-reflection that the UHB felt was necessary in this case.
3. In order to try to help build lifelong skills, the UHB panelists felt that either completion of the academic course identified or completion of an online conflict management course with a follow-up discussion with a campus-based professional to discuss learnings, and who could also confirm with the OJA that the sanction had been completed, would be more effective than the other sanctions proposed.

Respectfully submitted,

Thomas R. Overton, Chair (nonvoting) of the UHB, on behalf of:

Student, Student, Student, Staff, Faculty
Public Record 2020-07.
On November 13, 2019, the University Hearing Board (UHB) convened to consider allegations that the Respondent violated the Campus Code of Conduct (Code), specifically:

Title Three, Article II, Sec. A.

- 1.h. To endanger or to cause damage to or loss of property of another person.
- 2.g. To enter upon or make use of University or private property or facilities without authorization.
- 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.
- 3.f. To publicly urinate or defecate.

Allegations

On October 10, 2019, the Office of the Judicial Administrator (OJA) notified the Respondent of allegations of Campus Code of Conduct (Code) violations.

Specifically, it is alleged that on September 25, 2019, the Respondent consumed alcohol under the age of 21. It is further alleged that, later that evening, he entered the residence hall room of another individual without their permission and urinated on their belongings.

Procedural History

On October 21, 2019, the OJA proposed a summary decision agreement (SDA) to the Respondent. The matter was not resolved by a SDA, and per the Code, on October 24, 2019, the Respondent was notified that a UHB hearing would be scheduled with Chair Tracy Carrick.

A duly constituted UHB hearing was scheduled to convene on Wednesday, November 13, 2019 at 5:00pm for a Hearing on the Merits.
Pre-hearing Decisions

On November 9, 2019, the OJA submitted two Pre-Hearing Objections.

1. The OJA’s Objection to Respondent’s Exhibit B was granted on the grounds that a legal definition from Black’s Law Dictionary is not relevant to a Code of Conduct hearing.
2. The OJA’s Objection to Respondent’s Exhibit G was granted on the grounds that a passage from a criminal law casebook is not relevant to a Code of Conduct hearing.

University Hearing Board Decisions | Hearing on the Merits

The Hearing was called to order at 5:00pm on Wednesday, November 13, 2019. After the OJA presented the above charges, the Respondent moved to revisit two pre-hearing decisions in which the Chair excluded Respondent’s Exhibits B and G. The Respondent’s Exhibit B excerpts “Black’s Law Dictionary,” and the Respondent’s Exhibit G excerpts a criminal law casebook titled “Jens David Ohlin, Criminal Law: Doctrine, Application, and Practice.” Neither exhibit, the OJA argued, is relevant to the adjudicative process under the Code: a UHB hearing is an administrative, not a legal proceeding. The Respondent argued that the inclusion of the exhibits would provide the UHB with “information, guidance, and a framework to consider concepts already inherent in the Campus Code of Conduct.” The members of the UHB panel unanimously supported the OJA’s objections to Respondent’s Exhibits B & G on the grounds that legal definitions and interpretations are not relevant in a Code of Conduct hearing.

At 5:20pm, the OJA and the Respondent provided opening statements.

The OJA presented four witnesses. OJA witnesses [Name Redacted], a Cornell student, provided testimony and answered questions primarily on events that occurred on the evening of September 25, 2019. He testified that he was asleep in his unlocked dormitory room when he was awoken by the sound of someone urinating. When he opened his eyes, he saw a naked man urinating in his closet. When he shouted out, the man grabbed a white t-shirt from the closet to cover himself and clean up the mess. The OJA witness explained that he contained the intruder and contacted the Resident Advisor (RA) on call to request assistance. OJA witness [Name Redacted] also reported on an informal meeting that he attended with the Respondent and the Head RA during which he and the Respondent discussed the possibility that the Respondent was sleepwalking when he entered OJA witnesses [Name Redacted]’s dormitory room and urinated in his closet.

OJA witnesses [Name Redacted], a veteran RA, and [Name Redacted], the RA on call, provided testimony and answered questions about their involvement in the events that occurred on September 25, 2019. They reported that they spent about twenty minutes with the OJA witness and Respondent while they waited in a nearby lounge for CUPD to arrive. During their time with the Respondent, the OJA witnesses reported that they smelled alcohol and observed lagging behavior. They also reported that the Respondent stated that he consumed eight to ten beers, uncoerced, at an unofficial fraternity event (“Dirty Rush”) between the hours of 9:00am and 12:00am. OJA witness Elsaid described the Respondent as cooperative, respectful, and apologetic. He also drew a map of the dormitory hall depicting the location of the Respondent’s
room, OJA witness’s room, and the bathroom the Respondent typically uses. Both RAs reported that they had offered OJA witness emergency cleaning services, which he declined.

OJA witness CUPD Officer provided testimony and answered questions on events that occurred on the evening of September 25, 2019. He confirmed the details reflected in his September 26, 2019 incident report: In response to a 2:50am call to Cornell Police, Officer was dispatched to Kay Hall. Upon arrival, Officer joined the Respondent and the three other OJA witnesses in a dormitory lounge where he questioned the Respondent and OJA witness about the incident, which he summarized as follows: after consuming alcohol at an unregistered party at the Phi Kappa Psi fraternity, the Respondent unlawfully entered a dormitory room and urinated on the resident’s clothing. Officer testified that he detected a strong smell of alcohol, that he found the Respondent embarrassed, respectful, and cooperative, and that the Respondent admitted to consuming ten beers.

The Respondent himself presented testimony and answered questions on the events of September 25, 2019 wherein he reported that he went out with friends and consumed eight to ten beers between the hours of 9:00pm and 12:00am. He returned to home to his room, completed his nighttime routine, and went to bed. He reported that he arose at 2:00am and went to the men’s room to urinate. While he was urinating, he was startled when OJA witness started shouting at him. The Respondent testified that he had previously been told that he is a restless sleeper, that family members and his current roommate had told him about incidents in which they witnessed restless and active sleep behaviors. The Respondent has recently met with a therapist and discussed a possible sleep disorder. Since the September 25, 2019 incident, the Respondent reports that his roommate has observed him sleepwalking, and that they have devised, on the therapist’s recommendation, safety measures – like barricading their dormitory door with chairs and installing a barrier that makes noise when the door opens – to make sure that he is not able to wander in the middle of the night.

The Respondent then called one witness. Respondent’s witness presented testimony and answered questions about his experiences as the Respondent’s roommate on, before, and after September 25, 2019. On the night of September 25, 2019, Respondent’s witness testified that the Respondent was “buzzed” when he came home, and that he witnessed the Respondent complete his typical bedtime routine. He testified that, on a couple of occasions prior to September 25, 2019, he had observed the Respondent engaging in unusual sleep behaviors, like kicking the wall and rearranging items on a desk, and that since September 25, 2019, he witnessed the sleeping Respondent walking and attempting to leave the room. Respondent witness testified that he did not believe that the Respondent had been drinking prior to any of these incidents. He also confirmed the safety measures that he and the Respondent have been taking to disrupt sleepwalking incidents.

The OJA and the Respondent presented closing statements, and the members of the UHB panel deliberated the merits of the case. After considering all relevant information, the UHB found the Respondent in violation of the following Code provisions:

Title Three, Article II, Sec. A.
1. h. To endanger or to cause damage to or loss of property of another person.
   - Votes for a finding of responsible: 4
   - Votes against a finding of responsible: 1
   - Rationale for dissenting vote: The OJA did not provide clear and convincing evidence that the OJA witness sustained any damages to his property.
   - RESPONSIBLE

2. g. To enter upon or make use of University or private property or facilities without authorization.
   - Votes for a finding of responsible: 4
   - Votes against a finding of responsible: 1
   - Rationale for dissenting vote: The OJA did not provide clear and convincing evidence that the Respondent entered OJA witness unlocked dorm room without authorization.
   - RESPONSIBLE

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.
   - Votes for a finding of responsible: 5
   - Votes against a finding of responsible: 0
   - RESPONSIBLE

3. f. To publicly urinate or defecate.
   - Votes for a finding of responsible: 5
   - Votes against a finding of responsible: 0
   - RESPONSIBLE

The UHB based their findings on their judgment that the testimony presented by the Respondent and five witnesses (four OJA witnesses and one Respondent witness) provided clear and convincing evidence that:

1) the Respondent is under the legal drinking age of 21;
2) the Respondent consumed at least eight beers at an unregistered party at a Psi Kappa Psi “Dirty Rush” event on September 25, 2019 (Title Three, Article II, Sec. A. 3.b.);
3) the Respondent entered another resident’s dormitory room without permission (Title Three, Article II, Sec. A. 2.g.);
4) the Respondent urinated in dormitory room (Title Three, Article II, Sec. A. 3.f.);
5) the Respondent caused damage to another student when he urinated on his clothes (Title Three, Article II, Sec. A. 1.h.).

University Hearing Board Decisions | Sanctions

After announcing the decision of RESPONSIBLE for all four Code violations, the UHB hearing continued to the Sanctions phase.

The OJA presented an opening statement that detailed the process for considering appropriate
sanctions for Code violations, explained the sanctions being recommended, and argued that because the proposed sanctions are typical in cases with similar fact patterns, the Respondent should, in fairness, be similarly sanctioned. Specifically, the OJA proposed the following: a Written Reprimand, reportable until graduation; BASICS, Level 1 alcohol/drug education sponsored by Cornell Health; a Comic Strip Reflection (previously selected by the Respondent in consultation with the OJA); and follow-up meeting with JA Christina Liang or another support person of the Respondent’s choosing.

The Respondent presented an opening statement that appealed to the UHB panel to strongly consider the appropriateness of the Written Reprimand sanction, given the Respondent’s mitigating circumstances: that he remains deeply embarrassed by and remorseful about his actions on the night of September 25, 2019; that he was cooperative, is apologetic, and has taken responsibility for his actions; and that he is seeking help. The Respondent did not contest the OJA’s proposed sanctions to complete both BASICS, Level 1 alcohol/drug education and a Comic Strip Reflection. He did however, express the preference to hold a follow-up meeting with a support person of his own choosing.

The hearing concluded with brief summative closing statements from both the OJA and the Respondent.

The UHB determined the following sanctions are appropriate for the violations found:

1. **UHB Vote 0-5 | 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.

2. **UHB Vote 5-0 | Oral Warning.**

3. **UHB Vote 5-0 | Alcohol and Other Drug Level 1 - BASICS** Complete Brief Alcohol Screening and Intervention for College Students (BASICS) alcohol/drug education sponsored by Cornell Health. This includes: contacting Cornell Health within two days of this written report to schedule an appointment with a facilitator either a) calling 607-255-5155 and press option 3 or b) scheduling an appointment through the on-line Cornell Health (CH) student portal. You agree to complete the BASICS program within four weeks of the start of the Spring 2020 semester, that is, on or before February 18, 2020, including completing evaluations requested by Cornell Health. If you fail to contact Cornell Health, miss any meeting, or fail to complete your BASICS education, you may be required to pay additional fees according to Cornell Health's policies.

4. **UHB Vote 5-0 | Comic Strip Reflection.** Create a at least a six-panel comic-strip related to and reflecting on this incident. Identify 5 steps that you can take in the future to address the concerns that came about in this incident. Identify 5 resources that can assist you with these identified steps. The comic strip must be your original work, and each panel must be at least 2 1/2 inches by 3 inches. The comic strip must be thoughtful and substantive in its response to the prompt. The comic strip should be sent via email to designated university officials by February 18, 2020 and include in your email the name of the individual you met with when initially referred to the OJA.

5. **UHB Vote 0-5 | Follow up meeting with Christina Liang.** You agree to meet with Christina Liang from the OJA to discuss your progress in the semester and identify any resources you may need during your first year at Cornell.
Any sanctions listed above that require a submission to the OJA should be sent electronically to judadmin@cornell.edu.

Please note it is your responsibility to request an extension for any sanction due dates you agreed to above prior to the sanction’s due date. To request for an extension, you must e-mail the case handler you worked with in reaching this agreement to request the extension in writing. If the extension is granted, you will be notified by e-mail. The OJA reserves the right to approve or deny your request for an extension.

Rationale for Sanctions

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

1. The UHB members felt that the Respondent accepted Responsibility in good faith for his violations of the Code. Further, he appeared embarrassed about the disruption and sincerely concerned about discomfort he caused to OJA witness [REDACTED].
2. The UHB members considered the likely challenges associated with understanding, coping with, and managing a potentially escalating sleep disorder and, in order to minimize additional stress, replaced the OJA’s proposed Written Reprimand with a less punitive Oral Warning.
3. The Respondent consumed an alarming amount of alcohol in a relatively short period of time. The UHB members expect that his required participation in the BASICS, Level 1 program will help the Respondent to understand the risks associated with excessive, underage drinking.
4. In consultation with the OJA, the Respondent selected the option of completing a Comic Strip Reflection. The UHB expects the Respondent to use this opportunity to explore what he has learned from this incident, including reflections on the health and safety issues related to a potential sleep disorder and excessive, underage alcohol consumption.
5. The UHB members and OJA strongly encourage the Respondent to continue working with current support professionals to discuss health and wellness and to identify further resources.

Respectfully submitted,

Tracy Hamler Carrick
Chair of the UHB

on behalf of

[REDACTED], Faculty

[REDACTED], Staff
Public Record 2020-08.
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT

Hearing on Sanctions

Procedural History

On September 10, 2018, Cornell University student, [name 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.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.

The Office of the Judicial Administrator (hereinafter “OJA”) and Respondent stipulate that the facts below support an outcome of RESPONSIBLE for the Code section with which Respondent was charged:

1. On August 31, 2019, Respondent lived in room 336 of Mary Donlon Hall.
2. At around 10:15 pm on August 31, 2019 Resident Advisor #1 (hereinafter "RA#1") was on rounds and noticed, through a partially opened room door, that there were red Solo cups and beer cans on a table inside the Respondent's room.
3. RA#1 knocked on the partially opened door and was greeted by Respondent and his roommate.
4. RA#1 asked the residents to place all alcohol on the table in the center of the room while waiting for Resident Advisor #2 (hereinafter "RA#2"), also doing rounds on the 3rd floor, to assist.
5. When RA#2 arrived, she documented the alcohol and took the residents' ID numbers.
6. RA#2 then got a plastic bag from the 3rd floor kitchen for the residents to place the red cups and beer cans in.
7. RA#1 and RA#2 then escorted Respondent and his roommate to the 1st floor.

INTERNAL USE ONLY:
Maxient case #: 2019019201
Public record #: 2020-08
to throw out the bag, which the residents carried.

8. Respondent was cooperative throughout his interactions with the RAs.

9. Prior to their interaction with the RAs, Respondent's roommate had other people in their room while respondent was present.

10. Respondent consumed "a few sips" of alcohol while under the age of 21.

**Procedural Timeline**

The OJA and Respondent stipulate that all procedures in the Code have been followed up to this point, and that the following are the relevant procedural dates in this case:

- The incident report was filed on August 31, 2019 at 10:52 p.m. by RA#1.
- Respondent received a notice letter from the OJA on September 9, 2019.
- The respondent, his advisor, Anna Kaufman, and Assistant Judicial Administrator, Francheska Alers-Rojas met on September 23, 2019 to discuss the allegations against Respondent.
- Respondent received a proposed Summary Decision Agreement (SDA) on September 23, 2019.
- After meeting with Respondent and his advisor, AJA Alers-Rojas agreed to bring Respondent's request of a deferred written reprimand, instead of a written reprimand, before Judicial Administrator (JA) Horvath.
- AJA Alers-Rojas spoke with the JA, and JA Horvath did not identify any mitigating factors which would warrant a sanction other than what is proposed for every case of alcohol consumption.
- On October 2, 2019 AJA Alers-Rojas sent an amended proposed Summary Decision Agreement (SDA) with new deadlines.
- Respondent received the Charge Letter on October 4, 2019; Chair Timothy DeVoogd was assigned as Chair.
- On October 9, 2019, Respondent, through his advisor, informed the OJA and Chair DeVoogd that he would like to proceed with a sanctions-only hearing.
- On October 10, 2019, the OJA requested a postponement of the hearing to occur by either October 25, 2019 or November 15, 2019 for good cause.
- On October 12, 2019, Respondent and his advisor informed Chair DeVoogd and the OJA that they agreed to a postponement to occur by November 15, 2019.
- On October 21, 2019, the OJA confirmed the hearing date of November 15, 2019 and proposed a timeline of pre-hearing tasks.
- On October 23, 2019, the OJA's proposed pre-hearing task timeline became final without any objection or opposition from Respondent.
The OJA and the Respondent disagree regarding the proper sanctions in this matter. The UHB must determine the appropriate sanctions for this matter.

University Hearing Board Decision

After hearing arguments from both the Respondent and the OJA, the UHB considered several possible sanctions. Initially they discussed the written reprimand requested by the OJA. They voted 0 – 5 against this. They then discussed a deferred written reprimand and voted 5 – 0 in favor of this. The Hearing Board agreed that [redacted] should complete the BASICS program and a reflections paper as requested by the OJA. The Hearing Board felt that the OJA could set a date for completion of these sanctions.

Rationale for Findings

The UHB’s decision on the reprimand sanction is based on the following:

1. Respondent’s honesty, his experience of peer pressure, his status as a first generation college student in his first week, his minor involvement in the drinking, his reported allergy to alcohol, and his remorse were mitigating factors that argued against this sort of Code violation in the future.
2. The Campus Code presents the option of an Oral Reprimand or a Deferred Written Reprimand in addition to the Written Reprimand. However, it gives no guidance on the circumstances under which each is appropriate. The Hearing Board felt that it would be helpful in the future if a revised Campus Code could provide such guidance, perhaps including examples of conduct that violated the code but for which the intent and the impact were minor such that one of these would be the appropriate sanction. In the absence of such guidance, they felt that a deferred reprimand was appropriate in this case.
3. They were unanimous in discussion that the two educational sanctions were appropriate.

Respectfully submitted,

Timothy DeVoogd, Chair of the UHB

[redacted], Student

[redacted], Student

[redacted], Faculty

[redacted], Student

[redacted], Staff
Public Record 2020-09.
UNIVERSITY HEARING BOARD

COMPLAINANT

RESPONDENT

Hearing on the Merits

Procedural History

On April 29, 2019 an incident report was filed by Officer [redacted] from Cornell University Police (CUPD) with the Office of the Judicial Administrator (OJA) describing a physical altercation between roommates [redacted] and [redacted] on the evening of April 28, 2019 in their dormitory room in Mary Donlon Hall. Following investigation, the OJA determined that there was reasonable cause to believe that the Respondent had violated the following Code provisions:

Title Three, Art. II, Sec. A.

- 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 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.

- 3.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.

There was a concurrent case involving [redacted] as Respondent and [redacted] as Complainant based upon the same incident; therefore, a request was made on September 17, 2019 by the OJA to join the cases. The assigned UHB Chairs (Rocco Scanza and Thomas Overton) agreed to the joinder and indicated that Thomas Overton would chair the hearing. Subsequently, both Respondents motioned for exclusion of the joint hearing. On September 30, 2019, UHB Chair Overton determined that the hearings should be separated, with the primary rationale of the following “The Code unambiguously states that ‘No accused person shall be compelled to testify against himself or herself.’” In the instant situation, where the two students are both Complainants and Respondents, I would be concerned that either student could not both meaningfully participate
as a Complainant and simultaneously exercise the ability specified in the Code to refuse to testify
as a Respondent given that the charges arose out of a single incident.

The OJA and Respondent were not able to reach a Summary Decision Agreement. Accordingly,
a duly constituted University Hearing Board (UHB) convened on October 29, 2019 for a Hearing
on the Merits.

**Allegations**

It is alleged that [redacted] engaged in a verbal altercation with his then roommate, [redacted]. This verbal altercation escalated to a physical altercation where he made physical
contact with [redacted].

**Pre-hearing Decisions**

Following exchange of witnesses and exhibits between the OJA and Respondent, there were no
objections or prehearing motions submitted that required pre-hearing decisions by the UHB Chair.

**University Hearing Board Proceedings and Decision**

The UHB panel and parties convened and began proceedings shortly after the scheduled start time
of 5:30 PM on Tuesday, October 29, 2019.

Opening statements were made by both parties.

The AJA called Complainant [redacted], who provided testimony and was cross-examined
by the Respondent and asked questions by the UHB panelists.

The AJA called Officer [redacted], CUPD, who provided testimony and was cross-
examined by the Respondent and asked questions by the UHB panelists.

The AJA called Officer [redacted], CUPD, who provided testimony and was cross-
examined by the Respondent and asked questions by the UHB panelists.

The Respondent called [redacted], who provided testimony and was cross-examined
by the AJA and asked questions by the UHB panelists.

The Respondent called [redacted], who provided testimony and was cross-examined
by the AJA and asked questions by the UHB panelists.

The Respondent called [redacted], who provided testimony and was cross-examined by the
AJA and asked questions by the UHB panelists.

The AJA made her closing statement.

The JCC made her closing statement on behalf of the Respondent.
The UHB panel went into private session to deliberate its decisions.

Following deliberation, the UHB found the Respondent RESPONSIBLE for the following charges under the Code by a vote of 5 to 0:

Title Three, Art. II, Sec. A.

- 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 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.

- 3.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.

Rationale for Findings

The UHB’s decision regarding its determinations was based upon the following:

-- The UHB determined that the Respondent did use physical force and admitted making threatening statements consistent with endangerment.
-- The UHB determined that the Respondent exhibited reckless and belligerent behavior consistent with disorderly conduct.

The hearing was adjourned following the Merits phase and the notification of the decision regarding Merits held until the completion of the Merits phase of the corresponding UHB with Complainant and Respondent reversed on November 19, 2019. At that time, the Respondent in this case was notified by email of the decision of the UHB regarding the charges, but without rationale provided at that time. The UHB Chair worked with the parties and the UHB panelists to reconvene the same panel and parties at a later date, which was delayed because of scheduling problems until the spring semester.

Sanctions phase

The parties and panel reconvened for the sanctions phase of the hearing on February 18, 2020. One of the UHB panelists (********) was not able to be present for the sanctions phase on this date, but prior to the hearing date it was determined that a quorum existed with four voting members of the panel and that the UHB would proceed with the four members for this phase.
The AJA presented her sanctioning arguments, referring to Sanctioning Exhibit 2 (proposed Summary Decision Agreement dated September 11, 2019).

The JCC (on behalf of Respondent) presented her sanctioning arguments.

The JCC called [redacted] as a witness, who provided testimony and was cross-examined by the AJA and asked questions by the UHB panelists.

The JCC called [redacted] as a witness; however, because [redacted] participated as a support person during the hearing proceedings on October 29th, 2019, it was determined that he could not have participated earlier in the hearing as a support person and as a witness at this point in the hearing. Per the Code, “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.” (Title Two, Art. III, Sec. B. 3, Pg. 14-15, 2018)

The JCC called [redacted], father of [redacted], as a witness, who provided testimony and was cross-examined by the AJA and asked questions by the UHB panelists.

Following a final opportunity for questions from the UHB panel of the AJA and Respondent, the UHB went into private session to deliberate sanctions.

Sanctions

Following deliberation, the UHB determined by a 4 to 0 vote that the following sanctions are appropriate for the violation found:

Written Reprimand: A disciplinary record will be maintained consistent with University policies. A disciplinary record for this matter will be reportable until the Respondent graduates from Cornell University.

Directed Study - Conflict Resolution: This directed study will include three sessions, and will require the reading of the text "Choosing Civility" by P.M. Forni (ISBN-I 0: 0312302509). For the text, you have the option of purchasing the book or borrowing from a library/other source. The facilitator will be the case handler in this incident within the OJA. The first meeting will take place by March 6, 2020 and will include discussing Part I, Sections 1 & 2 from the book and reflection of the incident that lead to the referral. The second meeting will take place approximately three weeks after the first meeting and will include discussing Part I, Section 2, 4, 5 from the book, most notable excerpts, and how those excerpts could be incorporated into everyday action. The third meeting approximately three weeks after the second and will include discussing Part I, Section 6, 7, 8 from the book. Finally, reflection will include new insights, practical application of lessons, and overall assessment. Each meeting should be scheduled for an hour in length to discuss different topics from the book. You can schedule these meetings by contacting the OJA's Administrative Assistant, [redacted] at (607) 255 4680. This sanction is due by April 24, 2020.

Reflection Paper. Complete a five-page reflection paper on the following topic: What happened
in this incident that led to this altercation? What steps could I have taken in the alternative to prevent escalation of the incident? What did I learn from this incident? How will I apply what I have learned to my future decision making to prevent recurrence? 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 at judadmin@cornell.edu by April 24, 2020.

Rationale for Sanctions

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

1. The Code violation was deemed to have been committed by the Respondent and involved physical violence, so reduction of the written reprimand to a deferred written reprimand or oral warning was not deemed to be appropriate by the UHB.
2. The sanctions of Directed Study on Conflict Resolution and a Reflection Paper were determined to be appropriate educational sanctions to support personal growth of the Respondent.

Respectfully submitted,

[Signature]

Thomas R. Overton, Chair (nonvoting) of the UHB, on behalf of:

[Redacted], Student
[Redacted], Student (not present for sanctions phase on 2/18/20)
[Redacted], Student
[Redacted], Staff
[Redacted], Faculty
Public Record 2020-10.
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT

Hearing on the Merits

Procedural History

On February 12, 2019, an incident report was filed by Residence Hall Director, with the Office of the Judicial Administrator (OJA) describing an incident relating to an apparently intoxicated student crawling in the hallway of Clara Dickson Hall in the early morning hours of December 5, 2018. Following investigation, the OJA determined that there was reasonable cause to believe that the Respondent had violated the following Code provisions:

Title Three, Art. II, Sec. A.
• 3.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.

• 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.

The OJA and Respondent were not able to reach a Summary Decision Agreement. Accordingly, a duly constituted University Hearing Board (UHB) convened on November 22, 2019 for a Hearing on the Merits.

Allegations

It was alleged that the Respondent consumed alcohol under the age of 21 and due to intoxication, engaged with community members on his floor in a disorderly manner.

Pre-hearing Decisions

There were no prehearing motions or objections submitted by either party.
University Hearing Board Proceedings and Decision

The UHB panel and parties convened and began proceedings shortly after the scheduled start time of 3:00 PM on Friday, November 22, 2019.

Opening statements were made by both parties.

The AJA called [Name], Residence Hall Director at the time of the alleged incident, who provided testimony and was cross-examined by the Respondent and asked questions by the UHB panelists.

The AJA called student [Name], who provided testimony and was cross-examined by the Respondent and asked questions by the UHB panelists.

The AJA made her closing statement.

The Respondent made his closing statement and was asked questions by the UHB panelists.

The UHB panel went into private session to deliberate its decisions.

Following deliberation, the UHB found the Respondent NOT RESPONSIBLE for the following charge under the Code by a vote of 3 to 1:

Title Three, Art. II, Sec. A.

- 3.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.

Following deliberation, the UHB found the Respondent NOT RESPONSIBLE for the following charges under the Code by a vote of 4 to 0:

Title Three, Art. II, Sec. A.

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

Rationale for Findings

The UHB’s decision regarding its determinations was based upon the following:
The majority view of the UHB panel was that the OJA did not meet the clear and convincing evidence standard of proof. There were a number of inconsistencies regarding identification of the Respondent in the initial reporting of the incident and the witness testimony during the hearing, and sufficient evidence was not provided to support the testimony of the single eyewitness relative to the identification of the Respondent nor to support inebriation beyond witness testimony (i.e., alcohol was not present; the witness did not smell alcohol at the time of her observations). The UHB panel requested that it be stated for the record that the Respondent contended that ID card swipe records would verify that he was in Milstein Hall at the time of the incident. Multiple follow up questions and comments from the UHB panelists made it clear to the Respondent that lying to the UHB would constitute a violation under the Code.

Respectfully submitted,

Thomas R. Overton, Chair (nonvoting) of the UHB, on behalf of:

[Name redacted], Student
[Name redacted], Student
[Name redacted], Student
[Name redacted], Staff
(Faculty member not available)
Public Record 2020-11.
On October 24, 2019, the Respondent was charged with violating the following section of the Campus Code of Conduct (Code):

Title Three, Article II, Sec. A.

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

On November 26, 2019, the Respondent and AJA Alers-Rojas signed a Stipulation of Code Violations and Facts wherein the Office of the Judicial Administrator (OJA) and the Respondent stipulated that the facts below support an outcome of RESPONSIBLE for the Code section with which the Respondent was charged:

1. On September 26, 2019, Respondent lived in room [redacted] of Clara Dickson Hall.
2. At around 11:25 pm on September 26, 2019 Resident Advisor #1 (hereinafter “RA#1”) was on rounds and heard loud voices coming from the end of the hallway where Room [redacted]. RA#1 also saw multiple people walking into room [redacted].
3. The noise coming from room [redacted] was very loud, it could be heard down the hallway, and it was after quiet hours.
4. At this time, RA#1 called Resident Advisor #2 (hereinafter “RA#2”) for backup.
5. RA#1 knocked on the door of room [redacted] and five residents who were standing outside the room left the scene immediately.
6. When the door to room [redacted] was opened, RA#1 saw that there were around 10 more residents inside the room.
7. RA#1 asked all the residents to produce their Cornell IDs.
8. Respondent did not hear RA#1 ask residents to produce their Cornell IDs at this time.
9. None of the students handed their Cornell IDs to RA#1, so RA#2 informed them that they would need to call Cornell Police if they did not cooperate.
10. Around seven more students left the room despite RA#1 and RA#2 requests for cooperation, including pushing past RA#1 on their way out.
11. Respondent did not witness any pushing.
12. RA#1 saw two residents left in the room and asked them if she could enter the room.
13. The residents agreed to let RA#1 come into the room and look around.
14. RA#1 saw a bottle of alcohol on a desk by the window and a beer can on a dresser by the door.
15. RA#1 asked Respondent and his roommate for their IDs, which they produced.
16. RA#1 then noticed there was another resident sitting in a closet with his face partially covered.
17. RA#1 asked the resident in the closet to come out and hand over his ID, which he did.
18. RA#1 explained to the three residents that she would be documenting the incident.
19. The residents claimed the alcohol was not theirs, but rather was brought by the other residents who had left the scene.
20. The residents asked what the consequences would be, and RA#1 told them to follow up with RHD Amadou Fofana or the JA office for more information.
21. RA#2 then walked the residents to the bathroom to empty the alcohol bottle and beer can.
22. Respondent was cooperative throughout his interactions with the RAs.
23. Prior to his interaction with the RAs, Respondent was drinking a beer under the age of 21.
24. Respondent informed to AJA Alers-Rojas on their meeting of October 7, 2019 that he was drinking a beer during the September 26, 2019 incident.

**Pre-hearing Decisions**

On November 26, 2019, the OJA submitted one Pre-Hearing Objection.

1. The OJA’s Objection to Respondent’s Witness was denied on the grounds that the OJA did not demonstrate that the Respondent designated his mother as a support person, nor that the Respondent’s mother actually served in the capacity of a support person. Further, the Respondent’s mother did not serve as the support person at the hearing.

**University Hearing Board Decisions | Sanctions**

The Sanctions Only Hearing was called to order at 5:00pm on Tuesday, December 3, 2019.

After the OJA presented the above charges, AJA Alers-Rojas read into the record the above Stipulation of Code Violations and Facts, and the Respondent confirmed that he accepted responsibility for the Code violation.

At 5:13pm, the OJA and the Respondent provided opening statements. AJA Alers-Rojas argued that the proposed sanctions are typical for this type of Code violation, and that without evidence of mitigating circumstances that warrant differential treatment, the UHB panel should apply a principle of consistency and fairness – fairness to the thousands of students who have not violated the Code and fairness to those who have received the proposed sanctions for the same
Code violation. The Respondent argued that the OJA wrongly operated with a hard and fast policy for determining sanctions based upon efficiency and consistency, not justice, and that since no two cases are the same, it is the duty of the UHB to do what the OJA has not done – to deliberate a fact-specific determination that assists in the pursuit of individualized educational goals and justice.

At 5:19pm, the Respondent provided testimony and answered questions about events that occurred on September 26, 2019 and October 7, 2019. He confirmed the facts outlined in the above Stipulation of Code Violations and Facts, adding that when his roommate brought friends back to their dorm room on September 26, 2019, he felt overwhelmed and immediately departed to go to the bathroom. He returned to the room, however, because although he is typically a rule follower, his transition to Cornell has been socially difficult, and he did not want to appear antisocial or uncool. He sipped a beer to fit in. Eventually, he began asking people to leave, and shortly thereafter, a Resident Advisor knocked on the door.

When he met with the OJA on October 7, 2019 to discuss the September 27, 2019 incident report, the Respondent reports that he was fully cooperative and candid with AJA Alers-Rojas about the events of September 26, 2019, disclosing, himself, that he had consumed alcohol. The Respondent concluded his testimony by stating that he regrets that he remained in the room, that he drank to fit in, and that he did not stand up for himself. He further stated that he has already taken steps to put himself in a healthier environment by requesting a room change and seeking a roommate with whom he can place trust.

At 5:58pm, the OJA and Respondent concluded the hearing with summative closing statements wherein AJA Alers-Rojas argued that the Respondent admitted to consuming alcohol, a clear violation of the Code, and that, barring unique mitigating circumstances, he should be held accountable with sanctions equal to those conferred to others found responsible for the same Code violation.

JCC Kaufman challenged the OJA’s proposed sanction of Written Reprimand, arguing that the sanction is too severe given the facts in the case: the Respondent returned home to find people consuming alcohol in his dormitory room, he left and returned reluctantly, he drank a few sips of beer, he asked people to leave his room, he cooperated with the Resident Advisors and the OJA, he admitted that he had consumed alcohol, and he had already begun taking steps to better care for and advocate for himself. She asked that the UHB panel consider instead either the sanction of Oral Warning or Deferred Written Reprimand (engaged only in the event of another Code violation). She reasoned that the language of Title Three, Article II, Section A could give the impression that the transgression was much more serious, and given the Respondent’s demonstrated cooperation, honesty, initiative, and remorse, he should be given the opportunity to control the narrative about this incident in the future. A Written Reprimand, a reportable sanction, will write the story of this incident for the Respondent whereas an Oral Warning or a Deferred Written Reprimand, alternatively, can place narrative control in the hands of the Respondent.

The UHB determined the following sanctions are appropriate for the violation:
1. **UHB Vote 0-4 | Written Reprimand.** A disciplinary record will be maintained consistent with University policies. A disciplinary record for this matter will be reportable until the Respondent graduates from Cornell University.

2. **UHB Vote 4-0 | Oral Warning.** A disciplinary record will be maintained consistent with University policies.

3. **UHB Vote 4-0 | Alcohol and Other Drug Level 1 - BASICS** Complete Brief Alcohol Screening and Intervention for College Students (BASICS) alcohol/drug education sponsored by Cornell Health. This includes: contacting Cornell Health within two days of this written report to schedule an appointment with a facilitator either a) calling 607-255-5155 and press option 3 or b) scheduling an appointment through the on-line Cornell Health (CH) student portal. The Respondent agrees to complete the BASICS program within four weeks of the start of the Spring 2020 semester, that is, on or before February 18, 2020, including completing evaluations requested by Cornell Health. If the Respondent fails to contact Cornell Health, miss any meeting, or fail to complete the sanctioned BASICS education, the Respondent may be required to pay additional fees according to Cornell Health's policies.

4. **UHB Vote 4-0 | Reflection Paper.** Complete a five-page reflection paper on the following topic: What decisions led to the referral? What did the Respondent learn from BASICS? What steps can the Respondent take to prevent a similar situation from happening in the future? 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 designated university officials by February 18, 2020.

Any sanctions listed above that require a submission to the OJA should be sent electronically to judadmin@cornell.edu.

Please note it is the Respondent’s responsibility to request an extension for any sanction due dates agreed to above prior to the sanction’s due date. To request for an extension, the Respondent must e-mail the assigned case handler to request the extension in writing. If the extension is granted, the Respondent will be notified by e-mail. The OJA reserves the right to approve or deny any request for an extension.

**Rationale for Sanctions**

The UHB’s decision regarding its sanction determination is based on the following:

1. The UHB felt that the Respondent accepted Responsibility in good faith for his violation of the Code. He appeared genuinely remorseful, disappointed in himself, eager to make better choices in the future, and prepared to learn from and take sincere responsibility for his actions.

2. The UHB strongly opposed the Written Reprimand sanction, finding it unnecessarily punitive given the factors that lead up to the Respondent’s violation, particularly that several other students engaged in the same conduct were allowed to simply depart the room without any sanction, that the Respondent did not initiate or bring alcohol to the gathering in his dorm room, and that the Respondent was immediately cooperative and honest on the evening of the incident and also during his OJA meeting.
3. The UHB unanimously favored an Oral Warning sanction, resisting the OJA’s premise that Oral Warnings do not sufficiently (or at all) hold Respondents accountable for their Code violations. The UHB members reasoned that accountability does not necessarily equal reportability, and that in lower severity offenses, such as in this case, Respondents are held accountable in a variety of significant ways. OJA meetings, hearings before the UHB, the completion of educational sanctions, and the expectation of taking personal lifetime responsibility for reporting can equal appropriate accountability.

4. The UHB urges the OJA to more rigorously apply the fullest range of possible sanctions, particularly with respect to Oral Warnings, Deferred Written Reprimands, and Written Reprimands, in an effort to more equitably account for context and individual circumstances, and to more effectively support educational goals and justice.

5. The UHB expects that the Respondent’s required participation in the BASICS, Level 1 program will help the Respondent to not only better understand the risks associated with underage drinking, but also, and perhaps most importantly, to continue exploring effective ways to negotiate peer pressure, to build healthy and trusting social and emotional relationships, and to thrive during stressful transitional periods.

Respectfully submitted,

\[Signature\]

Tracy Hamler Carrick
Chair of the UHB

on behalf of

[Redacted], Faculty

[Redacted], Staff

[Redacted], Student

[Redacted], Student
Public Record 2020-11 (URB).
Procedural History

Respondent was charged with a violation of Title Three, Art. III, Sec. A, alleging that he had possessed alcohol with the intent to consume it while under the age of 21. Respondent and the Office of the Judicial Administrator (OJA) reached a Stipulation of Code Violations and Facts (Stipulation), which included an outcome of RESPONSIBLE for violating the above provision. That stipulation is incorporated herewith and concerned an incident that took place on September 26, 2019 in Clara Dickson Hall on the Cornell University campus.

A sanctions-only hearing of the University Hearing Board (UHB) was held on December 3, 2019. Assistant Judicial Administrator (AJA) Alers-Rojas appeared for the OJA and Judicial Codes Counselor (JCC) Kaufman appeared for the Respondent. The UHB heard testimony and the arguments of each side.

In an undated decision, the UHB determined, by a 4-0 vote, the following sanctions:

a) Oral Warning: a disciplinary record will be maintained consistent with University policies.
b) Alcohol and Other Drugs Level 1 – BASICS: Complete Brief Alcohol Screening and Intervention for College Students (BASICS) alcohol/drug education sponsored by Cornell Health.
c) Reflection Paper: Complete a five-page reflection paper on the following topic: What decisions led to the referral? What did the Respondent learn from BASICS? What steps can the Respondent take to prevent a similar situation from happening in the future?

The UHB declined, by a 4-0 vote, to issue a Written Reprimand as requested by the OJA.

Current Review

The OJA appealed the UHB decision to the University Review Board (URB) on the grounds that the sanctions imposed by the UHB are not commensurate with the violation for which Respondent was found responsible. (Title Three, Art. III, Sec. F.1.b.2). The OJA requested that the University Review Board impose a written reprimand instead of an oral warning. In the alternative, the OJA asked that the URB either remand the case to “a UHB” (unclear whether the request was to a new UHB or the one that had heard the case originally, also unclear what
the OJA was asking that a new UHB be directed to do) or uphold and provide the OJA with guidance moving forward.

The Respondent asked that the URB affirm the reasoning of a prior URB, held on Nov. 7, 2018, which stated that the “OJA’s argument that oral warning should not be administered regularly is a policy of the OJA to which the UHB and the URB are not held.” The Respondent asked that this URB uphold the UHB’s determination in this case of an oral warning, BASICS and a Reflection Paper.

**The University Review Board**

A properly constituted panel of one student, one faculty member and one staff member met on March 9, 2020. Andrea J. Mooney, URB chair, convened the panel as a non-voting member.

The panel considered the arguments of the OJA and the JCC and made a unanimous determination to affirm the UHB decision. In so deciding, the URB took into account the following dictates of the Code of Conduct:

1) Pursuant to Title III, Article III, Section F, (7): (a) “Any decisions of the Review Panel shall be based solely on the record....All decisions shall be in writing, including a rationale and dissenting opinions. Finding of fact shall not be set aside unless clearly erroneous...

(b) The decision shall be affirmanance unless the Review Panel sustains one of the above-specified grounds for appeal...”

The specified grounds for appeal in this case are included in Title III, Article III, Section F, (2): “Appeals may be grounded ...upon the Judicial Administrator’s belief that the penalty is not commensurate with the violation...”

**Parties’ Arguments**

1) The Judicial Administrator argues that:
   a) The UHB improperly considered mitigating factors in its decision to impose an oral warning;
   b) The UHB’s decision undermines the intention behind the Good Samaritan Protocol.

2) The Judicial Codes Counselor argues that:
   a) The Campus Code of Conduct requires that the OJA and the UHB consider the respondent’s individualized circumstances when imposing sanctions;
   b) The OJA’s argument that it should treat all respondents the same fundamentally ignores real-life experiences and the purpose of sanctions in a University setting;
c) The OJA’s argument that it should not consider more subjective criteria because it is difficult to identify an because it would impose a burdensome addition to its process does not support modifying the UHB’s decision; 

d) The OJA considers arguments about fairness only when it supports the OJA’s sanctioning policy; 

e) The UHB’s decision does not undermine the Good Samaritan Protocol; 

f) The OJA’s requested remedies are unsupported by the Code and the URB should uphold the UHB’s decision.

The URB considered all arguments of both parties. In reaching its decision, the URB wants to emphasize that underage drinking is a serious matter on the Cornell campus, not to be treated lightly. But not to treat lightly does not mean to administer a harsher penalty than is warranted. The URB’s decision reflects the trust that the URB placed in the UHB, which heard from witnesses and the respondent in person.

The URB reviewed the Code of Conduct, Title III, Article IV A (a) : Penalties for Students. The penalties for violations are listed as:

1) Oral warning 
2) Appropriate educational steps 
3) Community work 
4) Fine 
5) Restriction or loss of privileges 
6) Written reprimand 
7) Probation 
8) Suspension 
9) Dismissal

Here, the OJA seems to be arguing that in order not to demonstrate bias, all penalties for all offenses should start with #6: written reprimand. The OJA seems to be urging the Review Boards to allow it to ignore the other penalties provided by the Code (#s 1-5) in an effort not to discriminate. Both Review Boards, however, refuse to accept that logic. The Code provides a range of penalties so as to leave room for a consideration of the act and the actor. The Code invests the OJA with discretion as to which penalty should be imposed. It is not the role of either the UHB or the URB to determine which penalty the OJA should impose before the fact, but rather to review the OJA’s decisions in light of the discretion that the OJA is granted.

To begin immediately with the sixth penalty on the list of penalties is to discriminate against those who, as in this case, have committed a minor infraction and who should be given the opportunity to correct their behavior without the threat of a “record” of misbehavior. That is why the Code of Conduct provides more lenient penalties such as those administered here by the UHB.
In the present case, the URB agrees with the UHB that the fact that this was a first infraction by a first-year student who likely succumbed to peer pressure; the fact that the respondent did not organize the party nor purchase the alcohol for the party; the fact that the respondent admitted to his behavior and demonstrated remorse, all should go to determining the proper penalty. This respondent did not challenge the finding of responsible, nor does he challenge the decision of the UHB. Rather, it is the OJA who is challenging the UHB’s decision as not commensurate with the behavior in question. The URB disagrees with the OJA and finds an oral warning commensurate with a first-time offense of this nature. Should this respondent again come before the UHB for a similar infraction, the URB urges the UHB to take into account that this is a second infraction and administer penalties accordingly.

Therefore, the University Review Board unanimously affirms the decision of the University Hearing Board.

Andrea J. Mooney  
University Review Board Chair  
for University Review Board Panel

Student

Faculty

Staff

Dated: March 26, 2020
Public Record 2020-12.
On December 10, 2019, the University Hearing Board (UHB) convened to consider allegations that the Respondent violated the Campus Code of Conduct (Code), specifically:

Title Three, Article II, Sec. A.

- 1.i. To steal or knowingly possess stolen property, including by such acts as misappropriation of data or of copyrighted material or software.
- 2.b. To misappropriate University funds.
- 2.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 legal drinking age. (OJA yielded)
- 3.e. To defraud, including by such acts as failure to redeem a bad check.

Allegations

On May 24, 2019, the Office of the Judicial Administrator (OJA) notified the Respondent of allegations of Campus Code of Conduct (Code) violations.

Specifically, it is alleged that the Respondent stole, misappropriated, and/or fraudulently obtained funds from the [redacted] at the [redacted].

Procedural History

On November 6, 2019, the OJA proposed a summary decision agreement (SDA) to the Respondent. The matter was not resolved by an SDA, and per the Code, on November 11, 2019, the Respondent was notified that a UHB hearing would be scheduled with Chair Tracy Carrick.
On November 19, the Chair granted a postponement of the hearing, and on November 20, 2019, the Respondent was notified that a duly constituted UHB hearing was scheduled to convene on Tuesday, December 10, 2019 at 4:00pm for a Hearing on the Merits.

University Hearing Board Decisions | Hearing on the Merits

The hearing was called to order at 4:10pm on Tuesday, December 10, 2019. The Respondent was not present. The Chair dismissed [redacted] so the UHB members could consider [redacted] procedures in the event that a Respondent fails to appear at hearing (Code, p. 28, 2018):

(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.

The UHB panel determined to move forward with the hearing on the grounds that the accused both received notice of the hearing and that the procedures for notifying the Respondent were followed (5b).

The UHB based its decision on evidence presented in the OJA’s procedural exhibits:

1) The OJA demonstrated ample evidence of efforts to communicate with the Respondent, most notably in the following correspondence:
   a. A May 20, 2019 email from [redacted] notifying the Respondent that a hold had been placed on his account at both University and [redacted] Registrars preventing his diploma from being granted until the conduct matter has been finalized or sanctions completed (Title Three, Art. IV.C of the Code);
   b. A June 4, 2019 (9:32am) email from OJA [redacted] notifying the Respondent that [redacted] had missed a meeting with [redacted] and setting a new appointment date and time;
2) The OJA presented a June 4, 2019 (10:07am) Read Receipt confirming that OJA June 4, 2019 (9:32am) email had been read on June 4, 2019 at 10:07am.

At 4:30pm, the OJA provided a brief opening statement, and at 4:34pm, presented two witnesses. OJA witnesses [redacted] provided testimony and answered questions primarily on events that occurred during the Spring 2019 semester when two OE club officers contacted her office to report that they had been trying
for months, without success, to access group activities funds. testified that in April of 2019, after consulting with the Judicial Administrator and the Cornell University Police Department. The CUPD agreed that the situation looked worrying, and the District Attorney’s Office signed off on a subpoena requesting copies of all checks and bank records of receipts and activity. In the forensic accounting, OJA Witness testified, it appeared that the Respondent issued checks to which were fraudulent and not used for club activity. also reported that had confirmed that had not signed the checks that held name, and that the had confirmed that the Respondent was the only authorized signatory.

OJA witnesses provided testimony and answered questions about CUPD’s involvement in the events that occurred during the investigation into . OJA Witness explained that when the investigation began in April 2019, suspected that something was wrong, but they had no hard evidence because they could not access the accounts. In collaboration with the District Attorney’s Office, they were able to access bank account information and ledgers documenting the movement of money into and out of accounts. testified that once these financial records were obtained, worked with OJA Witness and the to review all of the Respondent’s transactions during term as . According to OJA Witness the forensic review indicated: (1) checks and electronic transactions that were not authorized by an; (2) transactions that were written to the (the Respondent) and signed by and endorsed by someone not authorized; (3) confirmed that checks bearing his were not actually signed by or endorsed by; and (4) transactions did not line up with authorized expenditures. Finally, OJA Witness testified that felony-level charges were being pursued.

The OJA presented a brief closing statement, arguing that the OJA had demonstrated, with witness testimony, forensic accounting (Substantive Exhibit 10), and text chains documenting the Respondent avoiding responsibility (Substantive Exhibits 4 and 9) that the Respondent had violated the Code.

The members of the UHB panel deliberated the merits of the case, and after considering all relevant information, the UHB found the Respondent in violation of the following Code provisions:

Title Three, Article II, Sec. A.

- 1.i. To steal or knowingly possess stolen property, including by such acts as misappropriation of data or of copyrighted material or software.
  - Votes for a finding of responsible: 5
  - Votes against a finding of responsible: 0
  - RESPONSIBLE
- 2.b. To misappropriate University funds.
  - Votes for a finding of responsible: 5
Votes against a finding of responsible: 0

RESPONSIBLE

- 2.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 legal drinking age. (OJA yielded)
  - Votes for a finding of responsible: 4
  - Votes against a finding of responsible: 1
  - RESPONSIBLE
  - Rationale for Dissent: The UHB member agreed with the OJA that clear and convincing evidence had not been provided to support this Code violation.

- 3.e. To defraud, including by such acts as failure to redeem a bad check.
  - Votes for a finding of responsible: 5
  - Votes against a finding of responsible: 0
  - RESPONSIBLE

The UHB based their findings on their judgment that the testimony presented by the two OJA witnesses, the forensic accounting presented in Substantive Exhibit 10, and two text chains presented in Substantive Exhibits 4 and 9 provided clear and convincing evidence that:

3) the Respondent was the only authorized signatory on [redacted];
4) the Respondent endorsed checks that we not signed by an authorized signer on [redacted];
5) [redacted] did not sign check number 217, endorsed by the Respondent and dated November 18, 2018 in the amount of $345.00;
6) [redacted] did not sign check number 215, endorsed by the Respondent and dated November 19, 2018 in the amount of $650.00;
7) the Respondent behaved suspiciously when he avoided interactions with incoming [redacted] officers attempting to transition into their assigned roles; and
8) the Respondent did not provide access to [redacted] to other [redacted] when requested.

University Hearing Board Decisions | Sanctions

At 5:40pm, the Chair read the decision of RESPONSIBLE for four Code violations, and at 5:44pm, the UHB hearing continued to the Sanctions phase.

The OJA argued for sanctions that would hold the Respondent strongly accountable for his Code violations given that [redacted] has caused considerable harm to [redacted] and others and to the institution as a whole.

The UHB determined the following sanctions are appropriate for the violations found:

1. UHB Vote 5-0 | Suspension from Cornell University. As required by the Code, the
OJA sought and was granted permission to present suspension as an appropriate sanction in this case. The Hearing Board chair stated on May 29, 2019 that a suspension was in the acceptable range of sanctions for the conduct in this case. The Respondent is suspended from and will leave Cornell University for one year, effective on the date the OJA submits this Written Decision. The Respondent will be eligible to return only upon verification of completion of the sanctions in this decision. During this one-year period of suspension, the Respondent will not take any classes at Cornell, on any of Cornell's campuses, or through any of Cornell's study-abroad programs. 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 the Respondent’s one-year suspension, and the Respondent will contact Cornell University Police before returning to Cornell to request the PNG be amended or lifted. A transcript notation will be placed on the Respondent’s official transcript, consistent with the policies of the Office of the University Registrar.

2. **UHB Vote 5-0 | Written Reprimand.** A disciplinary record will be maintained consistent with University policies. A disciplinary record for this matter will be permanently reportable as is consistent with the sanction of Suspension from Cornell University.

3. **UHB Vote 4-1 | Research Paper.** Complete a 10-page research paper on the following topic: Research the different sanctions that a person might be subject to a relevant professional field. As part of this research, the Respondent must cite at least three different sources of information, reflect on the role of trust and integrity in these responsibilities, and consider how this incident can serve as an area of personal growth. The research paper should be double-spaced, 12-point Times New Roman font with one-inch margins all around. This sanction must be completed by the end of the suspension period.

   Rationale for Dissent: The UHB member did not consider this educational sanction sensible in this case.

4. **UHB Vote 5-0 | Letter of Apology.** Complete personalized letters of apology to those harmed: [REDACTED]

   These letters should be sent directly to the harmed individuals and copied to OJA. This sanction must be completed by the end of the suspension period.

5. **UHB Vote 5-0 | Restitution.** Restitution in the amount of $995.00. All payments must be made with certified checks or a money order and submitted to the designated University office. This sanction is due by the end of the suspension period.

Any sanctions listed above that require a submission to the OJA should be sent electronically to judadmin@cornell.edu.

It is the Respondent’s responsibility to request an extension for any sanction due dates prior to the sanction’s due date. To request for an extension, the Respondent must e-mail the case handler. If the extension is granted, the Respondent will be notified by e-mail. The OJA reserves the right to approve or deny any request for an extension.

**Rationale for Sanctions**
The UHB’s decision regarding its sanctions determinations is based on the following:

1. The UHB members found the Respondent unwilling to accept Responsibility for violations of the Code given that chose not to appear at the hearing nor to present a defense, and that has, in an effort to cover up his misconduct, habitually mislead peers and declined to properly conduct duties as an officer.
2. The UHB members felt that the Respondent has caused considerable harm to others and to the University as a whole.
3. The UHB members found concerning the facts that the Respondent is seeking an and that is likely in pursuit of a position in the industry.
4. The UHB members sought sanctions that would foster both personal learning and growth (Research Paper and Letters of Apology), and restoration within the Cornell community (Suspension, Letters of Apology, and Restitution).
5. The UHB members also sought sanctions that reached beyond the immediate Cornell community. The UHB members were concerned that the Respondent’s standard of conduct would reflect poorly on the institution and its students in the wider community, and so, in imposing a Suspension, the Respondent’s disciplinary record will be permanently reportable.

**UHB Panel Procedures | Failure of the accused to appear before the Hearing Board**  
Unfortunately, the Respondent did not present before the UHB panel at the designated time and place, but, as established at the beginning of the hearing, the OJA demonstrated that the Respondent received notice of the hearing and that the procedures for notifying the Respondent were followed. Furthermore, the OJA also submitted information, as documented throughout this report, sufficient to establish the allegations in the charges. Given that the OJA met these expectations, the UHB, as provided by the Code (p.28, 2018), is empowered to find the accused to have violated the Code cited here and to impose penalties and remedies documented above.

Respectfully submitted,

Tracy Hamler Carrick  
Chair of the UHB

on behalf of

[Redacted] Faculty
[Redacted] Staff
[Redacted] Student
[Redacted] Student
[Redacted] Student
UNIVERSITY HEARING BOARD

COMPLAINANT
Cornell University

RESPONDENT

Hearing on the Merits

Procedural History

On October 12, 2019 an incident report was filed by Officer [redacted] of Cornell University Police Department (CUPD) with the Office of the Judicial Administrator (OJA) describing an incident related to a wellness check on a student in Clara Dickson Hall in the early morning hours of October 12, 2019 in which the Officer saw in plain view a fraudulent Texas Driver License in a top desk drawer while Respondent was searching for his wallet. Following investigation, the OJA determined that there was reasonable cause to believe that the Respondent had violated the following Code provision:

Title Three, Art. II, Sec. A.

2.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.

The OJA and Respondent were not able to reach a Summary Decision Agreement. Accordingly, a duly constituted University Hearing Board (UHB) convened on February 14, 2020 for a Hearing on the Merits.

Allegations

Specifically, it was alleged that the Respondent possessed a false/fake identification (ID).

Pre-hearing Decisions

There were no prehearing motions or objections submitted by either party.

University Hearing Board Proceedings and Decision
The UHB panel and parties convened and began proceedings shortly after the scheduled start time of 5:00 PM on Friday, February 14, 2020.

When asked by the UHB Chair whether believed that violated the Code, the Respondent replied that believed that did violate the Code. Nonetheless, the UHB Chair opted to conduct the Merits phase of the hearing.

Opening statements were made by both parties.

The AJA called Officer from CUPD, who provided testimony and was asked questions by the UHB panelists.

The Respondent provided testimony on own behalf and was asked questions by the UHB panelists.

The AJA made closing statement.

The Respondent made closing statement and was asked questions by the UHB panelists.

The UHB panel went into private session to deliberate its decisions.

Following deliberation, the UHB found the Respondent RESPONSIBLE for the following charge under the Code by a vote of 5 to 0:

Title Three, Art. II, Sec. A.
  2.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.

Of the specific elements of this charge, the consensus of the panel was that the Respondent was not responsible for element 1 but was responsible for element 2. was also responsible for element 3 for having an ID that made appear of legal drinking age; however, as was not 'caught in the act' and since testimony was rather convincing, this clause was mitigated and that was reflected in the sanctions deliberations.

Rationale for Findings

The UHB’s decision regarding its determinations was based upon the following:

The unanimous view of the UHB panel was that the OJA met the clear and convincing evidence standard of proof through the testimony of Officer and this was consistent with the Respondent’s admission that did believe that he violated the Code.
Sanctions phase

The AJA presented sanctioning arguments, referring to Sanctioning Exhibit 2 (proposed Summary Decision Agreement dated November 6, 2019).

The Respondent presented sanctioning arguments.

Following a final opportunity for questions from the UHB panel of the AJA and Respondent, the UHB went into private session to deliberate sanctions.

Sanctions

Following deliberation, the UHB determined by a 5 to 0 vote that the following sanctions are appropriate for the violation found:

1. **Written Reprimand:** A disciplinary record will be maintained consistent with University policies. A disciplinary record for this matter will be reportable until the Respondent graduates from Cornell University.

2. **Research Paper:** Complete a five-page research paper with at least three sources related to the fake/false ID industry. What did you learn? Was anything surprising to you? Will this change your decision-making moving forward? 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 March 27, 2020.

Rationale for Sanctions

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

1. The panel was empathetic regarding the circumstances that led to the discovery of the fake ID by Officer [redacted]; however, they felt that the Respondent clearly violated the Code and thus sanctions were warranted.

2. The panel deemed that the Research Paper represented an appropriate educational sanction for the Code violation.

Respectfully submitted,

Thomas R. Overton, Chair (nonvoting) of the UHB, on behalf of:

[Redacted names]
faculty
Appendix C: Code of Conduct and Procedures of the University Hearing Board and the University Review Board Effective AY 2020

During academic year 2020, the Cornell community continued to be governed by the Campus Code of Conduct adopted on June 20, 2018. Hearings were governed by the Procedures of the University Hearing Board (adopted October 22, 2013) and the Procedures of the University Review Board (undated).

The University Assembly is the official custodian of each of these documents and is responsible for sending official copies to the Cornell University Archives. The OJA retains digitized copies in its files.