

# The Proposed Student Code of Conduct\*

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

# Background

The Code is the responsibility of the University Assembly.

President Pollack asked for a major revision.

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

The doc is now available for public commenting until Nov 17. Details [here.](#)

# Presentation

The Office of the Judicial Codes Counselor (JCC) provides free assistance to any member of the Cornell community accused of violating the [Campus Code of Conduct](#), the [Code of Academic Integrity](#), or [Cornell University Policy 6.4](#).

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

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

# Fall 2020 Proposed Amendments to the Campus Code of Conduct

---

Office of the Judicial Codes Counselor

# Respondents' Ability to Speak and to Question Witnesses

## Current Code (Title III, Art. III.E):

“[A]ccused’s rights to be accompanied by counsel or an advisor of the accused’s choice, to hear the evidence against the accused, **to question witnesses**, and to give evidence in the accused’s own behalf.”

## Proposed Amended Code (Procedures at 20.8.2):

“Testimony is conducted through a question-and-answer format. Questioning will **primarily be conducted by the Hearing Panel, but the Panel Chair may supplement** the Hearing Panel’s questioning.”

# Advisors' Ability to Speak and to Question Witnesses

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

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

## Proposed Amended Code (Procedures at 20.8.2):

“Counselors/advisors **may not normally participate in a hearing** in the role of counsel, but for suspension or dismissal to be imposed...”

# Respondents'/Advisors' Ability to Speak and to Question Witnesses

## The Effects:

- Respondents and Complainant (parties with the most knowledge and most at stake) lose the ability to question witnesses directly
- Hearing process slowed down
- Students—including those who speak English as a second language and those who suffer from crippling anxiety—left to defend themselves against representatives of the University

# Oversight, Supervision, and Accountability

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

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

## Proposed Amended Code (*Procedures, 2.2.1*):

Gives the Office of Student Conduct and Community Standards a say in the hiring and removal of the JCCs

# Oversight, Supervision, and Accountability

## The Effects:

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

# Evidentiary Standard

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

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

## Proposed Amended Code (Procedures, 20.2):

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

# Evidentiary Standard

## The Effects:

- Makes it easier for students to be found responsible because it requires less evidentiary proof
- Disadvantages students, especially those from low-income backgrounds who are unable to afford an attorney
- No statutory reason nor any other reason backed by evidence given by the University to justify the change in standard of proof

# Other Changes

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