To: Faculty Senate and the Committee of Codes
From: Dalton Sousa, Respondents' Code Counselor Fall 2023-Spring 2025
Re: RCC Experience and Policy Suggestions
Date: 10/12/2025

Dear Faculty Senate and the Committee of Codes,

My name is Dalton Sousa. I served as a Respondent's Code Counselor (RCC) for the 2023-2024 and 2024-2025 school years while attending Cornell Law School. As an RCC, I frequently advised Cornell community members with regard to Cornell's disciplinary policies. My tenure as an RCC included working with students who faced temporary suspensions from their involvement with the encampment during the Spring semester of 2024. I advised clients after Cornell used their geolocation data, including wifi connections and cellphone data, to allege that these students violated state law and Cornell's Student Code of Conduct ("Student Code").

Moreover, I was an advisor to students who were temporarily suspended for their involvement in the Statler Hall protest and to students protesting within the scope of the expressive activity during Cornell's Pathway to Peace discussions. While many of these temporary suspensions resulted from pro-Palestinian activity, there were also examples of non-academic temporary suspensions being levied against international students, even though the University's claims were unsubstantiated. These students' suspensions led to the severing of their SEVIS, essentially leading to a de facto deportation and educational harm.

I watched OSCCS's use of temporary suspensions stifle free expression that falls within the permissive boundaries of Cornell's current and interim expressive activity policy. I aided students who faced consequences as severe as de facto deportation through the use of these interim measures. And I watched firsthand as Cornell's Student Code harmed its students in direct opposition to its stated goals. The Office of Student Conduct and Community Standards (OSCCS) is alleged to support the holistic development of the student experience that fosters campus safety, accountability, and personal/organizational development.[1] In many regards, OSCCS has failed to address or reach its stated purpose. Instead, OSCCS overextended its authority, stripping students of the privileges as determined by the 2021 code.

As considerations are made by the Central campus to change the code, I agree that it needs to be modified. However, any modification needs input from those who will be affected. It requires input from the student body who will be affected, from faculty, and from people versed in legal knowledge. The original code was drafted by a law professor. It provided some realm of protection, establishing quasi due process within conduct proceedings. Even within OSCCS's stated goals, the code is supposed to be nonpunitive. It is allegedly a process designed to enrich Cornellians' experience through its claims of education and restorative justice.

I respectfully submit this memorandum as a recollection of thoughts, experiences, and concerns of those whom I advised as an RCC.

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[1] *See* Student Code of Conduct | University Statements | Cornell University

The Process:
First, addressing the investigation timeline for students charged by OSCCS: While OSCCS will state that they provided complete transparency and fast-paced investigation related to investigation timelines, I contest this on behalf of nearly every student that I had advised. We would receive emails stating that an investigative report would come out in two days–only for it to come out two weeks later. In some instances, we would receive emails that the report would come out later, but then it never did.

For those unfamiliar with the inner workings of OSCCS's process, it seems useful to describe the conduct process. As I discuss the process, I will provide what insights I can from the students whom I assisted.

First, starting with the accusation of a student. Students may be reported to OSCCS through CUPD, anonymous tips, or from conduct reports filed. This may arise from behavior or a false allegation. Once a student has been charged with a charging letter, OSCSS requests to meet with them. Here, the student is informed of the next steps in the process, along with whether they are being temporarily suspended. Before the encampment in Spring 2024, I had not seen a temporary suspension used. Students do not receive any information about next steps or whether they are being suspended before they arrive. The code specifies that temporary suspensions should " be the least restrictive option that reasonably affords the necessary protection." Procedures VIII.A

The University's current procedure does set out a list of factors that should be considered when determining whether a temporary suspension should be imposed. During my time as an RCC, I cannot remember any case where conduct provided a temporarily suspended student with a written explanation that walked through why these factors were met. OSCCS will challenge my portrayal of these factors, stating that the charging letter with alleged actions is enough to prove that a student was dangerous enough to invoke a temporary suspension. While the temporary suspension process has been a coercive and forceful abuse of the current code, changes have already been suggested.

Much of the concern about the temporary suspensions has been addressed in University Policy 4.23 Expressive Activity Policy Committee Report ("CR"). [2] "The use of temporary suspensions has become blurred between two rationales: (1) non-punitive protection of other community members from imminent harms or avoidance of substantial proper damage, and (2) coercive discipline used to deter, retaliate, or compel immediate compliance with Cornell policies." I echo the concerns stated by the committee. Their suggestions should be implemented to any future changes of the code, whether drafted by a true committee or one held solely within the discretion of central administration.

Once temporarily suspended, a student was originally removed from housing, classes, and any other activity on campus. The university eventually backtracked due to the wording of the Code

[2] EXPRESSIVE ACTIVITY AT CORNELL

and pressure from the RCCs, amongst others, to create non-academic temporary suspensions. These suspensions actively removed students from all non-academic activities. Simultaneously, temporary suspensions limited the movement of students, including but not limited to barring gym access, barring dining hall access for those living off campus, and barring the ability to attend religious services on campus. The restrictivity of a temporary suspension varied from student to student. Facially, the terms of the temporary suspensions seemed to be at the discretion of Christina Liang. As the semesters progressed, the temporary suspensions were altered, but the discretion being almost solely in the hands of one person was, and it remains, alarming. All of this occurred, often, before any investigation began.

Next, a student would be allowed to appeal to Ryan Lombardi or his stand-in to alter the terms of a temporary suspension or to remove it in its entirety. Such alterations did not occur often. Of the students I advised, some received modifications, but I cannot think of a single student who had their temporary suspension removed in its entirety. Instead, some of my students were denied the ability to attend on-campus services like a Shabbat dinner because of off-campus alternatives suggested to them by Lombardi.

While this appeal was ongoing, a student may receive an initial email from one of the investigators. This investigator would request to ask the students questions about their involvement in what was alleged. Whenever students asked to see evidence or further evidentiary information being compiled against them, they would be told it is still being gathered. Every few weeks to a few months, the investigator may reach back out with an investigative update. These would be the only opportunities for the students to see some of the evidence that was alleged against them.

Document exchanges like this did not occur often with the students who were charged in relation to protests. Here, for some of the large protests, body camera footage would be provided by OSCCS that often did not clearly identify the students, or overhead camera footage would be received by the student, the student's support person, and the student's advisor. Once information was delivered, OSSCS would bring up an alternate resolution, which pauses the investigation.

The alternate resolution process is framed as a way to quickly resolve conduct procedures without moving further into the investigation and hearing process. This framework secures an early resolution for students at the cost of their chance to be heard. In many ways, it is similar to a plea bargain but with less information and fewer procedural protections. Students could either accept the "bargain" or allow the investigation to drag on. Those students facing temporary suspensions would often be suspended for the course of the investigation and alternative resolution process.

The investigation process could take months to resolve. This lengthy wait under suspension was a key reason many students disregard their right to a hearing before a panel in favor of alternate resolutions (AR) established by OSCCS and the complainant. That complainant was

often the CUPD community complainant, Lt. Scott Grantz. Some of the alternate resolutions felt fair while others seemed disproportionate to the allegations.

Because interim suspensions stall a student's educational progression, students were forced to decide whether uprooting their academic progress during the investigation was worth the chance to be heard by a panel of students and professors. Moreso, students had to consider that the panels are undertrained, unpaid, and rife with bias that is often not addressed. While the standard to find someone responsible under the code is clear and convincing evidence, this standard seems malleable to non-legal minds. A policy should be in place to make the potential makeup of the hearing boards public to those who may come into contact with such a board before determining whether a hearing is the only option. Additionally, policy should include alternate and more transparent means for striking hearing board members. There is an innate unfairness in needing the approval of one individual–Karen Vicks–when seeking to strike a board member. The current policy is harmful to both the complainant and the respondent because it hinders their ability to be heard by an impartial panel. In short, it creates an unfair system without a clear channel for what the options are for conflicts of interest.

For the students who were nearing graduation, the decision seemed simple yet unfair. Take whatever offer they were given so that they could complete their credits and walk away from Cornell within the year. This was the advice the RCC office began to give to juniors and seniors. It is my experience that the average conduct proceeding took anywhere between 3 months and roughly 4 years. One RCC case has passed between three different generations of RCCs without a conclusion.

While not a complete discussion of the flaws within the conduct system, I hope that this provides some insight into what has occurred during my time as an RCC. There was a clear abuse of unclear language by OSCCS, which weaponized the code's ambiguities to levy temporary suspensions in a punitive way. The Office acted in a way to enforce student compliance with language that they did not like or actions that they felt violated the rules at Cornell.

Regardless of political thoughts on actions taken, a few things remain clear. The University did not resolve many investigations with a hearing. I can only think of one situation that went to a hearing. That hearing resulted in a not-responsible verdict for a student who was temporarily suspended. That is not a luxury that many students could afford as their forward progress stalled.

There is a plethora of other issues that may be addressed by other RCCs in their drafting. I am happy to meet with anyone to discuss questions about the code in more detail.

Please reach out as needed.