

Summary of CAPP review of “Resolution Concerning Overuse of Temporary Suspensions, Excessive Delays that Violate Due Process in the Conduct of Disciplinary Hearings, and the Need for Reform of the Student Code of Conduct Procedures.”

Tom Pepinsky (chair)

Overview

CAPP was asked to review the Faculty Senate’s resolution on temporary suspensions and related matters. As this resolution does not fall within scope of what CAPP has customarily reviewed in recent years, the CAPP chair corresponded with Dean of Faculty Eve de Rosa and other Faculty Senate members on process matters. All agreed that a normal CAPP review was appropriate, with CAPP members offering their feedback and suggestions to be shared with the Faculty Senate.

Summary of CAPP Review

CAPP members expressed a variety of positions on the resolution. The balance of comments and feedback focused on the resolution’s tone, on the five recommendations, and on process and CAPP’s role in providing feedback on the proposal.

Feedback on the resolution’s tone was generally split between those who view the tone as antagonistic, and those who find the tone as critical but not inappropriately so. Among those with reservations about the resolution’s tone, one exact phrase was “The tone of the entire Resolution is antagonistic towards the Administration,” and others suggested that the tone does not invite collaboration or meaningful dialogue with the administration.

The alternative perspective, offered by several CAPP members, is that resolution is written in a critical manner because that is its purpose, but that it does not feature excessively emotional language. There was a friendly request for quantitative evidence in support of the motivating premise of the “overuse” of temporary suspensions. Some CAPP members noted that the resolution reflects a sense among many members of the faculty that the administration has taken important decisions without representative faculty input. Additionally, members noted that the temporary suspensions had very significant effects on students who were subject to them, and amounted to severe punishments before any disciplinary procedures had even commenced.

There was some agreement—even among one member who did not object to the resolution’s tone—that the passage on viewpoint discrimination was not necessary to make sponsors’ points, and perhaps counterproductive. A more critical perspective, expressed and/or endorsed by a minority of CAPP members, was that invoking the pro-Palestinian expressive activity was “itself a political point” and therefore “inappropriate.” In support of this passage’s inclusion, however, a CAPP member noted that this passage helps to explain the urgency of the current resolution, as has emerged in response to events in the world.

Although CAPP members’ views on the resolution’s tone vary, and there is no single position that summarizes them all, a common thread among many (but not all) is the suggestion that the resolution might be reworded to invite dialogue and collaboration with the administration. Relatedly, some CAPP members suggested that Faculty Senators consider carefully the language that they use when appealing to a broad audience, and to weigh the tradeoffs between an inclusively-worded resolution with broad support and a more targeted one that does not earn as much support.

Feedback on the five recommendations focused mainly but not exclusively on the fourth and fifth recommendations. The fourth and fifth recommendations currently read

- *Be it therefore resolved* that the Student Code of Conduct and Procedures should be revised to ensure fairness and due process in administering the Code, including the restricted application of “temporary suspension” provisions, avoidance of delays, and evenhandedness in enforcement measures;
- *Be it further resolved* that the faculty, undergraduate student, graduate student, and employee members of the Code and Procedures Review Committee should be elected by the Faculty Senate, the Student Assembly, and the Graduate and Professional Student Assembly, respectively, and that the University Assembly, the CGSU-UE, and the Office of the Respondents’ Code Counselors should each elect an additional member of the Code and Procedures Review Committee;

Two suggestions how to amend them that emerged from the CAPP discussions are

- A recommendation to strike them entirely as “overly prescriptive,” instead empowering the Office of Student Conduct and Community Standards (OSCCS) to revise the Student Code of Conduct and Procedures without additional constraints (they may adopt the last two recommendations, or not).
- Replace the fourth and fifth recommendations with a new recommendation that combines the fourth with the fifth, “*Be it finally resolved* that the Code and Procedures Review Committee should consider reforms that address issues

including, but not limited to: limitations on the use of temporary suspensions and reforms of the appeals process, including those recommended in the CCEA report and by Respondents' Codes Counselors (see Appendices B and C); the independence of the OSCCS, in its enforcement of the Student Code of Conduct and Procedures, from the influence of the central administration, especially when the administration is the complainant; and reforming the use of alternative resolutions to ensure that they are voluntary and to expand the use of meaningful restorative justice approaches."

CAPP members expressed some support for each of these suggestions, but no unanimous nor clear majority position emerged.

Separately, several members endorsed an amendment to the second recommendation, which currently reads

- *Be it further resolved* that the faculty, undergraduate student, graduate student, and employee members of the Code and Procedures Review Committee should be elected by the Faculty Senate, the Student Assembly, and the Graduate and Professional Student Assembly, respectively, and that the University Assembly, the CGSU-UE, and the Office of the Respondents' Code Counselors should each elect an additional member of the Code and Procedures Review Committee;

The suggestion is to add "Employee Assembly" to this list of representative bodies that should be allowed to elect representatives to the Code and Procedures Review Committee.

A minority of CAPP members expressed more direct opposition to the resolution in its entirety. One suggested that the President and Provost should exercise their own discretion in implementing temporary suspensions and are likely aware of the weighty consequences of issuing such suspensions, and that there are reasonable scenarios in which delaying a temporary suspension until the end of the due process procedure would allow students to engage in behavior without fear of consequence (e.g in the last week of their senior year). This member concluded that "The Resolution should be to request dialog with the administration on the topic, not just to issue demands."

Feedback on the process broadly took the form of questions about why CAPP is offering feedback on this proposal at all. Several members found this unusual and/or unexpected. Some expressed reservations about their knowledge of the facts of the matter, and as a result, concern about their ability to offer useful and reasoned feedback. Another asked why CAPP was vetting the resolution prior to its being brought before the Senate, given that this is not standard practice (in response, CAPP Chair summarized the process so far).

Separately, several CAPP members questioned why the resolution does not mention that the Student Code of Conduct is already being reviewed. This observation raised questions about how the proposed review would interact with the one already in progress. One possibility is that this resolution is meant to inform that Code and Procedures Review Committee, but CAPP members who took up this line of questioning noted their interest in further clarification on these matters.