

Faculty Senate

October 22, 2025

ALL IN-PERSON ATTENDEES PLEASE SIGN-IN ON ONE OF THE SHEETS

ALL ZOOM ATTENDEES PLEASE SIGN-IN VIA THE CHAT

SENATORS: Name and Department

FACULTY GUESTS: Name and Department

NON-FACULTY GUESTS: Name and Affiliation

PRESS: Name and Affiliation

Gayogóhó:nq' Land Acknowledgement

Cornell University is located on the traditional homelands of the Gayogóhó:nq' (the Cayuga Nation). The Gayogóhó:nq' are members of the Haudenosaunee Confederacy, an alliance of six sovereign Nations with a historic and contemporary presence on this land. The Confederacy precedes the establishment of Cornell University, New York state, and the United States of America. We acknowledge the painful history of Gayogóhó:nq' dispossession and honor the ongoing connection of Gayogóhó:nq' people, past and present, to these lands and waters.

This land acknowledgment has been reviewed and approved by the traditional Gayogóhó:nq' leadership.

Rules of Engagement

HYBRID FORMAT

In-person and remote attendance

ZOOM CAPTIONING

Choose “Live Transcription” in the Zoom menu

TO SPEAK

2 minutes to pose a question or make a statement

Identify yourself: First name, Last name and Department

Order: Zoom first, Floor next, Back to Zoom, Back to Floor, etc.

CHAT

Want to attend to statements on the floor; set to everyone

Do not want to disadvantage in-person attendees

Limit chat to sharing resources with each other, published ‘as is’ publicly on DoF website

RECORDING

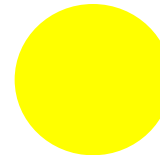
Started at 3:30PM, Video, audio, and chat posted publicly after the meeting

THREE MICROPHONES

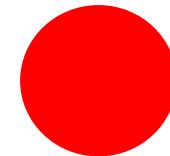
To ensure all perspectives are fairly represented and discussed



Comments in favor



Neither in favor or opposition



Comments in opposition

Approval of Zoom Transcription Minutes

October 8, 2025

Unanimous consent requested

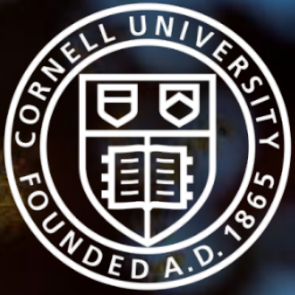
Raise hand (in-person or remote) for corrections only

Provost Kavita Bala

Computer Science

Cornell Office of Civil Rights – Policy 6.4

Associate Vice President Katie King



Cornell Office of Civil Rights

**Presentation to Faculty Senate
October 22, 2025**

AGENDA

1. Review Policy 6.4
2. Review Procedures for Reports
Against Employees

Policy 6.4

- **Issued in July 1996 and updated periodically.**
- **Covers and prohibits protected status discrimination and harassment.**
 - Meets requirements of Title VI, Title VII, Title IX, ADA, NYSHRL, etc.
- **Applies to every Cornell University staff member, faculty member, and student, as well as all activities undertaken by or on behalf of the university.**
- **Utilizes a preponderance of the evidence standard for all Policy 6.4 violations.**

Policy 6.4 – Procedures

There are distinct procedures for investigating and resolving matters under Policy 6.4.

The applicable procedure depends upon:

- the **conduct alleged**, and
- the **respondent's relationship with the university**.

Respondent	Prohibited Conduct
Student	Sexual misconduct, to include dating and domestic violence, sexual assault, sexual harassment, and stalking.
Student	Protected status discrimination or harassment, excluding sexual misconduct.
Staff & Faculty	Title IX sexual harassment.
Staff & Faculty	Protected status discrimination or harassment, to include non-Title IX sexual harassment.

Policy 6.4 – Procedures – Definitions

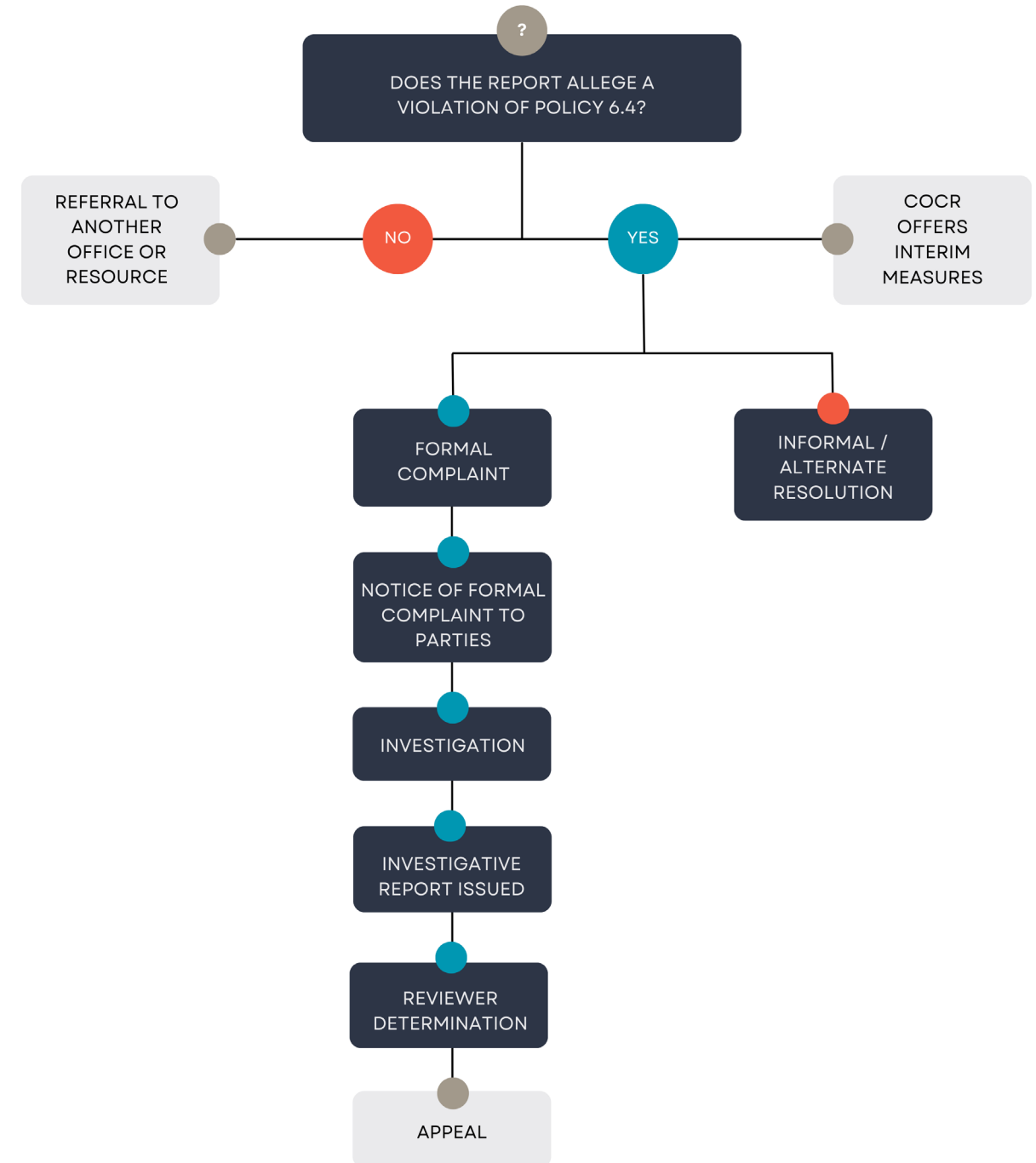
Discrimination

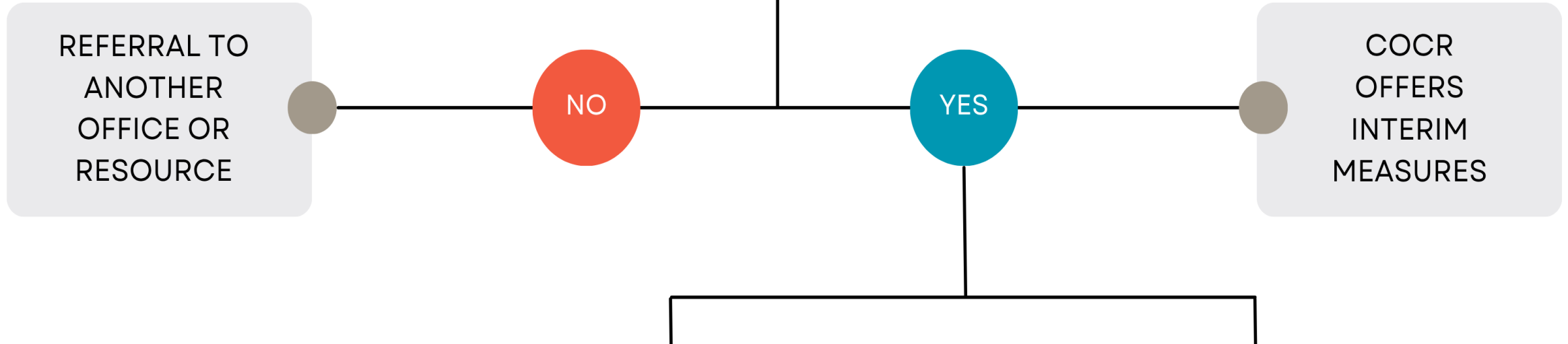
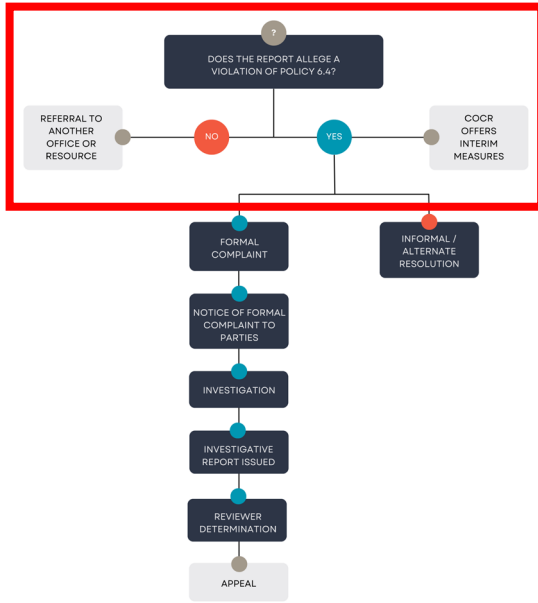
Prohibited Discrimination occurs when an employment or academic decision results in negative and/or different treatment of an individual based upon their membership in a protected class. For example:

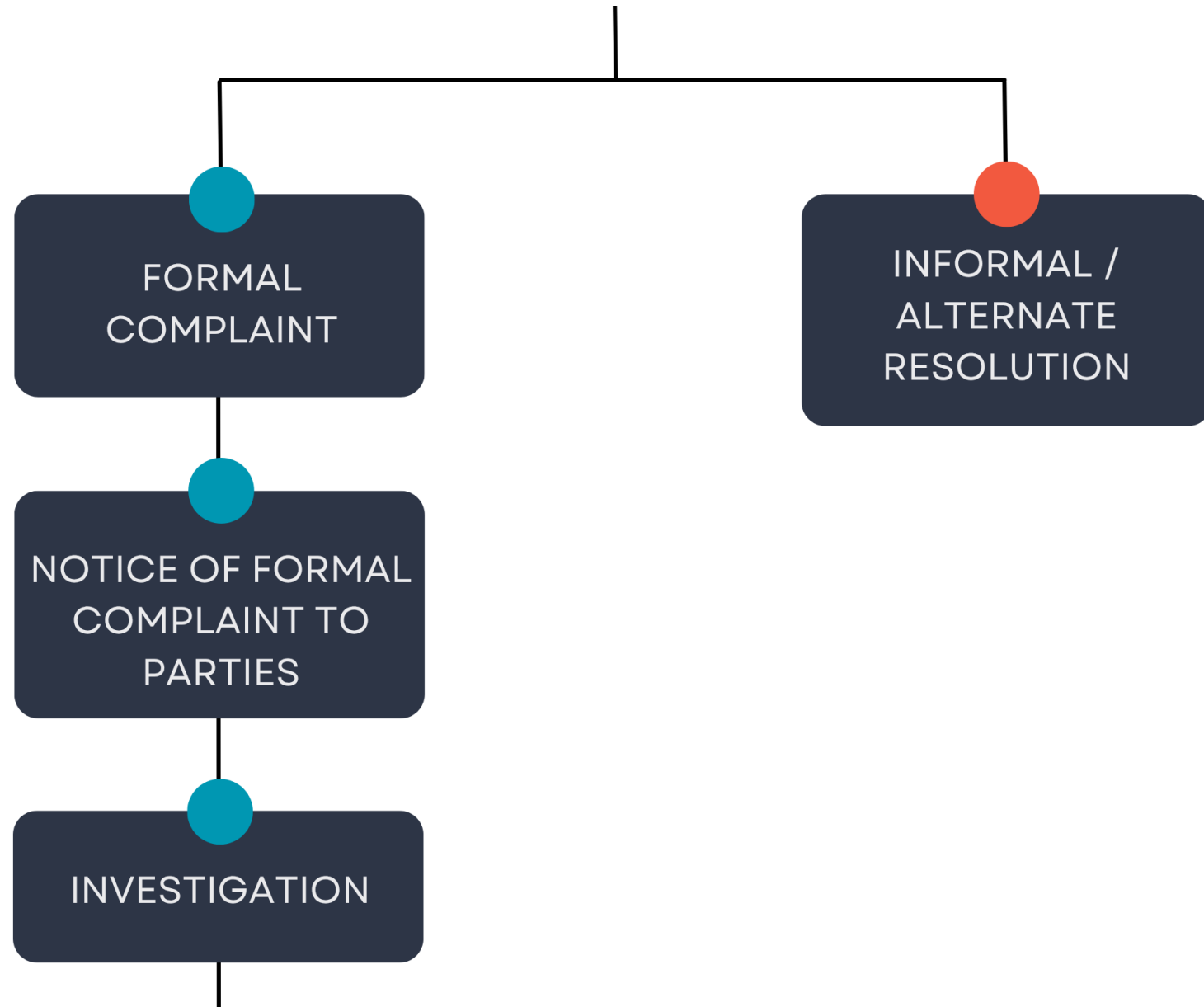
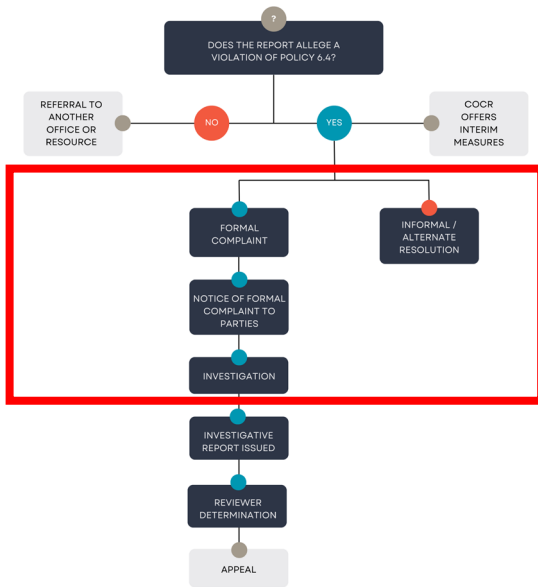
- denying an opportunity for which an individual is qualified
- not considering a person for an opportunity that is open to others
- singling a person or group for different treatment because of their protected class status
- failure to provide reasonable accommodation for a disability or religious belief or practice
- reinforcing the use of stereotypes that unreasonably impacts a person's environment or opportunities

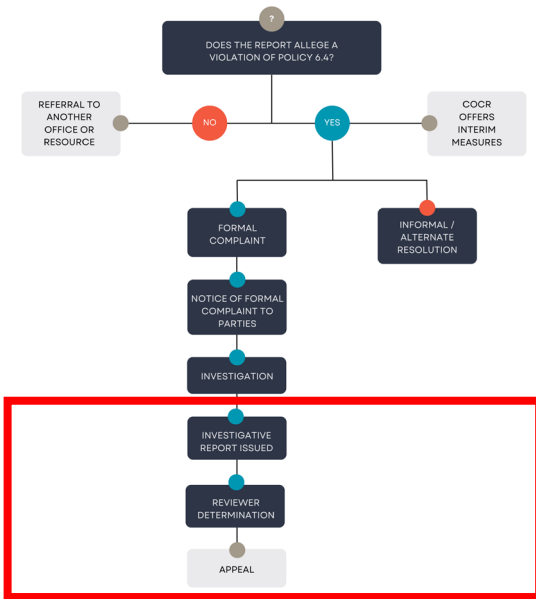
Incident Response and Resolution:

Policy 6.4 Violation Process for Faculty Non-Title IX Matters









Policy 6.4 – Procedures – Appeal Options

To Provost:

- Faculty member objects to determination of the reviewer but does not contend that conduct arose out of the nature of a subordinate-supervisory relationship between the faculty member and a student.
- Provost issues final determination.

To Committee on Academic Freedom and Professional Status of the Faculty:

- Faculty member objects to reviewer determination and contends that the conduct arose out of the nature of a subordinate-supervisory relationship between the faculty member and a student.
- AFPSF will determine if an issue of academic freedom is involved, or if behavior arises out of nature of subordinate-supervisory relationship. If so, AFPSF will conduct a de novo review of the evidence, using a clear and convincing evidence standard.

Policy 6.4 – Challenges

- **Policy must be interpreted consistent with local, state, and federal laws.**
 - Policy must use one standard of review as opposed to multiple
 - The AFPFS standard detailed in Appendix A uses the clear and convincing standard
 - Clear and convincing is not consistent with state and federal law
- **Allowing for a de novo review of a Policy 6.4 matter is inconsistent with other university practices.**

Policy Framework

General Counsel Donica Varner

Legal Analysis of Cornell University's Policy Framework

Two Charges

Unlawful Discrimination
University Policy 6.4

**Impermissible
viewpoint
discrimination**
Faculty Handbook
Section 6.6

Impermissible Viewpoint Discrimination

- University Policy 4.6 Ethical Standards
- The University's Core Values
- Joint Statement on the Rights and Freedoms of Students in the Classroom

Cornell University Statement of Ethical Conduct	
Cornell University's reputation for excellence in the community, the state, the nation, and the world is sustained by the commitment embodied in its mission statement to "...foster initiative, integrity, and excellence, in an environment of collegiality, civility, and responsible stewardship." Executive officers, trustees, faculty, principal investigators, clinicians, staff, student employees, and others acting on behalf of the university are expected to maintain the highest ethical standard, observing applicable policies, practices, regulations, laws, and professional standards. The absence of a specific guideline or instruction covering a particular situation does not relieve an individual of the responsibility to apply the highest ethical standards when reacting to that situation. Actions in accordance with these standards will be upheld by the university.	
Conflicts of Interest and Commitment	All executive officers, trustees, faculty, principal investigators, clinicians, staff, student employees, and others acting on behalf of the university hold positions of trust, and should conduct their activities accordingly. They must abide by university conflict statements, striving to avoid conflict between private and official responsibilities. Activities that impair or appear to impair the ability to perform their duties or affect independence and objectivity of judgment in the discharge of responsibilities to the university should be avoided.
Harassment and Abuse of Power	Cornell University supports an environment in which harassment of others is not tolerated. Executive officers, trustees, faculty, principal investigators, clinicians, staff, student employees, and others acting on behalf of the university may not use positions of authority to influence others to perform inappropriate or illegal acts, or violate regulations, university policies or practices.
Laws, Grants and Contracts, Regulations, Policies, and Procedures	All executive officers, trustees, faculty, principal investigators, clinicians, staff, student employees, and others acting on behalf of the university are expected to comply with relevant laws, grant and contract requirements, regulations, policies and practices, and all applicable university and professional standards. No unethical practice will be condoned on the grounds that it is "customary" or that it serves worthy or honorable goals.
Stewardship	All executive officers, trustees, faculty, principal investigators, clinicians, staff, student employees, and others acting on behalf of the university have a responsibility to ensure that all funds received are used prudently, ethically, and for their designated purposes. Neither tangible nor intangible assets of the university may be used for personal or illegal gain. Permission must be obtained for personal use of facilities and equipment, in compliance with applicable procedures. It is imperative that those with access to confidential, proprietary, or private information not make unauthorized disclosures or use of this information.
Reporting	All executive officers, trustees, faculty, principal investigators, clinicians, staff, student employees, and others acting on behalf of the university are expected to report violations of these or other applicable standards to appropriate university offices, e.g., the employee's supervisor, senior unit officer, University Audit, or the Office of General Counsel. Confidentiality of individuals reporting violations of these standards will be maintained whenever possible.

Listed above are some of the most prevalent areas of concern. This list is not intended to be comprehensive. See University Policy 4.6, Standards of Ethical Conduct, for guidance on specific issues.

Cornell University's Core Values

- Purposeful Discovery
- **Free and Open Inquiry**

We are a community whose very purpose is the pursuit of knowledge. We value free and open inquiry and expression—tenets that underlie academic freedom—even of ideas some may consider wrong or offensive. Inherent in this commitment is the corollary freedom to engage in reasoned opposition to messages to which one objects.

- **A Community of Belonging**

As a university founded to be a place where “...any person can find instruction...,” we value diversity and inclusion, and we strive to be a welcoming, caring, and equitable community where students, faculty, and staff with different backgrounds, perspectives, abilities, and experiences can learn, innovate, and work in an environment of respect, and feel empowered to engage in any community conversation.

- Exploration Across Boundaries
- Changing Lives through Public Engagement
- Respect for the Natural Environment

Rights and Freedoms of Students in the Classroom

The professor in the classroom and in conference should encourage free discussion, inquiry, and expression. Student performance should be evaluated solely on an academic basis, not on opinions or conduct in matters unrelated to academic standards.

1. Protection of Freedom of Expression

Students should be free to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.

2. Protection against Improper Academic Evaluation

Students should have protection through orderly procedures against prejudiced or capricious academic evaluation. At the same time, they are responsible for maintaining standards of academic performance established for each course in which they are enrolled.

3. Protection against Improper Disclosure

Information about student views, beliefs, and political associations that professors acquire in the course of their work as instructors, advisers, and counselors should be considered confidential. Protection against improper disclosure is a serious professional obligation. Judgments of ability and character may be provided under appropriate circumstances, normally with the knowledge and consent of the student.”

The Resolution Contains Inaccurate and Incomplete Information

1. **INCOMPLETE:** The unlawful discrimination complaint was first investigated by the the Cornell Office of Civil Rights and a faculty co-investigator before an appeal was requested to the AFPSF Committee.
2. **INACCURATE:** Discrimination cases are not the same as academic freedom cases. AAUP's Own Guidance indicates that consideration of how courts and agencies review discrimination claims should be considered when evaluating claims of unlawful discrimination.
3. **INACCURATE:** No faculty committee has the right to bind the University to legal liability.
4. **INACCURATE:** The convening of the faculty committee to review the proposed sanction was appropriate under Faculty Handbook Section 6.6.
5. **INACCURATE:** The faculty member was not suspended.
6. **INACCURATE:** This is a discrimination and unprofessionalism case. It is not an academic freedom case.

Standard of Review – Preponderance of the Evidence

Department of Education Office of Civil Rights Title VI Case Processing
Manual Section 303 – Investigation Determinations

“At the conclusion of the investigation, OCR will determine, **using a preponderance of the evidence standard**, whether:

- There is insufficient evidence to support a conclusion of noncompliance, or
- The evidence supports a conclusion of noncompliance.”

Policy 6.4 Process Concerns

- Two different evidentiary standards of review within one policy.
- Inappropriate standard used by the AFPSF Committee.
- An “appeal” process that permits de novo review by non-subject matter experts
 - Mixed motive analysis
 - Student preferences do not justify discriminatory conduct
 - Complainant’s behavior does not justify discriminatory conduct
- Multiple levels of review that results in inconsistent fact patterns and multiple fact witness.

Observations

- Academic freedom should never be in opposition to protecting the civil rights of any community member. No one has the right to unlawfully discriminate.
- There should be no ideological or political litmus tests for participation in academic offerings.
- Student classroom misconduct should be managed consistent with best practices for classroom management and consistent with established university policies.
- University policies need to serve everyone well and reflect established legal precedent and best practices.
- The University followed the law and upheld the university foundational principles.

**Resolution Condemning the Cancellation of Professor Eric
Cheyfitz's Classes and
Threats of Further Severe Disciplinary Action**

Senator Sandra Babcock, Law

Professor Risa Lieberwitz, Industrial and Labor Relations

University Policy 6.4: Prohibited Bias, Discrimination, Harassment, and Sexual and Related Misconduct

- Provides that a faculty member may appeal any decision of the Cornell Office on Civil Rights (COCR) to the Committee on Academic Freedom and Professional Status of the Faculty (AFPSF).
- The AFPSF makes findings of fact based on the evidence. Six members of the AFPSF considered the evidence against Prof. Cheyfitz, and voted unanimously that there was insufficient evidence of discrimination.
- Policy 6.4 states that “The dean or equivalent unit head *must accept* the Committee's findings of fact and conclusions.”

Cornell Faculty Handbook Section 6.6

- Governs dismissals and suspensions for “misconduct” or “failure to perform the duties required of the position he or she holds”
- Dean investigates the charges, reports their findings to the Provost. The faculty member can request a hearing.
- At the hearing, there is *no burden of proof specified*. A board composed of five faculty members makes a nonbinding recommendation to the President. The President has the final decision.

Cornell Faculty Handbook Section 6.6

- Under Section 6.6, “emergency suspensions” may only be imposed “by the President or his designee” only where the faculty member’s continued employment “threatens imminent, serious harm to the [faculty] member, to others, or to property.”

Standards of Proof – A Primer

Preponderance of the Evidence: **Lowest standard of proof.** “More likely than not.” Often used in courts where the complainant has the burden of demonstrating a *prima facie* case. In Title VI cases, this initial showing can then be rebutted if the defendant is able to provide a non-discriminatory reason for their actions. The the burden shifts back to the plaintiff to demonstrate that the proffered nondiscriminatory reason is false.

Clear and Convincing Evidence: **Medium standard of proof.** Higher than a preponderance, used in civil cases, and not as high as proof beyond reasonable doubt.

Proof Beyond a Reasonable Doubt: **Highest standard of proof.** Used in all criminal cases.

Department of Education Office for Civil Rights Provisions about University Responses to Title VI Complaints of Discrimination

The US Department of Education Office for Civil Rights (OCR) describes university “provision of grievance or complaint procedures” as “appropriate responsive action” to complaints of discrimination based on race, color, or national origin” under Title VI.

OCR does not describe a particular standard of proof that universities must use in their grievance or complaint procedures. [Fed. Reg. Vol. 59, No. 47 (1994); 34 CFR Part 100]

Department of Justice Manual to Agencies Investigating Title VI Claims of Discrimination

“Investigating agencies can look to case law for guidance on proving intentional discrimination, but are not bound by case law concerning burden shifting between plaintiff and defendant (that is, as between a complainant and a recipient). An agency need not use the same sequential process as courts, where a plaintiff first offers prima facie evidence and the defendant then offers rebuttal evidence. Rather, an agency has discretion to gather and evaluate all relevant evidence as part of its initial investigation, or may choose to make a preliminary prima facie finding then require recipients to articulate defenses.”

Resolution Condemning the Cancellation of Professor Eric Cheyfitz's Classes and Threats of Further Severe Disciplinary Action

Whereas Cornell University Policy 6.4 sets forth procedures for the investigation and resolution of allegations of discrimination by and against Cornell faculty, staff, and students;

Whereas Cornell University policies are developed in a multi-stage process with input from the Policy Advisory Group, whose standing members include the University General Counsel;

Whereas a student filed a complaint in the Spring 2025 semester alleging that Professor Eric Cheyfitz, the Ernest I. White Professor of American Studies and Humane Letters in the Department of Literatures in English and a member of the American Indian and Indigenous Studies Program, had discriminated against him based on his Israeli national origin;

Whereas the facts supporting the student's complaint were reviewed by the Faculty Senate's Committee on Academic Freedom and Professional Status of Faculty (AFPSF) pursuant to Policy 6.4, and the six members of the committee unanimously concluded that there was insufficient evidence of discrimination;

Whereas the AFPSF Committee simultaneously found that the issue of sanctions need not be considered, as there was insufficient proof to sustain the student's allegations;

Whereas, Cornell Policy 6.4 requires that the Committee on Academic Freedom and Professional Status of the Faculty "will not find the [faculty member] responsible unless the Committee, after evaluating all of the evidence, is satisfied that the charge has been proven by clear and convincing evidence";

Whereas the US Department of Education Office for Civil Rights (OCR) describes university "provision of grievance or complaint procedures" as "appropriate responsive action" to complaints of discrimination based on race, color, or national origin" under Title VI, and does not describe a particular standard of proof that universities must use in their grievance or complaint procedures [Fed. Reg. Vol. 59, No. 47 (1994); 34 CFR Part 100];

Whereas Cornell Policy 6.4's use of a "clear and convincing" evidence standard comports with the academic due process standards for imposing severe sanctions, as set forth in the American Association of University Professors "Recommended Institutional Regulations on Academic Freedom and Tenure";

Whereas Policy 6.4 plainly states: "The dean or equivalent unit head must accept the [AFPSF] Committee's findings of fact and conclusions;"

Whereas the Dean of the College of Arts and Sciences disregarded the mandate of Policy 6.4 and instead recommended that Professor Cheyfitz be suspended without pay for two semesters;

Whereas the Provost likewise rejected the unanimous conclusion of the AFPSF Committee, ordered new disciplinary proceedings against Professor Cheyfitz, and cancelled his classes for the Fall 2025 semester, entitled "Contemporary Native American Fiction" and "Thinking from a Different Place: Indigenous Philosophies";

Whereas the failure of the Dean and the Provost to accept the findings of the AFPSF Committee is a clear violation of University Policy 6.4;

Whereas the convening of a new disciplinary proceeding against Professor Cheyfitz under Cornell Faculty Handbook Section 6.6 was unwarranted and violated principles of due process;

Whereas Cornell Faculty Handbook section 6.6 describes an “emergency suspension” as one that is “pending the ultimate determination of the faculty member’s case where the faculty member is charged with misconduct and his or her continuance threatens imminent, serious harm to the member, to others, or to property,” and there was no such evidence in Professor Cheyfitz’s case;

Whereas the cancellation of Professor Cheyfitz’s classes in Fall 2025 violates the standards of Cornell Faculty Handbook section 6.6 and amounts to punishment without process;

Whereas the University’s punishment of Professor Cheyfitz coincides with enormous government pressure on universities to restrict expressions of support for Palestinians’ human rights;

Whereas the University’s actions represent a serious attack on academic freedom;

Be it therefore resolved that the Faculty Senate censures the central administration of Cornell University for its failure to follow the procedures set forth in University Policy 6.4, including its failure to accept the findings of the AFPSF Committee, as well as its violation of Faculty Handbook Section 6.6 by imposing a severe sanction of a “temporary suspension” on a Cornell faculty member before any findings of wrongdoing;

Be it further resolved that the University renew its commitment to protecting academic freedom, even in the face of political pressure.

Senate Discussion



CORNELL UNIVERSITY FACULTY SENATE



Adjournment

#IAMYOURSENATOR