JONATHAN OCHSHORN: --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 Gayogo̱hó꞉nǫ' dispossession and honor the ongoing connection of Gayogo̱hó꞉nǫ' people, past and present, to these lands and waters. We start the meeting with the approval of the minutes from October 8, 2025. They are transcribed verbatim, and therefore, by unanimous consent, hearing no objections, they are approved. And so, let's start off with just a quick overview. We're going to have the entire meeting, in a sense, devoted to a resolution concerning Professor Eric Cheyfitz. For the first 20 minutes, we will hear from the provost, associate vice president, and vice president and, general counsel. After that, we'll hear from the presenters, movers of the resolution for 10 minutes, and then devote the rest of the meeting, approximately a half an hour, to discussion. The vote on the resolution will not happen at this meeting, but will be via Qualtrics. Did I miss anything? Okay. So, let's start with Provost Kavita Bala. And the mic is on.

KAVITA BALA: Thank you for this opportunity to present to the Faculty Senate about this issue. The university normally does not share confidential personnel matters in public. However, the exception in this case is being made because of the amount of false and misleading information that's out there that's created understandable concern and confusion. At a time like this, when the community is under tremendous strain and we should be working together, this leading information results in a lack of trust and a breakdown of trust, something that I hope we don't have on this university, and we work together collaboratively going forward. So, I'm here to share some facts and address some false rumors that are out there. So, let me start off by talking about the student's behavior in the class. The full record that I carefully reviewed indicated that the faculty member told the student that his behavior was not disruptive and also told the Cornell Office of Civil Rights co-investigators that the student had not interfered with his ability to teach the course. So, I'll add a little color to that. The student attended three classes. As for the faculty member, he was silent during the first class, spoke briefly in the second class for less than two minutes in a discussion class of 16 students, and he was silent in the third class. The faculty member asked him before the third class to stay back after class to talk. And during this conversation, he explicitly told the student that "I think your conduct in the class has been fine so far, so I'm not complaining about you." During his subsequent interview with the Office of Civil Rights, the faculty member affirmed that the student, "was respectful in his responses." When asked how much of the classroom conversation the student engaged in, the faculty member responded, "Not much of it. As I remember, he responded a few times to what the students were saying. For all I know, again, I wasn't paying strict attention to him." So, contrary to a narrative that's been built up about disruptive behavior from the student, in the faculty member's words, the student was respectful in the class. In courses on controversial subjects, of course, different opinions will arise, and other students may have found this student's viewpoint uncomfortable, but of course, seasoned faculty know how to deal with discomfort in the classroom when you're discussing complex situations. Discomfort with a viewpoint cannot be a basis for summarily excluding a student from a course. So, what did transpire? After that third class, the faculty member talked to the student and explicitly told the student that he was not welcome in the class because, "he was an Israeli citizen supporting an Israeli stance on Gaza." Those are the faculty member's words. He told the student that students like him would need to find study elsewhere. The quote was, "If people want to take a course with your point of view,

God bless them. And if there's a course out there for that, they should take that course." Then he said, "but the student did not, 'have any place in this course.'" The student tried to explain that his viewpoint was mischaracterized and was cut off by the faculty member. Based on these facts, the faculty member was charged at the college level, and then at the provost level with two separate forms of misconduct. The first was discrimination based on nationality in violation of Policy 6.4 and federal law. The second was unprofessional conduct based on bias against a student's presumed viewpoint. The first charge and only the first charge, because it involved discrimination based on nationality, fell under Policy 6.4 and therefore went to the jurisdiction of the COCR, and they'll speak about that. The second charge, bias based on presumed viewpoint, went through the dean's office, then to the provost's office, and was heading to a faculty review panel, all faculty, scheduled for November 3rd. The faculty member chose to retire instead. Note that the faculty member was never suspended and stayed on full salary. However, because of the seriousness of the charges, which are related to discrimination, the university exercised its inherent authority to pause his teaching responsibilities pending resolution of the two charges. Those are the facts. This is not a case of academic freedom. The course continued to completion taught by the faculty member as the early part of the review was going on. This is a case of discrimination based on national origin and presumed viewpoint. I'll now turn over to Katie King from the COCR office.

KATIE KING: Hi, everyone. Thanks for having me. I'm Katie King. I was here last month to talk with you about our office, Cornell Office of Civil Rights. Oh my goodness. That was you. Okay. Okay. So, I just want to thank the dean of faculty for inviting me here today. I was asked to come and talk to you all about Policy 6.4 and our procedures, which I will do, and particularly our procedures as they pertain to cases where there is a faculty respondent who has been charged with discrimination or harassment. So, first, to talk about Policy 6.4, this policy has been in place at Cornell University since 1996, has been updated periodically, and the policy covers and prohibits discrimination and harassment based on protected statuses. The policy incorporates local, state, and federal civil rights laws to include Title 6, Title 7, Title 9, the ADA, the ADEA, and New York State human rights law. So, all of those are encompassed within Policy 6.4. The policy applies to everyone at Cornell, to all students, all staff, and all faculty. And the policy utilizes and has utilized since its inception a preponderance of the evidence standard when making determinations as to whether the policy has been violated. Preponderance, as I'm sure you know, means more likely than not or anything over 50%. We also have procedures that we utilize to-- Point to you. Okay. We have procedures that we utilize to investigate our cases. The procedure that we utilize in any given case is dependent upon who is the respondent. Is it a student or is it a staff or faculty member? And then is also dependent upon the conduct. So, the procedure at issue pertaining to this resolution is the last one, which is faculty alleged to have engaged in discriminatory conduct, which is what I'll be talking about today. Could I have the next slide? Sorry, this is not working. So, under the procedure-- Is that better? Under the procedure, which defines discrimination, discrimination is defined as any employment or academic decision that results in negative or different treatment of someone based upon their membership in a protected class. So, national origin is a protected class under policy 6.4, also under Title 6 of the Civil Rights law. And examples that are detailed in the procedure of discriminatory conduct are up on the screen here in the bullet points, but are things like denying an opportunity for which someone is qualified to do or singling a person or group out for different treatment because of their membership in a protected class. When our office receives--

And I know this is hard to see, I'm going to zoom in on it momentarily. When our office receives a report of a potential policy 6.4 violation, we have a series of events that we go through when we receive-- for every report that we receive. We receive hundreds of reports a year. For each report that we receive, we conduct an initial assessment. So, we are looking to see, is the conduct that is being reported to us something that violates policy 6.4, or is there something else at play here? Is there another university policy or university concern that is at play? If there is another concern unrelated to policy 6.4, we will refer that out to the appropriate office, and at the same time, we are doing outreach to the impacted party or the complainant to make sure that they are made aware of the resources that are available to them. These resources can be things like supportive measures and just knowing what the procedures are that are available. So, if we determine that a policy 6.4 matter has been alleged, we then meet with the complainant to go through their options under the policy. So, there are two primary ways that cases get resolved or reports get resolved in our office. The first is via an informal resolution process. So, this can look like a lot of different things. It can be just interim measures for the impacted party, it can potentially be mediation between the impacted party, the complainant, and the respondent, or really anything else short of a formal complaint investigation. If we do not go the informal route and the complainant wants the matter to be addressed or the university deems this is a matter that must be addressed, a formal complaint is then filed. This is something that is drafted up, and a copy is provided to both parties, to the complainant and to the respondent. The complaint itself lists out the allegations, the date, the time, the conduct that is alleged, and is provided to the party. In a case of a faculty respondent, the faculty respondent is also apprised of the procedure that's going to happen and their rights under that procedure. So, for example, faculty respondents have the right to have an advisor with them at all meetings with our office, as do complainants, and they are apprised of all the other rights that they have under the policy. After the formal complaint is signed, in matters of faculty respondents, a faculty co-investigator is assigned. And so, as the matter is investigated in our office, our office is staffed with trained investigators who are trained to do civil rights investigations. We also bring in, in matters of faculty, a co-investigator, a member of the faculty who was also trained and who engages in the investigation alongside our COCR investigator. They participate fully in the process, sit in on interviews, review documents, and review the ultimate report that is issued. After an investigation, an investigative report is issued by our office. The report is issued to both parties, and both parties, complainant and respondent, have the opportunity to reply to that report and share any feedback, any inaccuracies that they see, any concerns that they have. The report and the comments are then all provided to the reviewer, which in a case of faculty is going to be your dean, or the dean will sometimes designate someone, a senior associate dean, to be the decision maker in that case. The decision maker, the reviewer, will issue a determination that is provided to the complainant and the respondent, and then, in cases of faculty, there are actually multiple avenues, at least two avenues, to appeal under the procedures as they stand today. Here, you'll see a faculty member. So, this is a lot of words on a screen, but essentially, if a faculty member is found responsible for violating the policy and wants to challenge that finding or any sanctions that the reviewer issues and they do not allege that the matter arises out of academic freedom or the supervisory subordinate relationship between faculty and staff, they can appeal directly to the provost. If the faculty member is found to have violated the policy and now does allege that the conduct itself either constituted academic freedom or arose out of the supervisory-subordinate relationship between a student and a faculty member, they then can appeal to the Committee on Academic Freedom and Professional Status of the faculty. As the procedures are currently written, when a

matter is appealed to AFPSF and AFPSF determines that they will accept the matter because either one of those two prongs they find exists, they will conduct a de novo review for those-- Well anyway, de novo just means brand new. So, they're looking at the case all over again, doing a second investigation essentially, and they are using a different standard than what Policy 6.4 calls for, which is the clear and convincing evidence standard. So, that is the life of a case in our office. I will just say I joined Cornell University in November 2023. When I joined, these were the policies and procedures that were in place, and I have and have seen and have observed some challenges that I would really like to work collaboratively on as they impact our faculty and our process. We need to be interpreting our policies consistently with state and federal law, and the use of a clear and convincing evidence standard in a Policy 6.4 matter is really running afoul and is not in line with the requirements or with state and federal law, which uses a preponderance of the evidence standard. So, that's one issue that I've seen. Another issue is that allowing for a de novo review on appeal in faculty respondent matters only that may involve academic freedom or may involve the student-subordinate relationship is the only time when a de novo review happens on appeal under our procedures, and I think it's important that our procedures are actually internally consistent with the way that appeals happen. So, I look forward to working collaboratively across the university to address these issues as we move forward. That's all. Thank you.

DONICA VARNER: I will do my best. Thank you so much. I appreciate this opportunity to be in conversation with you today regarding the university's policy framework that is the subject of the resolution condemning the cancellation of Professor Eric Cheyfitz's classes and threats for further severe disciplinary action. I am constrained by the university's commitment to respect the privacy and confidentiality of individuals who are participants in our disciplinary processes in the level of factual detail that I can provide. I will do my best to honor that commitment to all participants, including witnesses and panelists. Yet, I will address factual inconsistencies and incomplete information reflected in the resolution to provide you with accurate information to inform your decision making. I will also share with you observations from our office regarding aspects of the university's existing policies that have suffered from deferred maintenance. Claims of protected status discrimination are covered under Policy 6.4 and are investigated by the Cornell Office of Civil Rights. Policy 6.4 must be interpreted consistent with our relevant legal standards. Any other claim of faculty misconduct toward a student that is not covered by Policy 6.4 is under the jurisdiction of the deans of the respective colleges pursuant to the university bylaws and Section 6.6 of the faculty handbook. In cases where a dean investigates and determines that a faculty member has engaged in conduct that warrant significant sanction, the dean must make a recommendation to the provost. The dean can-- After making the recommendation about appropriate sanctions, the provost will make an independent assessment of misconduct and the level of sanction if any that is warranted. In this matter, there were two serious charges, one related to national origin discrimination and the second related to impermissible viewpoint discrimination. The process for evaluating the impermissible viewpoint discrimination charge was in progress when the faculty member chose to retire. The bylaws provide that the faculty can be disciplined for failure to perform the duties of the physician, including violations of ethical and professional standards. Those ethical and professional standards are found in several sources, including but not limited to Policy 4.6 ethical standards, the university's core values, and higher education guidance on professionalism standards for university instructors. No unethical practice will be condoned on the grounds that it is customary

or that it serves worthy or honorable goals. Free and open inquiry requires that we share space with ideas that we disagree with, especially in the classroom. The work of community building demands that we do not tolerate unlawful discrimination or utilize ideological litmus tests to have access to academic offerings. The joint statement on rights and freedoms of students in the classroom, which has been endorsed by the AAUP, sets forth three principles to protect students in the classroom. A faculty member telling a student, for example, "If you want to express a different point of view than mine, then go find another class to take," is inconsistent with these principles. I will now turn to the resolution before highlighting concerns with the Policy 6.4 procedures. The resolution contains inaccurate information that fails to include all of the relevant procedures. There are at least six deficiencies. First, the resolution provides that the fact supporting the student's complaint was reviewed by the AFPSF committee and that that committee found insufficient evidence of unlawful discrimination under a clear and convincing standard. This information is incomplete. Policy 6.4 provides that the investigation is conducted by the professional staff of the Office of Civil Rights with the faculty co-investigator. The investigation found a violation of university policy. The appeal to the AFPSF committee was after a finding of unlawful discrimination. Second, the resolution infers that the AFPSF committee's conclusions resulted from legally sound practices. They did not. Procedures for handling academic freedom issues are not appropriate for civil rights complaints. An appeal should not allow for a new independent fact-finding hearing by insufficiently trained volunteers. Also, the appeal did not use the appropriate legal standard of review. AAUP guidance on processing complaints of discrimination recognizes that academic freedom integrity standards are inappropriate for discrimination cases. The guidance provides that individuals evaluating discrimination claims must handle them consistent with how such claims are handled by courts and agencies. Third, the resolution states that the dean was bound by the AFPSF committee's decision. This is not true. No faculty committee can bind the university to legal liability. The bylaws have delegated to the offices of the university and academic leadership the responsibility to ensure compliance with the law. Fourth, the resolution provides that the dean of the college inappropriately disregarded the mandate of policy 6.4 and inappropriately recommended discipline, and that the convening of a disciplinary proceeding was unwarranted. These assertions are factually incorrect. There were two separate charges. The impermissible viewpoint discrimination charge was appropriately within the dean's purview to review and was handled pursuant to section 6.6 of the faculty handbook. Number five, the resolution asserts that the professor was suspended and was punished without process for political motivations. These assertions are not based in fact. The faculty member was not suspended. While he was relieved of his teaching duties until the conclusion of the processes, he remained a full-time paid faculty member. There was sufficient notice and opportunity to be heard. The faculty member fully engaged in all the processes. The process was ongoing and only ended at the request of the faculty member. He was provided due process. There is nothing in the record that supports the allegation that his fall 2025 courses were canceled because of the content of those courses. Six, the resolution asserts that the professor's academic freedom rights were violated. Responding to complaints about unlawful discrimination or impermissible viewpoint discrimination is not an attack on academic freedom. The ability for a scholar to design a course and pursue scholarship and research of their interests does not allow for unlawful discrimination or professional misconduct to go unchecked. Now, let's turn to the standard of review issue. The federal government, through case processing manuals and to model civil jury instructions, provide that the preponderance of the evidence is the appropriate standard. The clear and convincing standard

may be appropriate for non-legal academic freedom matters that remain internal to the university, but it is not the appropriate legal standard for disparate treatment discrimination claims that are governed by federal and state law. I started by sharing that there were two different serious charges of faculty misconduct. I've talked about the faculty handbook Section 6.6 procedures for resolving impermissible viewpoint discrimination claims. I now want to circle back to highlight serious procedural issues with policy 6.4. First, there are two evidentiary standards in one policy. Second, the appeal standard for clear and convincing is inconsistent with legal standards. Third, having insufficiently trained volunteers redo the work of the professional staff in the Office of Civil Rights, and a specifically trained faculty co-investigator unfortunately led to the misapplication of established legal standards in at least three significant ways. When a respondent offers more than one reason for their behavior, established legal precedent provides that discriminatory intent does not have to be the only reason for their behavior. Intentional reference to someone's national origin will result in legal liability when that rationale is the motivating factor that caused actual harm. There does not have to be evidence of bad faith, ill will, or evil motive. Responding to student discomfort is not a legally permissible ground to remove a student from a class because of their national origin or ideological point of view. There is nothing in the record that suggests that the student was preventing the course from continuing in a normal course of action, nothing. No one, not even the faculty member, produced any evidence of classroom disruption. In fact, there was evidence to the contrary. But even if there had been classroom disruption, there are appropriate processes for managing classroom misconduct. The law does not excuse discriminatory behavior because the complainant is deemed unlikable. The current system that we have, with multiple layers of review and fact-finding methods, is unfair to all, including our volunteer committee members acting on behalf of the universities whose decision-making emotives would be subject to scrutiny and potential subsequent litigation and agency investigations. And I will close with a few observations. Academic freedom should never be in opposition to protecting the civil rights of any member of this community. No one, no one has the right to unlawfully discriminate. There should be no ideological litmus test 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's foundational principles and core values.

JONATHAN OCHSHORN: Thank you. We now move on to the resolution condemning the cancellation of Professor Eric Cheyfitz's classes and threats of further severe disciplinary action. We'll have 10 minutes for this, followed by an open discussion with the faculty. We have Senator Sandra Babcock from the Law School and Senator Risa Lieberwitz, Industrial and Labor Relations. I think Sandra is beginning online.

SANDRA BABCOCK: I am. Could you take down the slides, please, for just a few minutes? And I also have a point of order. The first speakers had been allocated 20 minutes, and they took 27 and also gave us some new information that we were not privy to before. So, I would ask the same courtesy that we be given a couple of extra minutes to respond.

JONATHAN OCHSHORN: Can we have unanimous consent, I think, to extend the meeting beyond 4:30 for, say, five minutes, 5:35. Are there any objections? Okay. So, take another few

minutes.

SANDRA BABCOCK: Thanks very much. Hi, everybody. My name is Sandra Babcock. I teach at the law school. Risa Lieberwitz and I will be presenting today's resolution on behalf of about 200 co-sponsors, 25 of whom are faculty senators. We heard a lot just now about the confidential information that led to certain university actions against Professor Cheyfitz. This is what we would call, you know, us lawyers would call an effort to relitigate the case. That is not what this resolution is about, and it's not what this Senate meeting should be about. This is an issue. This resolution is about values and principles that are absolutely integral to faculty governance, to due process, and to academic freedom at a time in our professional lives when those principles are under attack as they have never been before. Faculty around the country are being targeted for their teaching, for their scholarship, and for their private political views. Universities are under enormous, enormous pressure to restrict certain kinds of speech. And it is in times like this when adhering to procedures that were set up to protect people facing life-changing professional consequences would be entitled to due process and procedural fairness. These values are enshrined in University Policy 6.4, which we just heard was established in 1996. This is not a new policy. Title 6 of the Civil Rights Act that has also been referred to here was adopted in 1964. So, the problems that have just been identified with Policy 6.4 are something that didn't just appear out of the ether. This is a policy that has been repeatedly reviewed and repeatedly been deemed acceptable by University Counsel for decades now in accordance with federal law. Could you show the first slide, please? So, what this resolution is about at its core is adhering to policies that enshrine for each of us, for every faculty member on this campus, the right to a review of any finding that they have engaged in certain forms of misconduct, in this case, prohibited discrimination, by a committee of their peers. In this case, it is the Faculty Senate Committee on Academic Freedom and Professional Status of the Faculty. Now, we just heard them referred to as, I think twice, insufficiently trained volunteers. We haven't heard anything about their training. But if you look them up online, the faculty committee, you can see their profiles online. Two of them are experienced civil rights lawyers. I think it is insulting to that faculty to call them insufficiently trained volunteers when these are Cornell faculty that are supremely intelligent and well-versed in the standards that they need to apply. This committee was established for the purpose of hearing evidence of the sort that has been described to you and of reaching certain findings. The findings that they unanimously reached under Policy 6.4 was that there was insufficient evidence of discrimination. It is not our job today to relitigate those findings. Next slide. We also heard about Cornell Faculty Handbook 6.6. Now, this is a section that has a totally different procedural process that is not governed by any identifiable standard of proof, under which a faculty board makes a recommendation that is non-binding to the president, who then has the final decision over whether to uphold it. Next slide. Under Faculty Handbook 6.6, there is no provision that governs, that I could see, that governs temporary cancellation or suspensions. The only thing that it describes is something called emergency suspensions. Now, we just heard that Professor Cheyfitz was not suspended, but at the same time, we heard that his two classes were cancelled and that the university decided, in the provost's words, to "pause his teaching." If that is not a suspension, I don't know what is. But an emergency suspension may only be imposed by the president or his designee where the faculty members' continued employment threatens imminent, serious harm to the faculty member, to others, or to property. And this is very similar to the language on temporary suspensions in Title 9. That standard was not met in this case. Could you go to the next slide,

please? Just a very quick primer, promise not to bore you on standards of proof. We've heard about two standards here. Preponderance of the evidence is the lowest standard of proof that is used in courts of law. Clear and convincing evidence is a medium standard of proof. The highest standard of proof is proof beyond reasonable doubt. Now, before I turn it over to Risa, I want to say one thing, and that is that it is in times like this that the principles and the due process that has been established under things like University Policy 6.4 are the most important. And what we want to prevent is a situation where the university can decide on its own to deviate from those principles when they no longer suit them. And that is what we believe has happened in this case. There is a way about-- There is a process that can be followed for amending University Policy 6.4. You should not be doing it on the fly. You should be following the process that is in place to do that. And if it were a problematic policy, it should have been changed a long time ago. I'm going to turn it over to Risa Lieberwitz.

RISA LIEBERWITZ: Thanks very much, and thank you, Sandra. I have a lot to say about the issues on the evidence standard and other related issues. But since the university administration has come in here with apparently the intention of relitigating the case and putting it forth as if it's so clear cut that it's really quite shocking that the Academic Freedom Committee came up with the conclusion that there was not sufficient evidence of discrimination, I thought I would just point out a couple of things. One is the investigators report that is Katie King's report. And you just heard from Katie King actually said that it was understandable that Professor Cheyfitz was concerned about the participation of the student, the enrollment of the student in this class. And then, secondly, that investigator's report also said that the investigators struggled to reach a recommendation on sanctions and discipline, which the rules actually say they have to provide those recommendations if there's a finding of discrimination. So, while the investigators' report said that they found Professor Cheyfitz to be responsible for national origin discrimination, they said because of the complexity of the case, they struggled to come up with any sanctions to recommend or discipline. And instead, what they recommended was that the Dean talk to Professor Cheyfitz. OK, that didn't happen. And so, I think from that, you can see that what gets presented to you as a clear cut case that should be relitigated by a couple of administrators talking to you is normally not a clear cut case, and it certainly was not found to be clear cut in this case. And that's why it went to the Academic Freedom and Professional Status Committee as provided as a right to Professor Cheyfitz under Policy 6.4. And so, simply because the administration is sorry that they adopted a policy that gives faculty these rights doesn't mean that they can just go, "Poof, those rights don't exist." All right, so now let's go to slide five, the next slide. OK. Let me make sure I'm on the right one. I like paper. OK, no. No. One back. Yeah, OK. So, contrary to what you've heard, federal law does not require universities to use a preponderance of evidence standard in their internal proceedings, which is what we're talking about now, such as the hearing before the Faculty Senate Committee on Academic Freedom. And I emphasize it's a Faculty Senate Committee. It is our committee on academic freedom that Professor Cheyfitz had a right to go to to appeal the finding from the investigators. Now Title 6 requires what? It requires universities to investigate and to take prompt action to respond to discrimination complaints. But universities are free to choose procedures and the burden of proof that they apply under Title 6. And this is what Cornell has done in its adopted policies. Cornell has lawfully adopted policy 6.4, which uses a clear and convincing evidence standard for the hearing by the Faculty Senate Committee on Academic Freedom. Next slide, please. Also, as you can see in this slide, universities, according to the Department of Justice manual, universities and

even federal agencies such as the Department of Education are not bound by the standard of proof employed by the courts, as the excerpt from this manual from the Department of Justice explains. So, why is it important to use a clear and convincing evidence standard for the Academic Freedom hearing, the Academic Freedom Committee hearing? This is not just lawyers yelling at each other, preponderance, clear and convincing, preponderance, clear and convincing. There's a reason. This clear and convincing standard is appropriate when faculty face serious charges and when they face potentially serious sanctions such as suspensions or even dismissals. This comports with long-standing AAUP due process standards for imposing severe sanctions. The clear and convincing evidence standard ensures that there is sufficient evidence to persuade the Academic Freedom Committee members hearing this case that the university has met its burden of proving that a 6.4 violation occurred. And if the committee finds that there is a 6.4 violation under this standard, then that committee must also decide whether serious sanctions are warranted. And so, this standard of clear and convincing evidence is needed to protect due process for faculty in any serious case at all, but certainly in particular when academic freedom is at stake, strong due process is even more important. Next slide, please. Now, some of you may be wondering why we're pressing forward with this resolution now that Professor Cheyfitz and the Cornell administration have reached a settlement. And I'm going to get into that in a second, but I want to emphasize, given what we heard from the administration today, the second whereas here. Cornell policies are developed in a multi-stage process with input from the Policy Advisory Group of Cornell, whose standing members include the University General Counsel. So, again, these standards didn't just come out of the air. They were the result of a deliberate process. Okay, so why are we pressing forward with this resolution? This is about more than one person. This is about recognizing the importance of a fair process, whether or not we agree with political views of one of our colleagues. It is also about our joint commitment to procedures that exist for a reason, that is to preserve faculty governance through a hearing by our peers as a check on centralized administrative power to unilaterally impose the most severe sanctions on one of our colleagues. It is during times of extreme stress that our policies and procedures are tested. This is the time when academic freedom, due process, and faculty governance matter most, including the role of the Faculty Senate Academic Freedom Committee to conduct a hearing about serious charges brought against our faculty peers. Failing to respect these due process protections now will make it easier to ignore them later. Now, I don't know who among our colleagues may be next to need those protections. I hope none of us will face this. But what I do know is that those procedures are essential to protect all of us from arbitrary action and overreach at any time, and especially now when our university leaders are being subjected to unfathomable pressure externally to conform to the expectations of the Trump administration. Let's go to the last slide. Last slide. Last slide. There it is. And here are our resolved clauses that the Faculty Senate censures the central administration of Cornell University for its failure to follow the procedures set forth in UC 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 Cornell faculty members, on a Cornell faculty member before any findings of wrongdoing. And be it further resolved that the university renew its commitment to protecting academic freedom, even in the face of political pressure. And I would just add a note about AAUP policies. AAUP policies are clear that being removed from the classroom, whether you are on a paid or an unpaid suspension, removal is a serious sanction. Thank you.

JONATHAN OCHSHORN: Thank you. I'd like to come back with another request for

unanimous consent so that we can have 30 minutes of discussion. This would add another 12 minutes to what we've already asked and bring the meeting to a close at about 4:47. Are there any objections? Okay, the next step would be to have people who would like to speak in house. If you're in favor of this resolution, line up behind that green microphone. If you are opposed to the resolution, please line up behind this, which will be a red microphone. And if you're online, raise your hand, and I'll try to just somehow figure out whether you're opposed or not and alternate. So, we're going to start with opposition to the resolution.

TARA HOLM: My name is Tara Holm, I am a senator from the math department. Last month, I traveled to Washington DC to celebrate the centenary of Howard University Professor Elbert Frank Cox earning his PhD. He was the first black mathematician in the world to do so, and he earned it at Cornell. At the workshop, we heard about Cox's journey. As an undergraduate at Indiana University, he was barred from upper level math classes. He listened from the corridor, he persisted. Cornell admitted him to the math PhD program with a fellowship. His transcript here shows classes in mathematics, physics, that's kind of close to math, and even zoology, chemistry, botany, and dairy. He was welcomed in every classroom. In 1925, only 28 math PhDs were awarded nationwide. Cox's success was extraordinary, not only for him, but for those who followed. His achievement and his decades of mentorship at Howard opened doors for generations behind him. I felt tremendous pride in Cornell's small role in Cox's great American story. At just about the same time last month, that pride turned to heartbreak when I learned about a Cornell professor excluding a student from a course because of the student's national origin. As professors, we have a profound responsibility to teach every student who approaches a subject with earnest curiosity. Our role is not just to transmit knowledge, but to foster an environment where questions are welcomed and differences are navigated through respectful dialogue. I have been stunned by the details of the Cheyfitz case and by the victim shaming of the student. To be clear, I'm deeply dissatisfied with policies that lack a clear single path for resolution. This must be fixed. And still, the arts and sciences dean, and the provost, and the administration have approached this case with care and with steadfast commitment to Cornell's mission of any person, any study. The censure clause undermines that founding principle. The whereas clauses tell the world that some people do not belong in some of our classrooms. To me, that is unacceptable. For the integrity of Cornell and for the promise that Ezra Cornell made in October 1868, I cannot support this motion.

JONATHAN OCHSHORN: Thank you. Ken, are you online? Are you for or against?

KEN: I'm opposed.

JONATHAN OCHSHORN: Okay. Then let's-- What about Hadas? Are you for or against?

HADAS RITZ: I have two questions. I'm neither for nor against.

JONATHAN OCHSHORN: Okay. So, you're the yellow. Go ahead. Two minutes.

HADAS RITZ: So, in the-- in Katie King's--

JONATHAN OCHSHORN: Identify yourself, please.

HADAS RITZ: Hadas Ritz, Cornell-- Excuse me, Engineering RTE senator. In Katie King's presentation, she had a table that said there were four categories of procedures that are used for different categories of accusations. And she said that this category is the only one where there is a de novo investigation. So, question one is, is it also the only category where the investigators make the decision? There's no panel that makes the decision? And my second question is, why has this difference in evidentiary standards not been a problem until suddenly right now? If the policy has been in place for so long, why is this difference in evidentiary standards never been addressed or treated as a problem?

DONICA VARNER: I will take your second question. I've been here four and a half years, and upon arrival, I understood that this policy was defective. We have had outside council give us independent legal advice and auditing our policies. And this is one of the issues, along with many others, that we have attempted to address. And so, I hope that this body would partner with us to manage this issue. I would also like to respond to the accusation or the inference that the university counsel has supported this policy. Although I have not been here long, I understand from my team, including people that were here, that this was a compromise that we tolerated because of the insistence of various faculty interests. It's not true that this was deemed an appropriately legally compliant policy.

JONATHAN OCHSHORN: Okay, let's go in-house to-- Okay.

KATIE KING: To answer the first question, our Title 9, specific Title 9 investigations, result in resolution by a hearing panel. Every other matter, a determination is made by the investigator and the co-investigator, either the faculty co-investigator or a staff matter staff co-investigator.

TOBI HINES: Tobi Hines. I am the faculty senator from the library. I'm speaking today in support of this resolution because it concerns the very foundation of our faculty governance, the guarantee of due process, and the protection of academic freedom. Cornell's Policy 6.4 and Faculty Handbook Section 6.6 exist for a reason. They are not technicalities. They are safeguards that ensure fairness and prevent administrative overreach. Policy 6.4 requires that allegations of discrimination be reviewed by a faculty committee whose findings are binding on the administration. And under Section 6.6 of the handbook, any suspension must be deferred, except in cases of imminent serious harm. In this case, those rules were not followed. A faculty committee completed its review, found insufficient evidence, and under policy, that should have been the end of the matter. Instead, sanctions were imposed and courses were canceled before any finding of wrongdoing. That is not only a procedural violation, it is a violation of the principles that protect every one of us. Across the country, higher education is facing growing political pressure to restrict what can be taught or discussed. It is precisely in moments like this that our commitment to due process, shared governance, and academic freedom must hold firm. Supporting this resolution is not about revisiting evidence or the particular people involved. It is about affirming that our own policies have meaning, that faculty judgment must be respected, and that Cornell must stand by its own procedures and principles. And I urge you to vote in favor. Thank you.

JONATHAN OCHSHORN: Okay, Ken Birman on Zoom.

KEN BIRMAN: Right. Ken Birman, Computer Science, and I'm opposed to the motion. In fact, I'm opposed to the motion in a somewhat technical sense. I would say that personally, emotionally, I really do understand the sentiment behind the motion. I feel that all sorts of parties are committing terrible crimes and in terrible, terrible ways that are having all sorts of consequences. But this motion is about Cornell's obligations under the law, and yet the motion is manipulative. It's written in a way that deliberately seems to mislead. For example, the motion, and Risa actually talking about it, cite the federal code. And I read the federal code. Then, I went to the US Office of Civil Rights, where the guidelines are easy to find. If I was able to, I would post them right on chat. There's a subsection, Investigating Complaints, that spells out that a preponderance of evidence, a standard, will be used to assess evidence in these cases. And that falls down to us. It's not something we have a choice about. A second manipulative, I think, language is that, again and again, we've heard that the findings of fact of the committee cannot be disregarded, but no one is disregarding the findings of fact. The sentence after that in 9.12 says that the dean or the person the dean assigns this to may modify the committee's recommended sanctions if necessary, which is what's occurred here. But that sentence is omitted from the whereas clauses. So, I think that we're being given a motion which seeks to manipulate the Senate. And I find that offensive. At a time when people are bending facts down in Washington, and inventing things down in Washington, and sometimes just outright breaking the law, the right response isn't to do what they're doing. The right response is for us to be fact-based, for the Senate to look at the actual truth of matters, and certainly not to pass resolutions which are distortive in this sense. So, I am very opposed to this motion and this kind of motion. And it's made worse by the fact that we can't even see the report. Risa quoted from a report that isn't public, and she wasn't on the committee. We're not allowed to see that report unless the committee votes, I read the rules, 9.12, votes by a majority of its 13 members, six of whom turn out to be senators, seven aren't. So, if a majority chooses to release the report, we could read that report, but they haven't released it to us because they don't want us to see the facts and judge for ourselves. Given that we can't see the facts, we can't relitigate this matter. All we can do is look at the plain language of the motion, and it's deceptive. It's wrong about the evidentiary standard. It makes an incorrect statement about the university being compelled to follow its standard. Everybody involved understands that there's a federal law involved and that the federal law falls down upon the university administration, which has an obligation to follow the rules, the rules I quoted and the rules that KB quoted, and we can't just change those. So, I'm completely opposed to this motion, even though I do believe that a great many people belong in the Hague, in front of the international tribunal for war crimes on both sides of what's happened, and frankly, some from our government, but that doesn't change the fact that we have to vote down this motion.

JONATHAN OCHSHORN: John Parker, are you in favor or against on Zoom?

JOHN PARKER: I guess I don't know if I should vote because I'm a member of the APSF committee and I was one of the voting members. And I will state up front that I'm going to make a statement that is entirely personal, so I'm not making this statement on behalf of the committee. But I want to sort of clarify a few things about the role our committee played and what happened during the hearing. I'm not going to talk about any of the details. The one detail I will say is that the clear and convincing evidence was really one of the-- that standard was the compelling reason that I voted the way I voted. And at the time, that was shared with me by the lawyer who

was representing Professor Cheyfitz, who obviously was representing his interests. The other thing I'd like to make sure that everyone understands, the complainant in this case was the university and not the student. The student was represented by the university, and he had his own lawyer representing him there. However, the university did not have any representation explaining their part, so it was only after this hearing occurred, when we met with the president, that it was explained to us that the standards for the law, and I agree with Professor Birman in this case, that the law standards are pretty clear. It's a preponderance of evidence. And given that, I would probably have rethought my vote. I can't say how the other committee members would speak. I'm not a lawyer. And one of the things I really realized here is that it's really easy for lawyers to kind of shout at each other and tell each other by quoting parts of the law. But the clear thing was that the information that our committee had at the time we made that hearing was not the law. It was the policy that was stated on the university website. So, I agree with the presentations that were given by the university counsel that the policy does not align with what is present in the law. And clearly, it has to be changed. But at the time that we were given the option of voting, we were very much convinced by a very talented lawyer who acted on behalf of Professor Cheyfitz. There was no counter argument given. There were lawyers present that were acting for the university, but they were acting on behalf of the student and also of the chair of our committee who was a non-voting member. So, they did not make any statements about whether the actual legal statement was preponderance of law. So, summing up, I feel like there are some things wrong with the policy state, the way the policy is written. And I think the university may have had a-- perhaps the Office of Civil Rights should have come and spoken with our committee before. They were certainly invited to come and speak, but they declined to. I think some of the reasons that we voted the way we did was because we didn't receive all of the information regarding the law. We're not all lawyers. And the statement that we're volunteers and we're not experts is largely right. There's some of us that are lawyers, but most of us are not. So, I don't think that the way it's been portrayed is entirely one side versus the other. I think there's-- people have perhaps made mistakes. I would say, you know, if I were judging, I would say maybe the Office of Civil Rights could have cleared this up with our committee really quickly by just coming and talking to us. They didn't. But, you know, I don't know why they didn't. That might be a mistake on their part, but I don't blame anyone for it. But I guess if I'm on balance, I just wanted to make sure that everyone understood that our decision was made based on what we knew at the time, and it was only afterwards that we discovered that the law actually differs from the policy statement. So, I'll stop there. Thank you.

RISA LIEBERWITZ: May I clarify something?

JONATHAN OCHSHORN: Go ahead. And then, I want someone in favor of the motion.

RISA LIEBERWITZ: I'm in favor of the resolution.

JONATHAN OCHSHORN: Clarify.

RISA LIEBERWITZ: All right. I'm speaking to clarify. There's a confusion here about people saying the law requires that the university use a preponderance of evidence standard under Title 6. The law does not require the university in its internal processes, its internal grievance and complaint processes, to use the preponderance of evidence standard. The law requires that the

university address and respond to complaints using its own processes. And so, universities can use clear and convincing evidence in its internal processes. The preponderance of evidence standard that was pointed to in terms of the Department of Education manual has to do with instructing the Office for Civil Rights in the Department of Education what standard they should use in their investigations. That is different from our internal standards. There was nothing misleading about what we said. Plus, on the sanctions piece that Ken Birman referred to, the Committee on Academic Freedom found that they weren't recommending sanctions because they found there was no responsibility for any discrimination occurring.

UNIDENTIFIED SPEAKER: [Indiscernible] .

DONICA VARNER: Yes, thank you. So, you saw my presentation. I had a slide that I quoted from the case processing manual. The Department of Education's Office of Civil Rights, the Department of Justice Civil Rights Division, and federal judges who are instructing juries on how to evaluate these claims all clearly indicate that the preponderance of this evidence standard is the appropriate standard. We would be-- It would be unwise to have standards that govern us when we're asked by-- when our regulators and judges who would adjudicate these matters use a different standard. And as I mentioned in my remarks, clear and convincing is something we can choose to do for issues like academic freedom or misconduct that stay internal to the university. They are not appropriate to use when we are attempting to be compliant with the law. And federal and state law say that we should interpret all of our policies consistent with achieving the remedial goals of those statutes.

PEIDONG SUN: Peidong Sun, history professor and also one of the two senators represent the history department. I have two quick questions first. Personally, I think if I vote, it will be a quite irresponsible vote because we just don't know what has happened. For example, the first key historical moment in this accent would be the disruptive action from the students. But what do you mean disruptive? We don't know. I read all the policy, federal law, and also university policy, and all the media coverage from Daily Sun, but I still don't know what had happened. And can anyone provide a description with detail to tell us what really happened when we say some disruptive action from students? That's the first reason. Secondly, I want to ask a question. I highly doubt that will be the first case and the last case. So, for a regular faculty, does university, or senator, or any other relevant office could help us or provide us a guidance if something happened labeled as disruptive? What should we do as a faculty? Should I talk to the director of the undergraduate program, or to the director of graduate program, or should I talk to the dean's office? What's the right procedure for us to handle this? I think that will be very useful for each of us. Thank you.

JONATHAN OCHSHORN: Quickly, go ahead.

PETER LOEWEN: There was a question there. Thank you very much, Professor Sun. I'll just say a couple of-- There are two questions in there. I'm Peter Loewen, the dean of the College of Arts and Sciences. There were two questions in there. One was, you know, he's asked for clarity on what happened. I'll reiterate what Provost Bala said, which is on the record. In Professor Cheyfitz's words, the student was not disruptive in class, though was strident in his responses to some questions. The agreed upon facts, again, from the interview with the Office of Civil Rights

was that the student spoke for Professor Cheyfitz's estimate, two minutes in the second class that he attended, having not spoken in the first and the third. Students did express discomfort with having an Israeli student in the class, but feeling disrupted by the presence of a person whose identity you're uncomfortable with is-- You can draw your own conclusions about whether that-- how professors should respond to that. Under our policies, under the way we do things at the university, we wouldn't expect that the professor would think the solution to that is asking the student to leave. For those who do have concerns about disruption in their classes, there's things you can do. And Peidong's questions are right. You can speak to your undergraduate director to get advice, you can speak to other colleagues, you can refer to the substantial amount of work that's been done by the Center on Teaching Innovation, which articulates a number of things that we can do. And it is true under all of this that faculty are concerned about how to comport their classes and comport themselves at a time of great political unrest. And there is advice on how you should do that. But what you shouldn't do is invite a student and join a student to leave a class because of their national identity, because that itself is disruptive. That obviously is a violation of values of the university, it's a violation of policy, and it's a violation, it's relatively clear, of federal law. Thank you.

JONATHAN OCHSHORN: So someone in favor. Bryan, are you in favor of this resolution?

BRYAN SYKES: I'm in favor of part of it and just part of it.

JONATHAN OCHSHORN: Go ahead.

BRYAN SYKES: OK, so thank you for presenting this resolution and for all of this additional information in context. Oh, I should say Bryan Sykes, Senator from Brooks Public Policy. Some of what I'm in favor of relates to the assessment of Handbook 6.6 and whether a severe sanction and how it's defined and interpreted. That makes sense to me in the context of this resolution. But what I'm not in favor of is the part of the resolution that talks about Cornell Policy 6.4 for the reason that Ken and others have raised. And I think that it's really important to see on page 17 in Section 9.12.2 exactly what that last paragraph says. So, if you don't have it in front of you, I want to read it out loud because I think that there are two really important points here. The first is, "The dean or equivalent unit head must accept the committee's findings of fact and conclusions. However, he or she may modify the committee's recommended sanctions. Before reaching a final decision concerning the modifications, he or she must explain the rationale for the decision in a written communication to the committee and will consider the committee's response to those modifications. If the dean or equivalent unit head seeks to impose the sanction of dismissal, the matter will be handled pursuant to the trustees dismissal procedures. This determination is final." Now, later on in this policy, it discusses how the university committee can also disclose information to the senate. And so, in this resolution where it talks about whether or not the university followed its own procedures, I don't have enough information to determine whether or not the dean actually overrided or changed the sanctions consistent with what this policy actually says. And to Risa's point that, like, even if the committee said, "You know, there was no discrimination and ergo, there should be no sanctions," this policy can still be implemented by the dean, and the dean could still find sanctions even in the context of no discrimination by the letter of this policy. So, the issue is the policy itself. And I think that that is what needs to be revisited here. I can't conclude that the university administration violated this

policy, given the way that this policy has been written and in the context of a lack of information. Even in today's additional information that was shared, we cannot conclude this because the university committee has not shared its findings with us, and it cannot tell us whether or not the dean was in communication with them and modified these sanctions or what that communication actually said. So, this is where I have a serious problem with that part of the resolution. But I do think that the resolution has standing and some really compelling arguments with respect to Handbook 6.6 and its temporary suspension interpretation. Thank you.

JONATHAN OCHSHORN: Thank you. Go ahead.

SHANNON GLEESON: All right. Thank you very much. I'm here speaking in my individual capacity. My name is Shannon Gleeson. I am a member of the faculty in the School of Industrial Labor Relations and the Brooks School of Public Policy. I want to shift the conversation away from the specifics of the case at hand and to help us think about this in the context of the implications of the current events for how we conduct business moving forward in our classrooms and on this campus more broadly. I have several concerns as a faculty member who teaches courses that have garnered scrutiny, including from colleagues in this room today, and also as someone who is a mentor and department chairperson to junior faculty who have wondered whether they should be self-censoring the very topics this university hired them to teach and research as experts in their field. I want to think about what the stakes are here today. In my courses, which typically focus on the sociological study of immigration and labor, I need to balance the pedagogical aims of the course with the safety of all of my students, as well as my own. The question of what power and responsibility I have in my classroom is front of mind every Tuesday, Thursday at 1:25. I am not able to ensure that I-- If I'm not able to ensure that I'm able to teach the material for a required course in an approved program of study on this campus, then what are we doing here to ensure educational equity? The protective standards we have in place are certainly governed in part by federal law, but also state and local policies, and our own campus policies, and norms and obligations. So, the oversight in place to ensure compliance in all these arenas is governed by our campus policy and the Faculty Senate Committee of our peers. Campus Counsel is certainly a resource, but their primary aim, we should be clear, is not to protect us as faculty. And here, the game time switch up on the processes we've put in place, I find to be unfair and deceitful. Our administration's handling of this process is being justified by moving target, driven by concern for a very narrow set of parties. And moving forward, I asked my colleagues in Day Hall to consider what obligations they feel to the rest of us as faculty and their underrepresented students who are also being targeted, and doxed, and who are being wholesaled, abandoned by the dominant political climate. So, I urge you all as colleagues to demand that our academic freedom and faculty governance procedures be respected or amended as necessary, but not switched up midstream in order to preserve the integrity of our scholarship and teaching, but also the institution as a whole. Thank you very much.

JONATHAN OCHSHORN: Who's next here?

YUVAL GROSSMAN: Yuval Grossman, Senator from Physics. So, I hope we, all of us will vote no for this resolution. There are many reasons for that. And I want to be very clear here. Who is the victim is the student, OK? We should not reverse it, OK? What the student did is nothing wrong. He came to this class to hear the other side. Yet, what was done to him is so

wrong, OK? First, he was told by the professor, "I do not want you in this class." This is undisputable. No professor should ever speak to a student in this way, OK? The professor should be held accountable for this kind of behavior. I am sad that people are supporting of this kind of behavior. There are proper ways to resolve issue with students, but no student should ever be spoken like this. Then, the student was doxed on national media by another undergrad Cornell student, OK, who knew very well that the student preferred to keep his identity private. The Israeli student has every right to that privacy. And yes, I'm telling you, this doxing has very real, sad effects on the student. What we have here is a student who filed a complaint whose name should have been protected. Instead, a public shaming and doxing campaign was launched against him. This resolution is misleading. It completely reversed the roles of the victim and the individual who should be held accountable for their action. Let me also say that I want to compliment the administration for finally, after two years, for taking action to protect Israelis on this campus. I've been talking to you many times about all the things that had been done to us as an Israeli on this campus. What you are doing, what the administration doing is not enough, but I'm very happy to see that something finally is being done to protect us, OK? The student asked me not to share more things on the record, but I can tell you that what I've been seeing is really bad. If you are unsure what to vote, I'd be more than happy to talk to you. Please come talk to me, and I'll be happy to share more of the record with you. I really hope we all rejected this resolution.

JONATHAN OCHSHORN: Before we go on, I will have to come to you again for a request for unanimous consent. This time, I would just say we have three on this side, two on this side, one on Zoom. Can we just agree to hear those all and no one else? If there are no objections, we will alternate. Go ahead.

NOAH TAMARKIN: Great. Thank you. Noah Tamarkin, Senator from Anthropology. I'm also faculty in STS. So, I think what's really important for me about this resolution is not all the information we may or may not know that's contested. It's actually the principle of faculty governance and whether we're going to support the policies we have and our work as senators. So, for me, it's about our own kind of self-preservation as senators. It's not at stake discrimination against a student. Whether that happened or not, that was something that other people have heard. And I actually don't think that that's what this resolution at heart is really about. It's really about do we, as faculty senate, trust our own committees? And if we don't trust our own committees, what are we actually even doing here? So, I'm going to urge you to vote in favor if you have any investment at all in faculty governance and your role here being more than an empty performance of pretending Cornell has faculty governance. And if you plan to vote no, I feel like I don't understand it, and I feel like you kind of might as well go home and let the administrative rule fully take over because we're talking about defending a finding by our own internal committee. And for me, it's not about the student, it's not about Cheyfitz, it's not about this case. It's about whether we adhere to the findings of our own committees. Thank you.

JONATHAN OCHSHORN: We're going to go to Zoom. Joe Margulies.

JOE MARGULIES: Oh, I don't know if you wanted to go one, one, one, one--

JONATHAN OCHSHORN: It's impossible. Go ahead.

JOE MARGULIES: All right. Very good. I'm Joe Margulies. I'm from the government department. I'm also an attorney, and I've been a civil rights lawyer for four decades. What I do, what I study, and what my work is, is about abuses of power, abuses of official power. And they happen at these moments. They happen in moments of strain, when the occasion arises to loosen the restraints that we have voluntarily put on ourselves. We bind ourselves to the mast in times of calm, precisely because we recognize that when the storms arise, that's when we are likely to throw them off. And that's when they are most needed. That's when they are most needed. And the mistake that officialdom makes all the time is to throw them off right when they are needed most. And as Noah just said, this is when you need it most. Right. Because you are most apt to fail because what we have heard is-- and I've listened very carefully to these accounts. What I hear is that the committee applied precisely the standard that they have been instructed to apply for nearly 30 years. In one incident after another, they have done precisely what the university has asked them to do. And they have come to the conclusion that there are no sanctions that should be appropriate because the evidence doesn't justify it. Well, and we have heard uncontroverted by the administration that they are free to apply that standard, that they are free to apply. As Risa said, that is what civil rights law says. Internally, they can apply that standard. Well, you do not change that now. If you want to change that going forward, there is a process to do that. But you do not censure this man for being the beneficiary of a process that we put in place for precisely these moments. That is where you go astray. That's a terrible mistake. The other thing I would mention is that contrary to what Professor Birman points out, and I have great respect for Professor Sykes, you cannot modify that which does not exist. They found that there was no sanction to be imposed. And therefore, there is no basis to modify it. And so, the dean has to follow the fact that there is no sanction. If they had found sanction of X, the dean could have said, "No, X plus Y or X minus Y." But when they found a sanction of zero, there is nothing to modify. And so, the rule was pretty clear there. They did exactly what they were supposed to do. And the dean had no power here. If you want to change that going forward, I'm all for it. I'll be on that committee. But you cannot change it now. And the administration, what the administration is doing now is mistaken and should be censored.

BILL KATT: I think it's good. Bill Katt, Molecular Medicine. Suffice it to say, I am against this. You've all just shared with us how the article that was cited as the evidence to support this motion chose to name the student in the exact same paragraph that the article mentioned the student didn't want to be named. Reliable news outlets don't do this. This is not what we should be basing our internal deliberations on, these articles that are clearly printing things that don't matter or aren't true. The sponsors explained that they felt ambushed by the administrators coming in here and just giving us the basic facts of the case. If the basic facts are ambushing you, I don't know how much work went into writing this. Professor Birman explained how dishonest it is to focus entirely on that one sentence that makes it sound like the Faculty Senate Committee is supposed to be the last word when multiple points in time in the enabling legislation explains that the Faculty Senate Committee is not the last word. It can't be. We've heard legally it can't be. The procedures say it isn't. We just heard that it's-- You can't modify zero. We had a mathematician start with us. I'm pretty sure that zero plus one is a modification. You can add a censure or a sanction to something, and that is modifying a nothing. But I also want to thank our administrators for coming to talk to us. And I want to ask them a couple of questions because I think there may be some things in here to clarify. So, we haven't talked about 9.11 previously.

So, 9.11 talks about the rights of the complainant, in this case, the student, to appeal to the provost in case they feel the Investigator Review Committee committed a prejudicial error interpreting the policy or code or the investor reviewer rendered a decision clearly against the weight of the evidence. And these two lines reminded me of what you said to us two weeks ago. They, almost word for word, are exactly what you, the provost, said were your reasons for changing the verdict. So, I'd like to know, was that appeal ever sent to you?

DONICA VARNER: [Indiscernible] . I'll try to speak quickly. I'll go up to the mic. The university, not the student, was the complainant in this matter. And so, there wasn't an appeal of that particular issue. And I also want to remind everyone that there are two different processes in play here. If you set aside the 6.4, whether there was discrimination or not, there was still this issue of impermissible viewpoint discrimination that was ongoing.

BILL KATT: OK, thank you very much.

DONICA VARNER: [Indiscernible] .

BILL KATT: No, I think that pretty much answered what I wanted to know. So, yes, I would support everybody voting against this, and let's put this behind us, please.

IRIS PACKMAN: Hi, I'm Iris Packman. I am a senator from ILR. Just wanted to speak in support of the motion because it is not about the facts of this case. The university is sort of distracting us by presenting evidence, selective evidence of what was said or happened. We do not have all the facts in front of us, and that is not what we were voting on. We are not saying whether the professor did or did not violate the student's rights. We are saying a committee followed the process, found that there was no violation, and the university overrode that in violation of university policy. So, we are voting on whether the university violated its own policy, OK? So, we are not voting on whether or not there was a violation of the student's rights. That is a completely separate issue. That is not for us to decide. That is for the committees who are assigned to it to decide. I think that's really important to clarify because, yes, the facts of the case are emotional, right? We have personal or family feelings about it, but that is not what we are voting on. And I think it's really important to separate that. We're talking about policies that are here to protect internal governance and to allow people to have that academic freedom. So, we are not relitigating the facts. We are deciding whether Cornell Central administration can about face and disregard its processes because it didn't like the outcome. This is very crucial in this moment, OK? We are looking at the chilling effect that this has. We're in an environment right now where the university is facing hundreds of millions of dollars in lost federal funds because of certain issues, and there is intense scrutiny on these issues, right? And that is not happening in a vacuum. And so, we have to keep this in mind when we're thinking about what the university chose to do in this situation. I do want to point out to you that just on this question of which evidentiary standard we're using, Counsel's office just said at the microphone, it would be unwise to use the standard that was used. That is different from unlawful. And that is important to keep in mind. Again, we're deciding did the university violate its own policy that it had to or did it choose to? It would be unwise to do so. That is not the same as unlawful. And we've also heard that this policy has been in place for nearly 30 years, since 1996. And theoretically, if the university's argument is correct, that this is the wrong standard, why has it

not been overridden until this particular case, again, in this environment? We do not live in a vacuum. We are not operating in a vacuum in the current country that we live in. Why did the university decide to override it after nearly 30 years in the middle of this particular case and say that we need to look at this policy because it's in conflict with federal law? I think that's what we all need to consider. And we also need to think about what happens next. If the university can disregard its long established policies and procedures because of the content of what happened, then we should all take real note of that. And what does that mean for what-- especially the junior faculty or those like myself who do not have tenure and cannot get tenure are going to feel that chilling effect when speaking or acting in your academic role? Thank you.

JONATHAN OCHSHORN: Yeah. Go clarifications, and then we'll go to you and then.
[Crosstalk]

KAVITA BALA: A few clarifications. Is this working? Yeah. The student-- I just thought there were many things here, so let me try to remember if I can get all of them. The student did not want to be named as a complainant because he was very worried about his privacy being protected. So, it has been deeply disappointing that that was released. And he is being subjected to a lot of a lot of hate mail online right now. There are two parts, as we keep saying, right? So, the AFPSF, they made their finding, and you've heard from some members of the AFPSF. But the whole point is there was a second part through the whole process that was going forward on November 3rd. There was a panel. It was in panel. We were looking forward to having that conversation with that panel so that we could go through all of this very complicated case, the multiple charges because COCR and AFPSF only look at one charge. They don't look at both charges. They only look at the discrimination based on national origin. They don't look at the other one. This panel would have looked at both of them. So, we were moving towards getting to that panel on November 3rd, but the professor chose to resign. So, I want to mention that. I appreciate this is a very difficult time. I agree with that completely. And I'll say we are standing up for academic freedom. It's our hard red line that we are holding. We don't have an agreement with the government for a reason. That's the hard red line that we're holding.

DREW MARGOLIN: Hi, my name is Drew Margolin. I did not plan any remarks. I wasn't sure. I'm not a senator, so I didn't know we were allowed to speak, but then others were. And I don't really want to get into the procedural aspects, but there's been some sort of, say, extra legal discussions about in this environment and what can we do to protect ourselves. And so, I'm speaking. I was the chair of the CALS curriculum committee when this course was approved, and this was before the Trump administration was in office. And it met the standards that we apply, but we were concerned, and I expressed that I was concerned that it did not have any-- it did not seem to plan in any way for any kind of controversy in the classroom. You can-- This is public information. You can go look at the-- It's Cornell wide information. You can go look at the syllabus. And so, the idea-- I'm just strictly talking on, if you're worried what's going to happen to me if a student is disruptive, well, you might have some standard in the syllabus that says disruptive behavior will not be tolerated, we will respect each other, or anything like that. It doesn't-- nothing. And it was quite shocking to us that a course of this nature would be so blase on this matter. So, again, I understand the Senate has procedures, and on a procedural basis, it could be one way or the other. So, I'm not trying to say, therefore, it should be this or that. I'm saying if you're fearful or worried about knock on effects, you could-- it's not-- Some were

worried. I came to answer that. It's not hard to address in another way.

JONATHAN OCHSHORN: So, we have one last comment from Richard Bensel, and then we will adjourn.

RICHARD BENSEL: Well, I've already been introduced. Richard Bensel, Department of Government. So, the provost has already brought up some of the particulars of the case, and I want to emphasize and talk about some of them. In spring 2025, Professor Eric Cheyfitz taught a seminar. A student enrolled in that seminar. [Private student information deleted.]

TARA HOLM: This is inappropriate to be sharing information about this student in a public record.

RICHARD BENSEL: And you've already brought up the case. I'm sorry that makes you uncomfortable that these-- You have what?

UNIDENTIFIED SPEAKER: [Indiscernible] .

EVE DE ROSA: So, Richard, this is about policy and procedure. This is not about the student. Let's not share.

RICHARD BENSEL: Well, I think we have the information out. So, let me finish my statement. In this case, well--

EVE DE ROSA: I'm going to ask for unanimous consent to remove all content about the student's background. But this is inappropriate. We could talk about policy procedure.

UNIDENTIFIED SPEAKER: [Indiscernible]

EVE DE ROSA: But not-- Yeah, yeah.

UNIDENTIFIED SPEAKER: [Indiscernible]

RICHARD BENSEL: I'll skip that part, but I object to removing me. In this case-- No. [Indiscernible] . The central administration, by the own report of the central administration, was in contact with the student as it filed a complaint because the university was the complainant. In this case, the Cornell Central administration prosecuted Professor Cheyfitz far beyond and in blatant defiance of its own procedures and powers. And once again, the central administration has used Donald Trump as its excuse, as it has previously in contracting graduate enrollments, downsizing departments and programs it does not like. And prosecuting dissent. The time is long since past when the central administration can be shamed for its actions. But we, the faculty, can be shamed if we do nothing. Thank you.

JONATHAN OCHSHORN: Thank you all for your patience. This meeting is adjourned.