

MEETING OF  
THE UNIVERSITY FACULTY SENATE  
WEDNESDAY, DECEMBER 12, 2012

**1. CALL TO ORDER**

Dean of Faculty Joseph Burns: "The usual arrangement today. Our speaker is in Mexico. At any rate, I have asked Charlie Walcott, the former dean of the faculty, if he would be speaker pro tem, and he agreed. Unless I hear any objection, I will pass him the gavel."

Pro-Tem Charles Walcott: "Thank you. I just remind the body of a couple quick things; that there are no photos, tape recorders allowed during the meeting. Please turn off your cell phones, if you have not already done so. When you want to talk, identify yourself and your department and wait for the microphone, and I suggest that we limit speaking time to about two minutes to allow more time for speakers.

"We are going to be quite full today. So far, there have been no Good and Welfare speakers, so we have at least another five minutes to distribute. And those who were senators who do not have a clicker, get a clicker, please, so that you can vote, and hopefully we can make the machinery work. Yes, and please make sure that you sign in when you come and get a clicker, if you are a senator.

"The first thing on the agenda is the announcements from the dean of the faculty and introductions. Dean Burns."

**2. ANNOUNCEMENTS FROM DEAN OF FACULTY AND INTRODUCTIONS**

Dean Burns: "Thank you all for coming. I know it is a very busy time of the year. In fact, the UFC, half of the UFC are in four separate continents, so we'll -- probably many faculty are away as well, and of course there are lots of family obligations at this time of the year.

I will start off by apologizing for the cookies and water. We normally have been trying to do Cornell apples, Cornell cheese, whatever, and we just didn't get it all together this time. It's not anything to do with the new budget model at all.

(LAUGHTER)

"It is just the way it turned out. So let's do the little dance we have been doing recently; namely, if you see anyone around you that you don't know, please introduce yourself, say what department you are from, so we all get to know one another a little bit better.

I am sorry to have to cut this off. We have a full agenda today, and I would like to get through it all. So let me just remind you or talk through the agenda, what we are doing. We have -- the last meeting, you may remember, at the end of the meeting, when talking about the eCornell arrangement, there were some people in the audience that felt a little uncomfortable.

"I got a long, thoughtful e-mail from Dick Miller saying, you know, this is what we need, and so we have attempted to put together a panel to do that. We have the dean of the ILR School, which has sort of prompted us to consider the eCornell arrangement again. He is going to speak for about 15 minutes and tell us about distance learning.

"Then we'll have four experts up here in a panel, and they will answer whatever questions you want. At least probably you should stick to distance learning, but they may be willing to answer other things. So that should be very interesting, I hope.

"And then we are going to return to the resolution on eCornell, which did not get through the last time, partly my fault. I think we needed to do a better job of documenting it, and so we've rewritten the -- the UFC has rewritten the resolution to make it clearer, what exactly we are talking about and the various roles of Cornell and eCornell.

"We have also put online for your reading pleasure about 25 or 30 pages of documents backing up, and I hope you have had an opportunity to look at that. And so I'm hoping that that will go through fast, but we'll see.

"And then we have two resolutions in front of us. Many of you have seen in "The Cornell Sun" about three weeks ago, there was a confrontation between two groups demonstrating on Ho Plaza, and there are resolutions concerning that; one coming from the UFC, another alternative resolution, and I hope we'll get a chance to consider both of these and I hope also that you have had an opportunity to read both of them, because it's interesting, maybe interesting just to see the differences and try to decide we can pass both, we can pass neither, we can defer everything, but it's all up to you. And we'll have that opportunity.

"My intention -- or I have asked the speaker to try to deal with these in sequence, just so that we can keep in our mind clear what resolution we are talking about. And so now let's move on.

### **3. APPROVAL OF MINUTES FROM NOVEMBER 14, 2012 FACULTY SENATE MEETING**

Pro-Tem Walcott: "Thank you, Dean Burns. Next is the approval of the minutes of the November 14 faculty senate meeting. Do I hear any corrections to the minutes? Do we need a motion to approve? I think if there are no objections, they are approved by the body.

"So let's proceed onward, and now I call on Harry Katz to come and talk about the distance learning situation. Do you want the roving microphone, or are you happy with this?

### **4. BACKGROUND ON DISTANCE LEARNING PROGRAMS**

Dean Harry Katz, ILR: "Thank you. So what I'm going to do is speak about ILR's engagement with eCornell and other distance learning. I do so as a faculty member who, as I'll describe, has authored two eCornell courses. I'll also speak a bit as a dean to give you an overview of ILR's engagement as a school with eCornell, how much in revenue it's generated, and things like that.

"And then some of my perspective, you should know, is influenced by the fact that for three years, at the appointment of the provost, I've served on the eCornell board, along with Michael Johnson, the dean of The Hotel School.

"I am never quite sure what's going on in Ken's head, but I suspect he appointed Michael and I because, as you probably are aware, a substantial fraction of the eCornell content to date has derived from courses developed by either ILR or hotel faculty.

"So the history of ILR is engagement. Right at the start of eCornell, ILR became engaged because we had an interest that emerged from our extension division, our outreach division, to use eCornell as a vehicle to extend the courses that had been previously delivered in our extension division, primarily in New York City, courses related to a variety of topics: Human resource issues, labor relations, and some issues about law, particularly EEO law.

"So twelve years ago, we started developing, and then fairly quickly offering courses that essentially translated converted material that had been delivered

and was being delivered through workshops that are our extension division. These were and continue to be noncredit courses.

“We learned that many people were interested in taking sequences of those courses; and so ultimately, many people enrolled in certificates that were then and continue to be offered.

“Just to add some perspective, what's a course? A course is not the same length as the courses we normally teach, either to our undergrads or grad students here on campus. An eCornell course typically, although they vary in length, is on the order of 16 to 24 contact hours of material.

“So think of this as like two to three days of workshop material. At least these courses were originally extension courses that were delivered in two or three days of eight-hour workshops and that are now being converted online in an eCornell-style format.

“Much of this work, for those familiar with our extension division, was done by Susan Brecher, and we learned, as eCornell learned, there was strong demand for those courses. We then continued to expand and convert more of our extension workshops into this format. We didn't end offering these things through our extension division.

“We continue to offer many of these courses, slash, workshops in our extension division, while we simultaneously are offering them through eCornell. The demand was quite strong. We are at the point now where more people take our eCornell courses than come and take those courses face-to-face in our extension division.

“Some of that has to do with the decline in the demand for extension offerings, where people, because of their work and family lives, are less willing to take time off during the day or at night to take a face-to-face course and we learned they were willing to take similar material through an eCornell delivery format.

“Then what we did was, in light of the demand that was emerging for those courses, it also crossed our minds that we might want to offer more advanced material, more complex material, and some of the people taking those other courses had asked for more complex material.

"I should say I have been dean at the school for seven and a half years, so this is an era this preceded me, during the deanship of Ed Lawler, so our school, in discussion with eCornell, then asked what we call tenure track faculty to develop some courses that would be delivered under the eCornell format.

"Again, these were similar in structure, still 16- to 24-hour contact hours of material; but now, somewhat more advanced material, still noncredit, and often taken as part of certificates. That's when I got involved. I was one of about eight ILR faculty ten years ago who then authored a course or courses. I authored one course by myself and one co-authored with Sarosh Kuruvilla, and we have continued to offer -- we update that course.

"So one other thing I wanted to point out was how much this has generated in revenue for the ILR School. The ILR school -- varies by year, of course -- receives about \$500,000 a year in royalties as part of the eCornell agreement for the courses that are offered.

"I was thinking -- you may be curious to know -- as a dean, what have I done in my seven and a half years with that revenue. This is revenue that goes to the dean. I use it at my discretion. I have used it to fund additional lectures; I use it to fund additional graduate student teaching assistants. I use some of that money to fund additional student internships during the summer.

"A number of ILR students go to work for corporations or law firms and get paid jobs during the summer, but others are interested in working in social justice or service learning. I've used some of the Cornell royalty revenue to fund internships with the latter, internships where students otherwise wouldn't have received compensation and maybe not have been able to afford taking advantage of those options.

"So the latest development is related to the resolution you're going to discuss in a bit. We, in light of the demand and our learning experience with eCornell, the faculty approved a proposal that was developed by a faculty task committee to offer for the first time a degree program that we call blended. Some of the content of that degree program would be delivered in eCornell courses. The rest of it would be delivered face-to-face.

"All of the eCornell courses would be courses developed by ILR faculty. The proposal's gone through the graduate school for their review and feedback. Just again, so you know, 38% of the contact hours are eCornell content. The

remainder is face-to-face coursework delivered with tenure track faculty on campus here in Ithaca during the summer or spring break, so other times when faculty are not teaching regularly during the semester.

“One thing I should say, in my own experience, but what I've also observed as a dean, I've certainly observed it in the development of the latest degree program option, blended option, all of the content, the academic issues are governed by faculty. I never experienced anything whatsoever as an author of eCornell courses in which I, in any way, was pressured by eCornell or influenced by eCornell.

“The courses I wrote, I wrote because I had an interest in writing that material, and similarly observed and heard from other faculty that's their experience. And we certainly experience it, as we develop this new proposal, all the academic content, all the academic issues, all the structure, the admission of students, the regulation, the grading, that's all regulated by ILR faculty, and we insist on that. And we never faced any pushback from eCornell or anyone else on that.

“I should also say that ILR also is providing some distance coursework through vehicles other than eCornell, which emerged in some areas, in labor studies and EDI, the Employment and Disability Institute, and in conflict resolution, we've developed courses that are delivered through other modalities, vehicles, entities.

“We have done that in part because the faculty didn't want to use the format. Just the material doesn't suit eCornell, in part because the volume didn't fit, or for other reasons in discussion, we've often talked with Chris and others at eCornell.

“I may add, they have given us helpful advice about how to approach other providers and modalities. It's not been really a competitive process. It's been one really more having to do with the fit of the content, and we continue to have those discussions with eCornell, particularly the faculty does with Chris and other people at eCornell about what's the best mode for particular material.

“Going back to my role as a course writer and also what I have learned from other people, one of those – is Brad Bells in the audience? -- he's written courses - why did I write a course? What was it like? It was similar to textbook writing. I've written textbooks, textbook with McGraw-Hill.

“Why did I do it? I did it because it was a vehicle to extend my academic teaching; it was consistent with an academic mission. It took a lot of time. I learned a lot in the process with eCornell, as I have learned in textbook writing. I used the things I have learned in the classroom.

“Did I do this because it was a vehicle to get rich? Hardly. It takes a lot of time. If I wanted to get rich, I think rationally, I should have done other things. I did it because it was expressing my role as a faculty member extending my research, giving me another vehicle in which to try and convince the world that I have a particular insight in how things work in my field. That's honestly what's motivated me.

“So where do we stand now? I thought this might be of interest to you. We are currently at the point -- I was trying to get a count -- somewhere around 12 to 14 ILR faculty on campus, tenure track resident faculty have authored or are authoring eCornell courses; and that continues to grow as more faculty learn and as we see a broader market of interest for these courses.

“So maybe I should pause -- I'm done with sort of conveying the overview -- and do we have time for that? Questions you might have about what I have just said, before we move on to the panel. Is that right, Charlie? Okay. So apparently we have five more minutes, if you have questions about ILR. Again, I think I'll stick to questions related to ILR's engagement or my experiences as an ILR -- yeah.

*(inaudible question asked from audience here)*

“That is a good question: What do we know about the demographic of the people that take these courses, the ones ILR's been offering. From what I know -- maybe Chris knows something different -- they look similar to the kind of people who took and take our extension courses; well, working adults who take it as a supplement or complement to their work life.

“Sometimes they come to us as individuals, they learn about it on the Internet or they hear about it. Other times they come through the kind of package offering, sales offerings that eCornell has with organizations. They don't seem very different than the typical extension customer. Chris, is that consistent with you -- .”

Chris Proulx, CEO eCornell: “Just a couple more details. Working adults primarily. It varies a little by program, some of those demographic, but

generally these people who are not quite mid-career. I mean early to mid-30s at the youngest, although I have seen a little bit of a trend that might be getting a little younger, as people are transitioning careers a little earlier, all the way up to people certainly in their 50s.

"It is a global audience, so generally, about 40% of the participants are outside North America. And we generally, in any given year, we see people from 180, 190 countries, and they are working professionals, interested in career advancement across all the disciplines that we work. So very different, obviously, from the populations on campus. That's not really the target market."

Dean Katz: "Sure. There's a hand there. Yeah. Sorry. There's a mic over here, yeah."

Professor N'Dri Assie-Lumumba, Africana Studies. "Since you have an international audience, do you have supplemental face-to-face part of the program? And if so, how do you do it, when you don't have access to the --"

Dean Katz: "Well, the regular eCornell, what we have done to date, has just been delivered purely over the Internet through eCornell. There is no blended or supplemental face-to-face. The proposal we have to move in the degree program would have face-to-face teaching as a majority of the contact hours, but a component of which teaching would be eCornell. The basic eCornell delivery up to this point has been pure Internet. Now, what has happened -- and I guess it varies. I don't know what's going on in all the other courses -- but in the ILR courses, we use some video clips sometimes as a piece, not a huge share, but a piece of the content; but most of the content is you read it on the Internet. There is no face-to-face interaction. It's not been blended. There's no Skype, no. It's not what's now being discussed, videotaping of people sitting. Its material you read, with occasional film clips. Cases, simulations, reading. Yeah. "

Professor Charles Brittain, Alternate Senator, Classics. "Just wonder, are you going to go ahead, even if we say no? So if you don't do it through eCornell, would you do it -- ."

Dean Katz: "Most likely. We'll have to think about how we could do that. It would be difficult to do it very quickly, because nearly all of the 38% of the Internet content for our proposed EMPS -- if you are talking just about the EMPS -- is existing eCornell courses that we are going to enhance through more reading, writing and graded material.



"And we could already, under existing rules, go to an alternative provider for that Internet content. And we might well do that, but we'd be slowed down significantly because we'd have to develop that 38% content fresh. Just keep in mind, that's just the EMPS. All the other eCornell, the certificate non-degree offerings, the resolutions that are being addressed, don't have anything to say about those.

"And those will continue; but yes, we're certainly available to do that. Again, it would just be more difficult, I think sizably difficult. Plus, I've been very happy myself, as you can tell, faculty have been happy with the quality of what's been provided in eCornell, and so it wasn't just oh, we already have these courses, what the hell. We don't want to bother writing new ones. We're quite happy with the quality of the courses that would be a part of this blended EMPS offering."

Pro-Tem Walcott: "I think it's time to go -- I think it's time."

Dean Katz: "Maybe you could ask your question during the panel."

"Okay, so I think I want the panelists to come up. So I have been asked to chair a panel. And let me introduce, to my left is Kavita Bala, an Associate Professor of Computer Science -- CS, I assume that means computer science -- senator. And then to her left is Chris Proulx, who is the President and CEO of eCornell.

"And then to his left, Ted Dodds, as you may know, the Chief Information Officer and Vice President of Information Technology at Cornell. And Charlie, you want it just to be open? Is that the plan? We were told we shouldn't make long statements. So short, there's zero, Joe's request, and open it up to questions you may have."

Pro-Tem Walcott: "Go ahead."

Professor Joanie Mackowski, English: "I am Joanie Mackowski from English. Wondering if you could describe how you assess student participation in the courses; if they are taking tests, how many students and grading papers."

Dean Katz: "So Chris, why don't you talk broadly about assessment?"

CEO Proulx: "Sure. So it varies a little by course and a little bit by the subject matter and the faculty members --."

Dean Katz: "So you are going to talk about the existing non-degree certificate-related offerings. Then I'll mention a little about how we are going to do that in the proposal about the blended, okay."

CEO Proulx: "So generally in the format of the courses Harry was discussing, we have done the ILR and other units for noncredit distance learning. The format is generally a cohort-based model, so you generally would have somewhere in the order of 15 to 30, maybe occasionally a few more, in a particular section that would run over the course of two to three weeks, depending on the course, which is facilitated and moderated by an instructor, who is not the Cornell University faculty author who created it.

"This is a person who met requirements set by people like Harry and the other faculty, who have professional work experience in the area and a graduate degree, but not always a Ph.D. Their role is to facilitate and moderate online discussions, and that is one criterion for assessment in the course.

"So there's a rubric by which they need to evaluate the contributions this particular student is making to the substantive conversation. And then other assessments tend to fall into usually three different categories, sometimes all deployed in the course and sometimes some deployed, but there's some combination of these, which is short tests or quizzes, which can be auto-graded in some way, shape or form.

"We are typically now spending less time on those and more time on qualitative assessments, which usually take the form of a short paper or project. In the case of these courses, because they're professional in nature, they are generally about the application of the subject matter to their professional or organizational setting, and then those are, again, assessed against a rubric.

"Sometimes there might be some other short interactive simulations, so it's not quite a quiz, but some other way in which someone works through the material and is assessed on their ability to get to a desired outcome. So Harry, you want to add --."

Dean Katz: "Right, so with the EMPS, as we're calling it, degree program, again, a component, 38% of the contact hours are eCornell courses. There we'll use things similar to what Chris has mentioned, but then enhanced. The faculty said they want to enhance the number of tests and assignments that will be required

on the Internet-provided part, more grading, because we are now awarding potentially credit.

"And then, of course, the face-to-face component will have a wide typical variety of tests, assignments and a significant project that will be graded. And the faculty will control the grading. They'll control everything about the --."

Pro-Tem Walcott: "Professor Howland."

Emeritus Professor Howard Howland, Senator, CAPE: "Thank you. Howard Howland, CAPE. I want to bring the focus back to the motion that we're going to be considering today. And in preparation for that, I looked back at the minutes of 2001 to find out what was the discussion about when we first considered the overarching agreement.

"Turns out that the entire hour was spent on basically four aspects of the overarching agreement. They are on Pages 4 and 5, I think, Section 4, the right of first refusal; Section 5, noncompetition; Section 6, other programs that could be proposed by Tower; and 7, program removal. So I want to ask you, since the wording of the motion says non -- "

Dean Burns: "I don't think discussing the -- this is supposed to be getting information."

Senator Howland: "I am just asking about the panel, Dean. I realize you didn't let me pass out the things I was going to, but I'll go ahead here. So is it your understanding, say, Chris and Professor Katz, that these agreements that's cited here are still in action; that is, will be part -- they are not going to be negated by the non -- how is it phrased? Nonessential -- there's one phrase that indicates that we can go elsewhere with our --."

Pro-Tem Walcott: "Non-exclusive."

Senator Howland" "Thank you, Charlie."

Dean Katz: "Yes and no. I mean, no in the sense they are negated in the sense that we at ILR did not face a constraint in this development of this new program. We were not constrained and still are not constrained to only turn to eCornell. So we didn't feel constrained by that clause, because it was a new entity, a credit degree program, and we won't feel constrained in the future. So we don't see a

non-compete exclusivity clause in effect governing the evolution of our degree offering, and I don't think that applies --."

COE Proulx: "If I could add to that, the resolution that you are going to consider in the agreement that is proposed makes no changes to the agreements that govern the noncredit programming. However, in the area of the for-credit programming, ostensibly what you cited is correct. The units will have the freedom to work with anybody. There won't be a right of first refusal for eCornell, there won't be a non-compete for eCornell.

"And that is specific, because we are talking about degree credit-bearing perhaps, and we wanted to make sure when we crafted this, that we simply had the ability to compete with any other vendor or provider the units might choose, but not to necessarily begin a preference simply because of our status. And I think that's what Harry has said in terms of their exploration of what they want to do for the EMPS."

Senator Howland: "Good. I understand that. I just wonder why that was not stated in the motion that we are about to --."

Pro-Tem Walcott: "Let's wait for the motion before we --."

Senator Howland: "Thank you for answering my question."

Pro Tem Walcott: "David Delchamps, up in back."

Professor David Delchamps, Senator, Electrical and Computer Engineering: "I would like to ask anybody who knows about credit offerings that Cornell has been doing, okay, over the years. None of those existed before eCornell, and none of them has evolved, because of the rules for eCornell, but there are many on-line courses offered for credit. There's no fewer than 18 such courses offered for this winter's session.

"Does anyone have a feeling for when the first one happened, who did you have to talk to about it? How many more have been grown over the years, the rate of increase, all that."

Dean Katz: "I think most of it is provided through continuing education, and I don't know when it started. I mean, do you know the answer, Paul?"

Professor Paul Velleman, ILR: "I think mine might have been first."

Dean Katz: "Yours was first."

Professor Velleman: "And I did introduce an online statistics course in the summer session. Through summer session, actually. It was quite a while ago. It was before eCornell was formed."

Dean Katz: "And can you answer David's question about who had to approve it, how it went?"

Professor Velleman: "Summer session has a great deal of flexibility. They were the only ones who had to approve it. It was a version of the ILR 2100 course, so it was already an approved course, but taught during the summer, and the only approval required was summer session, who has enormous flexibility. It was software that I had developed that I used."

Pro Tem Walcott: "Gentleman in the back there, up the line, on the aisle."

Professor Dick Miller, Senator, Philosophy: "I have a question about what resources there are or might be. I guess it's addressed to you, perhaps others as well, and I can only ask it by using myself as a guinea pig. I think my situation isn't unusual. I'm part of a medium-sized humanities department, Philosophy. I'm part of a small to medium program, Ethics and Public Life.

"On both counts, I would love to reach out, perhaps especially to the age group that you described. For credit, as far as I can see, is not an option. I can't wrap my mind around extension services and philosophy, although that might be a very good idea.

"So course relief really worries me, when Professor Katz speaks of the time it takes. I understand, and that's scary. We have a very small staff, stretched very thin. I'm stretched very thin by my courses in administration. Our IT resources are stretched very thin. Couple of IT people in Goldman Smith; that's all.

"What resources are available for people like me who want to use the Internet via online instruction to reach out? A mystery to me. Many of the things that you describe seem to require work that will be beyond the instructor and considerable overhead. How would the overhead be paid? These are probably stupid questions, but I think they're questions that make what you are describing

seem very foreign to many people in the university who would love to take part."

Dean Katz: "I will let others talk, too, but let me first clarify, in ILR, we do not provide course relief for engagement in these distance options, either the previous certificate non-degree offerings or the degree offerings. So our faculty still has to meet their regular undergraduate and graduate teaching.

"Other colleges may have different approaches. People participate on a supplemental compensation basis for our engagement with eCornell. Paul was teaching a regular summer course and took the time to convert the material. Others can talk elsewhere in the university what they do."

Ted Dodds: "So I'll answer one of the questions you asked, or maybe a part of the overall set of questions you asked. You asked about what resources are available to you. And from the IT point of view, I would answer with two words; and that is: not enough.

"So I would also like to add that I'm on a bit of a mission to change that. I think if you look at the overall amount of money that Cornell spends on information technology -- I mean broadly, not just in the center, but the whole ecosystem, we spend a great deal.

"Of that expenditure and the amount of people that are involved in software and services and systems, I would say -- I'd estimate that leaving research aside, 5% to 10% of that goes into what I would call academic technologies, including basic things like classroom infrastructure to make sure that the classroom technology experience is reasonable and positive for both students and faculty.

"So what we're trying to do right now is -- and we're doing this -- is rebalancing the expenditures so that we spend less money and less resource and time, management, attention and so on, on those utility services that are required to run the university, like e-mail and administrative system, all those things that have to work well. If they don't work well, it's disruptive, but they don't really contribute directly to the kind of things that you are talking about.

"So that we can rebalance that, lower those costs and reinvest a greater percentage of the current amount that we are spending on IT across the university on academic technologies. And that's beginning to happen right now, but that's a mission that I'm on, without necessarily going to the provost or

anyone else and asking for gobs of new money, but to rebalance the way we do that.

“So I hope that what that will mean to you is more resources within your college or school and department to be able to provide the kind of technical support, instructional support that you will need to do the things -- .”

Dean Katz: “Charlie's giving us one more minute, and I want to give Kavita a chance.”

Professor Kavita Bala, Computer Science: “I'm going to say why I'm on the panel. Joe invited me because there's an advisory group to the provost chaired by Eva Tardos, also here. We are giving him advice and suggestions on dealing with MOOCs, these massive online open courses. This is not the main topic of discussion here, but Joe thought it would be a good idea to have some story there.

“We are making recommendations about the kind of things that would help faculty to these kinds of courses. Now, MOOCs are quite different. They are for-profit and there are not-for-profit MOOCs, so it's a slightly different discussion than the entire discussion we have been having here, which has been more focused on resolution, but there's going to be a broader set of recommendations which then we can consider and act on. And it will come back here at that point for the faculty to think about.”

Pro-Tem Walcott: “Well, thank you very much indeed. We need to move on to the motion. And Senator Delchamps, you are going to present the motion.”

##### **5. UFC RESOLUTION ON AMENDMENT TO THE ECORNELL AGREEMENT**

*WHEREAS a Faculty Senate Resolution of December 13, 2000, endorsed an agreement (dated 11/14/2000) between Cornell University and Tower Innovative Learning Solutions (TILS), Inc., a New York State business corporation (for which Cornell is the sole shareholder and which is licensed to do business as “eCornell”); and*

*WHEREAS the aforementioned resolution carried a proviso that “The Senate should be informed of any future change of status...[including] the expansion of the entity’s programs...”;* and

*WHEREAS the Rationale of the aforementioned resolution also mentions that “The current version of the agreement prevents eCornell from offering courses that could receive Cornell credit”; and*

*WHEREAS the distinction between “offering courses” and “providing support services” is now clearer than it was in 2000; and*

*WHEREAS many commercial and educational entities are marketing, producing, and distributing online courses; and*

*WHEREAS Cornell University and TILS would like to amend the overarching agreement so that eCornell can compete with other vendors of services for online courses; and*

*WHEREAS the proposed amendment does not authorize eCornell to offer its own for-credit courses or degrees but only allows the provision of its services to existing academic units that are already authorized to offer online course credit;*

***THEREFORE BE IT RESOLVED*** *that the Faculty Senate supports amending the agreement between Cornell University and Tower Innovative Learning Solutions to allow university academic units to retain eCornell on a non-exclusive basis to provide production, administrative, marketing, and related support services in connection with credit-bearing distance learning courses that such academic units may seek to offer.*

Senator Delchamps: “As Joe told you, we hit reset on the motion and we included a lot more information, which it seemed that people in the room wanted to hear last time; like for example, the actual text of the original eCornell agreement pertaining to this stuff, the actual document, the ten-page change in the agreement, that sort of thing. That's been available on the UFC faculty web site, for those of you who want the comb through it; but essentially, it's the same thing as last time.

“Let me just run through the history very briefly. ECornell, the overarching agreement with eCornell was signed at the end of 2000, and it contains strong language enjoining eCornell from essentially participating in any way in any kind of Cornell credit-bearing online educational activity. At least that's the way the phrasing has been interpreted over the years by university counsel and others.



"It also had a rider, which was called a proviso, as I recall, that essentially said we don't want to set you up to fail, so we anticipate that in the future, we will consider -- we, the senate, the faculty, will consider changes to this overarching agreement, including perhaps allowing eCornell to participate in credit-bearing online educational offerings in some fashion.

"Now, if you read the discussion from back then, from those meetings, it was in a whole different language. I mean, it was almost like we were living in a world of Ptolemaic epicycles and Copernicus hadn't come along yet. It's really changed a lot.

"A lot has happened in online education since then, and I think there were people in the room at that time who thought that this would be how universities would offer courses online. They would establish a little corporation and let them do these courses and they would have to be careful to guard the integrity of their credits, and that's why all that language. A lot has happened since then.

"As I mentioned in my comment earlier, there's no fewer than 18 courses being offered in this year's winter's session online, including big courses like Econ 101, Intro Micro, Econ 102, Intro Macro. Introduction to Political Philosophy -- I don't know who's teaching that one, but that's another one being offered.

"In any event, a lot has happened in online education since then and, as Dean Katz mentioned, ILR has some for-credit online stuff they have been doing, not with eCornell, because eCornell is not allowed to do that, and essentially eCornell, we feel -- or this motion feels or expresses the sentiment that eCornell should be included in the list of providers who can compete to help facilitate offering online courses.

"So I think I could go through the motion now really quickly, and then questions, discussion, et cetera. The idea of the distinction between offering courses -- is this the first page?

"All right, Tower Innovative Learning Solutions is the name of the entity that offers courses to eCornell, and that was partly because we didn't want to have the Cornell name as part of the business entity that was doing it; but anyway, that's the agreement that I was referring to, the overarching agreement, which the senate ratified on December 13, 2000, and the proviso I referred to a moment ago, that the senate should be informed of any future changes of status, which were anticipated.

"There is more text there, but the senate should be informed -- if you read it carefully, there's other language there that university counsel has interpreted as saying that we can approve -- we have to approve these things, these changes. We don't just have to be told that they are happening. So that's why you are seeing this and are voting on it.

"Third whereas, that the current version of the agreement prevents eCornell from offering courses that could receive Cornell credit or even providing services associated with those courses.

"And whereas the distinction between offering courses and providing -- that's what I mean by the whole language is different nowadays, different from how it was in 2000. There are many commercial educational entities out there marketing, producing, distributing online courses, and Cornell faculty are making use of these entities.

"And whereas Cornell would like to amend the overarching agreement so that Cornell could compete with those other vendors, and whereas the proposed amendment does not change any of that language in the original overarching agreement that prevents eCornell from offering its own for-credit courses. However that might happen, I have no clue. Who's giving the credit? Credits belong to us, but in any event, it doesn't change any of that language, okay.

"And therefore, be it resolved that we support the amending agreement in this fashion, to let Tower Innovative Learning Solutions compete with the other online vendors who are working with us now. And that's it."

Pro-Tem Walcott: "To begin with, are there any questions about this? Professor Howland."

Senator Howland: "The last motion had as a part of it these two documents of the agreement that then appeared on the web recently. The dean put them on; but now they are not in the motion anymore. They were referred to in the previous motion, but they have been taken out.

"The second thing is that I thought those were sort of hard and fast documents. They seemed to be referred to that way. And what was given to us now is a draft. So we really don't know what's in the documents. So again, I find that disturbing."

Senator Delchamps: "I'm not sure I understand your question. I checked the web site this afternoon, and I found both documents sitting there."

Senator Howland: "Yes they are there, but they are not in the original motion. Should we read the text of the original motion? It specifically referred to one of those documents."

Senator Delchamps: "Yeah, the service something agreement -- John, do you know the name of that?"

Senator Howland: "And that's not in the motion anymore. That got taken out."  
Senator Delchamps: "That is right."

Senator Howland: "Now, that service agreement is listed not as a fixed thing. It's a draft, so it could again be changed. So I just don't understand why, when the motion was returned because we were uncertain about what it meant, you took it out of the motion and then --."

Senator Delchamps: "The member who wrote this revision of the motion felt that it was clearer this way, and we agreed with him. And I'm not that person."

Senator Howland: "Okay."

Senator Delchamps: "John, could you tell us what "draft" means in this case?"

Sr. Vice Provost John Siliciano: "This draft here came from the UFC Committee, didn't come from Day Hall, but it was based on the conversation last time, where there was a phrase within the final resolution that mentioned the agreement, and some senators felt that was ambiguous because the senate was being asked to vote on something that was in embedded text, without seeing that text.

"When it went back to the UFC for consideration, they had two options, both of which were suggested by people on the floor of this senate. One was to have that whole text available. Another was to remove that reference from the specific resolution -- that would seem to be the dominant suggestion -- and draft it along these lines, and then have those texts available for the full senate to look at. And so now they are online.

"So the UFC was trying to comply with what the preference expressed in this room about how to technically amend that. It's different paths, but the same

result. This is simply a way of referring to it -- and you have the background material -- and taking out the sort of offending embedded reference.

"In terms of why there's still a draft in the agreement, it's still draft because the senate has yet to approve this. Once it's approved, it will be a finalized agreement and subject to signature. So that's the explanation for that."

Pro-Tem Walcott: "Professor Lieberwitz."

Professor Risa Lieberwitz, ILR: "I guess my question has to do with the fact that, when Harry Katz was describing the courses that ILR wants to offer for the new EMPS program, that the description was these would be eCornell courses. And I'm assuming, if we go with vendor ABC, that they are not ABC courses."

Senator Delchamps: "You could correct me if I'm wrong, but I think he was saying they are offered now not for credit via eCornell and that they would have to sort of take it back and reconstruct all that content, if they wanted to offer them for credit through another vendor."

Pro-Tem Walcott: "Dean Katz."

Dean Katz: "May I have the microphone?"

Professor Lieberwitz: "Well, I still need it. I'm not giving up the mic."

(LAUGHTER)

Dean Katz: "So technically, you are correct. I misspoke. We won't be offering eCornell courses. ILR and Cornell will offer the new EMPS program. Some of the content of that program will be delivered through the Internet, with the production process being regulated by eCornell.

"They are not Cornell courses. They're ILR and Cornell courses. And they will be, as you said, modified, as I also spoke about on the panel, with additional exams and grading by ILR professors as part of the EMPS program.

"So again, consistent with this language, eCornell just does marketing, production, distribution. Cornell and ILR in this case deliver structure, regulate, grade courses and degrees. We also control the admission of students through our graduate program for this program. Is that clear enough?"

Professor Lieberwitz: "Yeah, but it actually then raises the question I had from the agreement that we were looking at, and this is on Page -- something. We don't have the page numbers. It's under 3, obligation and responsibilities of eCornell.

"It says that eCornell will create and maintain complete and accurate information about the courses on the eCornell web site, and that's referring to for-credit courses. So I'm a little confused about why eCornell would be listing on the eCornell web site courses that aren't eCornell courses. You want me to say that again?"

Senator Delchamps "What courses are you talking about exactly?"

Professor Lieberwitz: "I'm looking at the draft agreement. Well, since it doesn't have page numbers, it is hard to give you that. It's under 3, obligations and responsibilities of eCornell."

Senator Delchamps: "Uh-huh."

Professor Lieberwitz: "And it says that eCornell shall create and maintain complete and accurate information about the courses, which refers to for-credit courses on the eCornell web site. So I'm wondering why eCornell would list courses on its web site that aren't eCornell courses."

Senator Delchamps: "Where does it say for credit?"

Professor Lieberwitz: "The courses refers to the credit courses, is my understanding, because this is the amendment. Am I wrong about that?"

Senator Delchamps: "We're talking about the original --."

Professor Lieberwitz: "No. It says -- this is under draft as of 26 November -- "Courses shall mean for-credit Cornell distance learning courses." So it's unclear to me why eCornell would list for-credit Cornell courses that are not eCornell courses on the eCornell web site."

Senator Delchamps: "Well, I would imagine they wouldn't."

Professor Lieberwitz: "Well, it says they will."

Senator Delchamps: "Chris?"

CEO Proulx: "I think the answer is it depends; and therefore, the word "maybe" would be more appropriate than "will" in this case, because in the event that ILR, for example, would want to take advantage of our marketing services, we might host a site for that program on our web site. It may not have any eCornell branding on it, but we might be hosting that site.

"In another case, another unit -- could be ILR, could be someone else -- may choose to not use our marketing services, in which case it wouldn't. So I think, David, the correct word there actually -- this is why it's a draft -- might be more appropriate to be "may," but there may be circumstances where eCornell would provide information about these courses on a web site, which is managed by eCornell, which is -- ."

Professor Lieberwitz: "That is not what this says."

CEO Proulx: "I understand that."

Pro-Tem Walcott: "I'm afraid we have run out of time for discussion and that we should really bring this matter to a vote. And once again, we are going to use the clickers. A stands for approve, agree and otherwise support the resolution; B stands for disapprove; and C is abstain. And I will turn on the machinery here, if I can manage it.

"Okay, we are ready to vote."

Senator Delchamps: "A is approve -- ."

Pro-Tem Walcott: "B is disapprove, C is abstain. Has everybody voted? No. A is approve, B is disapprove, C is abstain.

"Okay, are we done? Well, I think the results are pretty clear. Looks to be a substantial majority has approved the resolution. Thank you, David.

"We now move on to the UFC resolution on investigation concerning free expression, and Clare Fewtrell is going to present it. Clare? Is Clare not here?

Dean Burns: "Do you wish to present it from the UFC? Bruce Lewenstein is going to be official substitute."

6. **RESOLUTION ON INVESTIGATION CONCERNING FREE EXPRESSION**

***WHEREAS**, members of the Cornell community have the right to free expression, academic freedom, and freedom of peaceable assembly, as recognized by the Cornell Campus Code of Conduct; and*

***WHEREAS**, the Campus Code of Conduct, Article III.B.1, states: “All protection and regulation of expressive conduct should be content-neutral. A group’s persuasion or point of view should have no bearing on the grant of permission or the conditions regulating that group’s expressive conduct”; and*

***WHEREAS**, the Campus Code of Conduct, Article III.B.3, states: “Because outdoor picketing, marches, rallies, and other demonstrations generally pose no threat of long-lasting exclusive use of University grounds or property, there appears to be no need for a mandatory permit procedure for such outdoor activities”; and*

***WHEREAS**, any administratively imposed requirements of a mandatory permit procedure (such as a Use of University Property Form/UUP) for outdoor picketing, marches, rallies, and other demonstrations, including rallies in Ho Plaza, are in conflict with the Campus Code of Conduct, Article III.B.3; and*

***WHEREAS**, on November 19, 2012, conflict reportedly occurred on Ho Plaza between members of the Cornell police department, observers, and participants in rallies by the Students for Justice in Palestine (SJP) and the Cornell Israel Public Affairs Committee (CIPAC); and  
**WHEREAS**, University President David Skorton is already investigating the events of November 19, 2012;*

***THEREFORE BE IT RESOLVED** that the Faculty Senate requests the President to issue (by February 1) a public written report of his findings concerning whether the rights of free expression, academic freedom or freedom of assembly were violated.*

Professor Lewenstein: “I’m Bruce Lewenstein. I’m not a senator. I’m a member of the UFC, non-senate member of the UFC. I think, as most of you know, on November 19, there were competing demonstrations on Ho Plaza during the battle--war that was going on in The Gaza Strip. The two groups were roughly groups supporting the Palestinian cause and groups supporting the Israelis.

“There have been charges that during that demonstration, there was inappropriate behavior by the Cornell police, that some people charged violated the rights, various kinds of rights of the groups. Therefore, a request was made to the UFC that the faculty senate begins an investigation of those events.

“The reason you have two competing resolutions here is that the UFC felt that by the time the request came to us, the president had already indicated to us that he was beginning his own investigation, and the UFC felt that it was willing to let the president pursue his own investigation first, with a set deadline, which is

why our resolution does include a deadline of when there would be a public report.

"A group of faculty members who had originally brought this to our attention and some other senators have proposed the second resolution, which has a more stringent set of requirements, including that the senate itself establish an investigating committee.

"Probably that's enough introduction. I'm glad to try to answer questions. I think there are other people here who know more details. There's some question as to which rights are at stake here. I believe the question is rights of freedom of expression, freedom of assembly, some question as to whether there's academic freedom involved and what the boundaries of academic freedom are.

"There's a fourth one. Oh, part of the issue is there's an apparent conflict between the campus code of conduct and the detailed forms that are used for establishing--for using university property. And so one of the questions; is there a conflict there that needs to be resolved in some way. And again, depending on how you read the documents, one can potentially come to different conclusions as to whether there's a conflict or not."

Pro-Tem Walcott: "So we should begin by asking for questions. Are there questions of clarification of the proposed motion? Marty Hatch?

Emeritus Professor Martin Hatch, Senator, Music: "Could you tell us -- you described the two resolutions as conflicting? Are you --?"

Professor Lewenstein: "Yeah, I think I should not have called it conflicting. I would say that the UFC resolution requests the president to pursue his investigation and to report back. The second resolution, sort of going beyond that. So it's not competing. It is more a matter of do we take one step or two steps."

Senator Hatch: "Thank you."

Pro-Tem Walcott: "Other questions? Yes, sir."

Senator Brittain: "Could you say what's the president doing? I mean, who's on his committee, so -- I'm not sure. I don't trust him or distrust him. I have no idea



about his politics, don't know about who he's appointed, so could you give us some --."

Professor Lewenstein: "So this is the detail that Clare had written down and I don't have written down, so I'll be doing this from memory, and other members of the UFC perhaps do remember the details. Essentially, he has chosen to personally interview some of the people who have issued the complaints, as well as university police, and I believe some people from the events supervisor group, some of whom come from the dean of student's office and others come from the media itself.

"He has also separately delegated to the university counsel essentially to repeat the same things that he's doing and to give him an independent of his own judgment, the counsel's report. And he would then combine those and produce his own report.

"The President hopes to do that shortly. He had originally said he'd hoped to do it within this coming week or so. Unfortunately, because the counsel is traveling, he thought that that was beginning to push the deadlines tightly, so he says soon. The resolution includes the February 1st deadline on the assumption that many people will not be here and we'd like a report back when people are here. I think those are the main pieces. Did I leave anything major out?"

Pro-Tem Walcott: "David."

Senator Delchamps: "Clare listed some bullet points about what the president said he wanted to check into, and so I think she was planning to present those here. And I'm just going to read them off, okay? Is that all right?"

"The President wanted to find out, first of all, what happened. Second of all, did the event managers limit assembly or freedom of expression? We weren't sure who event managers were, but I think they are people who work in the Straight, deployed by Catherine Holmes. I'm not sure.

"Number 3, what are the various university rules governing protests and demonstrations, and are they confusing or in conflict. That was what Bruce referred to earlier between the regulations for maintenance of public order and the campus code versus the UUP form, Use of University Property.

"Number 4; was there any content-related bias? In other words, did one group get the shaft and the other not? And finally, he thought that, as Bruce said, it was questionable whether academic freedom was involved here or whether mostly other kind of freedom issues, like freedom of expression, freedom of assembly and all that. And that's it."

Pro-Tem Walcott: "Thank you. Is there other discussion? I think we're ready to move into discussion, but if you have a question --."

Senator Larry McCrea, Asian Studies: "I would like to see the rest of the resolution, for one thing; but also, you said there's a question about whether there is or is not a conflict in the existing code of conduct. Could you explain if there is a conflict, what it would be?"

Professor Lewenstein: "So this is precisely in the detailed wording is what's at stake. The potential conflict is that the campus code of conduct essentially says that no permission is required to come together. The Use of the University Property form says that permission is required under certain circumstances, where there is potential controversy. And the question is, is there an absolute statement in one and not the other and so on."

Pro-Tem Walcott: "Is there further discussion? Risa Lieberwitz."

Professor Lieberwitz: "I think that I just wanted to emphasize a couple things that have come out. One is that some of the questions, I think, highlighted the differences between the two resolutions; that is, that the president is doing his own investigation. And this resolution asks the president to make public any report of his findings. It doesn't ask the president to do an investigation.

"The second point relates to that, which is that the second resolution is identifying the importance of the faculty to lead the investigation on issues that are within our purview, and certainly freedom of expression and assembly on campus are matters of academic freedom.

"And so this is really very much within the faculty purview to do that investigation. It's independent from the president doing the investigation, and the president has a different perspective on these issues. And so I think it is true that these are not in conflict with each other, that people could support both of them, if they wanted to.

"And then the other point about the permit is that the campus code of conduct creates clearly, and the resolutions both quote or talk about the presumption that the campus code of conduct states for outdoor rallies and other demonstrations that there appears to be no need for mandatory permit procedure for such outdoor activities. And then there is a permit procedure that appears to have been adopted in some other way, but not through the campus code."

Pro-Tem Walcott: "Dean Burns, please. Then we should probably move on."

Dean Burns: "I would like to speak to you as a faculty member, not the dean. I was at the UFC meeting, and the motive behind the UFC was, first, we wish to support the students and say academic freedom, academic assembly, freedom of assembly, freedom of expression are very important things, and so we decided we would also like to write a resolution.

"Our problems with the resolution that we were presented with to consider, one was that, as you will see or have seen, is that in the whereases, it says these events occurred. And we felt that one wanted to investigate these events before you decided they have occurred.

"It also seemed to us as though the issue was a combination of two things. There were issues of, involving personnel, did the police behave properly. And there were academic issues, as we have mentioned. And we did not feel that it was the purview of this body to look at personnel issues. And indeed, the personnel issues are to be resolved by those people, I think, who the police report to; namely, Mary Opperman, then go up to the president. So that was one of our concerns.

"And I must admit, I felt that this body, as I understand it, should be a deliberative body. It should not be a body that operates ten days after an event. We can express our concern about that event, but first, let's get some facts. So I think we should be dealing with things, once we know the facts.

"And I must admit, I thought once there was a question that Risa asked, well, why didn't the senate in our resolution demand that the president investigate? The reason for that was he had told us he was investigating. It seems unnecessary and, in fact, sort of like you were saying, gee, we don't expect you to do your job.

"I don't like to deal with people that way. So I said maybe we should let him do his job first, and then, as it turns out, obviously, there's a motion that's following. And if people think we should go further than that, I think that's fine, but let's discuss these one step at a time, please."

Pro-Tem Walcott: "Dean Hubbell."

Dean Kent Hubbell, Dean of Students and faculty member in Architecture.  
"There's one other element I think needs to be part of the conversation, which is in the code, by the way, and let me quote: Even in regard to conduct that is intentionally expressive and perceived as such, the university may impose reasonable time, place and manner restrictions on such conduct, reserve other important values and interests of the university community. And I think that one of them, of course, is to maintain the health and safety of those who are exercising their right to freedom of speech."

Pro-Tem Walcott: "Thank you. I think we ought to probably move along. Marty Hatch?"

Senator Hatch: "Are we in debate mode?"

Pro-Tem Walcott: "We are now in debate mode. Sorry if I did not make that clear."

"We are having it now, and our time is about up, because I want to make sure we have an opportunity to do the same thing for the next resolution.  
"Would you use the microphone, please?"

Senator Hatch: "If I speak loud enough, would that be all right with you?"

Pro-Tem Walcott: "No, because it is being recorded."

Senator Hatch: "In the campus code of conduct, which is a document -- I was chair of the committee when it was done several years back -- it was a document that was vetted by the administration through the counsel's office. It was passed by the university assembly, and it went all the way through to the trustees and has been passed by them."

"In that same campus code of conduct, it says the following: It shall be a violation of Title 4 to interfere with or attempt to interfere with the lawful

exercise of freedom of speech, freedom of movement, freedom of peaceful assembly or other right of an individual by action, including -- and then it lists a bunch of possible violations thereof.

"So it may be that there are certain conditions the university feels are necessary to impose to regulate something or other, but it is not to regulate the lawful exercise of freedom of speech, freedom of movement, freedom of peaceful assembly."

Pro-Tem Walcott: "I would like at this point to call the question, because we're running out of time, and I want time to also consider the second motion. So could we please vote on this motion, which is up in front of you here? And I will start the clickers. We are going.

"Anybody else? Okay, one more. I don't see any more. Going once.

"I think the results are very clear. We have 89% in favor, 7% opposed and 4% abstaining.

"So let us now proceed to the second motion here. And Eric, you are going to present that?

## **7. ALTERNATIVE RESOLUTION ON INVESTIGATION CONCERNING FREEDOM OF EXPRESSION**

***WHEREAS***, members of the Cornell community have the right to free expression, academic freedom, and freedom of peaceable assembly, as recognized by the Cornell Campus Code of Conduct;

***WHEREAS***, the Campus Code of Conduct, Article III.B.1, states: "All protection and regulation of expressive conduct should be content-neutral. A group's persuasion or point of view should have no bearing on the grant of permission or the conditions regulating that group's expressive conduct."

***WHEREAS***, the Campus Code of Conduct, Article III.B.3, states: "Because outdoor picketing, marches, rallies, and other demonstrations generally pose no threat of long-lasting exclusive use of University grounds or property, there appears to be no need for a mandatory permit procedure for such outdoor activities";

***WHEREAS***, any administratively imposed requirements of a mandatory permit procedure (such as a Use of University Property Form/UUP) for outdoor picketing, marches, rallies, and other demonstrations, including rallies in Ho Plaza, are in conflict with the Campus Code of Conduct, Article III.B.3;

**WHEREAS**, on November 19, 2012, the Cornell police attempted to stop or restrain the rally by the Students for Justice in Palestine (SJP) on Ho Plaza, while allowing the Cornell Israel Public Affairs Committee (CIPAC) to carry out its rally on Ho Plaza;

**WHEREAS**, the Cornell police, in attempting to stop or restrain the SJP rally, reportedly engaged in intimidating and physically aggressive conduct, including: pushing one faculty member and interrogating at least two others and threatening them with judicial action for failing to show identification; and intimidating at least two students, including throwing one to the ground and threatening to arrest a student;

**THEREFORE BE IT RESOLVED** that the Faculty Senate charges the Dean of the Faculty and the University Faculty Committee to form an ad hoc committee to investigate any interference with freedom of expression, academic freedom, and freedom of peaceable assembly during the events of November 19, 2012 on Ho Plaza, including, but not limited to: obtaining statements from relevant administrators, the Cornell Police Chief, Cornell police officers present at Ho Plaza, the heads of the SJP and CIPAC, aggrieved students and faculty, and other witnesses to the events; and obtaining other evidence such as photographs or video recordings of the events;

**BE IT FURTHER RESOLVED** that the ad hoc investigating committee shall report back to the Faculty Senate with a written account including the committee's findings concerning any interference with freedom of expression, academic freedom, and freedom of peaceable assembly on November 19, 2012; and the committee's recommendations to ensure that freedom of expression, academic freedom, and freedom of peaceable assembly be upheld at Cornell, including, but not limited to: rescinding administrative policies that are inconsistent with the campus code's presumption that permits are not required for outdoor events involving freedom of expression, academic freedom, and freedom of peaceable assembly; disciplining any police engaged in misconduct during the events of November 19, 2012 on Ho Plaza; and educating and training Cornell police concerning their obligations to respect and protect freedom of expression, academic freedom, and freedom of peaceable assembly on campus.

Eric Cheyfitz (English)  
Joanie Mackowski (English)  
Vicki Meyers-Wallen (Vet School)  
Richard Miller (Philosophy)  
Wendy Wolford (Development Sociology)  
Shawkat Toorawa (Near Eastern Studies)

Senator Eric Cheyfitz, English: "I have written this out in the interest of succinctness, so that we can have some discussion. Time is short for what are very important issues, actually, so I will just do that.

"The major difference between our proposal and that of the UFC -- and they are not in conflict, necessarily -- is clearly that our proposal asks for an independent senate investigation of the events that took place on November 19th at Ho Plaza when, as Paragraph 5 of our proposal states, quote, the Cornell Police attempted to stop or restrain the rally by the Students for Justice in Palestine, while allowing the Cornell Israeli Public Affairs Committee to carry out its rally.

"I don't think the police would contradict that, by the way, and they were called by CPAC to break up the SJP presence, because they claimed SJP did not have a use of university property permit, which they did. How they got that permit when there's a three-week discrepancy between -- you are supposed to wait three weeks to get a permit like that, before you hold your demonstration, and clearly they did not have that time to do that under the circumstances. So that's another question.

"The purpose of this investigation that we're calling for would centrally be to determine if the police, in attempting to stop or restrain the rally, violated the campus code of conduct pertaining to demonstrations -- see Paragraphs 2 and 3 of both our and the UFC resolution -- and in doing so, as stated in our first resolve clause, interfered, quote, with freedom of expression, academic freedom and freedom of peaceable assembly.

"After this investigation has taken place in accordance with the guidelines suggested in our first resolve clause, the calling of witnesses, et cetera, to determine all the facts, we are asking that the ad hoc senate committee doing the investigation report its findings to the senate in accordance with our second and last resolved clause, which I'll read in full.

"Be it further resolved that the ad hoc investigating committee shall report back to the faculty senate with a written account, including the committee's findings concerning any interference with freedom of expression, academic freedom and freedom of peaceable assembly on November 19, 2012; and the committee's recommendations to ensure that freedom of expression, academic freedom and freedom of peaceable assembly be upheld at Cornell, including, but not limited to rescinding administrative policies that are inconsistent with the campus code's presumption that permits are not required for outdoor events involving freedom of expression, academic freedom and freedom of peaceable assembly; disciplining any police engaged in misconduct during the events of November 19, 2012 on Ho Plaza, and educating and training Cornell police concerning their obligations to respect and protect freedom of expression, academic freedom and freedom of peaceable assembly on campus.

"I think here, speaking to Joe's point, that personnel issues and academic issues are joined and cannot be separated in this case for, I think, obvious reasons. We feel that a senate investigation is imperative for the following reasons: First, in matters involving academic freedom, the faculty has a primary oversight responsibility.

"Two, exercising this responsibility is a matter of the faculty's part in shared governance, which should not be ceded to the administration if Cornell is going to uphold the principles of shared governance as stated in the organization and procedures of the university faculty.

"Quote, "the appropriate role of faculty governance is to facilitate communication between the faculty and the administration, ensuring a full consideration of faculty views, thereby building a faculty administration partnership that will serve as a firm foundation for effective leadership." And the issue of consultation has been a major issue on this campus, since Jeff Lehman left office, and it is still a major issue, we think.

"And thirdly, while we are certainly interested in hearing the findings of the president's investigation, the president himself, as the chief representative of the administration, is a party to this case, and so cannot be an impartial judge of it. That's a fundamental, as everybody knows, constitutional and legal principle. Thank you."

Pro-Tem Walcott: "We'll begin by asking for questions. Yes, sir. On the aisle. I'm sorry.

"Okay, if there are no questions, then I open this motion for discussion. Don't go away, Eric, in case there are more questions. (LAUGHTER)

Senator Cheyfitz: "Yes sir."

Senator Miller: "I'd like to speak in favor of the resolution. I think it represents our fulfilling responsibilities that we have as teachers and as civic representatives. I see these responsibilities as involving following tradition at Cornell that we can be proud of and strengthening.

"It is a tradition in which people passionately and relevantly engage over the issue of Israel/Palestine. There was material for that in the November 19th rallies, Students for Justice in Palestine protested bombardment, in which 167 Palestinians were killed, civilians; 35 children.

"CPAC, the Cornell Israel Public Affairs Committee, passionately argued that that was a reasonable response in self-defense against rockets, 2,000 of them this year that have killed five Israelis. In discussions that would not have been public if it weren't for those demonstrations, CPAC said that Hamas was destroying the



possibility of a thriving society through terrorism, and SJP said Israel had suppressed that society by a blockade that -- for example, industrial exports. I think a rule --."

Pro-Tem Walcott: "Get to the point, please."

Senator Miller: "I think I have actually been speaking to the point, because I think that our role should be to facilitate that ongoing process in an equitable way. It's not in dispute. It's in absolutely every report that the Cornell police did try to restrain the SJP rally. The resolution expresses concern.

"It further reports, which it does not endorse, that involved introducing permits that are not in the spirit of the campus code of conduct and engaging in pushing and shoving and threatening arrests in a way that short-circuited that process of impassioned exchange on an equitable basis that we should support, because it was all on one side.

"I think that, as teachers and as civic representatives, we should independently investigate this. I think the fact that Israel is involved makes an independent investigation especially important. We are now partners of the Technion Technical Institute that helps to develop weapons and surveillance equipment for Israel.

"The campus police chief, in October 2011, returned from a training mission in Israel, funded by Cornell, announcing that she was glad of what she had learned to help defend our community against external threats. She learned that from a security establishment that, in fact, requires killing police cadets as response to an external threat. They killed 100 at the beginning of the invasion of Gaza.

"With all of these concerns, I think the openness to disagreement about Israel-Palestine that David Skorton called for when he was about to return from a trip that he led of university presidents to Israel are, I think, misconsolidated by the independent investigation that's called for in the resolution."

Pro-Tem Walcott: "Thank you. Is there further discussion? Yes, sir. Across the aisle. "

Professor Sawyer: "I also have written remarks, to keep them succinct, and I'm also in support of the original resolution, now known as the substitute resolution.

"I was present at the two rallies on November 19th, and I support the resolution because it arises from the events of that day, but also because it goes beyond events of that date to directly -- the second resolution does directly address questions of academic freedoms that I think I can best encapsulate for folks here by recounting a conversation that several of us, Professor Cheyfitz and other colleague and I had with the security that day.

"And here's how the conversation went, the best of my memory, and it's very brief. As correctly been said, on November 19th, campus officers were apparently warned to clear the rally that was erroneously believed to be illegal or were told was illegal. Within minutes of my arrival at the rally, campus security asked for my name and proof of identification.

"When I refused the second such request, the second officer threatened to cite me and other colleagues by calling us to the JA. When I asked by what authority he did that, they said as a faculty member, I'm an officer of the university and representative of the university; and therefore, I should know the law.

"And when asked what the law was, he told me that according to the law, Cornell is private property. Anybody on the premises, including an officer of the university, can be asked for official ID, official ID in case they are not testifying the truth about who they are. He did not mention any cause for suspicion.

"So that means that everybody in this room, in the view not of the one person that told me this, but of the four officers whose ears silently or not silently present -- obviously, was also their view -- anybody in this room could walk out on campus and be stopped and asked for their identification without -- now, does that threaten and worry me? No, I'm a tenured faculty member. Many of you are, but does it raise some alarm bells? Yes, it does. What alarm bells exactly? I'm not sure, and that's exactly the point.

"I really don't know the basis of that erroneous belief on the part of security officers who, after all, aren't employed by a public institution. This is not only private property, it's also land grants. So I find this a remarkable misperception and remarkable thing for me to hear after 37 years at Cornell, longer than most folks, and have never been asked for my ID.

"Briefly, one other brief point, mention the obscure ordinance that asks for three weeks' approval in advance for unclearly specified events, outdoor events.

Imagine any political rally or any nonpolitical spontaneous rally, and then it could be judged illegal by that ordinance, if that ordinance is in fact the case.

"So I come to this body therefore -- I'm not a senator. I come as a petitioner. I want knowledge, and I think that trust will be the outcome. Trust will be the outcome of impartial faculty investigation. When I say trust, clarity, I'm talking about prudence, because I think our resolution is the prudent resolution. Why do I say prudent? Because prudent, in the meaning of foresight."

Pro-Tem Walcott: "I'm afraid we'll have to conclude, because we need to have a vote on this motion."

Professor Sawyer: "Thank you. I just want to say I'm also taking part in the president's investigation, and I look forward to talking to Mr. --"

Pro-Tem Walcott: "Would you please be quiet, sir? I'm afraid that our time is up. And if we go past 6:00, we are in trouble. So I'm going to ask you at this point to vote on the question: A is in favor of this motion, B is opposed, and C is abstain."

"Is such a motion in order? I presume it is. Just show your hands. Everybody in favor of five more minutes? Who is opposed? Okay. There will be five more minutes."

"Okay. Back there in the red shirt."

Senator Yuval Grossman, Physics: "I was there. Like other people, I was on the Israeli side. I must say the following things: First of all, the body should understand when we talk about freedom of academic freedom, those people went out to the Ho Plaza and they say we want to take away your academic freedom. They want to boycott us. You go and read it. That's what they want to do."

"And I found it very inappropriate for people who call to boycott me and my colleagues to go now and say you take away your right. How can I come down --?"

Pro-Tem Walcott: "Sir, are you for the motion or against the motion? Would you be clear?"

Senator Grossman: "Let me talk, okay? They talked five minutes. Let me talk, okay? Yeah, okay. So we do another five. He talk five, he talk five. Let's try to agree we split our times equally between those that support it and those that are against it? Is that fair? I think so, right. Okay."

Pro-Tem Walcott: "The question is – "

Senator Grossman: "No. Of course I'm against it. The point is as following: I think it should be very clear. The freedom of speech doesn't mean that if someone has a permit to do an event, you should not come and do it. And that's not the first time that this happen.

"I, myself seen at least two times, event, nothing political, Israeli day in last April, and we were there. Nothing political, okay. Just saying they came and interrupt us. There was the Israeli tent in September. They came and interrupted us. Maybe they allowed. I don't know.

"What I want to say is following: We don't have to fight. We completely disagree, I know, okay. I disagree with you completely and you disagree with me completely. That's okay. Let's just agree on one thing, okay. Let's agree that if you want to talk, you talk. And I want to talk, I want to talk.

"It was very, very easy to agree, you know, the police came and says would you mind moving a little bit. You move a little bit. We move a little bit, it was easy. We don't have to look for confrontation. When we have an event, please, let us do our event. When you have your event, I'm not going to disturb you.

"Let's just don't do it. Let's just calm down, let's do the way we should. Let's have anybody the right of speech, including us, not only you."

Pro-Tem Walcott: "Please keep your remarks as brief as possible. The lady -- thank you."

Senator Mackowski: "Hi. Thank you. I'm Joanie Mackowski, in English. And I just wanted to mention I tried to find the history of the permit.

"And there are events on campus that get out of hand and lead to injury, and I thought I saw a draft of this permit that seemed to apply to individuals who were not at an event, that included non-Cornell individuals, perhaps about

trying to control extreme partying behavior. And I'm just wondering, thinking of intention, if this is a collision of different intents."

Pro-Tem Walcott: "It seems to me if there's going to be further discussion -- and we are running out of time, even with a five-minute extension, I wish you would speak to the motion. Are you in favor of this motion and why, or are you opposed to this motion and why. On the aisle, please."

Senator Carl Franck, Physics: "I want to quickly say that I'm very much struck after reading -- I'm in favor of the motion -- very much struck in reading the interview that Dale Corson gave of much more serious events. And the principle that he espoused, and did it very successfully, was absolute minimal use of police.

"What I see here in this situation is we were relying on the police to do something that our administration should have been doing, and that is regulating this event to be a successful event. And I think I would really recommend our -- the principles espoused by Dale Corson, which I think the resolution will help us to return to."

Pro-Tem Walcott: "In the middle. Coming that way."

Senator Vicki Meyers-Wallen: "Hi. Sorry for the five-minute extension. I'm Vicki Meyers-Wallen, in the department of Biomedical Sciences at The Vet School. I'm a signer on this resolution, so I'm for this resolution. I think it's important to remember that we are not here to solve the Arab-Israeli problem. We are here to look at this resolution and ask for the faculty senate to do its obligation, which is to look at academic freedom issues.

"The president can do his job. I'm happy that we are recommending that he does his job, but that does not get us off the hook for doing the job of the faculty, which is to protect academic freedom and to protect the freedoms that we have, some of which our American people are out there, fighting every day and losing their lives because they're fighting for the values that keep this country strong.

"So it's not a trivial issue to me, and it shouldn't be a trivial issue to you. So I recommend that the faculty senate do the due process on this issue. It's our prerogative and obligation to do it. Please vote for this resolution. We need to step up, man up.

"If we don't do this, we will end up like the Vietnam era, where the faculty did not do its job and stand up for freedom. And what happened is you have uncontrolled demonstrations on campus. We have to be strong and say what is acceptable behavior, to model that behavior and give the students a way to debate these issues without coming to blows. Thank you."

Pro-Tem Walcott: "Is there further discussion? I think we're really at the limit of time, and so I'm going to once again propose that we address the motion. A is in favor of the resolution, B is opposed to the resolution, C is abstain.

"Are we done? Is anybody still waiting? Okay, I think that's it, and the results are -- the resolution is passed.

(APPLAUSE)

"And what with that, I declare the meeting adjourned."

(MEETING ADJOURNED.)