

A MEETING
OF THE UNIVERSITY FACULTY SENATE
WEDNESDAY, NOVEMBER 11, 2015

1. CALL TO ORDER

Professor and Chair Department of Science and Technology Studies and Speaker of the Senate, Bruce Lewenstein: "Good afternoon. I would like to call the meeting to order. I want to remind everyone, as usual, that no photos or recording devices other than the official recording, no recording programs or anything like that are allowed during the meeting.

"I ask you to please turn off your cell phones, beepers, tablets, the start-up sounds on your computers, anything else that makes a noise during the meeting. Senators do have priority in speaking, and only senators or their designated alternates may vote. We are going to go back to trying to use microphones. We have a room recorder, but we have been finding with the minutes that we are missing things without having a full recording. So we will ask you to wait until - either to come to the central microphone that's standing here or, if necessary, we do have some roving mic's as well.

"As usual, when we come to the time for speakers, I will ask people to limit themselves to two minutes, and the parliamentarian will be keeping time and will signal you when you reach two minutes. We have had one request for Good and Welfare speaker. Some background information was circulated with the agenda. I will allocate four minutes to that item, so that they can make a presentation, and if there are one or two questions at that time.

"The first item on the agenda is approval of the October 14, 2015 minutes as they were distributed. Does anybody have any corrections to the minutes? Without objection, then, they are approved as they were distributed.

"Next on the agenda is a report on faculty matters from Associate Dean of the Faculty Mike Fontaine."

2. NOMINATIONS AND ELECTIONS REPORT

Professor Michael Fontaine, Classics, and Associate Dean and Secretary of the University Faculty: "Hi, everybody. Joe's a little under the weather, so he asked me to combine his report with mine for Nominations and Elections, but couple things to report: First, that CAPP, the Committee on Academic Programs, has

approved the professor of practice title for the College of Architecture, Art and Planning, so that's now online.

"If you go to that link, you can click it. It is under review for 60 days. The same for the Johnson Graduate School of Management dual degree program. CAPP has approved the Johnson EMBA and Weill MS. Again, 60 days review.

"For the Nominations and Elections, the most important thing to report now is we will be having the elections this spring for dean of faculty, that's Joe's job; associate dean of the faculty, that's my job; and also the faculty trustee. And I'm very pleased to announce we already have one candidate for faculty trustee. It's Joe Burns.

"So we welcome the competition and, of course, it's wide open for the other spots. So if you are interested, we'll be getting some more information to you all about the elections in January or February.

"If you have nominations you want to send in for yourself or for someone else, it's cut off on the slide down there, but send them to the dean of faculty office, send them to me. We'll make sure they get where they're going. Thank you."

Speaker Lewenstein: "Thank you. I forgot to say also that because we started the meeting five minutes late, we will go until five minutes after 5:00. Next on the agenda is a discussion of revisions to Policy 6.4 on sexual assault. I'll ask John Siliciano and Carol Grumbach."

3. DISCUSSION OF REVISIONS TO POLICY 6.4 ON SEXUAL ASSAULT

Senior Vice Provost for Academic Affairs, John Siliciano: "Good afternoon, everyone. Thank you for having us. Carol and I are here to update you on the revisions to Policy 6.4, which is the policy that the university uses to deal with sexual assault and sexual misconduct when perpetrated by students. That's my current two-day job. I'm also a member of the law faculty. That's Carol's inaccurate title, but she's also formerly taught at the Law School.

"We've been part of a year-long effort to reconsider the sexual assault policies the campus had, and we wanted to update you. We made rounds with various other campus assemblies and wanted to share with you the process that we have been going and where our thinking is headed.

“Let me give you a little bit of background on this. The current policy dates from 2012. Prior to that time, sexual assault of all sorts and sexual misconduct was handled as any other offense under the campus code. This, under the campus code, if you have ever had exposure to it, resulted -- if there was a claim, it ended up in a quasi-criminal hearing with extensive witnesses, cross-examination, very sort of arduous process, particularly for victims.

“In 2012, as a result of both federal legislation and concerns on campus that the code process was inappropriate in this context, there was a major revision of how these offenses were handled. And this lists the changes that occurred. It was a very significant change. This whole category of cases was pulled out of the code.

“Instead of this intensive adjudication, quasi-criminal process, it was moved to a very simple investigatory model. All of the investigation was conducted by a single investigator, who made conclusions of both fact, but also culpability and penalties. This was reviewed purely on paper by a panel, a review panel. No additional input. The “preponderance of the evidence” standard was required by federal law. That's different from the code. And then there was a single appeal. So that's the current policy.

“Why are we reconsidering at this point? Well, there are multiple reasons to look at it. There is more federal and state legislation, some helpful, some not particularly helpful. You are aware of the second point; there's a growing nationwide concern, and also concern at Cornell, or alarm about the high incidence of sexual assault and sexual misconduct on campus.

“I believe at your last meeting you heard some of the data from the AAU survey that Cornell and many other institutions conducted last year. The results, one can quibble with the methodology or the definitions; but no matter how you slice the data, it indicates alarmingly high incidences of sexual assault on campus.

“About one-quarter of undergraduate females report some nonconsensual sexual assault or other forms of misconduct. And this is very consistent with what we see at other universities. So that does beg the question of whether our policies are sufficiently effective in terms of their enforcement and deterrent functions.

“At the same time, you are probably also aware there's been a rising national concern that the ways universities handle these cases create very significant questions about the efficacy, fairness and accuracy of determinations of responsibility. So you have these two issues which at least nominally seem

intentioned about whether we have strong enough enforcement and whether enforcement is fair in terms of its effectiveness and its process.

“This has led to a very extensive review of our 6.4 policy, procedures, the Title IX executive committee of the campus. Title IX is where this policy sits underneath. Formed a working group last year. That working group has been engaged extremely extensively in the interim period of time with consultations with many constituencies.

“This includes the groups listed here, the review and hearing panel members, the professionals in the system, meaning the judicial administrator and investigators, the respondent and complainant advocates on campus, the campus governance groups and the law faculty.

“As you may know, the law faculties at a number of major universities, including Harvard and Penn, published scathing open letters criticizing their own school's processes that don't look much different from ours. Our faculty here took a quieter approach, but unanimously wrote to David Skorton last year with the same set of critiques; entire faculty signed it. This comes from a broad spectrum of the faculty, from criminal defense scholars to victims' advocates, all criticizing our current policy in terms of its fairness, efficacy and accuracy.

“We also benchmarked our processes against 18 leading universities. That review indicated a number of major concerns. One of the main ones was the absence of any hearing whatsoever. Once we moved radically from a trial context to an investigatory context with no hearing, this became a major concern.

“Let me back up a bit and say why was this change in 2012 to move to dramatically away from a hearing? Well, the concern -- and you might be able to predict this -- is that the on-campus code provisions were so confrontational, so arduous that in this particular category of offense of sexual assault and sexual misconduct, very clear indication from studies that victims would be less willing to come forward if they had to run a gauntlet of this kind of process, where they risked being re-victimized by the process itself.

“So in 2012, that threshold was radically lowered to the current policy, but the absence of any hearing had a countervailing problem; both it raised questions about the fairness of the process to respondents, but it also -- and this is a subtle point, but it's quite important -- it also in a second way created the threat to

victims, because if the process on campus was not sufficiently rigorous, those engaged in the process did not trust the outcomes it was reaching.

“If there was no hearing, no way to question the investigator's conclusions as to culpability and penalty, the evidence we had from our many interviews is that review panel members tended to fudge on the results, either nullify a finding of culpability or under-sanction. And this, in itself, was a second threat to effective enforcement and to providing adequate redress for victims. So that was a major concern.

“The others are listed here: The single investigator, with all authority to determine guilt and sanctions, is a very poor procedural guidance, the policies are opaque, as many of ours are, poor training of panel members. Respondents, but not complainants, were afforded advisors, and their standards for temporary action were unclear.

“This has led to a very comprehensive set of proposals to overhaul them. We're just going to feature several of the key ones, but it's an extensive list. It's still under a lot of development, but among the main features is that the new policy will completely separate the prosecutorial and investigatory roles from the adjudicatory function.

“What does that mean in practice? It means the investigator will still do much of the fact-finding, but will have no role in determining guilt or sanctions. There will be a hearing panel that will determine responsibility and sanctions in an actual hearing, where they can hear testimony of the parties. And we'll describe that more.

“We are going to add a law-trained chair to provide guidance to the hearing panel. Our indication, through multiple interviews with current participants and through reviewing the cases that have come through the system, indicate quite clearly those participating do not have sufficient guidance as to the basic meaning of our rules; and therefore, there's a great risk of reaching inconsistent results.

“So more guidance, trained advisors to both parties, a three-member final appeal panel. Those are the overviews. I want Carol to highlight several of the key sections, with the understanding that there's much more being worked on under the hood.”

Carol Grumbach, Director, Academically Engaged Learning and Faculty Living-Learning Programs and Special Assistant to the Senior Vice Provost for Academic Affairs: "Thanks, John. Good afternoon. I'm just focusing on the first bullet from the last slide, separating the prosecutorial and investigatory function from the adjudicatory function. And that manifests itself by way of, as John pointed out, separating the investigator's role, redefining and limiting it, separating their function from adjudication.

"So we will still have an investigator who does a thorough investigation. They will interview all the parties and witnesses, gather evidence, and they will prepare an investigatory record and report for the hearing panel. Before the report and the record go to the hearing panel, both parties will have an opportunity to review the record.

"And that means all witness statements, if they are oral statements, have been recorded, the audio recording, if they're written statements, they will get a copy of the written statements, et cetera. So there will be a full review by both parties, they will have an opportunity to respond to the record, and then the investigator will write their report. And the material that goes to the hearing panel includes the record, the responses and the report.

"For the report, the investigator will provide some assistance to the hearing panel by synthesizing the facts. Maybe they will do a timeline. They will help point out some of the contested and uncontested areas set forth, maybe issues of general credibility, but they will not make any recommendations or decisions on what we are calling the ultimate issues; and those are both credibility and a finding of responsibility. So those are both for the hearing panel.

"They will, however, make a threshold finding of lack of responsibility, if they find that there's insufficient evidence. That would be a very low threshold. We haven't written the exact standard yet, and there would be a right for review of that determination as well.

"And then lastly, in terms of the investigator's role, they would also be a witness at the hearing, probably the first witness, make a statement, answer any questions by the panel and the parties, et cetera.

"Now, getting to the hearing, so we will now have a panel of adjudicators. This will be a panel comprised of faculty and staff. Currently under Policy 6.4, the

review panel's just faculty. We would make the hearing panel faculty and staff, as I mentioned.

"The parties themselves, would have a full panoply of rights: Right to testify, right to request witnesses, view remotely other testimony, and I will get back to that in a second, and submit -- and I am using these verbs very purposefully -- proposed questions in evidence.

"They would also be in separate rooms, except when providing their own testimony. They then would be before the hearing panel, but they will always be in separate rooms and they will have an opportunity to participate remotely, except when they are providing testimony to the hearing panel.

"The panelists will conduct all questioning. So the parties or their advisors and support persons will not conduct any questions. That will be the hearing panel. The hearing chair -- and John mentioned there would be a chair, and I will elaborate on that in a minute. The hearing chair will serve as a gatekeeper. They will approve the witnesses, the evidence, the questions, except that the panelists will have an opportunity to ask their own questions.

"The chair will consult with the parties, consult with the panelists. It's expected, and this will be in the procedures, that they would ask all questions that are relevant, that are not prohibited, prejudicial or cumulative. The panel, I have already mentioned, they will be trained annually. That is required now by both federal and state law. And the laws specify the content of the training. And the standard of proof will remain preponderance of the evidence.

"In terms of the chair, this would be a faculty or staff member with law training, and their role is to ensure that the panelists understand and abide by procedures, standards of proof, evidentiary issues.

"I met with a large number of current and former panel members and chairs, both the 6.4 Review Board and the Campus Code Hearing Board. And everyone talked about this as a very welcome, I might even say necessary, addition for someone to provide this oversight and guidance.

"As I already pointed out, they'll make rulings on admissibility, but they'll be deferential and consultative. The parties' objections will be on the record. And then lastly, because of their substantial role, they will not serve as a voting member of the panel. And that's it, in terms of the presentation.

“John, did you want to add anything?”

Sr. Vice Provost Siliciano: “So a few final things. As you can see or sense, this is an effort to locate a new procedure somewhere between the poles that we've occupied; a very confrontational, arduous trial by combat under the campus code and a very investigatory non-process under the current thing. We are trying to locate it in the middle.

“So we have the basic attributes of a fair and rigorous process that is able to convict and sanction fully, because it will have confidence in its outcomes; at the same time providing sufficient protection for victims, so that they are not re-traumatized in the process.

“This will not satisfy everyone. If you are located at the far end of either spectrum, you won't be happy, but we think this is the right balance. Great amount to be worked out in detail. It hopefully will be more fully refined by the end of the year, reviewed by the Title IX Executive Committee, posted publicly, and then President Garrett will review it. It will take a good amount of time to implement, because there's just a lot of detail in the implementation, identifying new resources and new people to occupy these positions.

“So that's what we are looking at going forward. We'd welcome any input. This is still a very, very active process.

“The other thing I would note is, will this solve the problem? Absolutely not. Once you get to -- any lawyer knows that once you get to any kind of charges, prosecution, hearings, you're already at the last house on the block. Everything else has failed. You don't want to be there as a campus.

“We are having these problems because they're cultural problems. They involve young people. They almost always involve excessive alcohol. There is within it a core of classic felonious behavior, but then there is just a great deal that has to be addressed by education and culture change.

“So we are not deluding ourselves that this will solve it, but it is still critical that we get this part right. People who do end up in this context, it's a life-changing event on all sides, and so we may need to get it right. So that's our basic sketch.”

Speaker Lewenstein: "We have about 15 minutes for questions. We want to use the microphones."

Professor Jerry Stedinger, Department of Civil Engineering: "The investigative person still has a very strong role in gathering information and all that. Have you thought of having two investigators, so there's sort of a balance there?"

Sr. Vice Provost Siliciano: "Good point, Jerry. In fact, we've added a second investigator already. So we have a second investigator, and we've pulled the investigative function out of the JA's office. There was a concern that having it located in the JA's office, right next to the code process, created at least a concern about neutrality. I'm not sure how real it is, but now they sit independently."

Professor Steven Alvarado, Department of Sociology: "At what point, if any, does the criminal justice system actually come into play?"

Sr. Vice Provost Siliciano: "So this is a good question. It often comes up in these cases, why don't we let the criminal justice system work it out ahead of time. We are required under federal law -- we are not allowed to pause. We have an independent legislative obligation, as a university, to take steps within our own community.

"This is not a criminal proceeding. It has aspects that appear that way, but it's basically we need to deal with our own internal matter. We are closely coordinated with the Ithaca Police Department, and so they can make their own independent determinations about whether they want to proceed criminally in these cases. Anybody who comes in through any of our victim portholes is counseled as to their full range of options, but we can't sequence them. We have to proceed in real time."

Professor N'dri Assie-Lumumba, Africana Studies: "Considering that the students are essentially a transient group, what are the provision for taking care of cases in which either the victim or the accused have graduated or left the campus?"

Director Grumbach: "At the point they are separated permanently from the university, we have no jurisdiction. Our concerns are both hostile environment, so full access to education, employment opportunities and the safety of the victim and the community. So at the point that the respondent is separated, is

what I should say, there would be no jurisdiction, but an opportunity to pursue the matter under the criminal justice system.”

Professor Elizabeth Carnes, Social Stats, ILR: “And also the advocate for the complainant. I work a lot of 6.4, and I know this is a huge amount of work. Many of the structures you are suggesting are great. The one problem I see is that you are allowing an incredible, implicit bias to creep in here.

“With the written system, nobody's in front of you. You are looking at a piece of paper. And you are not making some sort of assumptions about who that person is. And we do anonymous grading because we are concerned about bias that we apply to our students. We do blinded peer review for the same reason.

“If you are looking at a piece of paper that just has initials, it's pretty different than assessing a person in front of you; for good and for bad, for both the accused, as well as the victim. One of the examples that I have that's most disconcerting to me was from the old system. It was at the very end, when somebody came to me, asking about an appeal.

“And she said, I found out that they had been deciding whether I was pretty or not. This was the panel, right. Has nothing to do with the case at hand. And yet, they decided at the end she had not been assaulted. And this is an example of bias that was introduced, and we need to work hard to get rid of that. There's no way that you can say people can set that aside every time. We are going to have issues around this repeatedly.

“The second thing is the statute of limitations. It's not addressed right now. It is a one-year statute of limitations, which is way too small for most people. It's way too insufficient. Thank you.”

Sr. Vice Provost Siliciano: “So thanks, Liz. We have had conversations back and forth and has been extraordinarily helpful in terms of input. The statute of limitations is still under consideration. In terms of your broader point, as I said, this is a trade-off. There are costs and benefits to any system, and we are trying to sort of find the right way in between.

“I take your examples completely on the other end, I'm also informed by our review of the reports and our interviews with the people who participated in the paper review process. Many of them express intense concern that they don't

know what they're doing, that they can't get a handle on it, that the investigative report leaves them in the dark, that they have questions for the parties.

“And so you do have this balance. And I think this may not -- this won't solve the question completely, but our thinking is that having a law-trained chair that is in all hearings is the best way to check balance, just as a judge in the normal proceeding checks balance. Does it guarantee it? Not really.”

Professor Tad Brennan, Department of Philosophy: “Can you tell us what you mean by a law-trained or legally trained chair?”

Director Grumbach: “We say law-trained, as opposed to lawyer, because we are not making it a prerequisite that someone is admitted to the bar, but it would be someone who's graduated from law school, ideally someone who's practiced law, so someone who's familiar and experienced with reading and executing, implementing procedures.

“So this person would make certain, if there are questions that come up by the panel about how to interpret the preponderance of the evidence standard or issues regarding bias that come up, what is relevant evidence and what is not relevant; for instance, the appearance of the complainant is not relevant, that kind of thing.”

Professor Brennan: “Okay, so this would necessarily be a J.D.? That's something I myself would object to, pooling that much power in the hand of a chair and then restricting it to J.D.s, instead of the faculty at large. If it's necessary there be some legal training, I'm sure that training could be provided to faculty at large.”

Director Grumbach: “I think we've been contemplating a J.D. The feeling has been amongst the current and former panel members and chairs is that we really do need the advice of someone with three years of law school.”

Professor Irby Lovette, Department of Ecology and Evolutionary Biology: “Another issue with our current system is that in a lot of cases, the time to completion of these, the process has taken quite a while. And that's unfortunate for both parties. Given the fact that this is a very wide-scale problem and that fortunately more and more victims are being proven willing to come forward, are there plans in place to scale our resources and personnel to respond accordingly and in a timely fashion?”

Sr. Vice Provost Siliciano: "So we had a conversation early on with President Garrett. As you know, we are always worrying about resources. She was very clear that in this area, they would find the resources necessary to have adequate staffing. This does mean adding another investigator, as mentioned, adding a chair to the committee. There's other additions that we would need simply to manage the logistics of that.

"So yeah, we're intensely aware of that and aware of the time issues. There is some indication that actually, even though we are adding more process, it may move more quickly in several ways. One is that if it's just the investigator doing all of this, they tend to be obsessive about documentation. That can really be handled much more easily, simply in testimony. So writing the reports takes forever.

"The second is having a chair that manages the procedure increases the ability to thwart strategic delay. You have somebody who is a repeat player, who is able to enforce the process, make nuanced judgments about where requests for extension are appropriate and where it's simply a dilatory tactic."

Professor Charles Van Loan, Department of Computer Science: "Did you consider the possibility of once a year publishing privacy-preserving results, like how many cases, how many complaints and what the results were?"

Director Grumbach: "We've talked quite a bit about that, both for the community at large, but also for the panel when it comes to if there's a finding of responsibility when it comes to sanctions. So yes, there will be -- there should be, and I expect there will be much better tracking and recording and reporting out."

UNIDENTIFIED SPEAKER: "How many cases are you getting or do you anticipate getting every year?"

Director Grumbach: "Well, right now we haven't mentioned that the procedures are pertaining to cases where the respondent is a student charged with sexual assault, domestic violence, intimate partner violence and stalking. So those cases, it's hard to predict. They are literally growing exponentially from just two years ago to last year to this year; but based on the current numbers, probably about a dozen cases a year. If we included harassment, there would be far more numbers, but that's a guess."

UNIDENTIFIED SPEAKER: [Inaudible] -- cases?

Director Grumbach: "Currently they will remain under the procedures. Our hope is our next iteration will cover harassment cases."

Sr. Vice Provost Siliciano: "So there are a number of open issues, including the scope. So we're starting what you might think of as the core. It's where a student is the respondent, and it's the sort of core definition of sexual misconduct or assault.

"There are a lot of border questions about whether it should fall here or under the code and so forth; but it's imperative that both because of legislative deadlines, but for our own purposes, that we at least get the basic mechanism done within this year."

Professor Ken Birman, Department of Computer Science: "It seems to me to create a culture that doesn't tolerate assault, we need the students who might witness a situation to step forward and speak out, which means that there needs to be some form of punishment, if they fail to do that. Have you thought about how this process is going to impact that broader group that may be quite aware of what happened?"

Director Grumbach: "Well, not through the procedures by way of obligating anyone to report, but by way of substantial education that's being done on bystander intervention. So the approach is being done from more of an education, changing the culture proactive, as opposed to as a procedural mechanism."

Professor John Brady, Department of Food Science: "Following up on that last question, without warrant and subpoena power, is the ability of the investigator limited in making these investigations?"

Director Grumbach: "Well, they don't have subpoena powers. My understanding is, though, that the persons are willing to speak to the investigator. That has not been a problem. Obviously, the respondent has a right against incrimination, but that people have been willing to participate in the process."

Professor Robert Thorne, Department of Physics: "Two questions: First is, in the investigation phase, is the person who's accused allowed to suggest witnesses? And then at what point in this whole process can an accused be suspended from Cornell?"

Sr. Vice Provost Siliciano: "So both parties can suggest witnesses at any time. The investigators are very well-trained. Our concern is that they went beyond development of a record to making findings that were then opaque to the review panels. So they're very well-trained. As part of the normal process, they are always soliciting additional information, contacts, facts, witnesses and so forth. So throughout the process, any possible evidentiary avenues that the parties know of would be identified.

"In terms of the interim measures, you want to take that?"

Director Grumbach: "Sure. There is a provision under the campus code for temporary suspensions, and we would use the exact same provision under Policy 6.4, as it exists under the code. So that would be temporary, with a right to review. And then, of course, as an ultimate penalty, the panel would have, as an available sanction, suspension as well as expulsion."

Professor Risa Lieberwitz, ILR: "First, thanks for all the work. Very welcome bringing some due process back into the system. You know, it was missed. But the questions I have are a couple: One, could you explain the appeal process that could occur after a hearing?

"Secondly, you had something in the materials that was sent out about alternative resolutions, and maybe you could talk about how you see that working with this process.

"And then third, if you could just walk us through the process for adoption of this. I think you said something quickly, but what are the steps that will be taken in putting this in place? Who approves it, how does that happen?"

Sr. Vice Provost Siliciano: "So let me take the first and third, then Carol take the second. The appeal process, the current process under the campus code is that there's a paper review by what's called the review board, and then a review to a single final person who is the vice president for student and academic services; was Susan Murphy. That's now Student and Campus Life.

"Recent legislation requires a three-panel review, and so the current interim strategy -- this is one thing we had to do immediately on the fly, to comply with, I think, September 1st deadline -- the current review process, it is done by Susan

Murphy, Ryan Lombardi, the new vice president for Student and Campus Life, the provost's office designee, which is me at this point.

“My guess is that when there's a new vice provost for undergraduate education, it will be that person. And then the third is the Vice President for Human Resources. So that is the appeal from the hearing process. In terms of your third question -- pardon?”

Oh, yes. Either party can appeal the determination. And there are standards on appeal. You might imagine what they are. They don't anticipate a de novo factual review, but they do include broad discretion, if the panel is concerned about the outcome or the process.

“In terms of the process, this is part of our speaking to the campus assemblies, so we've met with the student, staff, graduate student assemblies. We have gone back to the law school. They were happy with the outcome. We've met with a number of people on campus. The faculty senate is obviously an important stop.

“The working group still has much to do in terms of detail, but it's begun writing out the more formal procedures. Those will be posted. We need to find a mechanism to make them visible to the Cornell community, seek final input. The working group will then propose the final thing to the Title IX Executive Committee. That all falls under Title IX. And then that will be proposed to the president.

“I will have to look into our past adoptions in terms of the campus code and the 2012. I don't know if it goes beyond there to the trustees. So we haven't sketched out what that exactly looks like, so we'll have to be informed by protocol. I'll let—“

Director Grumbach: “I know we are running out of time, so I'll be brief. On the ultimate resolution, we are providing a mechanism whereby both parties have an opportunity to resolve the matter, short of either an investigation or a hearing at any point after a report is filed. So you don't need a formal complaint.

“We would, however, require consent of both parties, as well as the approval of the university, and that would be done by way of the Title IX coordinator. So all alternate resolutions would be overseen by the Title IX coordinator, who would have to sign off. And there'd be a full range of available settlement options, no

admission of responsibility required, but if that's okay with both parties, et cetera."

Sr. Vice Provost Siliciano: "So our goal there is to create a system that creates absolutely no pressure on a complainant to resolve, but there's no possibility of mediation, there's no interaction. It has to be by mutual consent. But our view is that providing this avenue will allow some complainants who would not go to a hearing to get some measure of redress."

Director Grumbach: "And I neglected to say, and John made a point that's crucial, there would be no face-to-face interaction for the ultimate resolution."

Speaker Lewenstein: "Thank you very much. I know there were a few more questions, but we are out of time and need to move on to the next item. I would like to ask Elizabeth Adkins-Regan to come and talk about the resolutions on romantic and sexual relationships with students."

4. REPORT FROM CHAIR OF COMMITTEE ON ACADEMIC FREEDOM AND PROFESSIONAL STATUS OF THE FACULTY (CAFPS)

Professor Elizabeth Adkins-Regan, Neurobiology and Behavior and Chair of CAFPS: "Hello, everybody. Here's what I'd like to do -- and excuse my voice. I have a terrible cold -- I'm going to just give you a brief summary of the process behind this to date, will highlight the four key paragraphs of it, tell you what's new, compared to the existing policy, lay out some pros and cons based on previous discussions.

"Then I want to keep that brief, so that there will be plenty of time for discussion, and then there will be an opportunity for you to give a sense of the body vote about the spirit or intent or principle, whatever you want to call it, of each of those parts of the resolution.

"So the process to date is that this originated from a committee of administrators. Our dean of the faculty, the dean of students, assisted by Alan Mittman, our Title IX coordinator, and Pam Strausser, the senior consultant to academic human resources, they drew up a draft of revisions to the existing policy. And the reasons they were motivated to do that appear in part of the whereases.

"They consulted with a number of other bodies to get feedback about the draft, including the committee that I chair, Committee On Academic Freedom and

Professional Status of the Faculty. These bodies and people were asked to review it and to provide comments, suggestions for revision, et cetera.

“Some revisions were made by the drafting group. CAFPS met again to discuss the resolution further, and decided that it was time for it to come to you for discussion and sense of the body votes.

“So the resolution takes the form of four amendments to the 1996 policy, the existing policy. The first amendment, the first paragraph of the core of the resolution concerns relationships between faculty and undergraduate students.

“The key feature there is that it says that faculty may not engage in romantic or sexual relationships with undergraduate students. What is new about that is that the existing policy only prohibits these relationships if the faculty member has some kind of academic authority over the student. The revised policy broadens this prohibition to apply to all undergraduates at Cornell.

“The arguments for that, these are very brief nutshell pros and cons in each of these cases. Arguments for that, that the gross power imbalance between faculty and students is incompatible with the notion that these relationships are consensual from the perspective of the student, and that such relationships create a poor learning environment for all of the students.

“The primary con that has come up in discussions is that Cornell should not be judging and regulating the personal choices of consenting adults. Our undergraduates are, with rare exceptions, legal adults. For other purposes, like the privacy FERPA regulations and the like, they are all considered adults.

“The 2nd Amendment in this document concerns faculty relationships with graduate students. Here the prohibition applies when the faculty member might reasonably be expected to have academic authority over graduate students in the future, as well as the existing policy cases where they have such a relationship now. And in addition, that if they have had a relationship in the past, they cannot now exercise academic authority over that student.

“So what is new is that the revised policy broadens the prohibition both forward and backward. If you've had a relationship, you can't be the student's committee chair or supervisor in the future. If they are admitted to your graduate program, but they are not yet working with you, you should not have a relationship with

them, because there's a chance that they might be working with you in the future.

"In favor of this is that our graduate programs are small. Any student in a graduate program might well end up needing to have that person on their committee or to work with them in some way, where there would be an academic authority relationship.

"There's a substantial probability of a future conflict of interest when it comes to graduate students in graduate programs. And as with the undergraduates, another argument is such relationships create a poor learning environment.

"Counter to that, one could argue that there are too many cases where the age difference is fairly small, and that there isn't going to be a conflict of interest to justify a broader prohibition.

"The third paragraph amendment is the obligation to disclose relationships. The heart of that is disclosure of prohibited relationships is required. There's no disclosure under the current policy, so this is new. In favor of that is the idea that requiring disclosure will help prevent such relationships from forming or continuing and that, without prior disclosure, the relationships will simply continue and the conflict of interest will continue and the poor learning environment will continue and not be addressed, none of this will be addressed.

"Counter to that, one might feel that faculty should not be required to share their romantic and sexual relationships with deans, and that enforcement might be difficult to ensure. People might continue to keep the relationship secret and not disclose them and it would be hard to enforce.

"Remedies. That's the 4th Amendment, the fourth paragraph. The highlight is that this specifies the person, some kind of dean, possibly the dean of the faculty as the question and answer section explains, who should resolve the situation to end the conflict of interest in the case of academic authority involvement. It also spells out a range of possible disciplinary measures that could be applied. What is new is that the existing policy doesn't say anything about remediation.

"In favor of this is that the main point of disclosure is to enable some kind of remediation to occur, to resolve the situation, so that there is no longer a conflict of interest or a poor learning environment. Also in favor is that by saying that

the upper end of the range of possible disciplinary measures is termination of your employment here, may be that will help prevent violations of the policy.

“Counter to this, one could question whether deans have the relevant expertise to handle these kind of situations. Is there some risk of creating some kind of worrisome black book of all disclosed relationships in the dean's office?”

“And the third party complaints are allowed; however, I should point out they are subject to another policy, the ethics policy that says that if you disclose something like this that turns out to be false or malicious in intent, you, yourself are subject to disciplinary measures.

“So that's the nuts and bolts of what's here. And now it's time for discussion.”

Speaker Lewenstein: “Our plan is here that we will have discussion until about ten minutes to 5:00, and then we will have separate votes on each of the paragraphs, just one right after the other, in terms of the sense of the body. And as Professor Adkins-Regan said, the votes are fundamentally only advisory to the ultimate drafting authorities.”

Professor Adkins-Regan: “Yes. And I would add to that, just as you learned with the previous presentation, that there's a long elaborate process that follows anything before it's actually final and implemented; that's also true for something like this. So the fine-tuning of the exact wording is really not the issue here today, because there's a long process that will do a lot of that, so I would like you to spend your time on the core issues.”

Professor Eric Cheyfitz, Departments of English and the American Indian Program: “I just wonder who felt the need to change the undergraduate policy from what it was to what is being proposed here. How did it come up? Under what circumstances?”

Professor Adkins-Regan: “I assume that the need was identified. In fact, I know this from their visits to CAFPS meetings by the committee that drafted this document that you have seen, the dean of the faculty, the dean of students, Alan Mittman, the Title IX coordinator, those folks.

“Yes, they were consulted. The head of the student assembly was consulted, and also the Graduate and Professional Students Association, and the dean of the graduate school as well.

“They provided feedback that was taken into account in this draft.”

Professor Rhonda Gilmore, Department of Design and Environmental Analysis:
“Why is it the obligation of the faculty member to disclose?”

Professor Adkins-Regan: “That's an interesting question. Because they are the ones in charge of things, they are the ones with the academic authority, and they are the more powerful ones in the power aspect of the relationship.”

Professor Gilmore: [Inaudible]

Professor Adkins-Regan: “Because if they don't and it's found out, there are sanctions.”

Professor Richard Miller, Department of Philosophy: “My question's entirely about the paragraph involving graduate students and faculty and, in particular, the first sentence; no faculty member should simultaneously engage in a romantic or sexual relationship with any graduate student over whom he or she exercises any academic authority.

“Now, when you were introducing the proposal to us, you spoke of someone's being a committee chair, a supervisor or a teacher. And in those cases, that seems right, but consider one example is far removed from that.

“The assistant professor is in the same department as a graduate student who's taking all our courses, works in another field, he won't supervise her, he's very far from being her committee chair. Still, he's a member of the department. That means he takes votes that affect her.

“He might even take care not to make decisions or take votes that directly affect her, but indirectly. They've just got to. It seems to me I would be very troubled by a proposal, where that situation is excluded by the policy, much less troubled if there's that specification of what counts as an exercise of academic authority, such as in the list you gave. And I would think a dean would want that specificity as well.”

Professor Adkins-Regan: “It is specified in the list, in the question and answer session. Taking a course with a faculty member, that is a relationship that involves academic authority, so that is covered in this.”

Professor Miller: "So I will suggest those three items were listed, instead of academic authority, which is an extremely broad term."

Professor Adkins-Regan: "That's why it's spelled out in a footnote."

Professor Sahara Byrne, Department of Communication: "Are we talking to everybody here?"

"Our department had a really interesting talk about this, and it came down to sort of fear of some people to bring up opposition to this, that they would look creepy in some way. So I was sent here as an old married lady to stand up against it, maybe because I'm not a man and maybe because I'm not single, but basically, we felt as a whole that this is a -- first of all, has the best of intentions, but that it's been confused around the country with policies about sexual assault and harassment.

"Case in point today, we are seeing it on the same day as a policy about sexual assault and harassment, which immediately brings to mind harassment and assault. And this is not about that. So we asked ourselves who this is protecting. It is not protecting cases of what they call gross power imbalances. It's protecting the same amount of power imbalance as there would be a faculty member dating someone at Ithaca College or anywhere else in town. They have no contact with one another in terms of the undergraduate level.

"So there was a feeling that given one of the points raised on the slides that we expect our students to be adults and to be able to give consent, in fact, it was brought up that it maybe reduces the power of consent when you continually construct environments where people are not allowed to give it and not give it.

"We also, one faculty member brought up if there was a young or old assistant professor in our department, Communication, who falls in love with a senior in Architecture, we want them to be open about their relationship. We don't want the relationship to be in secrecy. Because once secrecy happens, if there are issues of assault or if there are issues of harassment, they could be also kept in secret; and that to force these things in secrecy promotes secrecy, and that is not a good thing.

"And that there is no reason that the old policy does not work. In fact, given all of the things I talked about, that the old policy seems perfectly adequate for what our department at least felt is appropriate for the situation."

Professor Adkins-Regan: "I would just say that some people would counter that by saying yes, but our students are here and have paid to be here to learn and be taught and mentored, not to be viewed as a giant dating pool by the faculty."

Professor Dan Brown, Department of Animal Science: "Three quick things. One is, it's said that we are not supposed to nitpick, but there's something in there that actually undermines the original spirit and rationale of your whole deal.

"If it is justified to forbid relationships with undergraduates, and I think it probably is, it's completely confusing that if the undergraduate is not of a traditional age, then it's okay and has remedies. The idea that somebody returning to school at 32 or 42, but somehow less vulnerable to the power differential and all the stuff going on in someone who's 22 just doesn't stand the test of my observation and experience.

"I think, unless you want this thing to look silly, I think you need to drop that bit out. If you are going to forbid relationships with undergrads, it has to be all of them, not just the ones between 18 and 21. Certainly below 18, yeah, they ought to go to jail. But it just doesn't make any sense.

"The other additions are welcome. You should admit people as undergrads who are married to faculty and so on, but that's the first.

"The second would be one of the Achilles heels of the thing we were just discussing, the current 6.4 thing is that one person can completely overturn and make the final decision, no matter how much work, how much quality, how accurate findings were. And that's happening here. You are turning it over to one dean. I think if we're involving faculty, I think it should be a panel of three faculty, not the dean, who makes the final decision.

"And the third item is don't use these clickers. The last time we used them, they malfunctioned. The yeas and nays went up and down on the bar graphs after we quit voting. We all have hands. I promise I'll only use one. Just don't do that. That's it."

Professor Adkins-Regan: "Just with respect to your first point, of course in a case where there's an academic authority involvement, the prohibition applies, regardless of the age of the student."

Professor Birman: "I also have several concerns. Let me say first of all, I believe the '95-'96 version of the policy was important, and I endorse it and I think it's very well-written in general. I'm troubled by the wording and the exceptions in this revision. I feel like more is less in this case.

"I will give several examples. I have two colleagues who are married to people who it would be illegal for them to be involved with under the circumstances they got involved. In Computer Science, research associates and post-docs are treated really as graduate students and behave as graduate students; however, this policy explicitly classifies them as faculty and prohibits them from having relationships with undergraduates. And the graduate policy as well applies, despite the fact that in our department, they have no authority over undergraduates. So it's not a gross power imbalance.

"And if you look at age, it's not even such an age imbalance. And as several others have commented, I'm troubled by the oddity of some of the exceptions, the idea that above a certain age -- well, we have the national rules on when a person is an adult and when they're not -- trying to second-guess that and introduce a new additional level of constraint.

"And then there's a further problem even. I have neighbors who are gay, for example. I have many friends who have probably in their lives engaged in activities that they would not be comfortable disclosing. There's a danger of relationships or marriages breaking up. And here we create a set of compulsion to lie under threat of your job for things that sometimes happen between consenting adults.

"I don't think it's appropriate for us to go there. And the old policy covered the true issue, which is a power imbalance, and appears to be adequate in these same respects."

Professor Adkins-Regan: "If I could just respond very briefly to both of your points. First of all, the part that was added about the exceptions with respect to undergraduates, that was in response to comments at the previous faculty senate meeting.

"And with respect to post-docs, of course, the committee, CAFPS discussed that at some length. Depending on their roles, et cetera, they can be either under this document or under the one that addresses graduate students having academic

authority over undergraduates, which is another, separate part of all this. Their rules vary by department.”

Professor Birman: “That may be what -- [Inaudible]”

Professor Simone Pinet, Department of Romance Studies: “I never get feedback from faculty, but this really motivated a lot of the faculty I represent, and I have a lot of comments first about the characterization of faculty as predators in this kind of policy and how it really leaves no way for faculty to be able to see any way of acting normally around undergraduates or around graduate students, because this policy basically characterizes them as predators.

“The second issue I read about was the penalization not only of undergraduates, who as your presentation said, are adults legally, but now also of graduate students, who would then be not able to gauge or deal with power differentials, as if they were somehow to magically disappear when they were to graduate. I mean, they will have to deal with power differentials at every single point of their careers, and here it would be the faculty having, bearing the responsibility to do this.

“And there's a lot more points, but these are issues that some of them I agree with and some of them I disagree with, but I think that they're important issues that -- oh, the third one, most important one was how this would be leveraging of power from third parties. That was the one I got most feedback on, how third party -- the punishment for people who were to accuse frivolously and anonymously some of their colleagues, that the punishment for that seems to be quite lenient in comparison to what a faculty member might be to endure under these accusations.”

Professor Adkins-Regan: “Let me just point out very briefly that the graduate student paragraph does restrict this to situations that do or could involve academic authority, where the core issue is conflict of interest; that the faculty member's opinion of the student, positive or negative, is worthless, if they're having or have had a romantic or sexual relationship.”

Professor Vicki Meyers-Wallen, Department of Biomedical Sciences: “This is in the Veterinary College. So I had about 40 years -- I'm old enough to be a grandmother -- 40 years in veterinary medicine, came up when we were a very small part of the student body, and also in the faculty. So my experience is probably a little different than a lot of you here, who may be in Humanities, but I

can tell you that even though this policy is perhaps not perfect, we absolutely need a new policy that takes care of this problem; because although not all the faculty are predators, there are indeed predators among us. I have witnessed them, I have been a party to them, so I know they are there.

“How do you protect a student from that? They are virtually unprotected, because they cannot go to the supervisor and complain about the person who condones this behavior. There has to be someone outside of the college who deals with this in a very strict way, a very fair way, to take care of this problem.

“So until we do that, it's going to continue to be a problem. And I can say to you, it's not only a problem between the student, who's the victim, but all the other students who, even if it's a consensual relationship, all the other students who do not get fair treatment, who do not get fair assessment, and they know it. They know it.

“So we have to take care of this, because it is a continual problem. It's happening over and over, and the present system is just not working. Thank you.”

Professor Nathan Spreng, Department of Human Development: “Regarding this issue, I have been advised from my department really to vote against these measures, despite my own personal disapproval of relations among faculty and students, primarily because this seems to be an issue of legislating morality, and it's extremely problematic to do so among -- regarding the sexual behavior of consenting adults.

“And in addition to that, I think it's very much clear, there's plenty of evidence to show proximity and shared interest are the seeds of attraction and what will emerge into a romantic relationship. So this policy is not going to actually change behaviors.

“I have seen, within my own department and across my field, a prevalence rate of around 3% to 5% of marriages among graduate students and faculty, either at this institution or at a previous one. Would suggest the prevalence is a lot higher of relationships.

“So the issue really -- I don't think you are going to extinguish this as an occurrence with this policy, and the consequences and the descriptions to the social fabric I think are going to result in a lot of unintended consequences.

“And finally, I want to ask, have you done any sort of survey work of the faculty that are currently here about their own past behavior in this university or previous ones regarding relationships with graduate students, how would the change in policy actually apply to the faculty now?”

Professor Adkins-Regan: “The people who wrote this draft have some sense of that. Just by way of clarification of your department's feelings, are you saying that we shouldn't have any policy at all, that we shouldn't have the 1996 one either? Or just -- because it sounded like that was what you were saying. Just the changes. Thank you.”

Professor David Pizarro, Department of Psychology: “Just a couple of comments about previous comments, although I echo a lot of what Nathan said. I don't think the prohibition against legislating morality is the right way to frame it, because we legislate morality all the -- the law is largely legislation of morality. That doesn't mean that we shouldn't prohibit something, just because it happens to be a moral belief.

“I think this rather reflects the changing of the norms across this country. I don't think we have to have a blanket moral judgment that such relationships are bad, but rather that this reflects a concern that there is an abuse of power sometimes. This policy really is about consent in one sense, and the claim that this policy's making is that an undergraduate, under circumstances, even when they give explicit consent, is not of the right mental state to be giving consent.

“And I think we should focus it on that issue, because that's what's at heart here. I don't think -- I don't feel the language states that we are predatory by nature, so I'm not offended by that. The question is simply if a 21-year-old undergraduate wants to date a faculty member of any age, are we granting that this is a consensual relationship. And this policy is saying no, it is not consensual, even though both of them may jump up and down and say no, we consent, we consent.

“The specific question that I had was that the part I agree with, what Nathan and others have said, is this is not a policy that seems aimed at actually providing an incentive for good behavior. Rather, it provides a very, very strong disincentive against the reporting of this.

“And there's a Footnote 4, where there's a discussion of remedies. It says provided disclosure is made as soon as the person in authority recognizes that he

or she is involved in a relationship covered in this policy. The morning after, I guess is what -- remedies may include alternate supervisory arrangements, courses or programs or any other actions that remove the conflict of interest and avoid ongoing violation of this policy.

"Except for the policy is written explicitly that they would still be in violation in a blanket fashion, if they are in any relationship with an undergrad. So there is no remedy to that, other than forcing them to break up or lie and say that they have broken up. So I'm concerned about the nature of the remedies."

Professor Adkins-Regan: "Now, when it's disclosed to the appropriate person, that person does get to decide whether there's any problem or not. And that's where, for instance, if it's a student at some other part of the campus where there's no way on earth that there would ever be any conflict of interest, present or future, they would have the wherewithal to say I don't think this one needs sanctions. Bless you both."

Professor David Delchamps, Department of Electrical and Computer Engineering: "Honestly, I think the '95-'96 policy was fine. I'm willing to consider Item 2, extending it in two directions, as you said, forward and backward, but I think the law draws a line in the sand at the age of consent. And it doesn't make sense for us to draw another artificial line between graduates and undergraduates.

"And I think Professor Byrne did a really good job, and her colleagues' comments. We have this tendency to conflate this relationship stuff with assault, with predation, and I think that really is dangerous to do. And honestly, I see something like Paragraph One that says you can't have a relationship with an undergraduate unless this or unless this, I think that's a lot of trouble for nothing.

"And therefore, I would, myself, and I think this was implicit in the question I asked you last time, like to see language similar to that in Paragraph 2 apply to all students, without drawing this artificial bright line between undergraduates and graduates."

Professor Adkins-Regan: "That's the '96 version basically, that when -- right. Right."

Professor Lieberwitz: "I wanted to add some points, based on some of the comments that were raised. One is that a basic feminist principle, something that

feminists fought for, for many years was we call agency, the notion that we can choose, and that people don't choose for us.

“And it seems to me that maybe everybody was thinking about that, but I think it needs to be said, that this idea of protecting, and I think the idea that people have in mind is protecting women from their own choices is something that's been coming out in terms of the comments about consent, you know. As a student, I would have resented people telling me what was good for me.

“And so the other thing I wanted to raise is that the -- I think one thing to think about the policy that's in place right now is that it's a standard with some exceptions. The standard is to avoid an abuse of power, and here the exceptions that are actual specific prohibitions to that general standard that is we want to avoid abuse of power.

“And there are some specific situations where we say these are actual prohibitions, when you are actually teaching somebody, that sort of thing, but the rest we look at as this kind of broad standard, as opposed to what we are seeing here, which is a proposed rule. Can't do it. And here are some exceptions for when you can, with undergraduates. And then with graduate students, there's also a general prohibition, and I think it's quite overly broad.

“So I think the standard is what we're about. We want to actually avoid abuse of power and then point out places where there's such a great possibility for abuse of power that we have a prohibition, but it's more of using the old scalpel as opposed to the meat ax approach.

“And the other thing I wanted to point out in terms of the remedies is the -- I think Elizabeth, with your comments, it really raises the question of the possibility of selective enforcement. Who's going to decide when sanctions that's punitive needs to be done and who's going to not. Does it make a difference if you bring in a lot of money to the university, as opposed to if you are a pain in the butt for the administration. And I think that is a very real concern about fairness and even-handedness.”

Speaker Lewenstein: “We have time for one last person.”

Professor Sarah Murray, Department of Linguistics: “This question is about changes to the very first sentence of the policy. So it used to read relationships between students and their teachers, advisors and coaches and others holding

positions of authority. And it's been changed to be less restrictive. So now coaches have been removed, and the modifier academic has been added to positions of authority. So now it reads faculty advisors and others holding positions of academic authority over the student. So a colleague of mine asked me to relay this question, if you could comment on those."

Professor Adkins-Regan: "Yes. CAFPS, being the Committee on Academic Freedom and Professional Status of the Faculty, felt they should focus on the parts of the draft policy that dealt with relationships involving faculty. The drafting committee has other material that addresses relationships involving non-faculty staff and students, absolutely. Faculty are not the only ones that need to be addressed here, yeah. Thank you."

Speaker Lewenstein: "Despite Professor Brown's objection, we are going to start by trying to use the clickers. I will be putting up each paragraph, one at a time, and ask you to vote yes or no and see how it goes. Be sure you have turned your clickers on."

Professor Adkins-Regan: "Yes. The blue light will be on, on your clicker, if you've got it on. So make sure you see the illuminated blue light."

Speaker Lewenstein: "So it's hard to see, because it's off the screen. I can pull it down, so we can see it

"Voting is open. A is yes, B is no, for whether you approve of the principle underlying this paragraph. A is approve of the principle stated here, B is disapproval.

"Of course it would be Professor Brown's clicker that didn't work. We have 56 people signed in.

"So the vote on the first issue was that 40% approved of the principle and 58% disapproved of the principle.

"We now move on to the second paragraph. So again, A is approving of the principle in this paragraph, and B is disapproval.

"So the principle in paragraph 2, 52% approved of that principle. 46% disapproved.

"Just for the record, asking for the vote on the third item. Again, A is approval. B is disapproval.

"So on the disclosure policy, 40% approve and 60% disapprove.

"One last vote. So now the vote on the remedies paragraph. A is approve. B is disapprove.

"On the remedies paragraph, there was 25% voted A, support. 74% voted no, lack of support. These are advisory votes that go back to the drafting committee, and we move forward.

"Yes?"

UNIDENTIFIED SPEAKER: "Can we have an overall vote."

Speaker Lewenstein: "Would people like that? I think I have given the split of the vote. I think I'm not going to call for an overall vote, unless Elizabeth, would the committee value an overall vote?"

"No. Committee does not want that guidance from us. Just for the record, we have the slide indicating the members of the committee. I do thank you for that suggestion, though.

"So the last item on the agenda will be Good and Welfare item, and I call Matt Evangelista."

Professor Matthew Evangelista, Government Department: "My colleague, Richard Bensel, and I are new to the senate this year, so we apologize if we misunderstand any procedures or terminology.

"We're grateful to the dean of the faculty and the associate dean for agreeing to ask you to have a look in advance at the document sent to department chairs and others by the provost called Planning Grants for Cross-campus Programs Between Ithaca and Cornell Tech Campuses.

"It seems by its very nature to pertain to questions of educational policy which concern more than one college, school or separate academic unit. That's the wording, as you probably know, of Article 13, Section 2 of the university bylaws, by which the university faculty, represented by the faculty senate, is supposed to

consider such questions, presumably before they become policy. It's our understanding that that hasn't happened.

“Last spring, the faculty senate passed a resolution, asking that the administration comply with its obligations under Article 13. The administration is supposed to respond to faculty senate resolutions within 30 days, but it has not done so.

“At September's faculty senate meeting, two colleagues asked the president and the provost about the requirement for the senate to consider these matters of educational policy. According to the minutes, the president responded that we may have disagreements about the realm of educational policy jurisdiction. The provost said: I want to engage in these conversations and engage faculty in all levels of government.

“So it's in the spirit of the provost's response that we asked to put this planning initiative on the agenda for next month's meeting. The initiative entails using central funds from a university budget still \$27 million or \$28 million in deficit, to create tuition-paying master's programs in collaboration with the Tech campus in New York.

“It's a brilliant idea, or the opposite, or something in between, but it's clearly an idea that, according to the bylaws, we as the faculty senate are supposed to discuss. Thank you.”

Speaker Lewenstein: “I think in the interest of time, we will dispense with any questions on that issue. The request has been made to the University Faculty Committee to put this item on the agenda for the next meeting, so I declare the meeting adjourned.”

(End of meeting.)