

STATE OF NEW YORK
SUPREME COURT: TOMPKINS COUNTY

In the Matter of the Application of

JOHN DOE,

Petitioner,

FOR A JUDGMENT PURSUANT TO ARTICLE 78
AND SECTION 3001 OF THE CPLR

Index No. EF2026-0292

-AGAINST-

CORNELL UNIVERSITY,

Respondent.

AFFIRMATION OF LAUREN BRANCHINI

LAUREN BRANCHINI, pursuant to CPLR Rule 2106, affirms the following under the penalties of perjury:

1. I am Hearing Chair at Respondent Cornell University (“Cornell”), a private education corporation chartered under the laws of the State of New York. Previously, I served as the Title IX Coordinator for the university, including during the period of time relevant to this proceeding, and am fully familiar with the facts and circumstances set forth herein, based upon personal knowledge and a review of the underlying records related to this matter.

2. I submit this affirmation in opposition to the Verified Petition (“Petition”), filed by John Doe (“Doe”) in this matter.

3. After the filing of the Petition, I can attest that a careful search was conducted in my office for records pertaining to the instant matter, and the records filed by Cornell in Appendices 1-4 (R1-R3630) constitute the complete record of the internal proceedings necessary for this Court’s review (hereinafter, the “Record”). See NYSCEF Doc. Nos. 16-27.

4. I can also attest that the records filed by Cornell in Appendices 1-4 (R1-R3630) are true and correct copies of records in the University's custody.

5. I can further attest that the records filed by Cornell in Appendices 1-4 (R1-R3630) were received and/or created and kept in the ordinary course of business by authorized persons at Cornell from the time of their receipt and/or creation through the present.

The Reporting of the Incident

6. Around November 2024, several Cornell offices were made aware of reports that Jane Roe ("Roe") attended a party at the Chi Phi Fraternity on October 19-20, 2024, and, at this party, she was allegedly the victim of sexual assault after she and others ingested alcohol and ketamine. The incident in question reportedly occurred in a bedroom in the fraternity chapter house called the "Alumni" room.

7. On November 14, 2024, Roe met with representatives from the Cornell University Police Department ("CUPD"), the Office of Student Conduct and Community Standards ("OSCCS"), and what was then the Office of Institutional Equity and Title IX ("OIETIX"). OIETIX is now called Cornell's Office of Civil Rights ("COCR").

8. COCR, among other things, investigates allegations of bias and discrimination, along with sexual misconduct, sexual harassment, sexual assault, and dating or domestic violence. The Title IX Office within COCR, is tasked with enforcing Cornell Policy 6.4, "Prohibited Bias, Discrimination, Harassment, and Sexual and Related Misconduct" ("Policy 6.4"), which applies to every university staff member, faculty, and student. A true and correct copy of the version of Policy 6.4 in effect at the relevant time period for the underlying incident is attached hereto as Exhibit 1.

9. Under Policy 6.4, there are

several distinct procedures and other mechanisms for reporting, investigating, and resolving matters under this policy, with each procedure designed to correspond best with different types of conduct and the university's different constituencies and legal obligations. In any given case, the applicable procedure depends upon both the conduct alleged, and the respondent's relationship with the university (student, faculty, staff, or third party).

Ex. 1 at 1.

10. Relevant for this proceeding, Cornell has "Procedures for Resolution of Reports Against Students Under Cornell University Policy 6.4 for the Following Acts of Prohibited Conduct ... Attempting to Commit Prohibited Conduct; ... Sexual Assault; ... [and] Sexual Exploitation" (the "Procedures"). A true and correct copy of the version of the Procedures in effect at the relevant time period for the underlying incident is attached here as Exhibit 2.

The Formal Complaints

11. Roe recounted what she could remember from the evening in question, including, among other things, Doe and another fraternity member, ■■■ watching her in the Alumni room and snorting ketamine off her naked body. She also reported rumors of a group Snapchat circulating among the fraternity members, indicating there was "free pussy" in this room.

12. On November 22, 2024, after consulting with Roe, I commenced a Formal Complaint, naming seven respondents, including Doe (hereinafter, the "original Formal Complaint"). All of the respondents were members of the Chi Phi Fraternity. R1042-47.

13. Under Policy 6.4, a "Formal Complaint" is a [s]igned, written document from a complainant alleging specific prohibited conduct by a respondent and initiating the applicable resolution procedures under this policy, or a similar written document on behalf of the university, signed by a university official." Ex. 1 at 9; *see also* Procedures at 4 ("A 'Formal Complaint' of prohibited conduct is a written document signed by a complainant alleging specific prohibited

conduct by a respondent and initiating the resolution process under the Procedures ... ”). An “Investigation” is a “[s]ystematic inquiry into a formal complaint.” Ex. 1 at 9.

14. Under Section 18 of the Procedures, at the issuance of the Formal Complaint, the Title IX Coordinator notifies the complainant and respondent(s) in writing of the commencement of the investigation and provides a copy of the Formal Complaint. The “notice” under Section 18 is to provide all parties with “the alleged prohibited conduct and its date, time, and location, to the extent known” and, importantly, “the factual allegations pertaining to the prohibited conduct.” Ex. 2 at 20.

15. The original Formal Complaint included such information for all seven respondents, including Doe, who was accused of

violating Cornell University’s Policy 6.4 prohibition against Sexual Exploitation. Specifically, it is alleged that at the above time and place, [Doe] intentionally viewed the Complainant in a state of undress without her permission.

violating Cornell University’s Policy 6.4 prohibition against Sexual Assault. Specifically, it is alleged that at the above time and place, [Doe] touched his nose to the Complainant’s naked torso and inhaled a powered substance off her body without affirmative consent, including lack of affirmative consent due to incapacitation.

R1046.

16. There were similar allegations made against [REDACTED] *Id.*

17. Because the university often learns new information throughout the investigative process and sometimes during the hearing, my office specifically warns respondents that they may be found responsible for matters outside the Formal Complaint: “The University may hold the Respondents accountable for violations of Policy 6.4 and other policies that are not referenced in the Formal Complaint but are learned about from evidence, testimony, or admissions during the investigation and adjudication process.” This warning also informs

respondents that they may be found responsible for a lesser charge, like attempting prohibited conduct.

18. This warning was included in the original Formal Complaint. R1044.

19. On November 22, 2024, all respondents were served with the original Formal Complaint.

20. The Formal Complaint was then updated on January 14, 2025 and on March 12, 2025. R1048-59. The copy of the March 12, 2025 Formal Complaint in the Record (R1056-59) is grainy, so for the Court's convenience, attached hereto as Exhibit 3 is a clearer copy of this document.

21. All versions of the Formal Complaint had the above-warning that respondents may be found responsible for other prohibited conduct under Policy 6.4, including attempting the prohibited conduct for which they were charged. R1044, 1050, 1056.

Restrictive Orders

22. When Cornell has knowledge of alleged prohibited conduct, it will offer all parties "Supportive Measures," including "Restrictive" orders and "No-Contact" orders (curtailing or prohibiting contact or communications between or among individuals). Ex. 2 at 17. Upon a finding or responsibility, the university may also issue an updated "No-Contact" order. True and correct copies of such materials in the underlying proceeding have been filed as Appendix 1 to the Record. R1-28 (NYSCEF Doc. No. 17).

Investigation

23. After serving the original Formal Complaint, my office commenced a thorough investigation, interviewing the parties and key witnesses, along with collecting various related evidence, including from the parties themselves.

24. Doe submitted evidence in support of his defenses, including a proffered timeline from the evening in question, an Acknowledgement of Understanding of Doe's Involvement signed by [REDACTED] and a screenshot of [REDACTED]'s phone log, documenting a call from that same evening with Doe. R1264-69.

25. [REDACTED] also submitted evidence in support of his defenses and Doe's, which included a similar timeline. R1234-49.

26. On December 16, 2024, a Title IX Investigator interviewed Doe. A true and correct copy of the transcript of this interview is found in the Record at R480-503.

27. On December 9, 2024, a Title IX Investigator interviewed [REDACTED]

28. After the initial interviews, in early February 2025, the university received anonymously a video that captured someone scrolling through the entire rumored Snapchat message exchange on a cell phone. A true and correct copy of this video, along with certain other multimedia files, has been filed in hard copy with the Court, and is R1515 in the Record.

29. Both [REDACTED] and Doe were interviewed again, after receiving copies of the Snapchat. [REDACTED] was interviewed on February 10, 2025, and Doe was interviewed on February 24, 2025. A true and correct copy of the transcript of Doe's interview is found in the Record at R504-20.

The Consolidated Hearing – Pre-Hearing Materials

30. Upon completion of any investigation, the assigned investigator will prepare and provide to the parties copies of the draft investigative record, including transcripts (but not audio files) of interviews and copies of any documents, electronic records, media, and photographs collected during the investigation. Ex. 2 at 28. All parties have an opportunity to review and comment upon the draft investigative record before the investigator finalizes it and issues an Investigative Report.

31. Upon completion of the investigation, the investigator will also make a threshold determination as to whether there is sufficient evidence to advance the Formal Complaint to a hearing. Ex. 2 at 29-30. If a case is referred to a Hearing Panel, a Notice of Hearing will be sent to the parties. The notice will include, among other things, “the charges at issue” and “a brief summary of the alleged prohibited conduct.” Ex. 2 at 34.

32. Prior to the completion of the investigation, on February 18, 2025, the Investigator asked the Hearing Chair to determine whether the formal complaints against the various respondents should be consolidated for the purposes of a hearing. R29. After hearing from the parties, the Chair directed the investigation be joined into one hearing. R31.

33. On April 3, 2025, Doe’s attorney sought dismissal of the Formal Complaint, which was denied on April 8, 2025. R32-40.

34. On April 14, 2025, the Investigator issued a Hearing Notice and Investigative Report, which would later be updated on April 23, 2025. R41-113. Certain limited portions of the Investigative Record provided to the parties, including Doe, includes redactions of irrelevant personal, sensitive, or confidential information. A true and correct copy of the Notice of Hearing and final Investigative Report, including Appendices A-E, as provided to the parties, can be found in the Record at R41-1583.

35. Appendix D to the Investigative Record included a detailed timeline of events for numerous individuals involved in the investigation. The copy provided with the Investigative Report uses small font and can be hard to read. Attached hereto as Exhibit 4 is a true and correct copy of this timeline in a PDF format that allows for the reader to more easily increase the font size.

36. Findings of responsibility are made through a hearing process conducted by a three-member Hearing Panel and a non-voting Hearing Chair. Ex. 2 at 32. Parties are entitled to provide brief opening statements, to testify, and to provide written closing statements. Ex. 2 at 33. The parties are asked to submit a written or recorded Impact/Mitigation Statement prior to the start of the hearing, but these statements will only be shared if there is a finding of responsibility for the respondent in question. *Id.*

37. Parties are also allowed to request witnesses, which many of the parties did. Materials submitted by the parties to a hearing sometimes include irrelevant personal/confidential information or information not part of the Investigative Record. When this happens, my office will often redact this information prior to distributing the submissions to the other parties. True and correct copies of the witness request forms for the parties, as provided to the parties and including such redactions, are in the Record at R1584-1618.

38. Pursuant to Section 26.8.3 of the Procedures, the Hearing Chair, consulting with the Hearing Panel, ruled on these requests. Ex. 2 at 36. On April 30, 2025, the Hearing Chair issued a Memorandum outlining the witness list based on the Chair's ruling. A true and correct copy of this Memorandum is in the Record at R1619-21.

39. A true and correct copy of Roe's Opening Statement, with similar contemporaneous redactions by my office, is in the Record at R1622-25.

40. A true and correct copy of Doe's Opening Statement, with similar contemporaneous redactions by my office, is in the Record at R1626-31.

41. At some point, after the Hearing, additional information in the form of a February 25, 2025 e-mail and attachments was added to the hearing record, which was distributed on August 18, 2025. A true and correct copy of this information is in the Record at R1632-37.

42. The Pre-Hearing materials related to Doe's Article 78 Petition include the Notice of Hearing, Final Investigative Report and Appendices A-E, the witness request forms for the parties, the Hearing Chair's Memorandum and Witness List, Jane Roe's and Doe's opening statements, and the additional hearing record information. True and correct copies of these Pre-Hearing materials have been filed as Appendix 2 to the Record. R29-1637 (NYSCEF Doc. Nos. 18-19).

43. Certain multimedia files in Appendix C (R1509-1525) and Appendix E (R1581-83) have been filed separately with the Court. While other multi-media files were professionally transcribed, and the Investigative Report contained transcripts of such files (in lieu of original recordings), these multimedia files were provided in their original form as part of the Investigative Record (apart from certain redactions in the media file of irrelevant personal information or information not part of the Investigative Record).

The Consolidated Hearing – Twelve Days of Proceedings and Testimony

44. Under the Procedures, the Hearing Panel will determine whether the respondent is responsible by a majority vote using a preponderance of the evidence standard, meaning a majority of the Hearing Panel must be satisfied, upon the hearing record, that it is more likely than not that the "respondent committed all of the elements of the alleged prohibited conduct." Ex. 2 at 33.

45. Cornell held a hearing over 12 days in May 2025. R1638. Each session of the Hearing was recorded and professionally transcribed. True and correct copies of the transcriptions from these 12 days of the Hearing are in the Record at R1638-3369.

46. During the Hearing, the parties or their attorneys/advisors were allowed to communicate with me, as the Title IX Coordinator, via e-mail. True and correct copies of Roe's

hearing communications, with certain contemporaneous redactions, are in the Record at R3370-3421. True and correct copies of Doe's hearing communications, with certain contemporaneous redactions, are in the Record at R3422-3485.

47. During the Hearing, on May 15, 2025, Doe's attorney complained in the morning that Panelist Bao ("Bao") was not paying attention. During a break, the Hearing Chair spoke to the panelists, who all confirmed that they were in fact paying attention and participating.

48. Later that same day, after lunch, Doe's attorney complained again, speculating that Bao was driving during the proceedings. He demanded that the Hearing be adjourned until she stopped driving. The Hearing Chair took a break at 2:12 PM (the break and this specific time were referenced in the Record at R2526).

49. During this break, Bao explained that she had tried to complete a drive over the lunch break but had been unable to do so because of heavy traffic. When it was time to reconvene, she logged back on and continued to participate. With the break, Bao was able to find an acceptable place to stop, and she then continued participating in the Hearing from that location.

50. On May 16, 2025, Doe's attorney demanded a mishearing, which was denied by the Hearing Chair, pursuant to the discretion afforded her under the Procedures. R3455-56, R3459-60.

51. After the Hearing, both Roe and Doe submitted closing statements. A true and correct copy of Roe's closing statement, along with the mitigating statement she submitted prior to the Hearing commencing, is in the Record at R3486-3492. A true and correct copy of Doe's closing statement, along with the mitigating statement he submitted prior to the Hearing commencing, is in the Record at R3493-3501.

52. When Cornell moves forward with a hearing, the Title IX Coordinator drafts a letter regarding a respondent's disciplinary record, which is only provided to the Hearing Panel upon a finding of responsibility. The letter, which documents any prior findings or sanctions, is then used by the Panel when it determines sanctions. I drafted such a letter for Doe, dated April 30, 2025, which was provided to the Hearing Panel after determining Doe was responsible for Attempting Sexual Exploitation. A true and correct copy of this letter is in the Record at R3502.

The Hearing Panel Decision

53. On August 18, 2025, the Hearing Panel issued a 99-page Decision outlining its findings from the Hearing. This Decision was unanimous (when such decisions are not unanimous the written decision will indicate the Hearing Panel's split vote). Copies of the Hearing Panel Decision were redacted for each recipient, so the recipient was only provided those findings and sanctions relevant to himself. A true and correct copy of the version of the Hearing Panel Decision provided to Doe is in the Record at R3503-3601.

54. The Hearing materials related to Doe's Article 78 Petition include the 12 days of hearing transcripts, the hearing communications, the post-hearing submissions (and Title IX disciplinary letter), and the Hearing Panel Decision. True and correct copies of these Hearing materials have been filed as Appendix 3 to the Record. R1638-3601 (NYSCEF Doc. Nos. 20-24).

Doe Appeals Hearing Panel Decision

55. Doe appealed the Hearing Panel Decision. A true and correct copy of his appeal is in the Record at R3602-19.

56. Roe requested an extension to respond to Doe's appeal. A true and correct copy of this extension request is in the Record at R3620-21.

57. After receiving an extension, Roe eventually filed her response to Doe's appeal.

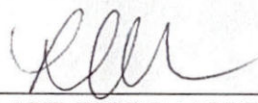
A true and correct copy of Roe's response is in the Record at R3622-28.

58. On January 14, 2026, the Appeal Panel unanimously affirmed the Hearing Panel's Decision. A true and correct copy of this Decision is in the Record at R3629-3630.

59. The Appeal materials related to Doe's Article 78 Petition include Doe's appeal, Roe's extension request, Roe's response to Doe's appeal, and the Appeal Panel Decision. True and correct copies of these Appeal materials have been filed as Appendix 4 to the Record. R3602-30 (NYSCEF Doc. No. 25).

I affirm this 17th day of July, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

Dated: Ithaca, New York
July 17, 2026


LAUREN BRANCHINI

202.8-b CERTIFICATION

I hereby certify that the foregoing document is 3,179 words and in compliance with
22 NYCRR 202.8-b(c).

Dated: July 17, 2026

/s/ Adam G. Pence
ADAM G. PENCE, ESQ.