



# GLOBAL OPERATIONS AT CORNELL

CHRISTINE POTTER, GLOBAL OPERATIONS  
JOHN HARABEDIAN, TAX  
JAY CANAVAN, LEGAL COUNSEL  
NORMA SCHWAB, LEGAL COUNSEL

# TODAY'S OBJECTIVES

- Better understand the challenges and business risks when conducting international activities.
- Learn about the support structure and services provided by Global Operations and advisory members in other departments.
- Review key provisions of the University Transaction Authority & Payment Approval Policy (4.2).
- What's next?

# WHAT IS "BUSINESS" ABROAD?

General term we use for anything international... research, teaching, consulting, academic collaborations and joint ventures, travel, executive education, etc.

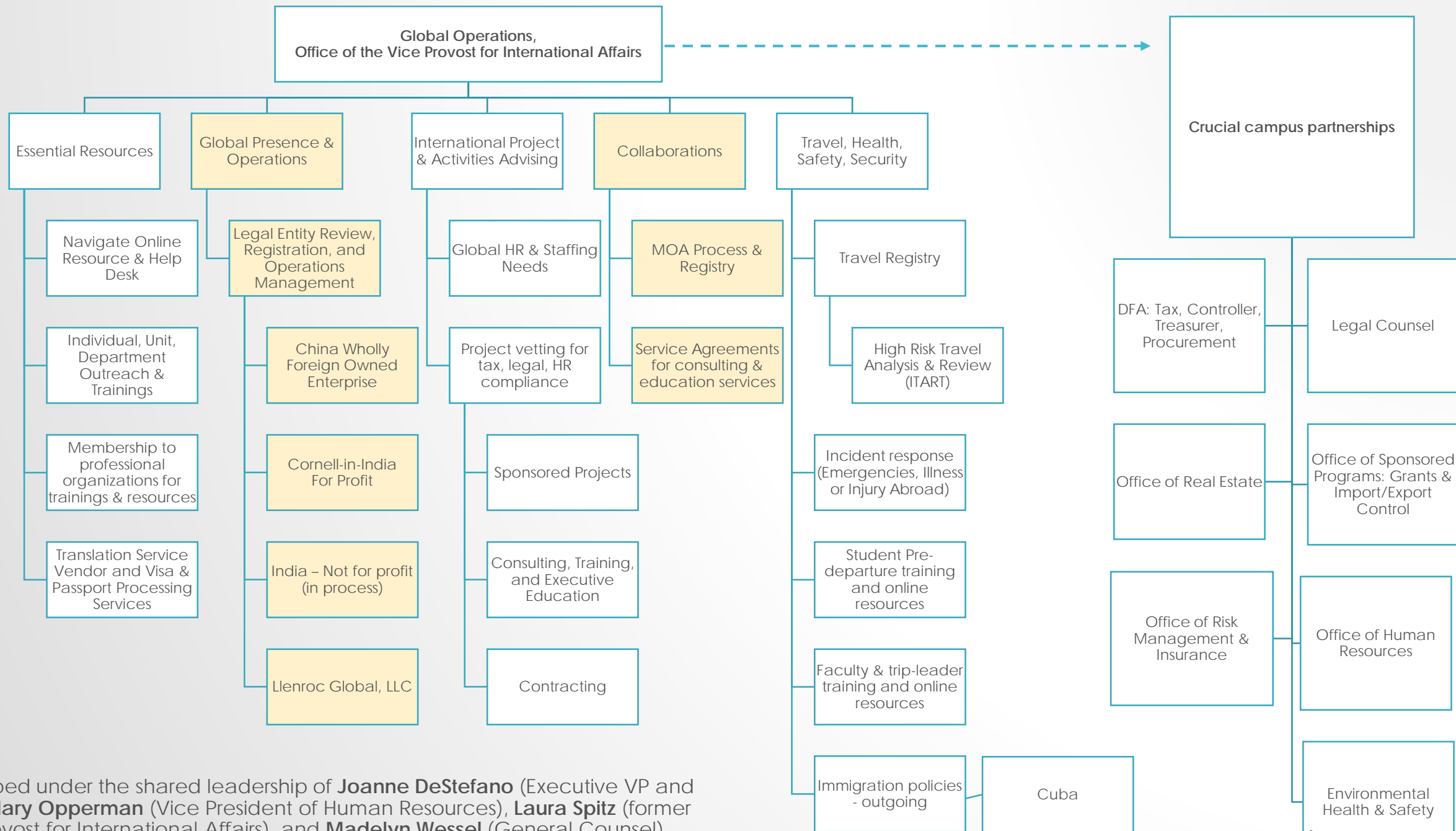
WORKING WITH OR IN ANOTHER COUNTRY.

# CHALLENGES

- Cornell's U.S. non-profit status/business license doesn't extend to other countries, but we have often operated like it has.
- Risks of doing business outside of the U.S. are increasing—RAPIDLY.
  - Regulatory environments are changing.
  - Foreign governments paying more attention—seeking revenue.
  - Every country has different regulations.
  - Enforcement unpredictable.
- The hardest questions do not always have exact answers.
- We need to continue to conduct business—yet build support structures and awareness simultaneously.
- The financial risks are easier to quantify than the reputational damage, but both can be very costly indeed.

# BLIND SPOTS

- When Cornell receives foreign-sourced income we're often responsible for paying withholding taxes in country before receiving payment.
  - Withholding results in a lower net payment, which may come as a surprise to units who are not aware of the tax burden at the time of quoting a project (including sponsored projects).
- Assuming an Independent Contractor is the solution to hire staff abroad.
  - Substantial legal fees can be incurred by virtue of the failure to get legal advice up front before hiring and/or termination.
- Delivering services/contracting for services without first having vetted contract in place.



Developed under the shared leadership of **Joanne DeStefano** (Executive VP and CFO), **Mary Opperman** (Vice President of Human Resources), **Laura Spitz** (former Vice Provost for International Affairs), and **Madelyn Wessel** (General Counsel).

# PERMANENT ESTABLISHMENT (PE)

- PE = Fixed place of business
- Unintended taxable presence is created in the host country. All activities could be taxed at highest foreign business tax allowed.
- Individual units, colleges or schools are not viewed independently
  - What one unit does can impact the status of the university as a whole
  - By guiding work conducting abroad, we help all units do their work
- Tests for PE
  - “Fixed” place of business – Working out of a location (even someone’s home) regularly
  - Dependent agent – economically dependent person or agency in another territory; conducting work on our behalf (usually involves negotiating contracts)
  - In-country presence - Habitually traveling to country (on a regular and continuous basis)
- Every country interprets PE differently
  - Defined in a country’s domestic tax laws, or under a bilateral Income Tax Treaty between the home country and the host country.

# RISKS IF PE IS NOT ACTIVELY MANAGED...

- Damage to reputation
- Unfunded and corporate tax liabilities
- Potential indirect tax
- Increased audits from tax authorities in target country
- Penalties and interest charges
- Immigration considerations
- Regulatory issues



United States

Cornell University  
501c3 Tax Exempt, registered in  
New York State

Llenroc Global, LLC  
Registered in New York State  
Formed: 9 November 2015  
DOS ID#: 4846539  
Banking: HSBC

Wendy  
Wolford,  
Chairman

Gerald  
Hector,  
Treasurer

Christine  
Potter,  
Secretary

India

Cornell-in-India Private Ltd.  
(For profit)

Registered in New Delhi, India

Shareholders:

Llenroc Global 99%/Cornell University 1%

Registered office: Flat No 333, 3<sup>rd</sup> Floor, Devika  
Tower 6, Nehru Place, New Delhi, 110019, India

Banking: Yes Bank

Accountants:  
Sannam S4

Auditors: Mohinder  
Puri & Co

John  
Harabedian,  
Director

Christine  
Potter,  
Director

Kapil Dua,  
Director (India  
Based)

Cornell India Foundation

Section 8 - Not-for-Profit

Shareholders:

Cornell University 99%/Llenroc Global 1%

Formed: TBD

Registered office: TBD

Banking: TBD

Accountants:  
Sannam S4

Auditors: TBC

Sanjeet Malik,  
(Cornell alum, India  
resident), Director

Arun Hanumandas  
Lakhani (India  
resident), Director

China

Ezra (Beijing) Business Consulting  
Co., Ltd.

爱咨莱 (北京) 商务咨询有限公司  
(Wholly Foreign Owned Enterprise WFOE)  
Registered in P.R.C.

Shareholders: Llenroc 100%

Operation term: 23 February 2017 – 22 February 2047

Banking: China Merchants Bank

Accountants: Intertrust

Auditors:

Christine  
Potter,  
Supervisor

Gerald Hector,  
Legal Rep/  
Executive  
Director

Mei KUANG,  
General  
Manager

# INTERNATIONAL CONTRACTING

- Units must engage Global Operations to assist with agreements for projects or activities that are **with a foreign institution, sponsored by a foreign entity, or when Cornell conducts work outside of the U.S.**, including:
  - **Institutional Collaborations** (process <https://navigate.cornell.edu/hc/en-us/articles/229097607-Institutional-Collaborations>)
  - **Other International Projects and Activities** (process <https://navigate.cornell.edu/hc/en-us/articles/360002222474-Other-Projects-and-Activities>)
    - Research, education, and capacity building
    - Tuition or service revenue for non-degree programs
    - Staffing needs outside of the U.S., including independent contractors
- **What's not in our scope?**
  - Tuition for traditional degree programs
  - Investment activity
  - Technology licensing

# INTERNATIONAL CONTRACTING: POINTS WE EVALUATE

- Cornell's essential terms (use of Cornell name, data security, anti-corruption provisions, intellectual property, etc.)
- Tax withholding, country-specific tax treaties
  - Recently saved a unit \$37K by providing a tax clause for Master Services Agreement
- Permanent Establishment exposure
  - Would like all units to be able to engage in all countries. One unit could impact the tax burden for everyone.
- Allocation of risk

# OVERSEAS STAFFING SOLUTIONS

It depends, and we can assist ([navigate.cornell.edu](http://navigate.cornell.edu))

- Collaborating with local institutions to employ on your behalf
- Professional Employment Organizations (PEOs) or Employers of Record (EOR)
- In China and India, those who have the characteristics of an employee must be hired through Cornell's legal entities:
  - Ezra (Beijing) Consulting WFOE (China)
  - Cornell-in-India for profit (India)
    - Will eventually transition some employees to not-for-profit once it's operating
- ICs (not always feasible/legal depending on country and circumstances)
  - Procurement processes, but Global Operations approves international IC requests
- ~~Hire foreign national as Cornell employee~~

# POTENTIAL PITFALLS OF INTERNATIONAL INDEPENDENT CONTRACTORS

- Back tax withholdings
- Back social security contributions
- Back unemployment/workers compensation insurance
- Back overtime, if applicable
- Back benefits due under the terms of certain employer plans
- Interest and penalties
- Back vacation and holidays
- Back mandatory local benefits
- Severance pay, notice pay and liabilities for unfair dismissal
- Additional fines



CORNELL UNIVERSITY  
POLICY LIBRARY

## Transaction Authority and Payment Approval

### POLICY 4.2

Volume: 4, Governance  
Chapter: 2, Transaction Authority  
and Payment Approval  
Responsible Executives:  
President/Provosts  
Responsible Office: Executive Vice  
President and Chief Financial  
Officer/University Counsel  
Originally Issued: December 1989  
Last Updated: December 12, 2016

### POLICY STATEMENT

Cornell’s Board of Trustees, “the Board,” formally delegates authority to designated individuals to enter into agreements with external parties that obligate the university. This is referred to as “transaction authority.” An individual must not assume transaction authority unless that authority is extended through this policy.

The Board also grants to heads of units the authority to delegate “payment approval” to individuals with related functional responsibilities. This is not the same as transaction authority. Instead, payment approval is the authority to approve payments charged to university accounts.

An individual must not assume transaction authority unless that authority is extended through this policy.

### REASON FOR POLICY

To protect the interests and manage the risks of the university, the Board delegates authority to specific individuals to undertake transactions with external parties. In addition, the Board provides for the appropriate review of all transactions by establishing payment approval.

Types of Transactions	Transaction Definition	Responsible Individual, Ithaca Campus Units	Responsible Individual, Weill Cornell Campus Units
<b>International</b>	Transactions with foreign entities or individuals, other than purchasing transactions or sponsored awards.	University Counsel and the Vice Provost for International Affairs	University Counsel
<b>Legal Services</b>	Outside legal services	University Counsel	University Counsel
<b>Other</b>	Licenses, including alcoholic beverages	University Counsel	University Counsel
<b>Purchasing</b>	Policies, purchase orders, agreements, equipment leases, software contracts, and all other contracts related to the procurement of goods and services	Vice President for Finance and Chief Financial Officer	Executive Vice Provost
<b>Sponsored Awards</b>	Proposals, contracts, agreements, and renewals	Senior Vice Provost for Research	Senior Executive Vice Dean

International transactions must be approved by University Counsel and the Vice Provost for International Affairs Office

## TRANSACTION AUTHORITY AND PAYMENT APPROVAL POLICY 4.2

In addition to transaction type designations, there are threshold amounts that require Provost, EVP-CFO, or President approval (\$1 million to \$4.99 million) and \$5million or greater must be approved by Board of Trustees

Threshold	Transaction Authority, Ithaca Campus Units	Transaction Authority, Weill Cornell Campus Units
Non-capital, non-investment transactions up to \$1,000,000	As stated in Delegation Plan For responsible individuals, see Appendices A through E.	Executive Vice Provost, WCMC
Non-capital, non-investment transactions between and including \$1,000,000 and \$4,999,999	The Provost or Vice President for Finance and Chief Financial Officer or President	Provost for Medical Affairs or Vice President for Finance, and Board of Overseers
Non-capital, non-investment transactions of \$5,000,000 or greater	The President and Board of Trustees For real estate and facilities, see Appendices C, D, and E.	The President and Board of Trustees For real estate and facilities, see Appendices C, D, and E.

# MOA DELEGATION PLAN

## DELEGATION PLAN FOR INTERNATIONAL MEMORANDA OF AGREEMENT (MOA) TRANSACTION AUTHORITY

**We, University Counsel and Vice Provost for International Affairs, as the responsible individuals for international transactions and collaborative agreements, hereby delegate transaction authority to the following individuals involved in and only in the situations described below.**

**For international agreements, aka Memoranda of Agreements (MOA), that follow the approved process for approval and are executed at the college/unit-level, we authorize**

- **the Dean of the college-level unit of Computing and Information Science to serve as a responsible individual on agreements that involve departments that report to that unit.**
- **the Dean of the College of Agriculture and Life Sciences to serve as a responsible individual on agreements that involve that college and any units that report to that college.**

- agreements that involve that school and any units that report to that school.
- the Dean of the New York State College of Veterinary Medicine to serve as a responsible individual on agreements that involve that college and any units that report to that college.
- the Dean of the School of Continuing Education and Summer Sessions to serve as a responsible individual on agreements that involve that school and any units that report to that school.

This authorization is valid only when the said international transaction or agreement has been reviewed by both University Counsel and the Vice Provost for International Affairs. International collaborative agreements are not recognized as official without the signature of University Counsel and the Vice Provost for International Affairs.

Approval:

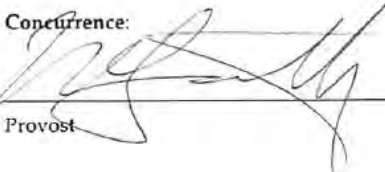
  
\_\_\_\_\_  
University Counsel

10/19/16  
Date

  
\_\_\_\_\_  
Vice Provost for International Affairs

10-14-16  
Date

Concurrence:

  
\_\_\_\_\_  
Provost

10/21/16  
Date



# OUR NEXT STEPS

- Develop a Transaction Authority Delegation Plan for all international agreements.
- Identify a “single point of light” for each unit to manage international contract process. Regular trainings and roundtables.
- Build Global Operations unit
  - Executive Director
  - International HR Director (recruiting)
  - Manager of International Travel Health & Safety (new 3/2018 - Chris Cook)
  - International-specific legal counsel (under General Counsel)
  - Global Operations Administrator (recruiting)
- Establish an international contract management system
  - Template management
  - Online shared/collaborative contract drafting
  - Approval workflow
  - Digital signature
  - Lifecycle management
  - Reporting
- Work with campus stakeholders to fold existing practices into our framework.
- Work with new faculty who have identified themselves as engaging internationally.

# QUESTIONS?

[NAVIGATESUPPORT@CORNELL.EDU](mailto:NAVIGATESUPPORT@CORNELL.EDU)

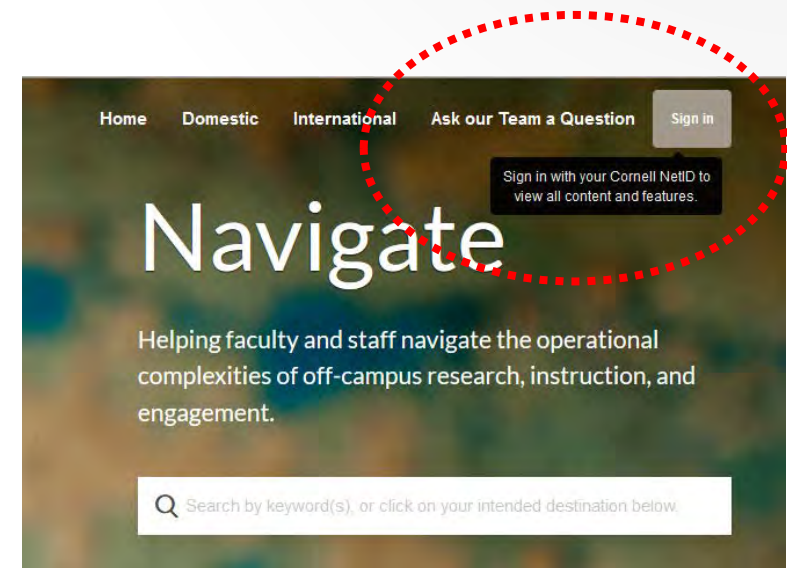
# APPENDIX

# OTHER CONTRACTS & COLLABORATIONS

- MOA Registry
  - <http://moaregistry.global.cornell.edu/>
  - Overarching MOA & Project agreements
  - Per Cornell's policy, items that go through OSP and/or procurement are exempt from registry.
- Real Estate – leasing space (office, housing, etc.)
  - Cornell may need to have legal entity in country in order to directly lease space. Sub-contractors are a good, viable alternative.
  - [There's a separate review for lease approvals](#)
  - Unit representatives cannot sign leases. Real Estate will determine the appropriate authority in each instance.
- Guard against the misuse of the Cornell name, brand, and reputation.
  - Please reference [Cornell's policy on Use of Cornell's Names, Logos, Trademarks, and Insignias](#)

# ASK OUR TEAM A QUESTION

- The “**Ask our Team a Question**” feature feeds into a ticket system supported by administrators all around campus.
- Use ticket system or just email [navigatesupport@cornell.edu](mailto:navigatesupport@cornell.edu) to generate a ticket.
- Questions are routed to the team member responsible for answering questions on that subject matter.
- It doesn't matter where the Navigate team members are physically located—the online platform allows the team to work as one.



[navigate.cornell.edu](https://navigate.cornell.edu)