UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT LEXINGTON
CASE NO. 5:25-cv-00424-DCR

RAMSI A. WOODCOCK PLAINTIFF

v. **MOTION TO DISMISS**

UNIVERSITY OF KENTUCKY, *et al.* DEFENDANTS

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The University of Kentucky and its Officials—President Eli Capilouto, Provost Robert DiPaola, General Counsel William Thro, and Dean of the College of Law James Duff—move, under Rule 12(b)(1)[1] and (b)(6)[2] to dismiss the Complaint.

INTRODUCTION

Ramsi Woodcock is an anti-trust scholar and the Wyatt Tarrant Combs Professor of Law at the University of Kentucky's Rosenberg College of Law. Professor Woodcock publicly rejects the foundational idea of Israel—"the right of the Jewish people to national rebirth in its own country" and "to be masters of their own fate, like all other nations, in their own sovereign State."[3] Professor Woodcock goes beyond

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1 "The sovereign immunity guaranteed by [the Eleventh] Amendment deprives federal courts of subject-matter jurisdiction when a citizen sues his own State." *Russell v. Lundergan-Grimes*, 784 F.3d 1037, 1046 (6th Cir. 2015).

2 A complaint must allege "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). This Court "may consider exhibits attached to the complaint, public records, items appearing in the record of the case, and exhibits attached to defendant's motion to dismiss, so long as they are referred to in the complaint and are central to the claims contained therein, without converting the motion to one for summary judgment." *Gavitt v. Born*, 835 F.3d 623, 640 (6th Cir. 2016). Indeed, this Court may "consider affidavits and exhibits submitted by defendants when documents…are central to the plaintiff's cause of action." *Arnold v. Liberty Mut. Ins. Co.*, 392 F. Supp. 3d 747, 764 (E.D. Ky. 2019) (citation modified).

3 DECLARATION OF ISRAEL'S INDEPENDENCE (May 14, 1948), archived at THE AVALON PROJECT, Yale Law School, https://perma.cc/US4D-5PMN.

this to "explicitly argue for the violent destruction of Israel and laying out a plan for a global war against the Jewish State."[4] In essence, he publicly urges for the annihilation of a sovereign nation and the Jewish people who constitute it.[5] Speech calling for a second holocaust is antisemitic under the definition utilized by both the federal government[6] and the Commonwealth of Kentucky.[7]

Professor Woodcock has spoken on this topic by creating a website to promote his Petition for Military Action Against Israel, usurping an academic conference by interjecting opinions wholly unrelated to formal panel discussion, posting to the American Association of Law Schools and internal faculty listservs, and commenting at a public event while serving as Chair of the law school's Committee on Community Engagement.

Of course, antisemitic "speech cannot be restricted simply because it is upsetting or arouses contempt."[8] "The hallmark of the protection of free speech is to allow free trade in ideas—even ideas that the overwhelming majority of people might

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4 Luke Tress, *US Professor Sues University for Probing His Call for Global War to "End Israel*," THE TIMES OF ISRAEL (Nov. 15, 2025) (citation modified), (https://perma.cc/9Z45-G5GE).

5 Ramsi Woodcock, *We Need An International Coalition to Declare War on Israel Right Now*, Antizionist Legal Studies Movement (Dec. 10, 2024), https://perma.cc/44KH-9SVC ("The lesson is clear: to stop the Palestinian Genocide, the world must go to war against Israel."); Ramsi Woodcock (@RamsiWoodcock), X (Sept. 27, 2024), https://perma.cc/SYH6-BKHL ("The destruction of Israel is a global moral imperative for our age. . . . Anyone not calling for it is a racist."); *Petition for Military Action Against Israel*, Antizionist Legal Studies Movement, https://perma.cc/YWV3-WSCD ("We demand that every country in the world make war on Israel immediately and until such time as Israel has submitted permanently and unconditionally to the government of Palestine everywhere from the Jordan River to the Mediterranean Sea.").

6 Executive Order 13,899 (Combating Anti-Semitism), 84 Fed. Reg. 68779 (Dec. 11, 2019), https://perma.cc/XFY3-3EVW.

7 Senate Joint Resolution 55, 2025 Ky. Acts Ch. 157.

8 *Snyder v. Phelps*, 562 U.S. 443, 458 (2011).

find distasteful or discomforting."[9] Even so, Professor Woodcock's free speech rights are not absolute.

There are at least three situations in which the University of Kentucky could take action because of Professor Woodcock's expression. First, if Professor Woodcock is speaking as a University of Kentucky employee or using the University's resources to advance his speech, it is not constitutionally protected.[10] Second, if his expression amounts to harassment, as defined by the Supreme Court,[11] then it is not constitutionally protected.[12] Third, even if Professor Woodcock was speaking as a private citizen and even if his speech did not constitute harassment, it is necessary to strike "a balance between the interests of" Professor Woodcock "as a citizen, in commenting upon matters of public concern" and the interest of the University, "as an employer, in promoting the efficiency of the public services it performs through its employees."[13]

Because antisemitic statements can violate Title VI[14] and because the University cannot ignore a possible Title VI violation,[15] the University began to

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9 *Virginia v. Black*, 538 U.S. 343, 358, (2003).

10 *Garcetti v. Cabellos,* 547 U.S. 410, 417 (2006).

11 *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 650 (1999).

12 *See DeJohn v. Temple Univ.*, 537 F,3d 301, 317-18 (3rd Cir. 2008).

13 *Pickering v. Bd. of Educ. of Twp. High Sch. Dist. 205, Will Cnty.*, 391 U.S. 563, 568 (1968) (citation modified).

14 Exec. Order No. 13,899 (Combating Anti-Semitism), 84 Fed. 68,679 (Dec. 11, 2019).

15 Like all recipients of federal funds, when the University becomes aware of a possible violation of Title VI, it must respond with something other than deliberate indifference. *See Malick v. Croswell-Lexington District Schools*, 148 F.4th 855, 862 (6th Cir. 2025); *Doe v. Diocese of Covington,* 2025 WL 1691188 (E.D. Ky. June 16, 2025) (Reeves. J.).

investigate Professor Woodcock's actions.[16] As it routinely does, the University reassigned Professor Woodcock to other duties while the investigation is pending, but continues to pay him his full salary.[17] When informing him of the investigation, the University emphasized it "is not investigating any viewpoints or speech expressed in [Professor Woodcock's] personal capacity," and that the University is "deeply committed to safeguarding academic freedom, which is of transcendent value' for the entire institution."[18] The University also assured Professor Woodcock that it "reviews reports objectively and does not advocate for either party," and that he "could submit statements, information, or supporting evidence through the course of this investigation."[19] Finally, the University also provided him with a detailed description of the process that would be used in the investigation.[20]

The University Notice of Investigation,[21] and subsequent Amended Notice of Investigation,[22] which define the scope of the inquiry, have focused on whether: (1) he used university resources to develop and promote his Petition for Military Action

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16 As individuals who are "accessing university libraries or other resources, or attending campus tours, sporting events, or other activities" can bring a Title IX claim, *Snyder-Hill v. Ohio State Univ.*, 48 F.4th 686, 708 (6th Cir. 2022), and Title IX and Title VI are interpreted in the same way, *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 258–259 (2009), so it follows that anyone who interacts with the University or its employees can sue under Title VI. Moreover, in recent months, the federal government has investigated many institutions for alleged Title VI violations.

17 The Sixth Circuit held the University's practice of reassigning a professor while an investigation is pending does not violate a professor's rights. *Cunningham v. Blackwell*, 41 F.4th 530, 536–39 (6th Cir. 2022).

18 *See* Exhibit 1 - July 22, 2025, Notice of Investigation.

19 *Id.*

20 *See* Exhibit 2 - August 25, 2025, correspondence from Farnaz Farkish Thompson to Joe Childers, counsel for Ramsi Woodcock, sent after the initial meeting with Professor Woodcock.

21 *See* Exhibit 1 - Notice of Investigation.

22 *See* Exhibit 3 - Amended Notice of Investigation.

Against Israel; (2) seizing control of a panel discussion at two academic conferences to present his views; (3) used his university email address to send spam to the American Association of Law Schools listserv and internal faculty listserv setting out antisemitic views; (4) while serving as Chair of the law school's Committee on Community Engagement, made antisemitic comments at a public event; and (5) the alleged violation of various university policies.[23]

The investigation may conclude that Professor Woodcock's speech is fully protected and that he has not violated any university policies. If so, the Dean of the law school likely will return him to teaching duties.[24] Alternatively, it may conclude his speech is not protected and he has violated university policies. If the University concludes the latter, then Professor Woodcock will receive due process in accordance with the University's Administrative Regulations[25] and Kentucky law.[26]

Yet Professor Woodcock does not want to participate in the investigation, allow it to conclude, or for the possible initiation of due process proceedings.[27] Instead, he filed this suit seeking to stop the investigation, challenge the constitutionality of a federal executive order and a state legislative act, and recover damages from the University and University Officials. Moreover, rather than cooperating with the

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[23] *See* Exhibit 1 - Notice of Investigation; Exhibit 3 - Amended Notice of Investigation.

[24] The Dean of a College has discretion to determine who will teach and what they will teach.

[25] *University of Kentucky Administrative Regulation-Due Process (Interim)*, https://perma.cc/B3BS-VR7B.

[26] KRS § 164.230.

[27] The investigation is in its final stages. For now, the investigator is waiting on Professor Woodcock to provide written answers to questions.

investigation, Professor Woodcock has attacked the investigator,[28] delayed for several weeks the return a University-owned laptop,[29] and has declined to answer any questions from the investigator until after this Court rules on his Motion for Preliminary Injunction.[30] None of his claims against the University, the University Officials, the Secretary of Education, or the Commonwealth of Kentucky have merit.

ARGUMENT

I. Sovereign Immunity Bars All Claims against the University and the University Officials in their official capacities.

The University of Kentucky and its affiliated corporations have sovereign immunity in federal court.[31] As an "integral component of that 'residuary and inviolable sovereignty' retained by the States,"[32] sovereign immunity protects the States from suit altogether unless one of the narrow exceptions applies.[33] Sovereign immunity, which is confirmed by the Eleventh Amendment, not only prevents "federal-court judgments that must be paid out of a State's treasury,"[34] but precludes "the indignity of subjecting a State to the coercive process of judicial tribunals at the

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[28] The University's investigator is a partner in an international law firm and a former Deputy General Counsel at the U.S. Department of Education. Professor Woodcock objects to the fact she is a devout Christian, a Republican, and played a minor role in the Heritage Foundation's Project 2025. *See* Exhibit 4 - Joe Childers Aug. 22, 2025, correspondence to Farnaz Thompson.

[29] *See* Exhibit 5 - collectively: Richard Getty Aug. 20, 2025 correspondence to William Thro; William Thro Aug. 25, 2025 correspondence to Richard Getty; Richard Getty Aug. 27, 2025 correspondence to Bryan Beauman; Bryan Beauman Aug. 29 correspondence to Richard Getty.

[30] *See* Exhibit 6 - December 1–4, 2025, email chain and correspondence.

[31] *Hutsell v. Sayre*, 5 F.3d 996, 999 (6th Cir. 1993); *Kentucky Mist Moonshine v. University of Kentucky*, 192 F.Supp.3d 772, 780 (E.D. Ky. 2016) (Reeves, J.).

[32] *Fed. Maritime Comm'n v. South Carolina State Ports Auth.*, 535 U.S. 743, 751–52 (2002).

[33] *See Green v. Mansour,* 474 U.S. 64, 68 (1985).

[34] *Hess v. Port Auth. Trans-Hudson Corp.*, 513 U.S. 30, 48 (1994).

instance of private parties."[35] Indeed, the University is immune from suit in its entirety, including discovery, other related pretrial practice and trial; not just relief from a final verdict, judgment or damages.[36]

Similarly, sovereign immunity bars all claims against the University Officials in their official capacities.[37] As the Sixth Circuit explained, an official capacity claim "is not a suit against the official but rather is a suit against the official's office. As such, it is no different from a suit against the State itself."[38] Thus, the University Officials in their official capacity is co-extensive with the University itself. Because the University is immune, the University Officials are immune.

II. The *Ex Parte Young* Doctrine Is Inapplicable.

Of course, under the doctrine of *Ex parte Young*,[39] "when a federal court commands a state official to do nothing more than refrain from violating federal law, he is not the State for sovereign-immunity purposes. The doctrine is limited to that precise situation, and does not apply when the state is the real, substantial party in interest."[40] "In determining whether the doctrine of *Ex parte Young* avoids an Eleventh Amendment bar to suit, a court need only conduct a straightforward inquiry

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35 *Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.,* 506 U.S. 139, 146 (1993).

36 *See id.* at 143–46.

37 *See McCormick v. Miami Univ.*, 693 F.3d 654, 662 (6th Cir. 2012).

38 *Wolfel v. Morris*, 972 F.2d 712, 719 (6th Cir. 1992)).

39 *Ex parte Young*, 209 U.S. 123 (1908).

40 *Virginia Off. for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 255, (2011).

into whether [the] complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective."[41]

Yet, Professor Woodcock's complaint fails to meet even this minimal standard.[42] As explained in more detail below there is no on-going violation of federal law. Quite simply, federal law does not require the University to refrain from an investigation of alleged misconduct. To the contrary, federal law requires the University to investigate possible Title VI violations. Similarly, federal law does not preclude the University from suspending or reassigning a faculty member while it investigates.[43]

III. Professor Woodcock Fails to State A First Amendment Retaliation Claim.

As the Sixth Circuit has explained, "a First Amendment retaliation claim has the following three elements: (1) the plaintiff engaged in [constitutionally protected speech]; (2) an adverse action was taken against the plaintiff that would deter a person of ordinary firmness from continuing to engage in that conduct; and (3) the adverse action was motivated at least in part by the plaintiff's protected conduct."[44] Moreover, a plaintiff must prove "the exercise of the protected right was a substantial or motivating factor" in the defendant's alleged retaliation, and if they do, then the defendant bears the burden of showing the same action would have been taken absent

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41 *Verizon Maryland, Inc. v. Pub. Serv. Comm'n of Maryland*, 535 U.S. 635, 645 (2002).

42 Because the University of Kentucky is not a state official, *Kaplan v. University of Louisville*, 10 F.4th 569, 577 (6th Cir. 2021), Professor Woodcock can only invoke the *Ex parte Young* doctrine against the University Officials in their official capacities.

43 *Kaplan*, 10 F.4th at 581, 583–84.

44 *Myers v. City of Centerville*, 41 F.4th 746, 759–60 (6th Cir. 2022).

the protected conduct.[45] As explained below, Professor Woodcock has not suffered an adverse employment action and his speech is not constitutionally protected.

A. Professor Woodcock Has Not Experienced An Adverse Employment Action.

An adverse employment action "'must be more disruptive than a mere inconvenience or an alteration of job responsibilities.'"[46] Instead, it may be shown by "a termination of employment, a demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits, significantly diminished material responsibilities, or other indices that might be unique to a particular situation."[47] As the Sixth Circuit observed, "neither an internal investigation into suspected wrongdoing by an employee nor that employee's placement on paid administrative leave pending the outcome of such an investigation constitutes an adverse employment action."[48] In most contexts, "the act of investigating possible employee misconduct is not an adverse employment action."[49]

To be sure, in the First Amendment retaliation context, courts focus on whether "an adverse action was taken against the plaintiff that *would deter a person of ordinary firmness from continuing to engage in that conduct*."[50] Yet it is still a standard a Complaint must satisfy, and the "benefits of such a standard are that it is

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45 *Smith v. Campbell*, 250 F.3d 1032, 1037 (6th Cir. 2001).

46 *Arnold v. City of Columbus*, 515 F. App'x 524, 531 (6th Cir. 2013).

47 *Id.*

48 *Dendinger v. Ohio*, 207 F. App'x 521, 527 (6th Cir. 2006).

49 *Kuhn v. Washtenaw Cnty.*, 709 F.3d 612, 625 (6th Cir. 2013) (cleaned up).

50 *Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir. 1999).

an objective inquiry, . . . and capable of screening the most trivial of actions from constitutional cognizance." Thus, this threshold is intended to weed out "inconsequential actions."[51] Section 1983 "requires injury and it would trivialize the First Amendment to hold that harassment for exercising the right of free speech was always actionable no matter how unlikely to deter a person of ordinary firmness from that exercise."[52]

Professor Woodcock alleges the type of "genuinely 'inconsequential' official actions" that should *not* go to the jury.[53] He remains a tenured fully professor. His salary is the same as before the University began investigating. The only thing that has changed is that he has been reassigned from teaching duties to other duties while the University investigates. As the Sixth Circuit observed, "a suspension *with* pay and full benefits pending a timely investigation into suspected wrongdoing is not an adverse employment action."[54] The same result applies here.

Moreover, if simply reassigning an employee to other duties with full pay and benefits while investigating alleged misconduct is an adverse employment action, then the University's efforts to fulfill its federal law obligations will be undermined. If the University receives allegations of sex discrimination, race discrimination,

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[51] *Id.* at 398.

[52] *Id.* at 397.

[53] *Josephson v. Ganzel*, 115 F.4th 771, 787 (6th Cir. 2024).

[54] *Peltier v. United States*, 388 F.3d 984, 988 (6th Cir. 2004).

financial impropriety, or endangering patients, the University must be able to reassign or even suspend employees while the investigation is on-going.[55]

B. Professor Woodcock's Speech Is Not Protected By The First Amendment.

Even if the initiation of an investigation constitutes an adverse employment action, when Professor Woodcock speaks as a government employee, when his speech amounts to harassment under Title VI, or when the University's interest in efficiency of operations outweighs his right to speak, the University may take action.

1. When Professor Woodcock Spoke As A University Employee or Used University Resources, His Speech Is Not Constitutionally Protected.

As *Garcetti v. Ceballos* makes clear, when Professor Woodcock spoke as a university employee or used university resources, his speech is not constitutionally protected.[56] Indeed, there is no constitutional protection when employees "make statements pursuant to their official duties."[57] In determining the scope of an employee's free speech rights, "the critical question under *Garcetti* is whether the speech at issue is itself ordinarily within the scope of an employee's duties, not whether it merely concerns those duties."[58]

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[55] When the University limited clinical assignments away from two dentistry professors while investigating financial impropriety, the Sixth Circuit found no violation of constitutional rights. *Cunningham*, 41 F.4th at 536–39.

[56] *Garcetti,* 547 U.S. 410, 417 (2006).

[57] *Id.* at 421.

[58] *Lane v. Franks*, 573 U.S. 228, 240 (2014).

To be sure, in *Meriwether v. Hartop*, the Sixth Circuit created a narrow academic freedom exception to *Garcetti*.[59] In *Josephson v. Ganzel*, this academic freedom exception to *Garcetti* was extended to speech at academic conferences *involving the faculty member's expertise*.[60] However, the Sixth Circuit's academic freedom exception does not extend to every job responsibility of the faculty member's job.[61] Indeed, according to the Fourth Circuit, the academic freedom exception to *Garcetti* does not extend to internal discussions or a faculty member's email with other faculty.[62]

Professor Woodcock's speech is outside the Sixth Circuit's academic freedom exception to *Garcetti*.[63] When he seized the conference stage at an anti-trust law conference and again at a law and technology conference to offer his opinion on Israel, *he was not speaking on his expertise* nor even on the topic of the seminar. Professor Woodcock appeared at those conferences in his capacity as a University law professor

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59 *Meriwether v. Hartop*, 992 F.3d 492, 507 (6th Cir. 2021).

60 *Josephson v. Ganzel*, 115 F.4th 771, 786 (6th Cir. 2024).

61 See *Savage v. Gee*, 665 F.3d 732, 738-39 (6th Cir. 2012).

62 *See Porter v. Bd. of Trs. of N.C. State Univ.*, 72 F.4th 573, 582–84 (4th Cir. 2023), *cert. denied*, 144 S. Ct. 693 (2024).

63 Although this Court must apply the Sixth Circuit's academic freedom exception to *Garcetti*, the fact remains the Supreme Court has never recognized such an exception. As recently as August, a federal district court rejected an academic freedom exception to *Garcetti*. *Simon v. Ivey*, 2025 WL 2345845, at *57–59 (N.D. Ala 2025). Neither the University nor the University Officials concede there is an academic freedom exception to *Garcetti* or, if one exists, that the parameters as broad as the Sixth Circuit believes. Of course, while disputing the existence of an academic freedom exception as a matter of constitutional law, the University and University Officials reaffirm the importance of academic freedom as a part of policy. Indeed, the University's Governing Regulations guarantee academic freedom to all members of the University Community. *University of Kentucky Governing Regulation I—Declaration Principles* § C, https://perma.cc/K2XJ-KS8B.

and there is no suggestion he was speaking as a private citizen.[64] He was simply ranting at the University's expense.[65]

Similarly, when he used his university email account to spam both the American Association of Law Schools and internal faculty listservs with his views, he was acting as an employee not as private citizen.[66] Indeed, he could not accomplish this objective using a private email account. In the same vein, to the extent he used a university owned computer to develop and spread his Petition for Military Action Against Israel he was acting as an employee, not a private citizen. Finally, when, as Chair of the law school's Committee on Community Engagement, he made comments at a public event, he was acting as an employee.[67]

In sum, there are numerous instances where Professor Woodcock spoke as an employee or used university resources to advance his message. Under *Garcetti*, those are not constitutionally protected.

2. If Professor Woodcock's Speech Amounts to Harassment, It is Not Constitutionally Protected.

If this Court concludes Professor Woodcock spoke as a private citizen, then this Court must evaluate whether the employee's speech involves a matter of public

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[64] In contrast, the faculty member in *Josephson* made it clear that he was speaking in his individual capacity and not on behalf of his employer. *Josephson*, 115 F.4th at 784.

[65] The University's payment of Professor Woodcock's expenses is another distinguishing feature from *Josephson*. There, the institution did not pay for the faculty member to attend the conference. *Cf. Josephson*, 115 F.4th at 784.

[66] *See Porter v. Bd. of Trs. of N.C. State Univ.*, 72 F.4th 573, 582–84 (4th Cir. 2023), *cert. denied*, 144 S. Ct. 693 (2024).

[67] Professor Woodcock was appointed to be Chair of the Committee on Community Engagement by the previous Dean. This role was part of his duties.

concern. Speech involves matters of public concern "when it can 'be fairly considered as relating to any matter of political, social, or other concern to the community,' or when it 'is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public.'"[68]

In some circumstances, however, private speech on a matter of public concern may still be outside of First Amendment protection. For example, if speech on a matter of public concern amounts to a true threat, then it is not constitutionally protected.[69] Similarly, when Professor Woodcock's speech amounts to harassment in violation of Title VI, it is not constitutionally protected.[70]

"There is no categorical harassment exception to the First Amendment's free speech clause,"[71] but the Supreme Court held that public school districts can incur monetary liability under Title IX for responding with deliberate indifference to one student's "harassment" of another student.[72] As such, by inference, expression that amounts to "harassment" under Title IX is not within the freedom of speech. Because Title IX and Title VI are interpreted in the same manner,[73] speech that amounts to harassment under Title VI is also unprotected by the First Amendment. Under both Title VI and Title IX, harassment is limited to expression or conduct so "severe, pervasive, and objectively offensive that it can be said to deprive the victims of access

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68 *Lane*, 573 U.S. at 241.

69 *Virgina v. Black*, 538 U.S. 343, 359-60 (2003) (true threats).

70 *See DeJohn v. Temple Univ.*, 537 F,3d 301, 317–18 (3rd Cir. 2008).

71 *Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 204 (3rd Cir. 2001) (Alito, J.).

72 *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 650 (1999).

73 *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 258–59 (2009).

to the educational opportunities or benefits provided by the school."[74] Thus, when Professor Woodcock's speech amounts to harassment, it is not constitutionally protected.

3. Even If All of Professor Woodcocks' Speech Was As a Private Citizen On a Matter of Public Concern, The University's Interests In Efficient Operation Outweigh Professor Woodcock's Interest in Speaking.

It is necessary to strike "a balance between the interests of" Woodcock "as a citizen, in commenting upon matters of public concern" and the interest of the University, as an employer, "in promoting the efficiency of the public services it performs through its employees."[75] In the Sixth Circuit, the balancing test focuses on a number of factors including whether the speech "undermines the mission of the employer."[76]

Under the balancing test, the University prevails.[77] Antisemitic speech undermines the teaching aspect of the University's mission. First, even if Professor Woodcock's speech currently does not amount to harassment under Title VI, it may cross that line at some future date. The University has a duty to prevent Title VI harassment from occurring. Second, when (i) a failure to act appropriately to an

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74 *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 650 (1999).

75 *Pickering v. Bd. of Educ. of Twp. High Sch. Dist. 205, Will Cnty.*, 391 U.S. 563, 568 (1968) (citation modified).

76 *Bennett v. Metro. Gov't of Nashville & Davidson Cnty.,* 977 F.3d 530, 539–40 (6th Cir. 2020).

77 Although this Court must apply Supreme Court precedent, the *Pickering* balancing test is contrary to the judicial interpretative tradition, requires a comparison of incomparable things, and forces judges to act like legislators. *Noble v. Cincinnati & Hamilton County Public Library*, 112 F.4th 373, 385 (6th Cir. 2004) (Sutton, C.J., dissenting); *Bennet*, 977 F.3d at 553–54 (Murphy, J., concurring). The University and University Officials reserve the right to challenge the continuing validity of the *Pickering* balancing test.

employee's speech may subject the University to legal liability under federal civil rights law; and (ii) existing precedent requires the University to perform *Pickering* balancing, there must be room for the University to address interim measures. Third, because Professor Woodcock has a public facing role which involves teaching and presenting at academic conferences, the University has greater leeway to address his speech.[78] It is one thing for a university groundskeeper or custodian to spew antisemitic speech on a private social media account, it is quite another for a tenured full professor to do so at academic conferences financed by the University, on listservs restricted to law school faculty, or at public events sponsored by the law school. The University's "business is educating students. When an employee seriously undercuts the University's power to do its basic job, the Constitution doesn't elevate the employee over" the University's mission.[79]

IV. Professor Woodcock Fails To State A Due Process Claim.

Professor Woodcock claims the University's investigation deprived him of his alleged "property and liberty interests in his tenured position at the University of Kentucky."[80] He fails to state a claim under either legal theory.

A. Professor Woodcock Fails To State A Property Interest Claim.

Professor Woodcock "must plead a property interest protected by the Due Process Clause, a deprivation of this property interest, and that the State did not give

[78] *Hedgepath v. Britton*, 152 F.4th 789, 796 (7th Cir. 2025).

[79] *Patterson v. Kent State Univ.*, 155 F.4th 635, 650 (6th Cir. 2025).

[80] Compl. [DE 1], at ¶ 116.

him adequate procedural rights to protect against an erroneous deprivation."[81] Courts focus on two issues: (1) is there a constitutionally protected property interest; and (2) if so, the procedures necessary to protect that interest.[82] Professor Woodcock fails on both questions.

1. Professor Woodcock Has No Property Interest In Teaching.

While tenured professors at the University of Kentucky have a constitutionally protected property interest in their faculty position,[83] that interest does not extend to teaching classes.[84] The University retains the discretion to determine the nature of a faculty member's assignments including whether a faculty member will teach and, if so, what courses. Moreover, when there are allegations of misconduct, the Sixth Circuit has permitted suspension or reassignment of faculty members during investigations.[85]

Although Professor Woodcock is unhappy that he is not teaching, his property interest in being a tenured professor does not allow him to choose his work assignments. Were it otherwise, the University could never direct faculty members to teach a particular class if they did not wish to do so. Importantly, Professor Woodcock receives his full salary, has access to his university email account, and can pursue his scholarship.

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81 *Kaplan*, 10 F.4th at 577.

82 *Crosby v. Univ. of Ky.*, 863 F.3d 545, 552 (6th Cir. 2017).

83 *Board of Regents v. Roth*, 408 U.S. 564, 576–77 (1972); *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972).

84 *Parate v. Isibor*, 868 F.2d 821, 832 (6th Cir. 1989); *see also Kaplan*, 10 F.4th at 581, 586 (observing similarities between *Kaplan* and *Parate*).

85 *Kaplan*, 10 F.4th at 581, 583–84.

2. Professor Woodcock Has Received Due Process.

Even if Professor Woodcock has a constitutionally protected property interest in teaching, "the question becomes whether the state actors provided adequate process."[86] That answer requires evaluation of the government's interest, the individual's stake in the matter, and the suitability of the procedures.[87] "Different circumstances call for different processes. While notice and an opportunity to be heard remain the hallmarks of due process, they need not necessarily arrive before the deprivation does."[88] A hearing of some sort is required before a tenured professor is fired,[89] but a hearing is not required before each and every intermediate action.[90] When the University "imposes a lighter penalty, such as a suspension, a post-deprivation hearing or a combination of pre- and post-deprivation safeguards may suffice."[91]

Professor Woodcock *has not been fired*. Instead, he has simply been reassigned—at full salary—while the University investigates. As antisemitic speech can violate Title VI, the University cannot ignore allegations of a Title VI violation, and the consequences of a Title VI violation are significant, the University had to investigate. However, rather than initiating tenure revocation proceedings, the

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86 *Cunningham*, 41 F.4th at 536.

87 *Gilbert v. Homar*, 520 U.S. 924, 931–32 (1997).

88 *Cunningham*, 41 F.4th at 536.

89 *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 & n.7 (1985).

90 *Cunningham*, 41 F.4th at 536.

91 *Id.* at 536–37.

University "customized" the reassignment "to the problem at hand": preventing a possible Title VI violation.[92]

Professor Woodcock has refused to respond to the University's request to provide facts, witnesses, and information he deems relevant,[93] but he has numerous opportunities to influence the Investigator's conclusions.[94] Although the University generally requires those under investigation submit to an in-person interview, the University is allowing Professor Woodcock to respond to written questions.[95] After he submits his response,[96] Professor Woodcock will have an opportunity to review the evidence—including transcripts of witness interviews—and submit a written response.[97] Upon receiving Professor Woodcock's written response to this *first* evidence review, the Investigator will ask any follow up questions of the witnesses.[98] Professor Woodcock will then have a *second* opportunity to review all evidence and submit a written response.[99] After receiving all the evidence and Professor Woodcock's first and second responses, the Investigator will issue a detailed letter of findings.[100] This process meets any hallmark of due process.

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92 *Id.* at 537.

93 *See* Exhibit 6 - December 1–4, 2025, email chain and correspondence.

94 *See* Exhibit 2 - August 25, 2025, correspondence from Farnaz Farkish Thompson to Joe Childers, counsel for Ramsi Woodcock.

95 *Id.*

96 Again, Professor Woodcock refuses to answer the questions until this Court rules on his Motion for Preliminary Injunction.

97 *See* Exhibit 2 - August 25, 2025, correspondence from Farnaz Farkish Thompson to Joe Childers, counsel for Ramsi Woodcock.

98 *Id.*

99 *Id.*

100 *Id.*

That letter of findings may conclude that Professor Woodcock has violated no University policy – or that he has. If there are grounds to conclude a violation occurred and if the University determines tenure revocation or a lengthy suspension without pay is appropriate, then Professor Woodcock will receive an even more formal hearing and, if found responsible, the opportunity to appeal.[101] Following that process, the President will determine whether to initiate tenure revocation proceedings.[102] If the President initiates tenure revocation proceedings, Professor Woodcock will receive a full hearing before the University's Board of Trustees.[103]

B. Professor Woodcock Fails To State A Liberty Interest Claim.

When the University decided to investigate and to reassign Professor Woodcock pending investigation, President Capilouto informed the University Community that a faculty member was under investigation.[104] President Capilouto did not identify Professor Woodcock or the College of Law.[105] Nevertheless, Professor Woodcock claims this message deprived him of a liberty interest in his reputation.

He is wrong. Alleged "defamation alone is not enough to invoke due process concerns. Some alteration of a right or status 'previously recognized by state law,'

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[101] University of Kentucky Administrative Regulation—Due Process (Interim), https://perma.cc/WCQ6-4KK9.

[102] University of Kentucky Administrative Regulation—Due Process (Interim) § F, https://perma.cc/WCQ6-4KK9.

[103] KRS § 164.230.

[104] Eli Capilouto, Important Message for Our Community (July 18, 2025), https://perma.cc/9ZRD-ESYS.

[105] *Id.*

such as employment, must accompany the damage to reputation."[106] Rather, Professor Woodcock must plead that (1) statement was made in conjunction with his termination of employment; (2) the statement was something more than an allegation of improper or inadequate performance, incompetence, neglect of duty, or malfeasance; (3) the statements must be made public; (4) the statements must be false; and (5) the public dissemination was voluntary.[107] If all five elements are met, then Professor Woodcock "is entitled to a name-clearing hearing upon request."[108]

Yet Professor Woodcock has not requested *a name-clearing hearing*. This "failure to request a name-clearing hearing is fatal to [his] claim."[109] "It is the denial of a requested name-clearing hearing that deprives the plaintiff of his liberty interest without due process."[110] On that basis alone, his claim should be dismissed.

Moreover, even if he had requested a name clearing hearing, his claim fails for three other reasons. First, his claim fails at the first element because he has not been terminated.[111] Second, although mere allegations of incompetence are not sufficient,[112] Professor Woodcock alleges the statements impugn his professional

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106 *Quinn v. Shirey*, 293 F.3d 315, 319 (6th Cir. 2002).

107 *Kaplan*, 10 F.4th at 584.

108 *Id.*

109 *Id.* (citation modified).

110 *Id.*

111 *Ferencz v. Hairston*, 119 F.3d 1244, 1250 (6th Cir. 1997).

112 *Kaplan*, 10 F.4th at 584.

competence.[113] Third, his claim fails to allege the charges made against him were false.

V. Professor Woodcock Fails To State A Race Discrimination Claim.

Professor Woodcock fails to state a race discrimination claim for three reasons. First, the motion to dismiss stage, a plaintiff does "not need to prove discriminatory intent, but rather need[s] to allege facts making it plausible that such intent existed."[114] Woodcock makes no attempt to do that. According to him, he is Arab of Algerian national origin, the only Arab faculty member in the College of Law, and has a contract "whereby the University employs [him] as a tenured professor in the College of Law.[115] Without any factual basis, he claims the University and the University officials have discriminated against him "because of his race in violation of 42 U.S.C. § 1981."[116] That is not sufficient—a "threadbare recital of elements of a cause of action, supported by mere conclusory statements do not suffice."[117]

Second, he fails to allege an adverse employment action. According to the Sixth Circuit, "a suspension with pay and full benefits pending a timely investigation into suspected wrongdoing."[118]

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[113] Compl. [DE 1], at ¶ 118.

[114] *Inner City Contracting, LLC v. Charter Twp. of Northville*, 87 F.4th 743, 755–56 (6th Cir. 2023) (emphasis added).

[115] Compl. [DE 1], at ¶ 130.

[116] Compl. [DE 1], at ¶ 132.

[117] *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

[118] *Peltier v. United States*, 388 F.3d 984, 988 (6th Cir. 2004).

Third, his attempt to use 42 U.S.C. § 1981 claim for race discrimination fails. As the Sixth Circuit explained, "§ 1983 is the exclusive mechanism to vindicate violations of § 1981 by an individual state actor acting in his individual capacity."[119] By identifying only 42 U.S.C. § 1981 as the mechanism for his claim—unlike his other claims against the University officials—Woodcock does not raise his race discrimination claim under 42 U.S.C. § 1983.[120]

Fourth, his claims for civil conspiracy under 42 U.S.C. § 1985 also fail. Under Section 1985, a plaintiff must establish a conspiracy between "two or more persons."[121] However, "if all of the defendants are members of the same collective entity, there are not two separate 'people' to form a conspiracy."[122] Because the Sixth Circuit "adopted the general rule in civil conspiracy cases that a corporation cannot conspire with its own agents or employees,"[123] this claim also should be dismissed.

VI. Qualified Immunity Bars Professor Woodcock's Claims.

All of the claims against the University Officials "are subject to the twin pillars of a qualified immunity defense: (1) that the administrators violated the professors' constitutional rights and (2) that they violated clearly established law in doing so."[124] Unless it is "beyond debate" that the University Officials acted unconstitutionally,

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119 *McCormick v. Miami Univ.*, 693 F.3d 654, 661 (6th Cir. 2012).

120 *See Boxill v. O'Grady*, 935 F.3d 510, 519 (6th Cir. 2019).

121 42 U.S.C. § 1985; *Jackson v. City of Cleveland*, 925 F.3d 793, 817 (6th Cir. 2019).

122 *Jackson*, 925 F.3d at 817.

123 *Hull v. Cuyahoga Valley Joint Vocational Sch. Dist. Bd. of Educ.*, 926 F.2d 505, 509 (6th Cir. 1991).

124 *Cunningham*, 41 F.4th at 536.

they receive qualified immunity.[125] As there is "rigid order of battle," this Court may resolve the qualified immunity under either the first or second prong.[126]

As explained above, Professor Woodcock cannot establish that the University Officials violated his constitutional rights. Thus, the University Officials satisfy the first prong. However, for purposes of argument only, this Court may assume that there is a constitutional violation and proceed to the second prong analysis.[127] "The clearly established inquiry does not turn on what happened in the case; it turns on the existing law in the area."[128] Professor Woodcock cannot claim that there are factual disputes which preclude the qualified immunity defense and he must identify a case from the Supreme Court or the Sixth Circuit "with enough overlap to place the constitutional question *beyond dispute*."[129]

Professor Woodcock cannot meet this burden. He claims federal law prohibits the University from investigating, but federal law requires the University to investigate possible Title VI violations. He asserts federal law prevents the University from reassigning him while it investigates, but the Sixth Circuit has permitted suspension or reassignment of faculty members during investigations.[130] He says that he has a right to teach classes in the law school, but the Sixth Circuit

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[125] *Ashcroft v. al-Kidd*, 563 U.S. 731, 741 (2011).

[126] *Pearson v. Callahan*, 555 U.S. 223, 234 (2009).

[127] *See Cunningham*, 41 F.4th at 537, 540, 542-543 (assuming without deciding that there was a constitutional violation and then proceeding to determine the law was not clearly established).

[128] *Id.* at 536.

[129] *Id.* (emphasis added).

[130] *Kaplan*, 10 F.4th at 581, 583–84.

says otherwise.[131] He argues all his speech is protected by the First Amendment, but speech as an employee is not protected.[132] Nor is speech that amounts to Title VI harassment.[133] Even if he was speaking as a private citizen on a matter of public concern, the University could still react to his speech in some circumstances.[134]

CONCLUSION

For these reasons, the Court should dismiss Professor Woodcock's Complaint against these Defendants.

Respectfully submitted,

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[131] *Parate*, 868 F.3d at 832.

[132] *Garcetti,* 547 U.S. at 417.

[133] *See DeJohn*, 537 F.3d at 301.

[134] *Pickering*, 391 U.S. at 568 (citation modified).

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2025, I filed this document electronically using the Court's CM/ECF system, which will send notification of filing to all parties registered to receive electronic filings.

/s/Bryan H. Beauman
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