No. 26-5057

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

RAMSI A. WOODCOCK

Plaintiff-Appellant,

- v. -

UNIVERSITY OF KENTUCKY; ELI CAPILOUTO, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES; ROBERT DIPAOLA, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES; WILLIAM EUGENE THRO, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES; JAMES C. DUFF, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES; LINDA MCMAHON, IN HER OFFICIAL CAPACITY AS UNITED STATES SECRETARY OF EDUCATION; RUSSELL MATTHEW COLEMAN, ATTORNEY GENERAL

Defendants-Appellees.

On Appeal from the United States District Court
for the Eastern District of Kentucky at Lexington
(Docket No. 5:25-cv-00424-DCR)

MOTION TO EXPEDITE APPEAL

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Pursuant to Fed. R. App. P. 2(a) and 6 Cir. R. 27(f), Plaintiff-Appellant Ramsi A. Woodcock ("Plaintiff") hereby respectfully requests that this Court expedite briefing and decision on this appeal.

As a result of the unconstitutional investigation, suspension, and ban that Defendants-Appellees Capilouto, Thro, DiPaola, and Duff ("Defendants") have imposed, Plaintiff, his students, and his colleagues at University of Kentucky Rosenberg College of Law face the ongoing dilemma whether to self-censor or face sanction for engaging in protected speech with which Defendants disagree. Expedited briefing is necessary to minimize the constitutional harm created by the pall of orthodoxy that Defendants have cast across campus. It will also ensure that, if this Court ultimately rules in Plaintiff's favor, Plaintiff will be able to return to teaching in the fall 2026 semester. Registration will begin on March 31, 2026 for third-year law students and on April 2, 2026 for second-year law students. Ex. A (Woodcock Decl.), attached. The final date on which law students may add or drop a class is August 28, 2026. *Id*.

The current briefing schedule is March 30, 2026 for the appellant brief, April 29, 2026 for the appellee brief, and May 20, 2026 for appellant's reply. Dkt. 34. Plaintiff respectfully requests that this Court adjust the briefing schedule as follows:

- Plaintiff's principal brief due: March 2, 2026;
- Defendants' principal brief due: March 9, 2026;
- Plaintiff's reply brief due: March 13, 2026.

This schedule would ensure that this case is fully briefed before this Court's March sitting. Plaintiff intends to request oral argument in this case due to the complexity of the abstention issues raised on appeal and grave questions regarding the future of speech on university campuses posed by the underlying merits. Argument in March and a decision as soon as possible thereafter—ideally in early April—would allow students to register for them before the end of the regular registration period.

If argument during the March sitting is not possible, Plaintiff requests oral argument at this Court's April sitting to ensure a decision well enough in advance of the start of classes in the third week of August, 2026, to allow students to add Plaintiff's classes before the final deadline for adding or dropping a course, which is August 28, 2026.[1] In this scenario, Plaintiff requests a briefing schedule consistent with oral argument in April.

An expedited schedule is reasonable. As this Court noted in its February 20, 2025 opinion denying Plaintiff's motion for an injunction pending appeal, Plaintiff

[1] UNIVERSITY OF KENTUCKY, COLLEGE OF LAW CALENDAR: 2026–2027 ACADEMIC YEAR, available at https://registrar.uky.edu/sites/default/files/2026-01/2026-2027-law-academic-calendar-final.pdf

attached a draft principal brief to that motion on January 24, 2026. *See* Dkt. 6-2. As of the filing of this motion, Defendants have had one month to study the draft and prepare a response. Moreover, in their response to Plaintiff's injunction motion, Defendants suggested that this Court "order expedited briefing." Univ. Resp. First Emerg. Mot. 10 & n. 35, Dkt. 14-1.

FACTS

Plaintiff is a tenured law professor at University of Kentucky's J. David Rosenberg College of Law (the "law school") whose courses include International Law and who, since early 2024, has been speaking about his research conclusion that the international community must end Israel to stop a genocide. Am. Compl. R.36, Page ID## 1626–32. On July 18, 2025, without notice or a hearing, Defendants initiated an investigation into Plaintiff's speech, canceled his classes, reassigned him from teaching, research, and service to "100% professional development" ("the suspension"), and banned him from the law school building ("the ban") "for the duration of the investigation." *Id*. at 1634–40; Duff Letter, R.19-3, Page ID # 493.

According to University policy, investigations such as this one that are initiated for purposes of compliance with Title VI of the Civil Rights Act of 1964 ("Title VI") are handled by the University's Office of Equal Opportunity ("OEO") and are "typically Complainant driven." OEO Pol'y § I.A, IV, R. 42-1, Page ID # 2080; 42

U.S.C. § 2000d. The OEO initiates an investigation at the request of a complainant and, based on the results, the OEO director decides whether there is probable cause to file formal disciplinary charges. OEO Pol'y §§ IV.B, IV.B.6, R. 42-1, Page ID ## 2082, 2084. But Title VI only applies to people who anticipate accessing University resources and the University had received no complaints about Plaintiff from any student or faculty member at the University. *Snyder-Hill v. Ohio State University*, 48 F. 4th 686, 708 (6th Cir. 2022); Hearing Tr., R. 40, Page ID# 1982:15–20. Lacking a covered complainant, Defendants initiated their own ad hoc investigation. *Id*. at 1989:9–18. They hired an investigator associated with a group that calls for suppression of pro-Palestine speech on campus, created an ad hoc process specifically for Plaintiff, and put Defendant Capilouto, who publicly declared Plaintiff's views "repugnant", in charge of deciding whether there is probably cause to file disciplinary charges. Am. Compl., R. 36, Page ID ## 1623–24, 1634–35, 1638–39, 1655–56.

On multiple occasions, Plaintiff objected that the investigation, suspension, and ban violated his constitutional rights to freedom of speech and due process. PI Order, R. 37, Page ID # 1786; Kapitan Letter 9/11/25, R. 19-4, Page ID ## 1056–61, 1063–64. Each time, the University indicated that it would not decide any constitutional claims until after the investigation, suspension, and ban challenged by Plaintiff had come to an end. Thompson Letter 8/25/25, R. 19-15, Page ID #

1570 (stating that the investigator will "not serve as the decision-maker" and that only "[a]fter the University receives and considers all the evidence as well as Professor Woodcock's responses" would Defendant Capilouto "issue a letter with the University's findings[.]"); Thro Letter 9/19/25, R. 19-4, Page ID # 1067 (stating that "it is necessary to investigate"). Out of options to bring his constitutional claims in the state proceedings, Plaintiff filed suit in federal court on November 13, 2025, and thereafter sought a preliminary injunction to halt the ongoing investigation, suspension, and ban. PI Memo, R. 19-1, Page ID # 215. The District Court denied the motion based on *Younger* abstention. PI Order, R. 37, Page ID ## 1783–86. After the District Court denied Plaintiff's motion for an injunction pending appeal on *Younger* abstention grounds as well, Plaintiff brought the same motion in this Court. IPA DC Denial, R. 46, Page ID # 2129. A panel of this Court denied the motion on February 20, 2026, also on *Younger* abstention grounds. IPA CA6 Denial 3, Dkt. 37.

ARGUMENT

This Court may expedite an appeal when a party shows "good cause." 6 Cir. R. 27(f). As part of that determination, this Court sometimes takes into account the movant's likelihood of success on appeal. *Fouts v. Warren City Council*, No. 23-1826, 2023 WL 6467366, at *3 (6th Cir. Oct. 4, 2023) (unpublished).

A. There Is Good Cause for Expediting the Appeal Because Delay Will Result in Irreparable Harm

As this Court acknowledged in its February 20 opinion, the only adequate remedy for constitutional harm is an injunction that stops the wrongdoers in the act. *Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."). Courts can meaningfully intervene to prevent irreparable harm when the denial of the right to speak is ongoing, rather than exclusively in the past. *Fischer v. Thomas*, 78 F.4th 864, 869 (6th Cir. 2023). For example, a prohibition on attending worship services on three Sundays "assuredly inflicts irreparable harm." *Maryville Baptist Church, Inc. v. Beshear*, 957 F.3d 610, 616 (6th Cir. 2020).

Here, the harm Plaintiff seeks to prevent is ongoing; he seeks to bar an ongoing, unconstitutional investigation, suspension and building ban. Such intervention would be in the public interest. *Bays v. City of Fairborn*, 668 F.3d 814, 825 (6th Cir. 2012) ("it is always in the public interest to prevent violation of a party's constitutional rights.") (internal citation omitted). For the reasons asserted below, intervention would also not threaten this Court's laudable respect for the principle of comity. Without an expedited briefing schedule, Plaintiff may not obtain a ruling on his appeal in time to be added to the course schedule for the fall semester of 2026.

B. Plaintiff Is Likely to Succeed in Establishing That He Has No Adequate Opportunity to Challenge the Constitutionality of the University's Investigation, Suspension, and Ban through any University Proceeding

Plaintiff challenges the investigation, suspension, and ban imposed on him by Defendants as ongoing acts of unconstitutional retaliation for protected speech in and of themselves. Emerg. Mot. 1, Dkt. 6-1. For example, he challenges the investigation, which is intertwined with explicit threats of termination, under well-established doctrine in the Sixth Circuit that threats are unconstitutional adverse actions. *Id*. at 19–20; *Kubala v. Smith*, 984 F. 3d 1132, 1139–40 (6th Cir. 2021). He also challenges the suspension and ban as due process violations. First Emerg. Mot. 20–21, Dkt. 6-1. In order for Plaintiff to have any hope of stopping Defendants in the act of committing these constitutional violations, he must be able to bring his constitutional claims against them while Defendants are carrying them out—not afterward, once it is no longer possible to stop the irreparable harm that they inflict. But Defendants want Plaintiff to do just that: to wait until the investigation, suspension, and ban are over to obtain a ruling from them about whether these actions were constitutional. Univ. Resp. 18, Dkt. 14-1 (maintaining that First Amendment concerns cannot be addressed so long as the University is investigating). Because Defendants bar Plaintiff from obtaining an adequate remedy in the state proceeding, Plaintiff has no adequate opportunity to bring his claims anywhere but in federal court. That makes *Younger* abstention

inappropriate. *Middlesex County Ethics Comm. v. Garden State Bar Assn.*, 457 U.S. 423, 432 (1982).

In Friday's opinion, this Court suggested that it does not have a responsibility to ensure that an adequate remedy for constitutional harm is available to Plaintiff in the federal forum so long as Plaintiff has an opportunity to "present" constitutional claims in the state proceeding—even if the state process forecloses an opportunity to obtain an adequate remedy. IPA CA6 Denial 7–8, Dkt. 37 (holding that abstention is appropriate because Plaintiff has "raised his constitutional claims with Thompson").

Any employee in any proceeding or investigation can theoretically present allegations of constitutional violations; that cannot be the standard for determining whether there is adequate opportunity. Rather, the standard is whether "in the absence of federal intervention an adequate state *remedy* is available to correct the claimed constitutional violation." *Flynt v. Leis*, 574 F. 2d 874, 881 (6th Cir. 1977), *rev'd on other grounds*, 429 U.S. 438 (1979) (emphasis added). Merely affording an opportunity for Plaintiff to vent about the violations is not sufficient. And because money damages are not an adequate remedy for constitutional violations, merely affording an opportunity to obtain damages after a constitutional violation has ended is not sufficient either. *Bannercraft Clothing Company v. Renegotiation*

Board, 466 F. 2d 345, 356 (D.C. Cir. 1972) ("The very thing which makes an injury 'irreparable' is the fact that no remedy exists to repair it.").

The Supreme Court in *Younger v. Harris* itself made clear that an adequate remedy must be available when it held that abstention is required only to "avoid a duplication of legal proceedings and legal sanctions where a single suit would be adequate to *protect* the rights asserted." 401 U.S. 37, 44 (1969) (emphasis added). The focus is on the adequacy of "protect[ion of] the rights asserted" not merely the opportunity to raise them. *Id*. Similarly, in *Pennzoil Co. v. Texaco*, upon which the authorities cited by this Court rely, the Supreme Court held that abstention was appropriate because the courts below had "erred in accepting Texaco's assertions as to the inadequacies of Texas procedure to provide *effective relief*." 481 U.S. 1, 17 (1987) (emphasis added); *Nimer v. Litchfield Tp. Bd. of Trustees*, 707 F. 3d 699, 701 (6th Cir. 2013) (citing *Pennzoil*); *James v. Hampton*, 513 F. App'x 471, 475 (6th Cir. 2013) (same); *see also Kugler v. Helfant*, 421 U.S. 117 (1975) ("The policy of equitable restraint . . . is founded on the premise that ordinarily a pending state prosecution provides the accused a fair and sufficient opportunity for vindication of federal constitutional rights.").

The first opinion of the Supreme Court to use the "presentation" formulation highlighted in Friday's opinion, *Judice v. Vail*, also makes clear that Plaintiff must have access to an adequate remedy for constitutional harm in the state proceeding

in order for abstention to be appropriate. 430 U.S. 327 (1976). In that case, the Supreme Court held that abstention was appropriate because the plaintiff could have sought "a stay or a temporary restraining order" in state court to put an end to the civil contempt sanction that he was challenging. 430 U.S. 327, 337 n.15 (1976). Likewise, in the Sixth Circuit case of *J. P. v. DeSanti*, the plaintiffs had an opportunity to attempt to preclude the alleged constitutional violation because the governing procedural rule "provides that a party may move to dismiss the complaint in a juvenile action 'or for other appropriate relief,' which on its face certainly affords appellant class an opportunity to enjoin the juvenile court's use of social histories before and during the adjudication." 653 F.2d 1080, 1085 (6th Cir. 1981). Once again, the requirement that there be an opportunity to obtain an adequate remedy, and not merely an opportunity to expatiate about constitutional violations, was clear.

This interpretation makes sense. Without a formal mechanism for raising constitutional claims, the "opportunity" to raise constitutional claims is akin to shouting into the void. If *Younger* did not require that the state forum offer an adequate remedy, *Younger* would cease to be a doctrine of comity and instead effectively repeal the U.S. Constitution by foreclosing access to a remedy for ongoing constitutional violations in any forum. *See Leis*, 574 F. 2d at 880

("[F]ederal courts . . . must not use the abstention doctrine as a pretext for allowing constitutional wrongs to go unremedied.").

This Court cited *Nimer v. Litchfield Twp. Bd. of Trs.*, for the proposition that Plaintiff must show "that state procedural law bar[s] presentation of [his] constitutional claims." IPA CA6 Denial 8, Dkt. 37; 707 F.3d 699 (6th Cir. 2013). In that case, the plaintiffs raised constitutional objections to a town's attempt to enforce zoning rules against them in state court. *Id*. at 701. They were unhappy that the state court did not discuss those objections in its order enjoining their unzoned uses of their property. *Id*. But the plaintiffs did not show that the court had refused to consider their objections—only that the court did not discuss its reasoning in its order. *Id*. That is a far cry from the present case.

Here, Plaintiff has no opportunity to challenge the constitutionality of the investigation itself. He seeks protection not only from the threat of an unconstitutional sanction at the conclusion of the investigation but protection from an unconstitutional inquiry into his political beliefs and statements. *Speech First, Inc. v. Killeen*, 968 F.3d 628, 652 (7th Cir. 2020), *as amended on denial of reh'g and reh'g en banc*, Sept. 4, 2020 ("'Process is punishment' is not a platitude[.]") (Brennan, J., concurring); *Bell v. Johnson*, 308 F.3d 594 (6th Cir. 2002) (an adverse action for First Amendment purposes is one which "would deter a person of ordinary firmness from exercising his or her First Amendment rights").

There can be no adequate opportunity to raise constitutional defenses when the state adjudicator has already explicitly precluded consideration of constitutional issues. *Cf. Squire v. Coughlan*, 469 F.3d 551, 557 (6th Cir. 2006) ("The dispositive fact in this case is that Judge Squire has not shown that Coughlan would have refused to consider her constitutional challenge."). When Plaintiff attempted to seek dismissal of the charges and cessation of the investigation on constitutional grounds through a letter from his attorney, Defendant Thro insisted this remedy was not available, declined to engage Plaintiff about his allegations of unconstitutionality, and wrote that the University could only determine whether the investigation was unconstitutional after the investigation had concluded. Kapitan Letter 9/11/25, R. 19-4, Page ID ## 1056–61, 1063–64; Thro Letter 9/19/25, R. 19-4, Page ID # 1067 ("As the University has said repeatedly, the University has a federal law obligation to investigate. . . . [T]he University will finish the investigation regardless of whether he participates."). Defendant Thro's refusal to consider constitutional claims therefore makes this case distinct from *Middlesex County Ethics Comm. v. Garden State Bar Assn.*, the example of "adequate opportunity" provided by the District Court, where the respondent "points to nothing existing at the time the complaint was brought by the local Committee to indicate that the members of the Ethics Committee . . . would have refused to consider a claim that the rules which they were enforcing violated federal

constitutional guarantees." 457 U.S. 423, 435 (1982); IPA DC Denial, R. 46, Page ID # 2130.

The University has provided Woodcock no internal mechanism for raising a challenge to the investigation in a manner that would halt the unconstitutional inquiry. Because Plaintiff does not have access to an adequate internal mechanism to challenge the unconstitutionality of the investigation, the *Younger* doctrine does not bar federal review.

C. Plaintiff Is Likely to Succeed in Establishing that the Suspension and Ban Are Separate Executive Actions for Which Younger Abstention Is Not Appropriate

The foregoing has followed the District Court in assuming that the investigation, suspension, and ban are part of the same proceeding. PI Order, R. 37, Page ID # 1776. But the suspension and ban on Plaintiff are discrete employment decisions that are separate from the investigation and are imposed regardless of the investigation's outcome. Like the investigation, the suspension and ban are not judicial in nature and do not afford adequate access to a remedy for constitutional harm. *See Doe v. University of Kentucky*, 971 F. 3d 553, 369 (6th Cir. 2020) (requiring that a proceeding be judicial in nature and afford an adequate opportunity to raise constitutional claims for *Younger* abstention to apply).

Plaintiff is likely to show that the suspension and building ban are separate from the investigation because: the decisionmakers are distinct and the proceedings were announced separately; the ad hoc investigation process will not culminate in a determination regarding the propriety of the suspension and ban; and Defendants insist that the suspension is not a formal interim suspension associated with the investigation but instead a "reassignment". *See* First Emerg. Mot. 22–23, Dkt. 6-1. According to Defendant Thro and Investigator Thompson, the investigation will culminate in a decision by Defendant Capilouto regarding whether Plaintiff's speech about Palestine violates Title VI, "equivalent state laws, and various university policies." Thro Letter, R. 19-3, Page ID # 491; First NOI, R. 19-15, Page ID # 1558–59; Thompson Letter 8/25/25, R.19-15, Page ID ## 1570–71; Second NOI, R. 19-15, Page ID ## 1573–74. Defendant Duff imposed the suspension and ban. He made what he characterized as a "discretionary" decision, "administrative" in character, to reassign Plaintiff to "100% professional development." Hearing Tr., R. 40, Page ID # 1983 (also describing the decision as a "judgment call"); Duff Letter, R. 19-3, Page ID # 493 ("in consultation with the Provost's office, we are temporarily reassigning you administratively."). While Defendant Thro announced the initiation of the investigation, Defendant Duff imposed the suspension and ban through a separate letter. *Id.*; Duff Letter, R. 19-3, Page ID # 493. Defendants have

given no indication that the investigation will culminate in a ruling on the propriety of the suspension and building ban.

Defendants also chose not to implement the suspension using policies that would have formally linked it to the investigation. To formally count as an "interim measure" associated with a Title VI investigation, the suspension needed to be imposed incident to a written risk analysis of Plaintiff conducted by the OEO director or, under rules that existed at the time that Defendants imposed the suspension, in consultation with a faculty committee. OEO Pol'y § VI, R. 42-1, Page ID # 2087; Old Regul. Aff. Empl. § B.1.f(3), R.19-3, Page ID # 449. Neither of these happened. Instead, Defendant Thro has insisted in correspondence that the reassignment is not a formal suspension. Thro Letter 9/19/25, R. 19-4, Page ID # 1066 ("Professor Woodcock has not been suspended. As Dean Duff's letter makes clear, he has been reassigned to other duties and continues to draw his full salary. The Dean has absolute authority to determine the assignments of a faculty member. Professor Woodcock does not have a right to teach a particular class or to teach in general. As he has no teaching assignments, there is no reason for him to be present in the law school building."). Accordingly, the suspension and ban constitute a separate proceeding for *Younger* abstention purposes.

Younger abstention is not appropriate for the separate suspension and ban because those decisions were not judicial in character. *Doe*, 971 F. 3d at 369. As

this Court noted in its denial of the injunction motion, "the operative question [in deciding whether a proceeding is judicial in nature] is whether these procedures as a whole contain enough protections and similarities to qualify as akin to criminal prosecutions for purposes of Younger abstention." IPA CA6 Denial 6, Dkt. 37. (citing *Doe*, 860 F.3d at 370) (cleaned up). The suspension and ban are associated with no process at all. Defendant Duff made a "judgment call" and suspended and banned Plaintiff without notice or a hearing either before or after. Hearing Tr., R. 40, Page ID # 1983. No hearing or investigation into whether Plaintiff constitutes a safety risk sufficient to justify the suspension and ban are planned.

Younger abstention is also not appropriate where there is not an adequate opportunity to obtain a remedy for constitutional harm. *Doe*, 971 F. 3d at 369. Plaintiff attempted to challenge the legality of the suspension and building ban in September 2025 and Defendant Thro rejected that challenge, contending that "[t]he Dean has absolute authority to determine the assignments of a faculty member. Professor Woodcock does not have a right to teach a particular class or to teach in general." Kapitan Letter 9/11/25, R. 19-4, Page ID ## 1056–61, 1063–64; Thro Letter 9/19/25, R. 19-4, Page ID # 1066. The finality of Defendant Duff's decision renders this case similar to cases in which plaintiffs have exhausted their appeals in state proceedings and simply have nowhere left to turn for relief but federal court. In such cases, *Younger* abstention is not appropriate. *GTE N., Inc. v. Strand*, 209

F.3d 909, 921 (6th Cir. 2000) ("Younger abstention would be especially inappropriate in this case because the Michigan Court of Appeals has already considered and rejected the merits of GTE's challenge to the MPSC's 1997 orders."); *Leis*, 574 F.2d at 881.

Defendant Duff's decision to tie the suspension and ban to the investigation reinforces his refusal to consider objections. Duff Letter, R.19-3, Page ID # 493. That is because Plaintiff's constitutional objections to the suspension and ban differ from his objections to the investigation. His due process challenges are limited to the suspension and ban. First Emerg. Mot. 20–22, Dkt. 6-1. And he challenges the suspension and ban as independent acts of retaliation for protected speech. *Id*. at 22. If the University were to reverse course and entertain Plaintiff's constitutional challenge to the investigation before it concludes, the University might well decide to continue the investigation on the ground that an investigation is not an adverse action for purposes of the law of First Amendment retaliation. If it were to do that, then the suspension and ban would continue without the University ever considering Plaintiff's constitutional objections to the suspension and ban.

The suspension and ban were discretionary employment decisions (not subject to any University "proceeding" at all) that result from the exercise of the absolute authority of the Dean. Abstention is never appropriate in such circumstances.

D. Several Oversights in the Panel's Denial of the Motion for an Injunction Pending Appeal May Have Obscured Plaintiff's Strong Likelihood of Success on *Younger* Abstention

In its denial of Plaintiff's injunction motion, the Court held that the investigation qualifies as a judicial proceeding for purposes of *Younger* abstention because "it is difficult to conceive how the University's investigation . . . is legislative instead of judicial in nature[.]" IPA CA6 Denial 5, Dkt. 37. But Plaintiff never argued that the investigation is legislative in nature, and the law does not require that it must be legislative in order to defeat *Younger* abstention. As *New Orleans Public Service, Inc. v. Council of City of New Orleans* ("*NOPSI*") notes, *Younger* abstention is inappropriate either where the proceeding reviews legislative action or where it reviews executive action. 491 U.S. 350, 368 (1989) (stating that "it has never been suggested that *Younger* requires abstention in deference to a state judicial proceeding reviewing legislative *or executive action*.") (emphasis added). Plaintiff contended in his injunction motion that the investigation is "an essentially executive process" because it is ad hoc and ungoverned by existing University rules. First Emerg. Mot. 14, Dkt. 6-1.

In *NOPSI*, the Supreme Court suggested that a proceeding is judicial if it has two characteristics. *NOPSI*, 491 U.S. at 370. First, it must "declare[] and enforce[] liabilities." *Id*. Second, it must act "under laws supposed already to exist." *Id*. Although this Court properly quoted the test, it applied only the first factor,

concluding that the investigation is a judicial proceeding because the "nature of the final act" associated with the investigation—the possible filing of disciplinary charges leading to termination—"declares and enforces liabilities." IPA CA6 Denial 5, Dkt. 37. But both factors must be met for a proceeding to be judicial. *See NOPSI*, 491 U.S. at 370. The second factor—that the proceeding must take place "under laws supposed already to exist"—is absent in this case.

Plaintiff showed that the ad hoc procedure circumvents the office constituted by the University to handle discrimination investigations and violates its policies. PI Reply, R. 34, Page ID ## 1592–93. Defendants have made no attempt to dispute this issue and the District Court found in favor of Plaintiff on it, concluding that the procedure was "unconventional." PI Order, R. 37, Page ID # 1778. This Court nevertheless concluded that the OEO policy is "just like" the ad hoc process. IPA CA6 Denial 9, Dkt. 37. But Plaintiff provided examples in his injunction motion of several violations of the OEO process, none of which were disputed by Defendants. First Emerg. Mot. 4–6, 11, Dkt. 6-1. Perhaps most importantly, the ad hoc process confers power on Defendant Capilouto to decide whether to file disciplinary charges, whereas the OEO Policy confers that power on the OEO director. *Id*. at 5.

Defendants' ad hoc process is not aimed at declaring and enforcing liabilities "under laws supposed already to exist". State action that imposes liabilities other

than "under law supposed already to exist" is executive action: exercise of discretion. *Younger* abstention is not appropriate for review of executive action. *NOPSI*, 491 U.S. at 368.

E. Plaintiff's Request to Expedite Is Timely

This Court has considered whether the party seeking to expedite the appeal moved in an expeditious manner on appeal. *Nader v. Land*, 115 F. App'x 804, 806 (6th Cir. 2004) (denying a motion to expedite when the plaintiff waited more than a month after filing a notice of appeal before filing the motion to expedite the appeal) (unpublished). Plaintiff filed a notice of appeal on January 21, 2026, and filed his Emergency Motion for Injunction Pending Appeal just three days later, on January 24, 2026. Dkt. 6-1. Plaintiff did not file a motion to expedite at that time because an injunction would have lifted Plaintiff's suspension and ban and paused the unconstitutional investigation pending appeal. On February 20, 2026, this Court denied that motion on the ground that Plaintiff had not shown a strong likelihood of success in establishing that *Younger* abstention is inappropriate in his case. Dkt. 37. Plaintiff promptly files this motion within two business days of the denial of his injunction motion to expedite to attempt to reduce the duration of irreparable harm to his constitutional rights.

CONCLUSION

WHEREFORE, Plaintiff respectfully requests that this Court grant Plaintiff's motion to expedite.

February 24, 2026

Respectfully submitted,

/s/ Rima Kapitan

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TYPE-VOLUME CERTIFICATION

Pursuant to Federal Rule of Appellate Procedure 32(g), Rima Kapitan hereby certifies that this motion complies with the type-volume limitation in Rule 27(d)(2)(A) because, as counted by the Microsoft Word word count tool, this motion contains 4,753 words, excluding the parts exempted by Rule 32(f). This motion complies with the typeface requirements in Rule 32(a)(5)(A) and the type-style requirements in Rule 32(a)(6) because this motion has been prepared in proportionally spaced 14-point Times New Roman font.

Dated: February 24, 2026

/s/ Rima Kapitan
RIMA KAPITAN

CERTIFICATE OF SERVICE

I certify that on February 24, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit using the CM/ECF system. I also certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Rima Kapitan
RIMA KAPITAN

Exhibit A:
Declaration of Ramsi Woodcock,
February 24, 2026

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY

Ramsi Woodcock,

Plaintiff,

v.

The University of Kentucky et al.,

Defendants.

Case No. 5:25-cv-00424

Honorable Danny C. Reeves

Declaration of Ramsi Woodcock

I, Ramsi Woodcock, hereby state the following facts, all of which are based on my personal experience and knowledge to the best of my memory, and to which I would testify if called upon:

1. Beau Steenken is the Associate Dean for Academic Affairs & Instructional Services Librarian and Professor of Legal Research at the University of Kentucky School of Law.
2. Attached hereto as Exhibit 1 is a true and accurate copy of an email I received from Dean Steenken on February 24, 2026.
3. In this email, Dean Steenken states that course registration for the Fall 2026 semester opens on March 31, 2026 for third-year law students and on April 2, 2026 for second-year law students. Ex. 1.
4. The last date for law students to add or drop a course is August 28, 2026. Ex. 1.

VERIFICATION

I, Ramsi Woodcock, the undersigned, verify that I have read the foregoing document, Declaration of Ramsi Woodcock, and solemnly affirm under the penalty of perjury that this declaration is true and correct to the best of my knowledge and belief.

Signed by:
Ramsi Woodcock
19CD5B8741564B1...

Ramsi Woodcock

2/24/2026 | 10:38 AM PST

Date

Exhibit 1

University of Kentucky

Woodcock, Ramsi <rwo236@g.uky.edu>

Registration

2 messages

Ramsi Woodcock <rwo236@g.uky.edu> Mon, Feb 23, 2026 at 7:59 PM
To: "Beau B. Steenken" <beau.steenken@uky.edu>

Dear Beau,

It was good chatting last week. Do you happen to know what date course registration starts for students this year?

Best,
Ramsi

Steenken, Beau B. <beau.steenken@uky.edu> Tue, Feb 24, 2026 at 10:26 AM
To: "rwo236@g.uky.edu" <rwo236@g.uky.edu>

Hi Ramsi,

Registration for rising 3Ls opens 3/31 and for rising 2Ls on 4/2. In each case, add/drops continue through the first week of class, so through 8/28.

Thanks,
Beau

From: Ramsi Woodcock <rwo236@g.uky.edu>
Sent: Monday, February 23, 2026 7:59 PM
To: Steenken, Beau B. <beau.steenken@uky.edu>
Subject: Registration

[Quoted text hidden]