

**COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION I**

Ramsi A. Woodcock,

Plaintiff,

v.

University of Kentucky, et al.,

Defendants.

Case No. 26-CI-885
Hon. Phillip Shepherd

**WOODCOCK'S NOTICE OF SUPPLEMENTAL AUTHORITY
ON THE WORD "SHOULD" IN ABA INTERPRETATION 203-1**

At the September 30, 2026 hearing, Defendants argued for the first time that ABA Interpretation 203-1 does not bind the University because Interpretation 203-1 provides that a dean "should not" be appointed over the stated objection of a substantial majority of the faculty, rather than that a dean "shall not" be so appointed. Defendants did not make the "should not" argument in their briefs. Plaintiff Ramsi A. Woodcock therefore respectfully submits the following response. Apart from the record exhibits cited, the authority comes from the ABA's own *Standards and Rules of Procedure for Approval of Law Schools 2025–2026* ("ABA Standards"), the edition in force when Van Tatenhove was appointed, which is available at https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_t_o_the_bar/standards/2025-2026/2025-2026-standards-and-rules-of-procedure-for-approval-of-law-schools.pdf. The current edition contains the same language.

Woodcock identifies several contextual indications that the ABA uses the word "should" to convey a mandatory condition to the appointment of a dean.

1. Whether the Word "Should" is Mandatory Depends on the Context of the Legal Document at Issue.

Whether or not a provision is mandatory or directory depends not merely on the specific word used, but on the intent expressed by the language in context. *See* Ky. Rev. Stat. Ann. § 446.010

(defining statutory terms but specifying that the definitions may vary if “the context requires otherwise”). In making the contextual assessment, courts attempt to ascertain legislative intent through “consideration of the entire act, its nature and object, and the consequence of construction one way or the other.” *Knox Cnty. v. Hammons*, 129 S.W.3d 839, 843 (Ky. 2004), *as modified* (Mar. 19, 2004). As the Supreme Court elaborated,

If the provision relates to some immaterial matter, not reaching the substance, or not of the essence of the thing to be done, and by an omission to observe it the rights of those interested will not be prejudiced—as where compliance is a matter of convenience or the directions are given merely with a view to securing proper, orderly, or prompt procedure—it is generally regarded as but directory. Of course, the term “mandatory” embraces the converse character of provisions, which are conditions precedent.

Bevin v. Commonwealth ex rel. Beshear, 563 S.W.3d 74, 88 (Ky. 2018) (quoting *Skaggs v. Fyffe*, 266 Ky. 337, 98 S.W.2d 884, 886 (1936)).

The word “should” is not always directory, and courts must use ordinary methods of interpretation to determine the import of the word “should,” whether Interpretation 203-1 is read as a term of Woodcock’s contract or as a University rule that Section 2 of the Kentucky Constitution requires the University to follow. Indeed, “should” is “frequently used to express obligation in degrees varying from persuasive to mandatory.” *Magnuson v. County of Grand Forks*, 97 N.W.2d 622, 624 (N.D. 1959). Consequently, “[t]he intention with which the word is used must be determined by the context and the subject matter to which it has reference.” *Id.*; see also *RLS Assocs., LLC v. United Bank of Kuwait PLC*, 380 F.3d 704, 710 (2d Cir. 2004) (“We believe the court attached excessive significance to the customary meaning of ‘may’ in legal jargon, without adequately considering the overall structure and context of the sentence in which the word was used.”).

2. The Language and Structure of the ABA Provision at Issue Make Clear That “Should” is Used in the Mandatory Sense.

First, Interpretation 203-1 interprets a mandatory Standard. Standard 203(c) provides that the University “shall have and follow a procedure for decanal appointment or reappointment that

assures meaningful involvement by the faculty or a representative body of the faculty in the selection of a dean.” Ex. 19 at 14. Interpretation 203-1 states what the requirement of Standard 203(c) means when the faculty objects: “Except for good cause, a dean should not be appointed or reappointed to a new term over the stated objection of a substantial majority of the faculty.” *Id.* Interpretation 203-1 is thus not a freestanding exhortation but a statement of what the “shall” in Standard 203(c) requires when the faculty objects. A procedure that allows the University to appoint, without good cause, a dean whom a substantial majority of the faculty has rejected does not “assure[] meaningful involvement by the faculty” in the selection of the dean. The good-cause exception confirms the point. A provision that may be departed from only for good cause is a rule. A mere recommendation would need no exception. The exception, moreover, is for “good cause,” not “extraordinary circumstances.” The phrase “extraordinary circumstances” appears in Standard 203(b), which addresses a different question, namely whether the dean must hold a tenured faculty appointment. Ex. 19 at 14. Interpretation 203-1 does not address a dean’s qualifications at all. Interpretation 203-1 allocates decision-making authority between the University and the faculty, requiring good cause before the University may appoint a dean over the stated objection of a substantial majority of the faculty, whatever the candidate’s credentials.

Second, the ABA distinguishes ABA Interpretations, which are mandatory, from ABA guidance, which is not. The Council of the ABA’s Section of Legal Education and Admissions to the Bar “adopts the Standards for Approval of Law Schools and the Interpretations of those Standards.” ABA Standards, Preface at p. v. The Council also issues Council Statements, which the Preface describes as “positions that the Council has taken on various matters that do not have the force of a mandatory Standard or Interpretation.” *Id.* at vii (emphasis added). The Preface’s description of Council Statements would make no sense if Interpretations were mere guidelines. The ABA gives

Interpretations the same mandatory force as Standards and reserves non-binding status for other documents.

Third, the ABA treats Interpretations as rules that a law school can violate. The ABA's complaint instructions ask the complainant to identify "[t]he Standards and Interpretations alleged to have been violated." Ex. 58 at 2. The ABA's Rules of Procedure likewise encourage each complaint to include "a list of the Standards and Interpretations with which the law school is allegedly out of compliance." ABA Standards, Rule 41(5), at 85. Some Interpretations expressly describe conduct that "violates the Standards." *E.g., id.*, Interp. 405-1, at 35. And when Woodcock complained to the ABA about Van Tatenhove's appointment, the Council did not set his complaint aside as resting on a guideline. The Council determined that the complaint "may raise issues relating to the Law School's compliance with the Standards" and asked the Law School to respond. Ex. 60. The University's answer did not call Interpretation 203-1 a guideline either. The Provost told the ABA that the appointment "is fully consistent with the ABA Standards and Interpretations referenced in your correspondence," and argued at length that the appointment is "consistent with ABA standard 203, and specifically with Interpretation 203-1 and Standard 203(b)." Defs.' Resp. Mot. Temp. Inj., Ex. 9 at 1, 5.

Finally, the University's own regulations make the point independently of ABA practice. Section I.D of the Employee Code is phrased in mandatory terms: "employees *must* comply with applicable constitutional provisions, laws, federal and state regulations, Governing Regulations, Administrative Regulations, policies, procedures, processes and accreditation requirements." Ex. 20 § I.D (emphasis added). Interpretation 203-1 is the ABA's statement of what Standard 203 requires in the appointment of a dean. Nothing in the Employee Code limits "accreditation requirements" to provisions that use the word "shall." And because Woodcock's offer letter incorporates the

University's rules and regulations by reference, Ex. 21 at 1, the Employee Code's accreditation requirement is also a term of Woodcock's contract.

Woodcock respectfully asks the Court to reject Defendants' argument that Interpretation 203-1 is a mere guideline.

Dated: October 14, 2026.

Respectfully Submitted,

/s/ Soha Saiyed

/s/ Rima N. Kapitan

Soha Saiyed (#91619)

Saiyed Law
101 North Seventh Street, Suite 807
Louisville, Kentucky 40202
(502) 557-4010
sts@slawky.com

Rima Kapitan (IL Atty No. 6286541)

**Admitted Pro Hac Vice
Kapitan Gomaa Law, P.C.**
P.O. Box 46503
Chicago, IL 60646
(312) 566-9590
rima@kapitangomaa.com

**Joe F. Childers
Joe F. Childers & Associates**
The Lexington Building
201 West Short Street
Suite 300
Lexington, Kentucky 40507
Phone: 859-253-9824
Joe@Jchilderslaw.com

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2026, a true and accurate copy of the foregoing document was filed electronically with the Clerk of the Court using the Kentucky Court of Justice eFiling system, which will automatically send a copy of the foregoing to all counsel of record.

/s/ Soha Saiyed

Counsel for Plaintiff

1E95523C-EE7D-4724-967B-A22616DDA2C4 : 000006 of 000006

SF : 000006 of 000006