

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION I

Ramsi A. Woodcock,

Plaintiff,

v.

Case No. 26-CI-885

Gregory Van Tatenhove et al.,

Defendants.

**WOODCOCK'S SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF HIS
EMERGENCY MOTION FOR A TEMPORARY INJUNCTION**

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INTRODUCTION

In 2023, Cambridge University conducted a search for a prestigious chair in sociology.¹ The job requirements “called for ‘an outstanding research record of international stature’ and a ‘proven successful track record’ supervising Ph.D. students.” “[U]nder pressure” “to diversify”, Cambridge “pass[ed] over more experienced candidates for the job” and hired Jason Arday, who “had a modest publication record and had bounced from one university to the next — not staying long enough to oversee a full three-year-or-more doctorate.” It was a chair that “typically goes to people who are very senior”. Arday was just 37 at the time and his “published papers and his thesis had dozens of grammatical errors, along with identical quotes attributed to different people”. “[A] panel of nine experts” convened by Cambridge picked him anyway. Cambridge “gushed publicly about” Arday “and privately disregarded complaints about his work”, “declin[ing] to investigate plagiarism concerns and accus[ing] his critics of a ‘vile campaign’ to discredit him.” On August 5, 2026, Arday resigned. Cambridge conceded that the allegations against him were “troubling” and announced an “independent investigation.” “At Cambridge, scholars say” that Arday’s hiring did “immense damage to diversity efforts, to the reputation of the university, to their own reputations, and to the recruitment of faculty and students in the future.”² Arday committed suicide on August 14, 2026.³ As a former mentor of his observed, “[h]e’s a pawn,” she said, “whose ambition made him vulnerable.”⁴

The University of Kentucky’s misconduct in hiring Defendant Van Tatenhove to be the next dean of the J. David Rosenberg College of Law (“law school”) bears a striking resemblance to the conduct of Cambridge University in hiring Arday—with a significant difference: it is more egregious. As in the

¹ Mara Hvistendahl et al., *Professor’s Death Leaves Behind Hard Questions for Cambridge on Race and Hiring*, N.Y. Times (Aug. 15, 2026), <https://www.nytimes.com/2026/08/15/world/europe/jason-arday-cambridge-hiring-questions.html>. All quotations in this paragraph are from the above-cited article unless otherwise indicated.

² Katrin Bennhold, *The Tragic Story of Jason Arday*, N.Y. Times (Aug. 18, 2026), <https://www.nytimes.com/2026/08/18/world/jason-arday-cambridge-canada-meta.html>.

³ Hvistendahl et al., *supra* note 1.

⁴ *Id.*

Arday case, the University has been under intense pressure to check a diversity box—in this case, from Kentucky Republicans, who believe that the University “discriminat[es] against white conservatives”⁵ and who recently acted on that belief by passing a law commanding the University “not to require any individual to” “condemn” “a specific” “political viewpoint” “to be eligible for hiring”.⁶ Ky. Rev. Stat. § 164.2896(2). But the University’s response to pressure has been far more extreme than that of its fellow institution across the pond. Cambridge hired Arday for an important faculty position. But the University hired VanTatenhove for *the* most important position on the faculty—that of lead scholar, also known as “dean”.⁷ Cambridge hired Arday even though his publication record was “modest”, riddled with “grammatical errors”, and partially plagiarized.⁸ University of Kentucky hired Van Tatenhove even though his CV listed *no academic publications at all*. Ex. 7. There is no allegation that Cambridge broke any of its own written rules in hiring Arday. The University violated three different accreditation standards that are part of the University’s written policies—along with the University’s own written appointments procedures—in hiring Van Tatenhove. Employee Code § I.D, Ex. 20 at 1; ABA Standards Interp. 203-1, Standard 203(b), Ex. 19 at 14; SACSCOC Requirement 10.4, Ex. 73 at 7; AR Univ. Appts. § A.3, Ex. 74. Cambridge honored the principle of faculty autonomy in convening a panel of nine peers to review Arday’s application and in deferring to the experts’ decision. The

⁵ Ryan C. Hermens, *GOP Lawmakers Praise University of Kentucky for Removing Office of Institutional Diversity*, Lexington Herald Leader (Aug. 21, 2024), <https://www.kentucky.com/news/local/education/article291217020.html>.

⁶ Ryan C. Hermens, *GOP Lawmakers Praise University of Kentucky for Removing Office of Institutional Diversity*, Lexington Herald Leader (Aug. 21, 2024), <https://www.kentucky.com/news/local/education/article291217020.html>; A day after the faculty wrote to Capilouto and DiPaola to reject Van Tatenhove’s candidacy, Kentucky Republican legislators attacked Capilouto during a “subcommittee meeting on universities’ budget requests”, arguing that a viral video showing a University administrator discussing diversity showed that “DEI is still there at the University of Kentucky”. McKenna Horsley, *Viral Video of UK Employee Saying DEI Principles Part of Curriculum Sparks GOP Criticism*, Kentucky Lantern (Feb. 5, 2026), <https://kentuckylantern.com/2026/02/05/viral-video-of-uk-employee-saying-dei-principles-part-of-curriculum-sparks-gop-criticism/>. The unqualified candidate whom Capilouto selected for the deanship three weeks after receiving this tongue lashing in Frankfort happened to be the husband of the general counsel to the Republican Speaker of the Kentucky House of Representatives who sponsored the anti-DEI legislation. Ex. 57; *House Bill 4*, Kentucky General Assembly, <https://apps.legislature.ky.gov/record/21rs/hb4.html> (listing sponsors).

⁷ Under University policy, a law dean is automatically a member of the faculty and “chair of the college faculty”, and Van Tatenhove’s contract describes him as the “chief academic” “officer” of the law school. Admin. Reg. — Univ. Org. §§ E.3.a, F.2.c, Ex. 22; Van Tatenhove Offer Ltr. Ex. 11 at 2.

⁸ Hvistendahl et al., *supra* note 1.

University appointed Van Tatenhove over the stated objection of a substantial majority of the law school faculty and doubled down after public outcry. Faculty Email, Ex. 8; Am. Compl. ¶¶ 36–39. Defendant Capilouto, who is the president of the University, went so far as to call the basic principle of faculty autonomy into question when he publicly stated that “American Bar Association standards” “do not exist to give a group of faculty veto power on decisions[.]” Ex. 79.

There is one other important difference between the Arday case and this one. A law firm menaced critics of Arday and no lawsuit was filed to stop his appointment.⁹ So no judge had the opportunity to stop the trainwreck before it “bl[e]w[] up in [a] very public and tragic way”.¹⁰ In this case, Professor Woodcock’s colleagues fear retaliation if they publicly oppose the appointment. Woodcock Decl. ¶¶ 28–29. But, despite already being the target of severe repression by the University, Professor Woodcock has bravely sued. Am. Compl. ¶ 25. Unlike the British courts, this Court therefore has the opportunity to prevent the “immense damage” to the “diversity efforts” of supporters of a manifestly unqualified hire, “to the reputation of the university,” to the constitutional and contract rights of faculty like Professor Woodcock, “and to the recruitment of faculty and students in the future” that Cambridge University is currently enduring—all because it allowed the appointment of an unqualified member of the faculty to fester for years and did not “deal[] with” it “earlier”.¹¹

The urgency with which action to remove Van Tatenhove is required in this case is also considerably greater than the urgency in the Arday case because this case involves a struggle between the law faculty and the University administration for control over the law school. Defendants overrode the University’s contractual policies, designed to protect the faculty’s control over the appointment of deans, in order to appoint their chosen candidate, ensuring that the law school would be led not by a scholar but by an administrator beholden to the University administration. The University’ written

⁹ Hvistendahl et al., *supra* note 1.

¹⁰ Katrin Bennhold, *supra* note 2.

¹¹ *Id.*

policies, which are incorporated by reference into Woodcock's employment contract, as well as at least a half century of actual practice, not to mention rules articulated by the American Bar Association (ABA) and the U.S. Supreme Court, mandate that the faculty control the hiring of their lead faculty member, the dean. Employee Code § I.D, Ex. 20 at 1; ABA Standards Interp. 203-1, Ex. 19 at 14; Woodcock Offer Ltr., Ex. 21 at 1 (stating that Woodcock's "responsibilities" are "as outlined in the . . . University of Kentucky rules and regulations"); *Regents of Univ. of Mich. v. Ewing*, 474 U.S. 214, 226 n.12 (1985) (acknowledging faculty autonomy); Ausness Decl. ¶¶ 3, 5. When the University usurps the faculty's power by appointing a dean over the objection of the faculty, the University executes a hostile takeover of the law school in breach of the individual contractual governance rights of each member of the faculty, including Woodcock.

It is a staple of the law of control over organizations that control rights are "irretrievably lost upon breach" "where such rights are central to preserving" a "balance of power" in "management" and "may constitute irreparable harm, for purposes of obtaining preliminary injunctive relief". *Wisdom Import Sales Co. v. Labatt Brewing Co.*, 339 F. 3d 101, 114 (2d Cir. 2003). The stakes are all the higher in the university context. The U.S. Supreme Court has cautioned that "[n]o one should underestimate the vital role in a democracy that is played by those who guide and train our youth". *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957). The leader of an organization makes innumerable decisions big and small, from allocating budgets for internal events to hiring and firing, that affect the direction of an organization and cannot be reversed one, two, or five years down the line when a permanent injunction is issued. Throw into the mix that the appointment of Van Tatenhove constitutes an *ongoing* violation of Woodcock's rights to be free of arbitrary power, to freedom of speech, and to freedom of association under the Kentucky Constitution, and the need to restore the status quo by removing Van Tatenhove from office pending this litigation is greater still. Ky. Const. §§ 1(4), 1(6), 2, 8. There is no graver violation of the law than the breach of constitutional rights. "The loss of" freedom of

speech, “for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). No amount of money damages can compensate for a deprivation of constitutional rights. The only remedy is to stop the deprivation as soon as it starts.

While the harms caused by the appointment of Van Tatenhove operate at the level of the individual, the faculty, the law school, the University, and ultimately the Commonwealth, the rights at stake are *personal* to Woodcock. Faculty autonomy is a valuable perk to individual scholars like Woodcock because it guarantees their freedom to report unvarnished, potentially pathbreaking research conclusions safe from retaliation by University administrators, donors, trustees, or the politicians who back them. Woodcock Decl. ¶¶ 1, 6, 9. This gives the work of faculty members credibility and a public audience. *Id.* Woodcock has given up hundreds of thousands of dollars per year in pay that he would otherwise earn in industry in order to obtain this perk of University employment. *Id.*; Exs. 44–45. Because this pay cut covers other perks as well, it is not possible, however, to identify the dollar value of faculty autonomy with certainty. *Cyprus Mountain Coal Corp. v. Brewer*, 828 S.W. 2d 642, 645 (Ky. 1992). Accordingly, specific performance removing the University-imposed dean from office and restoring faculty autonomy is required for this breach of contract. *Id.* And “in a case where specific performance would be appropriate, since the remedy at law is inadequate, a finding of irreparable harm in the denial of a[preliminary] injunction would also be appropriate.” *United Acquisition Corp. v. Banque Paribas*, 631 F. Supp. 797, 805 (S.D.N.Y. 1985).

Woodcock’s constitutional claims are also *personal* to him. The Kentucky Constitution guarantees Woodcock individually that the actions of state agencies such as the University will be carried out according to written policy. *Com., Transportation Cabinet v. Weinberg*, 150 S.W. 3d 75, 77 (Ky. Ct. App. 2004); Ky. Const. § 2. When the University violates its own written rules and longstanding practices to deprive Woodcock of the power he once exerted as a member of the faculty to veto the appointment of a dean, it breaches Woodcock’s individual right to be free of arbitrary exercises of

state power. *Id.* Additionally, the faculty associate in part to tell the world that they supervise each other: experts review experts in a process called “peer review”. When the University appoints a non-scholar dean to the faculty whose job it is to evaluate the quality of faculty scholarship, the appointment short-circuits that message. *Boy Scouts of America v. Dale*, 530 U.S. 640, 647–48 (2000); *FAIR v. Rumsfeld*, 390 F. 3d 219, 231 (3d Cir. 2004). That violates the individual right of expressive association enjoyed by each member of the faculty, including Woodcock. *San Francisco County Democratic Cent. Com. v. Eu*, 826 F. 2d 814, 817 (9th Cir. 1987); Ky. Const. §§ 1(4), 1(6), 2, 8. Finally, a dean imposed over the objection of the faculty is fundamentally beholden to University administrators, donors, trustees, and the politicians who back them, and not to the faculty. In consequence, Woodcock reasonably fears that if he reports unvarnished research conclusions that University administrators and the special interests standing behind them dislike, he will be sanctioned. Such a chill to protected scholarly speech violates Woodcock’s individual right to freedom of speech. *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 194–95 (1998); Ky. Const. §§ 1(4), 2, 8.

While it would be nice if the ABA or the University’s accreditor, Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), whose rules were violated by the appointment, would act swiftly to pressure the University to come back into compliance by removing Van Tatenhove, only this Court has authority to *compel* the University to comply. Moreover, the same forces that may have brought about the appointment of Van Tatenhove have also set their sights on the ABA, which has been threatened with decertification by federal and state governments alike this year and has moved to repeal some of its rules in order to placate Republican state legislatures.¹² It is

¹² Karen Sloan, *American Bar Association Splits on Plan to Scrap DEI Rule for Law Schools*, Reuters (Aug. 4, 2026), <https://www.reuters.com/legal/government/american-bar-association-rejects-plan-scrap-dei-rule-law-schools-2026-08-04/> (“Texas, Florida, and Alabama have each moved to sideline the ABA in their lawyer licensing processes in recent months,” “several others are weighing similar moves”, and “[t]he U.S. Department of Education is conducting” a “review of the ABA’s accreditation function” “with a decision due later this year.”); Kathryn Rubino, *Turns Out The ABA’s Gatekeeping Role Actually Does Something*, Above the Law (May 19, 2026), <https://abovethelaw.com/2026/05/turns-out-the-abas-gatekeeping-role-actually-does-something/> (stating that the ABA is in the process of repealing its diversity standard “a survival calculation rather than a change of heart”).

precisely at such a moment, when private, informal enforcement mechanisms are in peril, that judicial intervention is most urgently needed to guarantee free speech, academic freedom, and the rule of law.

Because the University has upset a balance of power between faculty and University administrators that underpins our democracy and has been the status quo in the University for at least half a century, Woodcock seeks immediate temporary injunctive relief to restore the status quo while this Court considers whether the University's unprecedented departure from settled practice is justified. *Maupin v. Stansbury*, 575 SW 2d 695, 698 (Ky. App. 1978). If the University is permitted to maintain a manifestly unqualified dean in office in blatant violation of written rules, longstanding practice, and the will of the historical authority in this area—the faculty—over the course of the year, two years, or five years during which this litigation plays out, then the University's usurpation of power from the faculty will become a *fait accompli*. Qualified faculty will flee. Michael Email, Ex. 36 at 1. Additional “yes” men beholden to the new dean and University administrators will replace them. Freedom loving students will be repelled. The law school's reputation will be destroyed. And Woodcock will be deprived of rights to participate in an autonomous faculty for which he gave up much treasure and which multiple rights under the Kentucky Constitution guarantee him. Worst of all, these difficult-to-measure harms having been inflicted, this Court will be powerless to set things right once it concludes at the end of a trial that the University had no right to upset the status quo.¹³

FACTUAL BACKGROUND

Woodcock incorporates by reference all facts, legal arguments, exhibits, and declarations attached to his Amended Verified Complaint. Exhibits incorporated from the Amended Verified Complaint are designated as Exhibits 1 through 81. Woodcock attaches to this memorandum an additional nine exhibits designated as Exhibits 82 through 90.

¹³ Woodcock requests an injunction bond in the amount of \$100.00 because Van Tatenhove's removal would vindicate the public interest in enforcement of constitutional and contractual rights.

Between January 16 and February 3, 2026, Defendant DiPaola, who is the provost of the University, brought four finalists for the position of dean of the law school to campus to participate in open fora with the University community. Ex. 1 at 2; Ex. 2 at 2. The University's job posting stated that "academic administrative leadership experience" was "[r]equired" and that any candidate "[m]ust qualify for appointment at the rank of tenured, full professor[.]" Ex. 3 at 1. Three of the finalists were tenured law professors with academic administrative experience. Leary CV, Ex. 4; Higdon CV Ex. 5; Sterio CV Ex. 6. The fourth was Van Tatenhove, whose only scholarly publication was his student note, had never held a full-time faculty role at a law school, and had no academic administrative experience. Van Tatenhove CV, Ex. 7 at 1–4.

On February 4, the faculty sent an email to DiPaola, copying Senior Adviser to the President George Wright, declaring that the faculty had approved three of the finalists. Fac. Email, Ex. 8 at 1; Woodcock Decl. ¶ 26. With respect to the fourth, the email expressed the "collective view[] of the faculty" that Van Tatenhove was "unacceptable to be our next Dean" because he lacks "academic administrative leadership experience" or a "record of scholarship[]" sufficient "to be granted tenure." *Id.* at 2. DiPaola did not make an offer to any of the three finalists approved by the faculty, at least one of whom would have accepted. Leary Email, Ex. 28 at 1; Complaint ¶ 16. Instead, on February 27, DiPaola made an offer to Van Tatenhove to become the next dean of the law school. Offer Ltr., Ex. 11 at 1. Van Tatenhove accepted on or before March 3 and DiPaola announced the appointment on March 6. *Id.* at 4; Announc., Ex. 17 at 1. After public outcry regarding Van Tatenhove's appointment, the board directed Capilouto to revise the governing regulations to ensure that "all future Dean appointments are approved by the" board. Bd. Action, Ex. 16 at 1. However, the board did not block the appointment of Van Tatenhove at its Jun 30 meeting and Van Tatenhove took office on July 20, 2026. *Id.*; Ex. 75.

ARGUMENT

Woodcock is entitled to a preliminary injunction under Ky. R. Civ. P. 65.04 if he shows that (1) “a substantial question exists on the merits”, (2) “he will suffer immediate and irreparable injury”, and (3) “the equities”, such as “possible detriment to the public interest”, “harm to the defendant”, and “whether the injunction will merely preserve the status quo” “weigh[]” in “favor” of “issuance of the temporary injunction”. *Beshear v. Goodwood Brewing Company, LLC*, 635 S.W. 3d 788, 795 (Ky. 2021). Woodcock meets these standards on his arbitrary power claim under Section 2 of the Kentucky Constitution, his breach of contract claims, his expressive association claims under Sections 1(4), 1(6), 2, and 8 of the Kentucky Constitution, and his chilled speech claim under Sections 1(4), 2, and 8 of the Kentucky Constitution.

A. Woodcock Has a Substantial Likelihood of Success on the Merits

Although he need not show “a substantial probability of success”, only that a “substantial question” exists or that “his rights are being” “violated”, Woodcock in fact has a substantial probability of success on his four claims. *Maupin v. Stansbury*, 575 SW 2d 695, 699 (Ky. App. 1978).

1. Woodcock’s Claims in a Nutshell

At stake in this case is the right of faculty to participate in democratic self-governance, a principle incorporated into the University’s policies and employment contracts and protected by the rights against arbitrary exercises of power, to freedom of speech, and to freedom of association guaranteed by the Kentucky Constitution. All four of Woodcock’s claims derive from the University’s transgression of the principle that faculty autonomy from university administrators in matters of appointment, promotion, and termination is necessary to ensure that faculty are able to carry out their responsibility to speak their minds about the implications of their research as opposed to delivering conclusions that University administrators, politicians, or donors wish to hear. 1915 Declaration, Ex. 27 at 294–95. If a faculty member’s career depends upon the decisions of

other truth searchers as opposed to those of university administrators and trustees beholden to donors or the politicians who appointed them, he will feel free to deliver the unvarnished conclusions dictated by his research—and in this way he will advance the University’s mission of expanding knowledge. Univ. Mission, Ex. 18 at 3. If a faculty member’s career depends upon the decisions of university administrators and trustees, he will fear retaliation for his speech and varnish his conclusions. In imposing a dean whom the faculty have rejected because he is not a scholar, the University has turned authority concerning faculty appointment, promotion, and termination over to an administrator whom the faculty have judged not to be a truth searcher like themselves. Faculty Email, Ex. 8. Their careers now depend upon the decisions of a man with no scholarly record who owes his position as their dean to exclusively University administrators, and, through them, to the University’s trustees, the politicians who appointed them, and potentially to the University’s donors as well. Herald-Leader Reality Check, Ex. 24 at 3–4.

The courts have long recognized the importance of faculty autonomy. The U.S. Supreme Court has stated that “[a]cademic freedom thrives not only on the independent and uninhibited exchange of ideas among teachers and students, but also . . . on autonomous decisionmaking by the academy itself. Discretion to determine, on academic grounds, who may be admitted to study, has been described as one of ‘the four essential freedoms’ of a university.” *Regents of Univ. of Mich. v. Ewing*, 474 U.S. 214, 226 n.12 (1985) (cleaned up). The others are the rights to determine “who may teach, what may be taught,” and “how it shall be taught.” *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J., concurring). The courts have elaborated that this includes the right “to set” “criteria for promotion and then to evaluate a candidate’s fitness for promotion under them.” *Heim v. Daniel*, 81 F. 4th 212, 231 (2d Cir. 2023). While the courts sometimes loosely refer to autonomy as a right of the “university”, they mean the right of university *faculties*, not the lay trustees who govern universities or the senior administrators who are beholden to them for their positions. For the

courts, “a community of scholars . . . is what a university is.” *Greene v. Howard University*, 412 F. 2d 1128, 1135 (D.C. Cir. 1969). Accordingly, the courts recognize that “[i]f the academic enterprise is to remain an engine of progress, decisions about the value of academic work must be left to academics.” *Heim*, 81 F. 4th at 233. “[T]hings like” “research scholarship” “are subjective, and” “must be left for evaluation by the professionals.” *Id.* Such evaluations must be “made by experts in their good faith professional judgment, free from any influence from political entities in the state or other governmental or university officials outside the relevant discipline.” *Id.* at 234.

The University’s appointment of a non-scholar dean over the objection of the faculty violates four rights that are personal to Woodcock, each of which derives from the basic principle of faculty autonomy—which Woodcock also calls “peer review”. *See Regents of Univ. of Mich. v. Ewing*, 474 U.S. 214, 226 n.12 (1985) (describing “autonomous decisionmaking” by the “academy” as necessary for academic freedom to thrive). The first is the right under Section 2 of the Kentucky Constitution to be free of arbitrary exercises of government power. *Com., Transportation Cabinet v. Weinberg*, 150 S.W. 3d 75, 77 (Ky. Ct. App. 2004). The violation arises because the University acknowledges the importance of faculty autonomy to its mission of advancing knowledge and has accordingly both honored faculty autonomy for decades and established written policies that protect it. Univ. Mission, Ex. 18 at 3. The University acknowledges faculty autonomy as “[s]hared governance,” which it describes as “a bedrock principle and a value of the University” that is “critical to how the University meets its mission.” Governing Reg. I — Decl. Principals. § B, Ex. 26 at 2. Consistent with this principle, the Board of Trustees directs that the faculty advise the president “within” their “domain[] of expertise,” including regarding “measures necessary to preserve and protect the University’s deep commitment to” “academic freedom” and “the ethical and professional standards

applicable to members of the University's faculty.”¹⁴ *Id.* The University further implements this principle by mandating compliance with accreditation standards that forbid the appointment of a dean without tenure or over the objection of the faculty and require that faculty be permitted to submit written statements to accompany any recommendation regarding the appointment of a dean. Employee Code § I.D, Ex. 20 at 1 (requiring compliance with accreditation standards); ABA Standards Interp. 203-1, Standard 203(b), Ex. 19 at 14 (requiring that a dean not be appointed over the objection of the faculty unless there is good cause and that a dean be a tenured member of the faculty); Admin. Reg. — Univ. Appts. § A.3, Ex. 74 at 2 (requiring that a recommendation for the appointment of a dean be accompanied by written statements of tenured members of the faculty). And the University has honored faculty autonomy in practice by not appointing a dean over the objection of the faculty, or who lacked the scholarly record required for tenure, for at least the past fifty years. Ausness Decl. ¶¶ 3, 6. As a result, when the University imposed a lay dean on the faculty, it did not just violate an abstract principle. It also violated its own written policies guaranteeing faculty autonomy as well as longstanding practice. Ausness Decl. ¶¶ 3, 6; Employee Code § I.D, Ex. 20 at 1; ABA Standards Interp. 203-1, Standard 203(b), Ex. 19 at 14; Admin. Reg. — Univ. Appts. § A.3, Ex. 74 at 2. And because this assault on faculty autonomy is inconsistent with the University's mission to advance knowledge, the University could not provide an explanation for why it needed to break its own written rules and depart from longstanding practice. It therefore violated Woodcock's individual right under Section 2 of the Kentucky Constitution to be free of arbitrary exercises of government power. *Com., Transportation Cabinet v. Weinberg*, 150 S.W. 3d 75, 77 (Ky. Ct. App. 2004) (failure to follow rules); *Kentucky Milk Marketing v. Kroger Co.*, 691 S.W. 2d 893, 900–01 (Ky. 1985) (unexplained change in longstanding practice).

¹⁴ Governing Reg. V — Shared Governance, <https://regs.uky.edu/sites/default/files/2026-04/gr-i-declaration-of-principles.pdf>.

The second right that the appointment violates is Woodcock's right to the University's performance of his employment contract. The violation arises because the credibility that membership in an autonomous faculty provides to a scholar has economic value. In consequence, faculty such as Woodcock bargain to have the written University policies that guarantee faculty autonomy included in their employment contracts. Woodcock Decl. ¶¶ 7–10; Woodcock Offer Letter, Ex. 21 at 1 (stating that Woodcock's "responsibilities" are "as outlined in the . . . University of Kentucky rules and regulations"). The economic value of membership in an autonomous faculty is reflected in the pay cut that frequently accompanies a move to academia from industry. Faculty trade financial compensation for services provided to them as part of their employment. The dollar value of those services is measured by the magnitude of the pay cut. One of those services is governance by an autonomous faculty, which gives the scholar's research a credibility that it would not enjoy if the scholar continued to work in industry, where he is accountable for his research conclusions to non-scholars. In other words, membership in an autonomous faculty creates a valuable platform for a scholar's research and the scholar pays for access by taking a pay cut. The terms of access are the University's written policies guaranteeing faculty autonomy. When the University violates those policies, it breaches its agreement with the scholar.

The third right that the appointment violates is the right of expressive association under the Kentucky Constitution. *Com. v. Wasson*, 842 S.W. 2d 487, 492 (Ky. 1992) (stating that federal rights supply a "floor" to the Kentucky Constitution); *Boy Scouts of America v. Dale*, 530 U.S. 640, 647–48 (2000) (defining the right of expressive association). The violation arises because membership in a faculty that enjoys autonomy from university administrators is a badge of credibility for individual scholars. It tells the world that the scholar is likely to report research conclusions that have not been influenced by special interests, such as the preferences of university administrators and the trustees, donors, and politicians to whom university administrators are accountable. It is what distinguishes a

researcher for a political advocacy organization, a law firm, or a thinktank from a *scholar*. 1915 Declaration,. Ex. 27 at 294–95. When the University imposes a lay dean on the law faculty, it *alters* the message that membership in the faculty sends from that of credibility to untrustworthiness. Altering the message sent by membership in a group violates the individual right of expressive association. *Boy Scouts of America v. Dale*, 530 U.S. 640, 653 (2000).

The fourth right that the appointment violates is the right to freedom of scholarly speech under the Kentucky Constitution. *Com. v. Wasson*, 842 S.W. 2d 487, 492 (Ky. 1992); *Meriwether v. Hartop*, 992 F. 3d 492, 505 (6th Cir. 2021). The violation arises because the appointment of a lay dean chills faculty speech. A dean who is imposed over the objection of the faculty is not accountable to the faculty. If the faculty could not prevent his hiring, they certainly cannot bring about his firing if he makes bad decisions. And if he is not accountable to them, then he is accountable only to University administrators and, ultimately, to University trustees, politicians who appoint them, and donors—to each of whom University administrators are formally or informally accountable. *See, e.g.*, Kentucky Lantern 3/6/26, Ex. 80 at 2 (quoting J. David Rosenberg, an alum and major donor for whom the law school is currently named, as saying that Van Tatenhove would “engage” “alumni in supporting [the school’s] success”). It follows that, as a result of the appointment, faculty, in turn, have become accountable not to each other for their speech (as would happen if they remained autonomous) but, through Van Tatenhove, to the University administrators, trustees, donors and politicians who stand behind the dean’s appointment. *See, e.g.*, Congressman Barr Press Release, Ex. 25 (celebrating the appointment of Congressman Barr’s “friend” Van Tatenhove); Woodcock Decl. ¶ 19 (discussing a report that prominent Kentucky politicians lobbied University administrators regarding a law school dean appointment). And so faculty must now fear that if they report research conclusions that these outside interests dislike they will receive negative performance reviews and ultimately face termination. Moreover, even if they could rely on Van Tatenhove’s bona fides, their speech would

still be chilled because his lack of training as a scholar prevents the faculty from predicting what he will consider to be bad scholarship. Woodcock 2d Decl. ¶¶ 4–9. Unsure of where the line falls between good and bad scholarship in the lay mind, faculty will speak less and suppress their more controversial conclusions to minimize the risk of running afoul of his preferences. *Id.* The Kentucky Constitution protects the right of faculty to engage in scholarly speech. *Com. v. Wasson*, 842 S.W. 2d 487, 492 (Ky. 1992) (stating that federal rights supply a “floor” to the Kentucky Constitution); *Merivether v. Hartop*, 992 F. 3d 492, 505 (6th Cir. 2021) (stating that “professors at public universities retain First Amendment protections” “when engaged in core academic functions, such as” “scholarship”). Actions that chill scholarly speech violate that right. *Pernell v. Florida Board of Governors of the State University*, No. 22-13992 slip op. at 22 (11th Cir. July 7, 2026) (condemning law that “chills potential speech” of faculty “before it happens”).

The harm associated with all four of these claims is irreparable. For the three constitutional claims (expressive association, arbitrary power, and chill to speech), the harm is irreparable because it is not possible to place a dollar value on the loss of a constitutional right, particularly those associated with freedom of speech. *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of” speech “freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”) The harm associated with the University’s breach of contract is irreparable because it is difficult to calculate the share of Woodcock’s pay cut attributable to the benefit of governance by an autonomous faculty as opposed to other benefits associated with a faculty appointment, such as the freedom to choose one’s research topics. Moreover, the value of a right to choose an organization’s leader is not quantifiable. *Oracle Real Estate Holdings v. Adrian Holdings Co.*, 582 F. Supp. 2d 616, 625–26 (S.D.N.Y. 2008). Accordingly, money damages are not a workable remedy for this breach of contract. *Cyprus Mountain Coal Corp. v. Brewer*, 828 S.W. 2d 642, 645 (Ky. 1992).

This completes the overview of Woodcock’s claims, each of which provides an independent ground for issuance of a temporary injunction. The following sections drill down on each of these four claims in more detail.

2. Arbitrary Exercise of Power

Section 2 of the Kentucky Constitution prohibits the exercise of “arbitrary power” by a state agency. “As a general rule, the yardstick of fairness is sufficiently broad to measure the validity of administrative action.” *American Beauty Homes Corp. v. Louisville*, 379 S.W. 2d 450, 457 (Ky. 1964). “The question of reasonableness is one of degree and must be based on the facts of a particular case.” *Kentucky Milk Marketing v. Kroger Co.*, 691 S.W. 2d 893, 900 (Ky. 1985). Examples of exercises of arbitrary power include (1) “failure of an administrative agency to follow its own rule or regulation[,]” (2) action lacking “substantial evidentiary support[,]” (3) “change[]” to a “formula” or practice that had been followed “for many years” “without reason or explanation[,]” and (4) “action in excess of granted power[.]” *American Beauty*, 379 S.W. 2d at 456 (excess of granted authority or lack of evidentiary support); *Com., Transportation Cabinet v. Weinberg*, 150 S.W. 3d 75, 77 (Ky. Ct. App. 2004) (failure to follow rules); *Kentucky Milk Marketing v. Kroger Co.*, 691 S.W. 2d 893, 900–01 (Ky. 1985) (unexplained change in longstanding practice). University Defendants jointly select deans. Ex. 14 at 6–7. Their selection of Van Tatenhove as dean is an example of each of these four kinds of arbitrariness, each of which represents an independent violation of Section 2.¹⁵

¹⁵ Woodcock has standing. University Defendants have invaded a legally protected interest. Woodcock has a right to be free of arbitrary exercises of power. *American Beauty*, 379 S.W. 2d at 456. Defendants are invading that right by exceeding their authority in appointing a dean in violation of numerous written University policies and longstanding custom, and without substantial evidence. *Id.*; *Weinberg*, 150 S.W. 3d at 77; *Kentucky Milk Marketing*, 691 S.W. 2d at 900–01. The injury is concrete and particularized. Woodcock has been unable to rely on the orderly and lawful administration of his state employer. The result is that his speech has been chilled, his ability to use his membership in the faculty to send the message that his work is credible has been impaired, his employment contract has been breached, inflicting expectation damages on him associated with the lost value for which he bargained in exchange for taking a pay cut, and he has suffered mental and emotional harm, harm to reputation, and harm to professional relationships. Woodcock Decl. ¶¶ 12–14, 17, 22–23; Woodcock 2d Decl. ¶¶ 6–9. The injury is also actual. Van Tatenhove is now the dean and Woodcock suffers the resulting harms every day. These harms are all directly traceable to Van Tatenhove’s appointment

Violations of University Policies. University Defendants “fail[ed]” “to follow [the University’s] own rule[s] or regulation[s]” in appointing Van Tatenhove. *Weinberg*, 150 S.W. 3d at 77. The University’s Employee Code states that “employees must comply with . . . accreditation requirements.” Employee Code § I.D, Ex. 20 at 1. ABA Interpretation 203-1 states that “[e]xcept for good cause, a dean should not be appointed” “over the stated objection of a substantial majority of the faculty.” ABA Standards Interp. 203-1, Ex. 19 at 14. The faculty informed DiPaola on February 4 that “[a] substantial majority of the faculty found [Van Tatenhove] to be unacceptable to be our next Dean.” Fac. Email, Ex. 8 at 1. Accordingly, the appointment of Van Tatenhove as dean violated Interpretation 203-1 unless there is “good cause.” Read in conjunction with AAUP guidance, which requires “compelling reasons stated in detail to justify . . . overriding of the faculty judgment”, “good cause” requires that University Defendants (1) provide “compelling” or “good” reasons why they chose to “overrid[e]” “the faculty judgment” that the three other finalists were better candidates, and (2) “state[]” them “in detail.” 2006 Statement, Ex. 32 at 129. The University Defendants have failed to meet this standard. The University Defendants’ argument that Van Tatenhove has “vision”, “commitment”, “dedication to service and leadership”, and “executive, fundraising, and workforce-development skills” does not “state[]” their reasons “in detail” and fails to address the objections of the faculty that Van Tatenhove (1) lacks any “*academic* leadership experience” or (2) the scholarly record necessary “to be granted tenure” at the law school. Announc., Ex. 17 at 1–2; Bd. Min. 4/24/26, Ex. 15 at 3; Fac. Email, Ex. 8 at 1–2 (emphasis added).

Because “Van Tatenhove will not seek tenure”, his appointment also breached ABA Standard 203(b), which states that “[e]xcept in extraordinary circumstances, a dean shall also hold

and would disappear if he were replaced with a dean who meets the requirements of the University’s written policies and longstanding custom because such a dean would have been approved by the faculty and capable of achieving tenure at the law school. The harm is redressable. The relief that Woodcock seeks—an injunction removing Van Tatenhove and ordering the University to follow its rules by appointing a dean with the consent of the faculty and who is capable of achieving tenure, would achieve this result.

appointment as a member of the faculty with tenure”. ABA Standards § 203(b), Ex. 19 at 14; Herald Leader 4/24/26, Ex. 43 at 1. As in the case of “good cause”, the University Defendants must explain why “extraordinary circumstances” precluded them from selecting one of the three other candidates whom the faculty ruled “acceptable”. Fac. Email, Ex. 8 at 1. University Defendants have neither explained why the circumstances that they have identified—“financial pressures”, “workforce alignment needs”, “demand for new academic programs”, “artificial intelligence”, and “the need for external fundraising”—are “extraordinary” nor why those circumstances precluded selection of any of the three finalists approved by the faculty. Comm. Min., Ex. 14 at 7.

University Defendants also violated University rules governing the appointments process. University regulations require that “[r]ecommendations” “for the dean of a college” “shall be accompanied by written statements from at least the tenured members of the college[.]” AR Univ. Appts. § A.3, Ex. 74. University Defendants did not solicit written statements from “the tenured members” of the law faculty to accompany any recommendation of Van Tatenhove for the deanship. Woodcock Decl. ¶ 30.

The University’s accrediting body is Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), which provides that the University must “publish[] and *implement*[] policies on the authority of faculty in academic and governance matters[.]” SACSCOC Requirement 10.4, Ex. 73 at 7 (emphasis added); Governing Reg. I — Decl. Principles. § A.3 & n.10, Ex. 26 at 2, 5 (citing to SACSCOC rules as the rules of the University’s accrediting body). As noted above, the appointment of Van Tatenhove violates ABA Interpretation 203-1 and Standard 203(b), both of which are incorporated into the University’s Employee Code, as well as the University’s Administrative Regulation — University Appointments. All three of these rules relate to faculty governance. ABA Interpretation 203-1 empowers the faculty to veto dean appointments, Standard 203(b) requires that a dean be a tenured member of the faculty, and Administrative Regulation —

University Appointments gives tenured members of the faculty the right to issue written statements regarding dean candidates. Exs. 19, 74. Accordingly, the University's violation of these three governance rules is also a violation of the SACSCOC requirement that the University "implement[]" governance rules. That, in turn, constitutes a violation of the University's Employee Code, which, as noted above, requires "compl[iance] with" "accreditation requirements." Employee Code § I.D, Ex. 20 at 1.

Finally, University Defendants violated the posted requirements of the dean position. The job listing stated that any candidate "[m]ust qualify for appointment at the rank of tenured, full professor[.]" Ex. 3. It also "[r]equired" any candidate to have "academic administrative leadership experience arising from a senior-level administrative role such as department chair, center director, associate dean, or dean". *Id.* Van Tatenhove had no academic administrative experience. Van Tatenhove CV, Ex. 7 at 1–4. And he listed no scholarly publications on his CV, making tenure, which is based on an outstanding record of scholarship, impossible for him, as the faculty later confirmed in their email. *Id.*; Fac. Email 2/4/26, Ex. 8 at 1.

Lack of Evidentiary Support. The appointment of Van Tatenhove lacks "substantial evidentiary support[.]" *American Beauty*, 379 S.W. 2d at 456. "'Substantial evidence' means evidence of substance and relevant consequence having the fitness to induce conviction in the minds of reasonable men." *Fankhauser v. Cobb*, 163 S.W. 3d 389, 401 (Ky. 2005). To "induce conviction in the minds of reasonable men," the University Defendants needed to explain why they passed over three other University-selected finalists. Because the law faculty approved those finalists and each had already achieved tenure at another law school, appointment of one of them would not have violated ABA rules. Exs. 4–6. The evidence to which University Defendants have pointed to justify the appointment of Van Tatenhove fails to address Van Tatenhove's qualifications in relation to those of the other three candidates, much less to provide "evidence of substance and relevant

consequence” sufficient to induce “reasonable men” to concur in the selection of Van Tatenhove. The University Defendants’ argument that Van Tatenhove has “vision”, “commitment”, “dedication to service and leadership” as well as “executive, fundraising, and workforce-development skills” is unavailing because it does not maintain that all of the other finalists lacked these attributes. Announc., Ex. 17 at 1–2; Bd. Min. 4/24/26, Ex. 15 at 3. The University Defendants argue that Van Tatenhove’s selection was driven by “financial pressures”, “workforce alignment needs”, “demand for new academic programs”, “artificial intelligence”, and “the need for external fundraising”. Comm. Min., Ex. 14 at 7. None of these justifications explain why the other three candidates could not address those challenges.

Unexplained Departure from Longstanding Practice. The appointment of Van Tatenhove “changed[,]” “without reason or explanation[,]” a “formula” that had been followed “for many years.” *Kroger*, 691 S.W. 2d at 900–01. Since at least 1976, and possibly over the entire history of the law school, the University has not appointed a dean (1) over the objection of the law faculty, (2) lacking academic administrative experience, or (3) lacking a record of scholarly publications. Ausness Decl. ¶¶ 3–6. The appointment of Van Tatenhove departs from all three of these longstanding practices. The justifications provided by University Defendants are so insubstantial that they fail to qualify as “reason[s] or explanation[s]”. That is because, as detailed in the preceding paragraph, University Defendants’ justifications fail to address the question why the three other finalists—the appointment of any of whom would not have caused a departure from past practice—were inadequate. That makes the departure from past practice unreasonable and unexplained.

Action in Excess of Granted Power. University Defendants acted “in excess of granted power” in appointing Van Tatenhove. *American Beauty*, 379 S.W. 2d at 456. The board has delegated to Capilouto “the authority to” “appoint” “all employees[,]” including the law dean. Governing Reg. III —The President § B, Ex. 37. However, the board has stated that this delegation “is consistent

with the University’s accrediting body.” Governing Reg. I — Decl. Principals. § A.3, Ex. 26. The University’s accrediting body is SACSCOC, which, as noted above, provides that the University must “publish[] and *implement*[] policies on the authority of faculty in academic and governance matters[.]” SACSCOC Requirement 10.4, Ex. 73 at 7 (emphasis added); Governing Reg. I — Decl. Principals. § A.3 & n.10, Ex. 26 at 2, 5. Thus, if an action by Capilouto interferes with the implementation of policies regarding faculty governance and thereby violates a SACSCOC rule, the action is not “consistent with the University’s accrediting body” and consequently not within the scope of the board’s delegation of authority to Capilouto.

The appointment of Van Tatenhove interferes with the implementation of policies regarding faculty governance and therefore represents an exercise of power beyond that delegated by the board to Capilouto. As noted above in the section on “Violations of University Policies”, ABA Interpretation 203-1, ABA Standard 203(b), and Administrative Regulation — University Appointments all relate to faculty governance and are violated by the appointment of Van Tatenhove. It follows that Capilouto did not have delegated authority to appoint Van Tatenhove. Because, as a member of the University president’s cabinet, DiPaola “report[s] directly” to Capilouto, his “duties” are “those delegated by” Capilouto. Admin. Reg. — Univ. Org. § F.1, Ex. 22 at 10; Admin. Reg. 1:1 §§ IV, IV.F, Ex. 66 at 2–3. Capilouto’s lack of authority to appoint Van Tatenhove therefore means that DiPaola lacked such authority to appoint Van Tatenhove as well.

3. Breach of Contract

“The elements of a breach of contract claim are” (1) “existence of a contract;” (2) “breach of that contract; and” (3) “damages flowing from the breach of contract.” *Metro Louisville/Jefferson*

County Govt. v. Abma, 326 S.W. 3d 1, 8 (Ky. Ct. App. 2009). The University’s appointment of Van Tatenhove breached Woodcock’s employment agreement with the University.¹⁶

Existence. Both the University’s Employee Code and its Administrative Regulation — University Appointments are part of Woodcock’s written employment agreement. Exs. 20, 21, 74. Woodcock’s signed offer letter incorporates by reference the University’s governing and administrative regulations, including the Code. Ex. 21 at 1 (stating that Woodcock’s “responsibilities” are “as outlined in the . . . University of Kentucky rules and regulations”). The document “clear[ly] refer[s]” to the regulations and signals that they “control, decide, or affect” the contract because the document describes Woodcock’s position using terms that are only defined in University regulations (e.g., it appoints him “Assistant Professor” in “our Regular Title Series”) and states that his “responsibilities” are “as outlined in the . . . University of Kentucky rules and regulations.” Ex. 21 at 1; AR 2.1-1 § V.A., Ex. 39 at 3 (defining Assistant Professor); AR 2.2-1 § III.B.1(a), Ex. 38 at 2 (defining Regular Title Series); *University of Kentucky v. Regard*, 670 S.W. 3d 903, 913 (Ky. 2023); *Britt v. University of Louisville*, 628 S.W. 3d 1, 8 (Ky. 2021). And the Code shares “mutuality of subject matter” with the offer letter because it governs the behavior of employees. *Regard*, 670 S.W. 3d at 914. The governing and administrative regulations also create an “implied contract” with Woodcock because they constitute an “express personnel policy”, Woodcock

¹⁶ Woodcock has standing. University Defendants have invaded a legally protected interest. They have violated Woodcock’s rights under his employment contract by, *inter alia*, appointing a dean in violation of accreditation rules incorporated into that contract. The injury is concrete and particularized. The University no longer supplies Woodcock with a peer-review platform that renders his work credible in the eyes of the public. Accordingly, Woodcock has lost the economic value that he expected to receive from the University in exchange for part of the pay cut that he takes in order to be employed by the University rather than by an employer in industry. The injury is also actual. Van Tatenhove is now the dean and the peer review services provided by the University to Woodcock are therefore degraded every single day. The economic loss is directly traceable to Van Tatenhove’s appointment and would disappear if he were replaced with a dean who meets contract-incorporated accreditation requirements because such a dean would be approved by the faculty and capable of achieving tenure at the law school. Accordingly, such a dean would be a peer and the quality of the peer review services provided by the University would return to that contemplated in Woodcock’s employment contract. The harm is redressable. The relief that Woodcock seeks—an injunction removing Van Tatenhove and ordering the University to follow its rules by appointing a dean with the consent of the faculty and who is capable of achieving tenure, would re-establish peer review.

“continues to work while the policy remains in effect” and “the language used in the personnel policy is not precatory [and] there is no disclaimer”. *Parts Depot, Inc. v. Beiswenger*, 170 S.W. 3d 354, 363–64 (Ky. 2005); see *Crenshaw v. Erskine College*, 850 S.E. 2d 1, 20 (S.C. 2020) (stating that “tenure leaves” “no doubt that the Faculty Manual is a contract”). The language of the Code and governing regulations is mandatory (“must”, “obligation”, “ensure”, “comply”) and punishes violations with termination. GR I § E, Ex. 26 at 4; Code § D, Ex. 20 at 1. And there is no disclaimer. Instead, the University’s Faculty Handbook refers to “the contract between the faculty member and the institution” and states that “[s]pecific questions regarding the rights and duties of University employees - including faculty employees - can only be resolved by reference to the appropriate official documents”, which it describes as including “the Governing Regulations, and the Administrative Regulations (GR and AR)[.]” Ex. 40 at 1.

Breach. As discussed in the section on “Violations of University Policies” above, the appointment of Van Tatenhove violated ABA accreditation rules prohibiting the appointment of a dean without tenure over the objection of the faculty, as well as a SACSCOC accreditation rule requiring that the University enforce its rules regarding faculty governance, that the University incorporates into its Employee Code. That section also showed that the appointment violated the University’s Administrative Regulation — University Appointments, which requires that written statements by tenured faculty members accompany a recommendation regarding the appointment of a dean. And the “Action in Excess of Granted Power” section showed that the appointment violated the terms of the Board of Trustee’s delegation of appointments power to Capilouto and, through Capilouto, to DiPaola, because the Board conditioned that delegation on compliance with SACSCOC rules, which the appointment violated. Because the Employee Code, Administrative Regulation — University Appointments, and Governing Regulations I and III, which govern the

Board's delegation of authority to Capilouto and DiPaola, are part of Woodcock's employment agreement, the appointment of Van Tatenhove also breached Woodcock's employment contract.

Damages. The breach is causing material changes to the conditions and privileges of Woodcock's employment, and, consequently, ongoing, direct economic loss to Woodcock. To become a scholar, he gave up a career in corporate law that, at this career stage, would have paid him at least twice his current annual earnings at the University of Kentucky. *Compare* Ex. 46 at 1–2, Ex. 26 at 26 *with* Ex. 45 at 1. This move was nevertheless a net economic *gain* for Woodcock because appointment at a law school confers additional value on him that is worth at least as much as the pay cut, including the value afforded by peer review, which gives Woodcock's research credibility and hence enables his research to command the respect and attention of the public. Woodcock Decl. ¶¶ 1–9, 14; 1915 Decl., Ex. 27 at 294. The contract-incorporated accreditation rules that the University has breached protect peer review by ensuring that the faculty can reject a non-peer dean candidate (Interpretation 203-1), by affirmatively requiring that a dean have the qualifications of a peer (i.e., the ability to obtain tenure) (Standard 203(b)), and by mandating that the University enforce these governing rules (SACSCOC Requirement 10.4). The regulation giving tenured faculty a right to submit written statements to accompany a recommendation regarding the hiring of a dean (i.e., Administrative Regulation — University Appointments) also protects peer review by further giving faculty a voice in the selection of a dean. And the regulation conditioning the Board's delegation of authority to the University president on compliance with the rules of the University's accreditor, including the accreditor's requirement that the University enforce rules regarding faculty governance, further protects peer review by depriving the University's president of authority to take actions that violate written rules protecting peer review. In consequence of breach of these rules, someone whom the faculty has judged unqualified, and who lacks scholarly training, now has a leadership role in the peer review provided by the faculty. Woodcock Decl. ¶¶ 10–16. This has undermined the

quality of the peer review service provided to Woodcock in exchange for his acceptance of a massive pay cut. *Id.* The harm suffered by Woodcock is equal to that part of the present value of the difference between his expected future University pay and his income if he were to sell his legal services in private practice at market rates that corresponds to the lost peer review services. Because the size of that part cannot be determined with certainty, Woodcock is entitled to specific performance, in the form of the removal of Van Tatenhove from office, as a remedy.

“[T]he denial of bargained-for” “rights” of control over an organization, including a “right to veto certain transactions”, such as the hiring of a leader, “standing alone, may constitute irreparable harm, for purposes of obtaining preliminary injunctive relief where such rights are central to preserving an agreed-upon balance of power in” “management”. *Wisdom Import Sales Co. v. Labatt Brewing Co.*, 339 F. 3d 101, 104 (2d Cir. 2003). That is because “the value of control” “is almost entirely a function of the skill” “of the party who exercises control.” *Oracle Real Estate Holdings v. Adrian Holdings Co.*, 582 F. Supp. 2d 616, 626 (S.D.N.Y. 2008). This “intrinsic value” “cannot easily be quantified.” *Id.* at 625. A skillful dean would maximize the value of the benefits that Woodcock receives in exchange for his pay cut by maximizing the reputation of the school, the quality of other faculty and hence of other peers providing peer review, and the freedom of faculty to report unvarnished, pathbreaking conclusions to the public. This in turn would increase the attention paid by the public to scholarship produced by the faculty, including Woodcock, thereby further maximizing the value of affiliation with the faculty as a platform for speaking. Loss of access to a skilled dean therefore inflicts a direct economic loss on Woodcock by denying him the additional value he could have expected to receive under a skillful dean. But the skills of such a dean have an “intrinsic value” that “cannot easily be quantified”. Accordingly, in depriving Woodcock of the ability to contribute to a collective veto of an undesirable dean candidate, the University’s breach of

contract inflicts additional irreparable harm on Woodcock above and beyond the harm associated with reduction in the quality of peer review.

Finally, there is also significant value in working within a collective of faculty that is governed not by an administrator beholden to alumni, the president, and outside political interests, but by peers leading according to the scholarly standards of the profession. *See, e.g.*, Governing Reg. 1 at p. 2 (“Shared governance is a bedrock principle and a value of the University.”). Although these privileges of faculty members are largely intangible, that does not preclude a breach of contract claim. *Lareau v. O’Nan*, 355 S.W.2d 679, 680-81 (Ky. 1962) (“It is also our opinion that the damages the clinic might suffer from breach of the covenant, though intangible, are sufficient to justify invoking the injunctive powers of the courts . . . ”); *Specialty Auto Parts USA, Inc. v. Holley Performance Prods., Inc.*, 726 F. Supp. 3d 735, 743 (W.D. Ky. 2024), *amended*, No. 1:17-CV-147-DJH-LLK, 2025 WL 3125861 (W.D. Ky. Mar. 24, 2025) (“Kentucky law indicates that a plaintiff’s failure to establish his or her entitlement to compensatory damages is not fatal to a claim if he or she can otherwise establish a cause of action. . . . Indeed, “[i]n the absence of actual damages, a party may recover nominal damages for breach of contract.”).

4. Right of Expressive Association

“[T]he minimum guarantee of individual rights under the United States Constitution as interpreted by the United States Supreme Court” represents a “federal *floor*” on “state constitutional protection[.]” *Com. v. Wasson*, 842 S.W. 2d 487, 492 (Ky. 1992). Accordingly, Sections 1(4), 1(6), 2, and 8 of the Kentucky Constitution, which protect the freedoms of expression and association, also protect the right of *expressive association* recognized by the U.S. Supreme Court under the U.S. Constitution. *Blue Movies, Inc. v. Louisville/Jefferson County*, 317 S.W. 3d 23 (Ky. 2010) (recognizing a right of “free association” under Sections 1 and 2 of the Kentucky Constitution); *Associated Industries v. Com.*, 912 SW 2d 947, 952 (Ky. 1995) (recognizing a “freedom of association” under Sections 1(4)

and 1(6) of the Kentucky Constitution); *Boy Scouts v. Dale*, 530 U.S. 640, 647–48 (2000) (recognizing a federal constitutional right of “expressive association”). And Kentucky courts may look to federal law in construing the right of expressive association under the Kentucky Constitution.

Constitutional law protects the right of expressive association because “[c]ollaboration” with others is an “activit[y]” that is “useful for speaking”. *Blick v. Ann Arbor Public School Dist.*, 105 F. 4th 868, 882 (6th Cir. 2024).

So, for example, a State cannot ban the sale of ink to parties who seek to make ‘political pamphlets’ criticizing the government. The same logic underlies the right to expressive association. People often can better disseminate a ‘shared point of view’ by collaborating with each other to spread it. If [constitutional law] did not protect these collaborative efforts, the government could effectively ‘silence’ speech by indirectly banning those efforts rather than directly banning the speech.

Id. (cleaned up). Accordingly, there is a violation of the right to expressive association if (1) the members of a group “associate partly to express a message”, (2) state action “significantly burden[s] the group’s ability to spread its message” and (3) “this burden on speech outweigh[s] any governmental interests justifying the burden”. *Id.*¹⁷

a) The Law Faculty Is an Expressive Association

Any group that (1) associates (2) “in pursuit of” “educational” “ends” has a right of expressive association. *Dale*, 530 U.S. at 647. The faculty associate. University rules acknowledge the existence

¹⁷ Woodcock has standing. Standing requires injury, causation, and redressability. *Commonwealth of Ky. v. Sexton*, 566 S.W. 3d 185, 196 (Ky. 2018) (applying federal standard). Injury exists when (1) a legally protected interest has been invaded and the injury is both (2) concrete and (3) particularized and (4) actual or imminent rather than conjectural or hypothetical. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1991). University Defendants have invaded a legally protected interest. Woodcock has a right to associate with faculty to convey the message that his work is peer reviewed. *Dale*, 530 U.S. at 647–48. Defendants are invading that right by “forcing” the faculty to accept a “leader” whom they believe not to be a peer. *Id.* The injury is concrete and particularized. Woodcock leverages his membership in the faculty to send the message that his work is peer reviewed. Woodcock Decl. ¶ 3. Diluting the faculty’s message of peer review prevents Woodcock from leveraging his association with the faculty to send his desired message about his own work. The injury is also actual. The appointment of Van Tatenhove as dean made clear that Woodcock’s scholarly speech would be subject to review by a non-peer. Woodcock Decl. ¶¶ 10, 13. There is causation because the burden that Defendants place on Woodcock’s speech can “fairly can be traced to the challenged action of the defendant[s]”, namely, their insistence on appointing a dean that the faculty has determined is not a peer. *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 41–42 (1976). And there is redressability. Blocking the appointment of a non-peer is “reasonably designed” to restore Woodcock’s ability to convey the message that his speech is subject to peer review, thereby “avoid[ing] the specific injury alleged.” *NAACP v. Town of Huntington*, 689 F.2d 391, 394 (2d Cir. 1982).

of the faculty as a unit and that they “establish [their] own rules” and make “recommendations” regarding who may be granted “membership” in the faculty. AR Org. §§ E.3.a, E.3.b, F.2.c, Ex. 22 at 5–6, 12. Indeed, the faculty as an associational unit long predates the advent of central university administrations. “At early universities, the faculty were the school” and “traditions of collegiality continue to play a significant role at many universities, including” University of Kentucky. *NLRB v. Yeshiva Univ.*, 444 U.S. 672, 680 (1979). And the faculty associate specifically for educational ends. The faculty’s rules declare that the faculty must “advance[e]” “legal knowledge” through “scholarship and research.” Fac. R. § 13.B, Ex. 30 at 22. That is an educational end.

In *FAIR v. Rumsfeld*, a federal district court held that there was “no doubt” that “law schools and law faculties”, including those that are “components of a larger parent university”, “qualify as expressive associations entitled to constitutional protection” even when acting without “the blessings of their . . . parent institutions”. 291 F. Supp. 2d at 286, 289–90, 304; *see also Burt v. Rumsfeld*, 322 F. Supp. 2d 189, 197–98 (D. Conn. 2004). The U.S. Court of Appeals for the Third Circuit agreed that “because” these groups “possess clear educational philosophies, missions and goals . . . they qualify as expressive associations.” *FAIR v. Rumsfeld*, 390 F. 3d 219, 231 (3d Cir. 2004) (cleaned up). The Supreme Court left that holding untouched and reversed on other grounds. *Rumsfeld v. FAIR*, 547 U.S. 47, 64 (2005). Similarly, in *Burt v. Rumsfeld*, the district court held that the Yale Law School *faculty* (as distinguished from the Yale Law School) was “clearly an expressive association for the purposes of First Amendment analysis” 354 F. Supp. 2d 156, 185 (D. Conn. 2005).

b) The Faculty Associate to Send the Message That Their Work Is Subject to Peer Review

To enjoy protection, an expressive association must have a “public or private viewpoint[.]” *Dale*, 530 U.S. at 650. However, “[t]he fact that” a group “does not trumpet its views from the housetops . . . does not mean that its views receive no First Amendment protection.” *Id.* at 656. A

message that is not “exact” or “particularized”, or which “is not wholly articulate”, is also protected. *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 557, 569, 574 (1995).

The faculty associate to send the message that their work is subject to peer review. The faculty send this message when they state that, “[a]s scholars, we engage in robust exploration and dissemination of ideas” and that they have “an obligation” to “advanc[e]” “legal knowledge” through “scholarship.” Fac. Mission, Ex. 29 at 3; Fac. R. § 13.B, Ex. 30 at 22. According to the American Association of University Professors’ (AAUP’s) 1915 Declaration of Principles, which is recognized as “[t]he first systematic” and “arguably the greatest” “articulation of the logic and structure” of academic independence in America, whenever a faculty declares that its “purpose is” “to advance knowledge”, it seeks to convey the message to the public that the scholarship and teaching of its members has or will be “tested” by people “trained for, and dedicated to, the quest for truth” rather than by “the opinions or prejudices of men who have not been set apart or expressly trained for the scholar’s duties.” Matthew Finkin et al., *For the Common Good* 30 (Yale 2011); 1915 Decl., Ex. 27 at 294–95, 300. The message that a faculty is “tested” by people “trained for, and dedicated to, the quest for truth” distinguishes a faculty associated with a university from mere groups of experts—such as those employed by thinktanks or advocacy organizations—convened “for the propagation of specific doctrines prescribed by those who have furnished its endowment” rather than for the purpose of “[g]enuine boldness and thoroughness of inquiry.” *Id.* at 292–93.¹⁸

Indeed, this claim to peer review is the basic value proposition of any group that, like the law faculty, purports to advance knowledge. “The lay public is under no compulsion to accept or to act upon the opinions of the scientific experts whom, through the universities, it employs” except “to

¹⁸ Because the views of researchers at thinktanks or advocacy organizations are governed by their employers, researchers in these positions may form an expressive association *with their employers* to send their *employer’s* message. See, e.g., *Slattery v. Hochul*, 61 F. 4th 278, 284, 287 (2d Cir. 2023). But researchers in these positions do not associate with each other to send a message independent of their employer’s message. In the university context, the relationship is flipped. Faculty employees associate with each other specifically to assert that their views are independent of those of the university that employs them and the university does not associate with faculty in order to send a message of its own.

the extent” that the “conclusions” of those experts are “motiv[ated]” by “a desire for the respect of their fellow experts”. 1915 Decl., Ex. 27 at 294. To the extent that the conclusions of faculty experts are instead “echoes of the opinions of the lay public, or of the individuals who endow or manage universities”, the “proper influence” of a faculty “upon public opinion is diminished and vitiated[,] and society at large fails to get from its scholars” “the service which it is the office of the professional scholar to furnish.” *Id.* at 294–95. “In the case of our state universities [it] is self-evident” that they “[c]annot be permitted to assume” such a “proprietary attitude and privilege” because they “constitute[] a public trust[.]” *Id.* at 293.

The faculty also make the claim to peer review when they advertise that the law school “has been approved by the American Bar Association since 1925[.]” ABA standards provide that the faculty must control the hiring and promotion of faculty, including the leader of the faculty, who is the dean. Specifically, ABA rules provide that, extraordinary circumstances aside, the dean of the law school must be a tenured member of the faculty, that “[t]he dean and the faculty shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of members of the faculty”, and that, except for good cause, a dean should not be appointed over the objection of the faculty. ABA Standards 201(b), 203(b), Interp. 203-1, Ex. 19 at 13–14. Finally, the faculty’s rejection of Van Tatenhove also sent the message of peer review because the faculty rejected him based on his lack of a scholarly record. Fac. Email 2/4/26, Ex. 8 at 2. Because, as dean, Van Tatenhove would pass judgment on faculty scholarship, the faculty’s rejection of his candidacy expressed the viewpoint that, as Immanuel Kant once put it, “only scholars can pass judgment on scholars as such”. *The Conflict of the Faculties* 23 (Mary J. Gregor trans., Nebraska 1992) (1798); AR 3:10 Perf. Rev. § A.1, Ex. 23 at 2.

The claim to peer review made by the law faculty is reflected in the University’s own policies, Supreme Court jurisprudence, and additional AAUP statements. The University acknowledges

faculty autonomy as “[s]hared governance,” which it describes as “a bedrock principle and a value of the University” that is “critical to how the University meets its mission.” Governing Reg. I — Decl. Princips. § B, Ex. 26 at 2. Consistent with this principle, the Board of Trustees directs that the faculty advise the president “within” their “domain[] of expertise,” including regarding “measures necessary to preserve and protect the University’s deep commitment to” “academic freedom” and “the ethical and professional standards applicable to members of the University’s faculty.”¹⁹ *Id.* Consistent with this principle, the University’s administrative regulations “charge” the law faculty, including its dean, as “member[] of the faculty”, “chair of the college faculty and an ex officio member of all college committees”, with “overseeing” “appointment”, “salary”, “tenure”, and “promotion” of faculty at the college of law. AR Organization §§ E.3.a, E.3.c, E.5.c, F.2.c, Ex. 22 at 5–7, 9, 12. And the faculty rules, which are approved by the Provost, make clear that “all initial appointments” to the faculty, including the appointment of a new dean to the faculty, “are made after the Regular faculty has been consulted and [has] collectively made a recommendation[.]” Fac. R. § 14.B, Ex. 30 at 26; AR Org. § E.3.b, Ex. 22 at 6. In keeping with the faculty’s claim to peer review, the University has not countermanded the recommendation of the faculty (including that of the dean, who is a member of the faculty) in at least half a century. Ausness Decl.

The claim to peer review made by the law faculty is reflected in the opinions of the Supreme Court, which recognize a right to “autonomous decisionmaking of the academy itself” embodied in the right “to determine for itself on academic grounds who may teach.” *Widmar v. Vincent*, 454 U.S. 263, 276 (1981); *Regents of Univ. of Mich. v. Ewing*, 474 U.S. 214, 226 n.12 (1985). The Court recognizes this right because such determinations “require an expert evaluation of cumulative information.” *Id.* at 226. When a court sometimes loosely refers to the right to academic autonomy

¹⁹ Governing Reg. V — Shared Governance, <https://regs.uky.edu/sites/default/files/2026-04/gr-i-declaration-of-principles.pdf>.

as belonging to the “university”, it means the “faculty”, whose “professional judgment”, the Supreme Court has said, the courts “may not override[.]” *Id.* at 225. For the courts, “a community of scholars . . . is what a university is.” *Greene v. Howard University*, 412 F. 2d 1128, 1135 (D.C. Cir. 1969).

The claim to peer review made by the law faculty is also reflected in additional AAUP policy statements, which the courts treat as persuasive authority regarding university governance. *See, e.g., Mayberry v. Dees*, 663 F. 2d 502, 513 (4th Cir. 1981); *Gray v. Board of Higher Educ., City of New York*, 692 F. 2d 901, 907 (2d Cir. 1982). In a 1967 statement “jointly formulated” with the American Council of Education and the Association of Governing Boards of Universities and Colleges, the AAUP declared that “[d]eterminations” regarding “appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal” “should first be by faculty action” and that “[t]he governing board and president should” “concur with the faculty judgment except in rare instances and for compelling reasons.” 1967 Statement, Ex. 31 at 123; *see also* 2006 Statement, Ex. 32 at 129.

c) The Faculty’s Peer Review Message Is Significantly Affected by the Appointment

The University Defendants’ attempt to force the faculty to accept a leader whom the faculty do not want “significantly affect[s]” the faculty’s ability to advocate its view that faculty must control faculty advancement. In *Boy Scouts v. Dale*, the Supreme Court held that forced inclusion of a member who would have a “leadership” role in the organization “significantly affected” the group’s ability to advocate a viewpoint because it “force[d] the organization to send a message” that the group “accepts” members who do not “model” the group’s views. 530 U.S. at 652–53.

Here, the University’s selection of a new dean over the objection of the faculty forces the faculty to accept a member whom the faculty do not want because, according to University regulations, the law dean is automatically a member of the faculty. AR Org. §§ E.3.a, F.2.c, Ex. 22 at 5, 12. The

University’s decision to forego “seeking tenure” for Van Tatenhove does not strip him of his faculty position. Comm. Min. Ex. 14 at 7. Moreover, as dean, he will have the authority to make evaluations of the scholarship of faculty that can lead to termination of a tenured appointment. AR 3:10 Perf. Rev. § A.1, Ex. 23 at 2; AR Org. §§ F.2.c, F.2.e, Ex. 22 at 13, 15; Ky. Rev. Stat. § 164.230(5). The forced acceptance of Van Tatenhove as a member of the faculty significantly affects the message of the faculty because, in rating Van Tatenhove “unacceptable” because he “does not possess the necessary qualifications (including a record of scholarship)”, the faculty judged Van Tatenhove not to be a peer. Ex. 8 at 1–2. Thus, he is fully empowered to engage in review of faculty scholarship but is not a peer. He therefore stands for *non-peer* review. His presence on the faculty therefore “force[s] the” faculty “to send [the] message” that they are not subject to peer review. *Dale*, 530 U.S. at 653. That is a violation of the right of expressive association under *Dale*.

The University has not just forced the faculty to accept a member that they do not want, but has also forced the faculty to accept a *leader* that they do not want. The dean is “chief academic and executive officer” of the law school, “chair of the college faculty and an ex officio member of all college committees”, may “depart from recommendations” of the rest of the faculty if he “believes it necessary”. Offer Ltr., Ex. 11 at 2; AR Org. §§ F.1, F.2.c, Ex. 22 at 10, 12–13. He also “speak[s] for the college”. *Id.* An action that “limits” an association’s “discretion in how to . . . select its leaders” places an unconstitutional “burden” on the group’s associational rights. *Eu v. San Francisco County Democratic Central Comm.*, 489 U.S. 214, 230–31 (1989).

d) Balancing

(1) The Public Concern and Not-Government-Speech Requirements Are Not Needed Here But In Any Case Are Met

Courts sometimes apply the “*Pickering* framework” to require that public employee speech be on a matter of public concern and the speech of a private citizen as opposed to an employee in order to

garner First Amendment protection. But in *Janus v. American Federation of State, County, and Municipal Employees, Council 31*, the Supreme Court declared that framework to be a “painful fit” in cases that involve a public employer’s attempt to “compel[]” the speech of a “broad categor[y] of employees”, such as the law faculty category at issue in this case. 585 U.S. 878, 905–08 (2018). Accordingly, this Court should not require that the faculty’s speech be on a matter of public concern or be the speech of a private citizen as opposed to an employee. *Cf. Lynch v. Ackley*, 811 F. 3d 569, 583 n.15 (2d Cir. 2016) (stating that the applicability of the employee speech requirement to association claims is “unclear”). Regardless, both requirements are satisfied here.

Public Concern. A message is on a matter of public concern if, taking account of the “content, form, and context of the statement”, but not “motive[]”, it “relates to any matter of political, social, or other concern to the community”. *Rodgers v. Banks*, 344 F. 3d 587, 596 (6th Cir. 2003); *Farhat v. Jopke*, 370 F.3d 580, 589 (6th Cir. 2004); *Chappel v. Montgomery County Fire Protection*, 131 F. 3d 564, 575–76, 578 (6th Cir. 1997). The faculty’s message that its scholarship is tested by peer review is a matter of public concern. “Academic freedom” “thrives” on “autonomous decisionmaking by the academy”. *Ewing*, 474 U.S. at 226 n.12. And “[a]cademic freedom” is “of transcendent value to all of us and not merely to the teachers concerned”. *Keyishian v. Board of Regents of Univ. of State of NY*, 385 U.S. 589, 603 (1966). Moreover, because “society at large fails to get from its scholars . . . the service which it is the office of the professional scholar to furnish” when the faculty is not autonomous, the faculty’s message is “information . . . needed . . . to enable the members of society to make informed decisions about” whether the government is managing their publicly-funded law school appropriately. *Farhat*, 370 F. 3d at 590; 1915 Decl., Ex. 27 at 294–95.

Not Government Speech. “When public employees speak as agents of public employers,” their speech receives no protection because “this speech is effectively the government’s.” *DeCrane v. Eckart*, 12 F. 4th 586, 595 (6th Cir. 2021). Here, the faculty’s message of peer review is not

government speech. When the faculty send the message that their professional advancement depends on peer review, the faculty is declaring itself “autonomous” in relation to the University administration in matters of professional advancement based on scholarly achievement. *Ewing*, 474 U.S. at 226 n.12. Such a declaration of independence from University administrators cannot be the speech of an agent of the University or indeed “effectively the government’s”. *Cf.* Restatement (Third) of Agency § 3.10(1) (Am. Law Inst. 2006) (stating that “an agent’s actual authority terminates if the agent renounces it”). The faculty’s speech is also protected because it counts as scholarship. In *Meriwether v. Hartop*, this Court distinguished between the “non-ideological ministerial task[s]” of professors, such as “call[ing] roll at the start of class”, which amount to employer speech and receive no protection, and “core academic functions, such as teaching and scholarship”, which remain the protected speech of the professors. 992 F. 3d 492, 505, 507 (6th Cir. 2021). The message sent by the law faculty that it is subject to peer review is a “core academic function” because that message is what sets scholarship apart from mere research reports. That message invites the public to view the faculty’s conclusions as those of experts motivated by “a desire for the respect of their fellow experts” rather than the favor of University administrators. 1915 Decl., Ex. 27 at 294.

(2) The Government Has No Efficiency Interest in Imposing a Dean Whom the Law Faculty Reject, Much Less Can the Government Show a Compelling Interest to Spurn Significantly Less Restrictive Alternative Dean Candidates

If this Court chooses to apply the *Pickering* framework despite *Janus*, the burden shifts to the University Defendants to show that the University’s “interest in promoting efficiency in the educational services that it provides and in avoiding disruption to its operations” “outweigh[s]” the faculty’s “right to free speech and academic freedom.” *Hardy v. Jefferson Community College*, 260 F. 3d 671, 680 (6th Cir. 2001); *Myers v. City of Centerville, Ohio*, 41 F. 4th 746, 764–65 (6th Cir. 2022) (regarding burden). In determining the University’s interest in promoting efficiency and avoiding disruption, this Court considers whether an employee’s message “meaningfully interferes” with the

performance of its duties or employer mission, creates disharmony, undercuts discipline, or destroys a relationship of trust or confidence. *Hardy*, 260 F. 3d. at 680–81. The University’s Defendants’ justifications for appointing Van Tatenhove—that he has “vision”, “commitment”, “dedication to service and leadership”, and “executive, fundraising, and workforce-development skills”—do not suggest that the faculty’s message of peer review causes any of these harms. Announc., Ex. 17 at 1–2; Bd. Min. 4/24/26, Ex. 15 at 3. Moreover, the substance of the faculty’s message precludes the University Defendants from meeting their burden. The faculty’s message of peer review cannot interfere with their duties or create disharmony because University regulations already accord the faculty, including their dean, primary authority over hiring, salary, and promotion and require the faculty to comply with ABA standards which guarantee the same. AR Org. §§ E.3.c, E.5.c, F.2.c, F.2.e, Ex. 22 at 6, 9, 12–15; ABA Standards 201(b), 203(b), Interp. 203-1, Ex. 19 at 13–14. The faculty’s message of peer review cannot undermine the University’s mission because the University’s mission, similar to the faculty’s mission, is to “[e]xpand[] knowledge through . . . scholarship”, and, as argued above, any mission to expand knowledge implies a commitment to peer review. Univ. Mission, Ex. 18 at 3; 1915 Decl., Ex. 27 at 294–95, 300. The faculty’s message cannot undercut discipline because the faculty claims only a right to determine its own professional advancement *based on scholarly achievement*—what the 1915 Declaration calls “matters of opinion” as opposed to matters of conduct. *Id.* at 300. “Lay governing boards” and University administrators remain free “to judge [faculty] concerning habitual neglect of assigned duties” and “charges of grave moral delinquency”. *Id.* Finally, the message the faculty wish to send cannot “destroy[] a relationship of trust or confidence” because faculty do not “exercise[]” “discretionary authority with respect to enforcement of [a] law” or “control[] the lines of communication to” someone who does, as required for this employer interest to apply. *Rose v. Stephens*, 291 F. 3d 917, 924 (6th Cir. 2002).

In *Janus*, the Court applied the more demanding “exacting scrutiny” standard, which requires that the government action “serve a compelling state interest that cannot be achieved through means significantly less restrictive of associational freedoms.” 585 U.S. at 894–95. Even if the University Defendants’ professed justifications survive the *Pickering* standard, they must fail this stricter test because the justifications all amount to claims of “administrative convenience”, which the Supreme Court has held are insufficient to establish a compelling state interest. *Frontiero v. Richardson*, 411 U.S. 677, 690 (1973). And the University Defendants have made no effort to explain why the three other candidates deemed acceptable by the faculty, each of whom represents a “significantly less restrictive” alternative, would be a less effective administrator. Unable to meet their burden under either standard, the University Defendants have violated Woodcock’s right to expressive association.

5. Right to Be Free of Chill to Scholarly Speech

Because “the minimum guarantee of individual rights under the United States Constitution as interpreted by the United States Supreme Court” represents a “federal *floor*” on “state constitutional protection”, this Court may look to federal cases interpreting the U.S. Constitution in deciding University Defendants have chilled speech in violation of the speech protections contained in Sections 1(4), 2, and 8 of the Kentucky Constitution. *Com. v. Wasson*, 842 S.W. 2d 487, 492 (Ky. 1992); Fac. R. § 13.B, Ex. 30 at 22. In deciding whether government action chills speech in violation of free speech protections, federal court applying the U.S. Constitution consider whether: (1) the plaintiff has suffered a subjective chill to his speech or a credible threat of sanction sufficient to provide standing; (2) the speech is constitutionally protected; (3) the challenged action would objectively chill speech; and (4) the government action lacks justification. *Meese v. Keene*, 481 U.S. 465, 473 (1986) (subjective chill); *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182,

194–95 (1998) (objective chill); *Arizona Free Enterprise Club v. Bennett*, 564 U.S. 721, 736, 745 (2011) (ditto); *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595, 614–15 (2020) (justification).

a) Injury

For purposes of standing, injury must be (1) concrete, (2) particularized and (3) actual or imminent rather than conjectural or hypothetical. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1991); *Commonwealth of Ky. v. Sexton*, 566 S.W. 3d 185, 196 (Ky. 2018) (applying federal standard). Woodcock satisfies this standard on both a subjective chill theory and a credible threat theory. *First Choice Women’s Resources Centers, Inc. v. Davenport*, 608 U.S. ___, slip op. at 11–12 (2026); *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159 (2014).²⁰

(1) Subjective Chill

Declarations asserting subjective “fear[]” of government “hostility” or suggestion of “hesit[ance]” to speak based on “commonsense inference[s]” sufficient to establish injury. *First Choice Women’s Resources Centers, Inc. v. Davenport*, 608 U.S. ___, slip op. at 11–12, 21 (2026) (declarations of group members, some anonymous, were sufficient to establish chill caused by state Attorney General’s request for donor lists from pro-life group even though lists would be kept confidential). *See also Arizona Free Enterprise Club v. Bennett*, 564 U.S. 721, 744 (2011) (candidates who challenged public matching funds program provided evidence that they had “curtail[ed] fundraising efforts, and actively discourage[ed] supportive independent expenditures, to avoid triggering

²⁰ The other elements of standing for this claim are also met. There is causation because the speech chill suffered by Woodcock can “fairly can be traced to the challenged action of the defendant[s]”, namely, their insistence on appointing a dean that the faculty has determined is not a peer, thereby preventing Woodcock from relying on the dean’s expertise as a scholar and professional training as a scholar to neutralize any influence from outside interests in the judgment of his work and further preventing him from predicting, based on share scholarly training and experience, how the dean will evaluate Woodcock’s scholarship. *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 41–42 (1976). And there is redressability. Blocking the appointment of a non-peer is “reasonably designed” to restore Woodcock’s ability rely on the expertise of the dean to quell his fears regarding sanction for his protected speech, thereby “avoid[ing] the specific injury alleged.” *NAACP v. Town of Huntington*, 689 F.2d 391, 394 (2d Cir. 1982).

matching funds”); *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595, 605, 625 (2020) (Sotomayor, J., dissenting) (associations that had received “harassing calls” “and even pornographic letters” in the past had showed that disclosure of donors to state attorney general “would make their donors less likely to contribute”). As these cases show, the Court has “abandon[ed] the requirement” articulated in some older cases that “[a]llegations of a subjective chill”, standing alone, “are not” “adequate” to demonstrate injury. *Id.* at 629; *Laird v. Tatum*, 408 U.S. 1, 14 (1972).

Woodcock’s declarations make clear that Woodcock is engaging in self-censorship right now with respect to a specific example of desired speech. Woodcock declares that because Van Tatenhove is not a scholar, Woodcock cannot draw upon shared experience and training in scholarship to predict whether Van Tatenhove will judge Woodcock’s scholarship to be bad or not to be scholarship at all. Woodcock 2d Decl. ¶¶ 3–4. He fears that, as a result, he may publish work that Van Tatenhove dislikes, leading to negative performance reviews or discipline that could lead to his termination. *Id.* Specifically, Woodcock declares that he chose not to submit an article on Palestine to law journals this summer as a result of Van Tatenhove’s presence in office and that he “expect[s] to continue to engage in” “self-censorship while Dean Van Tatenhove remains in office”. *Id.* at ¶¶ 5–7. This is sufficient to establish injury.

(2) Credible Threat

The courts also sometimes apply the “*Driehaus* factors” to determine standing. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159 (2014). This test requires: (1) “an intention to engage in a course of conduct arguably affected with a constitutional interest”, (2) but “arguably” “proscribed by government policy” and (3) “and a credible threat of imminent, adverse government action against claimant.” *Turner v. US Agency for Global Media*, 502 F. Supp. 3d 333, 359 (D.D.C. 2020); *Driehaus*, 573 U.S. at 162. One federal district court has held that, where the plaintiff belongs to a unit that has historically been protected by a regulatory “firewall” against interference from agency leadership,

and the firewall is meant to protect “editorial” “independence”, the Driehaus factors are met where (1) the plaintiff “inten[ds] to exercise editorial” “independence”, (2) “defendants have made a habit of penalizing” that independence, and there is (3) “a reasonable expectation that defendants will continue to restrict and penalize acts of editorial” “independence”. *Turner*, 502 F. Supp. 3d at 360 (holding that a managing editor who had not herself been the target of any retaliatory actions by agency leaders had suffered sufficient injury to sue because the agency’s “personnel actions” and “investigations” had “chill[ed]” her “right” “to fully exercise” “editorial control and judgment” in violation of the First Amendment). These factors are met here.

Intent to speak. Woodcock wishes to engage in conduct affected with a constitutional interest because he wishes to publish law scholarship relating to Palestine. Woodcock 2d Decl. ¶ 6. “[A]cademic freedom” is “a special concern of the” constitution. *Keyishian v. Board of Regents of Univ. of State of NY*, 385 U.S. 589, 603 (1966). It is affected with the constitutional interest in free speech. Moreover, the University’s rules protecting the autonomy of the faculty in the selection of a dean, including the rules incorporating ABA accreditation requirements prohibiting the appointment of a dean without tenure over the objection of the faculty and the rule requiring that written statements be solicited from the faculty regarding the recommendation of a candidate for dean, as well as the University’s declared concern for protecting “academic freedom” and engaging in “[s]hared governance”, establish the equivalent of a “firewall” between senior University administrators and the faculty for the purpose of protecting the “editorial” “independence” of the faculty. Employee Code § I.D, Ex. 20 at 1; ABA Standards Interp. 203-1, Standard 203(b), Ex. 19 at 14; SACSCOC Requirement 10.4, Ex. 73 at 7; AR Univ. Appts. § A.3, Ex. 74; Governing Reg. I — Decl. Principals. §

B, Ex. 26 at 2. Woodcock’s wish to publish law scholarship conveying his own unvarnished research conclusions regarding Palestine is an “intent to exercise editorial” “independence”.

Speech proscribed. Woodcock’s speech about Palestine is also “arguably” proscribed by government policy. *Driehaus*, 573 U.S. at 162. The policy proscribing Woodcock’s speech about Palestine is reflected in ongoing University attempts to investigate and sanction him for his speech. On July 18, 2025, an interim dean of the law school suspended Woodcock from teaching, banned him from the law building, and worked with University administrators, including Capilouto and DiPaola, to launch a hostile environment investigation into a petition Woodcock had circulated to law professors at other schools based on his research conclusions regarding Palestine. Duff Ltr., Ex. 82 at 1; Duff 2d Tr., Ex. 83 at Page ID # 1989:11–14; Thro Ltr. 7-18-25, Ex. 84 at 1, Am. Compl. ¶¶ 48–50, *Woodcock v. University of Kentucky*, No. 25-0424 (E.D. Ky. Nov. 13, 2025), Ex. 85 at 16–17. According to the dean, despite the absence of complaints from any student or faculty member, he could not “allow for an individual to operate as if nothing had happened or nothing was wrong” with Woodcock’s speech about Palestine. Ex. 83 at Page ID ## 1983: 25, 1984:1–4. Woodcock wrote to Van Tatenhove after he took office on July 22, 2026, asking him to reverse the suspension and ban imposed by his predecessor because, according to the University, a dean has “absolute authority” to impose those sanctions. Woodcock Ltr. 7-22-26, Ex. 88; Thro Ltr. 9-19-25, Ex. 87 at 1. Van Tatenhove did not respond, thereby ratifying the suspension and ban. These sanctions, along with the investigation, continue. They establish that “defendants have made a habit of penalizing” the sort of “editorial” “independence” that Woodcock seeks to exercise.

Credible threat. There is also a credible threat of imminent, adverse government action. A credible threat may be shown by a “history of past enforcement”. *Driehaus*, 573 U.S. at 164. The investigation, suspension, and ban constitute a “history of past enforcement” and convey a threat of continuing and escalating sanctioning based on Woodcock’s speech about Palestine. *Driehaus*, 573

U.S. at 164. The University has informed Woodcock that “termination of a tenured appointment may be” an “appropriate” outcome of the investigation. Thompson Ltr., Ex. 90 at 3. And the University’s appointment of a non-scholar dean in violation of faculty autonomy has coincided with the penalization of Woodcock’s speech in the past. Woodcock first shared his views about Palestine in early 2024 under the tenure of a dean who was a scholar and tenured member of the faculty. Am. Compl. ¶ 119; Am. Compl. ¶¶ 50–52, *Woodcock v. University of Kentucky*, No. 25-0424 (E.D. Ky. Nov. 13, 2025), Ex. 85 at 16–17. Consistent with the requirements of academic freedom, that dean defended Woodcock’s right to speak. Am. Compl. ¶ 119. The University then replaced that dean with James Duff, who, like Van Tatenhove, is not a scholar. *Id.* Duff suspended Woodcock and banned him from the law building 18 days after taking office. Ex. 82 at 1. In light of this history, the appointment of another non-scholar in the form of Van Tatenhove, this time over the stated objection of the faculty and to the position of permanent, as opposed to interim, dean, conveys a credible threat of adverse action if Woodcock continues to speak.

A “warn[ing] to stop” and “threat[]” of “prosecution if” “disobeyed” can also be sufficient to show a credible threat. *Driehaus*, 573 U.S. at 159. In a letter explaining that the University was investigating Woodcock’s speech on Palestine, the University demanded that Woodcock “stop immediately”. Notice of Investigation, Ex. 89 at 1–2. The University has also informed Woodcock that if the investigation turns up more examples of speech to which the University objects, “those aspects would [be] an additional basis for the [suspension and ban] as well”. Thro Email 10-30-25, Ex. 86 at 1. Taken together, these actions, including the appointment of Van Tatenhove without tenure and over the objection of the faculty, create “a reasonable expectation that defendants will continue to restrict and penalize acts of editorial” “independence”. *Turner*, 502 F. Supp. 3d at 360.

b) Scholarly Speech Is Protected

Scholarly speech is protected. The U.S. Supreme Court has recognized that “[t]he essentiality of freedom in the community of American universities is almost self-evident. . . . To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation.” *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957). Consistent with this view, seven U.S. Courts of Appeals have held that the academic speech of professors at public universities is protected even where it falls within their official duties as professors—and none have rejected protection. *Pernell v. Florida Board of Governors of the State University*, No. 22-13992 slip op. 22–25 (11th Cir. 2026); *Reges v. Cauce*, 175 F.4th 1014, 1030–33 (9th Cir. 2026); *Kilborn v. Amiridis*, 131 F.4th 550, 557–58 (7th Cir. 2025); *Heim v. Daniel*, 81 F.4th 212, 224–28 (2d Cir. 2023); *Meriwether v. Hartop*, 992 F.3d 492, 504–06 (6th Cir. 2021); *Buchanan v. Alexander*, 919 F.3d 847, 852–53 (5th Cir. 2019); *Adams v. Trs. of Univ. of North Carolina-Wilmington*, 640 F.3d 550, 562–64 (4th Cir. 2011).

c) Objective Chill

Van Tatenhove’s appointment would chill the scholarly speech of a reasonable person in Woodcock’s position. This follows from the unique exception to free speech protections afforded to exercises of scholarly expertise within public universities. “Evaluations of the quality of academic work necessarily turn on judgments about its contents.” *Heim*, 81 F. 4th at 233. And, “in nearly all contexts, government officials”, such deans at public universities, “are barred from discriminating among speakers based on their own judgments of the quality or content of the speech[.]” *Id.* But not when a scholar-dean deploys his expertise as a scholar to evaluate the scholarship of the faculty that he leads. In the “exceptional context where professors’ advancement necessarily depends on the quality of their work, and where the evaluation of that quality necessarily depends on evaluators’ assessments of the work’s content,” free speech rules “operate[] differently.” *Id.* In this context, “lay courts” cannot “impose[]” “content-neutral constraints”. *Id.* Because “things like” “research

scholarship” “are subjective”, attempts to reduce them to “neutral constraints” would “bridle[] the efforts of experts at” “universities to foster high-quality scholarship”. *Id.* Accordingly, courts permit content-based regulation of protected scholarly speech. But, crucially, courts do this only on the assumption that they are allowing “the academic enterprise” “to remain an engine of progress” by leaving “decisions about the value of academic work” “to academics.” *Id.*

Underlying judicial deference to the decisions of scholar-administrators in the university context is the view that when scholars judge the work of other scholars, they make decisions as “experts” exercising “good faith professional judgment, free from any influence from political entities in the state or other governmental or university officials outside the relevant discipline.” *Id.* at 234. This ensures that these decisions “are not used as a cudgel to stamp out controversial viewpoints, or” “or to advance the view of non-academic public officials.” *Id.* at 233. The expertise of the scholar exercising professional judgment over the work of other scholars neutralizes the free speech concerns surrounding content-based regulation of protected speech that would otherwise demand immediate judicial intervention.

When the University imposes a dean who is not an academic on the faculty, the crucial element that normally holds free speech concerns in abeyance when a public university evaluates protected scholarly speech disappears. The judgments of the quality of faculty scholarship cease to be those of an “expert[]” who can be assumed to exercise “good faith professional judgment, free from any influence from political entities in the state or other governmental or university officials outside the relevant discipline.” *Id.* at 234. Indeed, a dean who is not an academic is a “university official[] outside the relevant discipline” directly “assess[ing]” the “content” of scholarly “work.” *Id.* at 233–34. Because the dean is not constrained by “expert[ise]” and “professional judgment”, all of the free speech concerns regarding abuse of discretion “to stamp out controversial viewpoints” come roaring back.

These concerns center on the objective chilling effect of vesting unbridled discretion to evaluate speech in the hands of an administrator. The U.S. Supreme Court has recognized that “unfettered discretion” in the hands of someone who has authority to act against the speaker “intimidates parties into censoring their own speech, even if the discretion and power are never actually abused.” *City of Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 757 (1987). Furthermore, “the absence of express standards”—which are impossible when it comes to the evaluation of scholarship—“makes it difficult to distinguish” “between a” “legitimate denial” and “illegitimate abuse of censorial power”, thus preventing courts from intervening to stop abuse. *Id.* at 758. Thus the appointment of a non-scholar dean to a position of discretion over faculty scholarship chills speech as a matter of law.

Even if a self-censorship effect based on fear of retaliation did not exist, a second effect would be present because Van Tatenhove’s lack of experience or training as a scholar simply makes it difficult for members of the faculty to predict what sort of scholarship he will consider to be bad or not scholarship at all. Woodcock 2d Decl. ¶¶ 3–4. In the context of evaluation of scholarship, which cannot be carried out according to a written formula, faculty are able to predict whether their work meets quality requirements only by drawing upon the expertise that they share with their dean to predict how he will evaluate their work. *Id.* This is not possible when the dean is not a scholar. *Id.* Under a lay dean, faculty have no basis for predicting how the dean will evaluate their work, and they therefore find themselves in a position analogous to the position of a plaintiff attempting to comply with an unconstitutionally vague law. They will “steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked.” *Baggett v. Bullitt*, 377 U.S. 360, 372 (1964) (cleaned up). “[S]ensitive to the perils posed by” “indefinite[ness]” they will “avoid the risk of loss of employment, and perhaps profession, only by restricting their” speech “to that which is unquestionably safe. Free speech may not be so inhibited.” *Id.*

In *Turner v. US Agency for Global Media*, a federal district court found objective chill in violation of the First Amendment on facts similar to those in this case. In *Turner*, a government media agency had established a “firewall”—akin to faculty autonomy in the appointment of deans—between senior agency management and government reporters in order to ensure that the reporters would provide “reliable” and “objective” news coverage. 502 F. Supp. 3d at 346–350. In a move similar to the University’s investigation of Woodcock, the head of the agency initiated retaliatory investigations against journalists based on the content of their reporting. *Id.* at 350. And, just as in this case, the agency head in *Turner* also started to make “employment decisions” “related to editorial and journalistic personnel”, even though that was “an area previously understood to fall within the” “discretion” of the reporters “pursuant to the firewall”. *Id.* at 349. A managing editor who had not herself been the target of any retaliatory actions by agency leaders sued, alleging that the agency’s “personnel actions” and “investigations” had “chill[ed]” her “right” “to fully exercise” “editorial control and judgment” in violation of the First Amendment. *Id.* at 360. The Court held that the “personnel actions” “are likely to be found unconstitutional” and granted a preliminary injunction enjoining them. *Id.* at 380.

d) Justification

The question whether the appointment of Van Tatenhove is justified notwithstanding its chilling effects on Woodcock’s speech is the same as the question whether the appointment is justified notwithstanding the burden that it places on Woodcock’s right of expressive association. In Section A.4.d), Woodcock shows that the appointment has no justification under either the *Pickering* framework or the exacting scrutiny test applied in *Janus*. That analysis applies as well to defeat justification in the case of Woodcock’s chilled speech claim.

B. Failure to Restore the Status Quo Immediately and Irreparably Harms Woodcock

Harm is irreparable where “the remedy at law is” not “sufficient to furnish the injured party full relief to which he is entitled in the circumstances.” *Cyprus Mountain Coal Corp. v. Brewer*, 828 S.W. 2d 642, 645 (Ky. 1992). The harm is immediate if there is “a reasonable probability that injury will be done if no injunction is granted.” *Maupin*, 575 S.W. 2d at 698. Woodcock faces six kinds of immediate and irreparable harm from Van Tatenhove’s continuation in office.

Loss of Governance Rights. “[T]he denial of bargained-for” “rights” of control over an organization, including a “right to veto certain transactions”, such as the hiring of a leader, “standing alone, may constitute irreparable harm, for purposes of obtaining preliminary injunctive relief where such rights are central to preserving an agreed-upon balance of power in” “management”. *Wisdom Import Sales Co. v. Labatt Brewing Co.*, 339 F. 3d 101, 104 (2d Cir. 2003). That is because “the value of control” “is almost entirely a function of the skill” “of the party who exercises control.” *Oracle Real Estate Holdings v. Adrian Holdings Co.*, 582 F. Supp. 2d 616, 626 (S.D.N.Y. 2008). This “intrinsic value” “cannot easily be quantified.” *Id.* at 625. Here, the University violated written policies, accreditation rules, and longstanding tradition that gave the faculty the right to veto the appointment of deans. Violation of these rights deprived the faculty—including Woodcock—of control over the selection of their leader, and thereby deprived the faculty—including Woodcock—of control over the governance of the law school. Because the Kentucky Constitution’s prohibition on the exercise of arbitrary power requires that state agencies obey their written policies, this provides a basis for temporary injunctive relief for violations of the Kentucky Constitution’s prohibition on the exercise of arbitrary power. Because the University policies are part of Woodcock’s contract, this also provides a basis for specific performance, including via temporary injunctive relief. *Cyprus Mountain*, 828 S.W. 2d at 645. A dean preferred by the faculty might have maximized the reputation of the school, the quality of faculty colleagues and hence of the peer review they provide, and the freedom

to publish pathbreaking if controversial research conclusions, and all of these things increase the economic value of the speech platform that Woodcock obtains in exchange for his pay cut relative to work in industry. So the loss of a dean preferred by the faculty inflicts an economic loss on Woodcock. And because the skills of a dean have an “intrinsic value” that “cannot easily be quantified”, that economic loss constitutes irreparable harm for which specific performance is appropriate.

Loss of the Economic Value of Peer Review. The University’s appointment of a non-peer dean reduces the value of the peer review services that the University supplies to Woodcock under his employment contract, but it is difficult to measure the dollar value of that loss. The wage differential between law practice and law teaching places a market value on the bundle of services that universities provide to their law faculty employees—including the service of peer review—which industry does not provide to its lawyer employees. But the market does not itemize that value, so it is difficult to calculate the portion of that differential corresponding to the value of the peer review platform that University Defendants are now degrading. In consequence, “there exists no certain pecuniary standard” of “measurement” of Woodcock’s contract damages, and that makes them irreparable. *Cyprus Mountain*, 828 S.W. 2d at 645. That makes specific performance appropriate. *Id.* And “in a case where specific performance would be appropriate, since the remedy at law is inadequate, a finding of irreparable harm in the denial of a[temporary] injunction would also be appropriate.” *United Acquisition Corp. v. Banque Paribas*, 631 F. Supp. 797, 805 (S.D.N.Y. 1985).

Ongoing Deprivation of Constitutional Rights. Van Tatenhove’s appointment inflicts an ongoing, irreparable deprivation of Woodcock’s constitutional rights of expressive association, freedom from arbitrary exercise of power, and chill to speech. Woodcock seeks to leverage his association with the faculty to send the ongoing message that his research is subject to peer review by other members of the faculty, including the dean, and his ability to send that message is impaired

so long as a non-peer dean remains in office in violation of his constitutional rights. He also seeks to speak about controversial legal issues involving Palestine, which is much more difficult when the validity of his scholarly speech is not subject to peer review but to arbitrary government power. And Woodcock wishes to exercise his rights as a faculty member to control the selection of his dean, which he cannot do because the government arbitrarily deprived him of those rights in violation of written policies and custom. No sum of money is “sufficient to furnish” “full relief” for an ongoing violation of a constitutional right. *Id.* at 645. The only adequate relief is stopping the constitutional violation. This Court should follow federal courts in holding that where, as in this case, plaintiff has shown a “substantial likelihood of success on the merits” of his constitutional claims, he “also has established the possibility of irreparable harm” purely “as a result of the deprivation of the claimed” constitutional rights. *Connection Distributing Co. v. Reno*, 154 F. 3d 281, 288 (6th Cir. 1998); *cf. Cameron v. EMW Women’s Surgical Center*, 664 SW 3d 633, 663–64 (Ky. 2023) (Bisig, J., concurring and dissenting) (stating that “when faced with a substantial claim” of a constitutional violation, there may be irreparable injury).

Disruption May Shift the Equities Against Removal as Time Passes, Precluding Relief.

The likelihood of disruption associated with removing a dean increases as the dean’s tenure in office increases. Removal of a sitting dean creates three potential risks of harm. The first is the risk of loss of relationship investments. The longer a dean is in office, the more time students and faculty invest in getting to know him. This investment is wasted once he is removed and the faculty must invest time all over again in getting to know a replacement. The second is frustration of reliance. A dean makes numerous operational decisions from allocating travel budgets to hiring and firing upon which students and faculty rely in making plans of their own. When a dean is replaced, the replacement may change those decisions, frustrating reliance. Funding for travel to a conference for which a paper has already been accepted may disappear. Students looking forward to taking a

particular course learn that the course is no longer listed because a new dean decided to replace it with another. The longer a dean remains in office, the greater the mark that he makes on the school and the more likely that reliance on that mark will be frustrated by a change of administration. The third is harm to reputation. Removing a dean once he has been in office for a substantial period of time, and the expectation that he will remain in office for his full six-year term has formed in the community and the profession, may send a signal of instability to prospective faculty and students. This suggests that a new dean should not take office, or be allowed to remain in office for more than a few weeks or months, unless and until all questions regarding his right to govern have been resolved. Because the likelihood of disruption associated with removing a dean increases with the dean's tenure in office, allowing Van Tatenhove to remain in office for a substantial amount of time may increase the likelihood of a shift of the equities against issuance of injunctive relief. As a result, failure to remove Van Tatenhove during the pendency of this litigation could prevent this Court from *ever* providing Woodcock relief from irreparable constitutional and contractual harm. *Maupin*, 575 S.W. 2d at 698. "The clearest example of irreparable injury is where" "the final judgment would be rendered completely meaningless." *Id.*

Repelling Peer Faculty Candidates. By reducing the value of the peer review service supplied by the University to the faculty, Van Tatenhove's appointment will cause "good" "candidates" to be "repelled" from joining the faculty. Michael Email, Ex. 36 at 1. In consequence, Van Tatenhove's presence as dean will change the composition of the faculty. And the law school, which is currently severely understaffed, plans to fill a large number of faculty positions over the next few years, including four open faculty positions this year. Woodcock Decl. ¶ 33. Each additional non-peer hire under Van Tatenhove will magnify Woodcock's ongoing irreparable constitutional and contractual harm because the dean is empowered to consult with any member of the faculty in evaluating Woodcock's scholarship. Univ. Org § F.2.c., Ex. 22. Woodcock will be supplied with an even less

effective peer review service in violation of his contract because he will be supervised by additional non-peer colleagues. For the same reasons, Woodcock's ability to send the message of peer review through his membership in the faculty will be further impaired. Woodcock's speech, which will now be subject to the review of additional non-peers beholden through a non-peer dean to University administrators, will be further chilled. And Woodcock's ability to exercise his right to exclude non-peers from the faculty, which depends on faculty votes on appointment and tenure decisions that will be diluted by the addition of additional non-peer voters, will be further impaired in violation of his right against arbitrary exercises of power. This Court will be powerless to order scholars repelled during the litigation to join the faculty later because "labor" "compelled by" "force of law" is "involuntary servitude". *United States v. Kozłowski*, 487 U.S. 931, 943 (1988). "The clearest example of irreparable injury is where" "the final judgment would be rendered completely meaningless." *Id.* The only way to stop the proliferation of non-peers on the faculty is to remove Van Tatenhove now.

Expenditure of Unrecoverable Public Funds. Finally, the Kentucky Supreme Court has held that it is "irreparable harm" to permit the "expend[iture]" of "public not private funds" on an action that a plaintiff wishes to enjoin if "there is no reasonable expectation that such funds could be recovered" in the event that the action is "later held to be invalid." *Rogers v. Lexington-Fayette Urban Cty Gov.*, 175 S.W. 3d 569, 570–72 (Ky. 2005). This is true even if the "funds necessarily come from" the government "not from" the plaintiff. *Id.* at 573 (Johnstone, J. dissenting). Here, the University is paying Van Tatenhove an annualized salary of \$442,000 that is tens of thousands of dollars higher than the salaries paid to predecessors in order to carry out actions (the duties of a dean) that Woodcock seeks to enjoin. Exs. 63–65 (reflecting that the salaries for the previous three deans or interim deans ranged from \$333,000 to \$380,000). If Van Tatenhove's appointment is later adjudicated to be invalid, there is no reasonable expectation that the University would be able to

claw back payments already made to Van Tatenhove for a period of time over which he actually worked, or that the University would attempt to do so even if it had such a legal right.

C. The Equities Favor Grant of Temporary Relief

Grant of temporary relief is in the public interest. The public has an interest in ensuring that Woodcock benefits according to “the terms of the bargain [he] entered into.” *Certified Restoration Dry Cleaning Network, LLC v. Tenke Corp.*, 511 F.3d 535, 551 (6th Cir. 2007). The public also has an interest in ensuring that faculty autonomy is preserved and the speech of faculty is not chilled, because “[n]o one should underestimate the vital role in a democracy that is played by those who guide and train our youth.” *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957). Moreover, the public also has an interest in guaranteeing peer review, which ensures that the public obtains the “genuine and uncolored product” of the faculty’s “stud[ies]” rather than research “shaped or restricted by” “[i]nterested persons outside of their ranks”. 1915 Decl., Ex. 27 at 294. And “it is always in the public interest to prevent violation of a party’s constitutional rights.” *Bays*, 668 F. 3d at 825 (cleaned up). Harm to the law school of restoring the status quo of faculty-approved deans that prevailed for a half century up until July 20 will be manageable if this Court acts within the first weeks or months after classes start to temporarily remove Van Tatenhove. And University Defendants “cannot place” the law school “in harm[’]s way” by maintaining course after public outcry and then “later claim that an injunction should not issue because of costs” due to their “own misconduct.” *Midwest Guaranty Bank v. Guaranty Bank*, 270 F. Supp. 2d 900, 924 (E.D. Mich. 2003). Harm to Van Tatenhove, who draws a federal pension of \$249,000 per year, will be minimal. Ex. 11 at 1; Complaint ¶ 16 & n.3.

CONCLUSION

WHEREFORE, Woodcock requests a temporary injunction and expedited temporary injunction hearing.

Respectfully Submitted,

/s/ Rima N. Kapitan

/s/ Soha Saiyed

Kapitan Goma Law, P.C.

Admitted *pro hac vice*

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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 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. In addition, an electronic copy has been served on counsel of record for Defendants.

/s/ Joe F. Childers

Counsel for Plaintiff

Exhibit 82



J. David Rosenberg College of Law
Office of the Dean

July 18, 2025

Ramsi Woodcock
620 S. Limestone
267 Law Building
Lexington, KY 40506

Dear Professor Woodcock:

As the General Counsel of the University has informed you, the University is investigating allegations relating to your conduct.

Following protocols and past practices for investigations of this nature, to protect both you and the University and in consultation with the Provost's office, we are temporarily reassigning you administratively. The changes listed below are effective today, July 18, 2025, and for the duration of the investigation.

You will receive your salary, and your distribution of effort will be assigned to 100% professional development.

You should not come to the Rosenberg College of Law while the investigation is ongoing unless otherwise directed to do so by me. Effective immediately, you will not have access to the building. To the extent that you may need to obtain personal items from your office, please contact Vanessa Metzgar and she will make arrangements with you. In addition, IT will need to copy your university laptop. Please give your laptop to Vanessa Metzgar and after IT has copied it, she will return it to you.

You should make yourself available to investigators if and when they contact you.

Until the investigation has concluded, you are not permitted to be the supervisor of record for any staff, students or other personnel. You are not permitted to serve as the faculty advisor for any registered student groups or organizations.

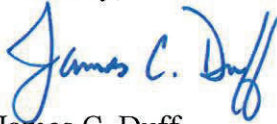
Your communications with any other employee of the college, campus or profession must use the highest level of professionalism.

When the investigation is complete, I will consult with OEO, HR and the Provost's office as to the next steps.

As you are probably aware, the University has a strict policy prohibiting retaliation in any manner against any individual who reports harassment or discrimination or participates in an investigation of a harassment or discrimination report. Anyone found in violation of the policy prohibiting retaliation will be subject to disciplinary action regardless of the outcome of the underlying complaint.

I regret having to take these actions, but I am committed to working through this process with you. Thank you in advance for your cooperation.

Sincerely,



James C. Duff

Dean

University of Kentucky J. David Rosenberg College of Law

cc: William Thro, General Counsel
Dr. S. Rebecca Thomas, Faculty Advancement

Exhibit 83

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION at LONDON

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1	UNITED STATES OF AMERICA,	:	Docket No. 5:25-cv-424
2		:	
3		:	
4	Plaintiff,	:	Lexington, Kentucky
5		:	Wednesday, December 19, 2025
6	versus	:	9:30 a.m.
7	THE UNIVERSITY OF KENTUCKY,	:	
8	et al.,	:	
9		:	
	Defendant.	:	

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TRANSCRIPT OF MOTION FOR INJUNCTIVE RELIEF
BEFORE DANNY C. REEVES
UNITED STATES DISTRICT COURT JUDGE
- - -

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21

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23 Proceedings recorded by mechanical stenography,
24 transcript produced by computer.

24

25

J. DUFF - Direct Examination

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1 A. That was part of the protocols usually that -- that the
2 university follows in investigations of this nature, yes.

3 Q. Were you required by University of Kentucky rules to
4 remove Professor Woodcock from the classroom?

5 A. I don't know what you mean by "required," but I think
6 that under certain circumstances it would be reasonable to
7 take such actions, and this was one.

8 Q. So it is your judgment call to remove or to not remove a
9 professor from the classes they teach at the law school,
10 correct?

11 A. Yes.

12 Q. And in this case you exercised that discretion to remove
13 Professor Woodcock from the classroom, correct?

14 A. Yes.

15 Q. Okay. Why did you remove Professor Woodcock from the
16 classroom if the complaints about Professor Woodcock came from
17 neither University of Kentucky faculty nor University of
18 Kentucky students?

19 A. Because if the allegations made in the communications
20 that were sent to us were true and accurate, it would have
21 created a hostile environment for students. And we took
22 action to investigate it and see if there was anything more to
23 it and to inquire of students.

24 I think it would be -- would have been negligent,
25 frankly, not to have taken such action in the current

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1 environment given the allegations, the nature of the
2 allegations that have been made, to allow for an individual to
3 continue to operate as if nothing had happened or nothing was
4 wrong or --

5 Now, after the investigation, if the investigation turns
6 up that he didn't make any such statements in the classroom --
7 which I hope is the case -- then, you know, he's back in the
8 classroom. We'll see where the investigation leads, if we can
9 get it concluded.

10 Q. What is -- right now, before you launched the
11 investigation, you said it was focussed on whether he had made
12 these statements in the classroom.

13 A. I'm sorry. Say that again.

14 Q. Is one part of the investigation regarding whether he
15 made such statements --

16 A. Yes, of course.

17 Q. -- in the classroom?

18 A. The investigator would talk to students, interview
19 students, as I believe she's done, and ask if they have ever
20 felt intimidated or -- or felt a hostile environment in his
21 classroom. That's part of the investigation.

22 Q. Why didn't you do that before taking his classes away?

23 A. Well, we tried. I mean, the --

24 Q. You talked to the students before?

25 A. Well, part of the investigation -- the investigation

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1 ended up -- there was some possibility it could have been
2 concluded before classes started and he could have been
3 reinstated.

4 But not -- at the time, we had to make the decision. You
5 had fall classes coming in, within a month. And so the
6 question was: You know, do you allow the status quo to
7 continue, or do you investigate and remove a potentially
8 hostile environment?

9 We thought it was in the best interest. We/I made the
10 ultimate judgment call, as you keep pressing me on. But I
11 didn't act alone. It was my judgment. It was my authority to
12 do so. But I did it in consultation with very experienced
13 people throughout the university and administrators who have
14 conducted these things time and time again.

15 And they're not unusual, is what I was told. And this is
16 how we proceed. So I followed the protocols and for the
17 safety of those involved, including the professors.

18 Q. What were the protocols that you were following to
19 determine weather to remove Professor Woodcock from the
20 classroom?

21 A. The protocols were in practice in various colleges
22 throughout the university system. These investigations take
23 place when there are allegations of the nature made. This was
24 an extreme one, frankly.

25 But there are other allegations that have been made

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1 within the university, as I understand it; again, I haven't
2 been in this position all that long.

3 But in the medical school, it was -- it happens.
4 Allegations get made about certain professors, doctors, and
5 they remove them temporarily until an investigation proceeds
6 and concludes.

7 And my understanding, usually -- and what I expressed at
8 the time -- was I hope we can do this swiftly. It is in the
9 best interest of the university, the best interest of the
10 Professor Woodcock, and the best interest of the students do
11 this swiftly.

12 All we got, as I understand it, because I -- at the point
13 of initiating the investigation, I'm removed from that
14 situation. It is not my investigation. It is not the dean's
15 responsibility. We have an investigator doing it.

16 Q. Who decided to launch the investigation?

17 A. This was, again, protocols or practices within the
18 university that is -- that have been followed.

19 Q. Somebody decided to do an investigation or not do an
20 investigation. Right?

21 You don't do -- my understanding --

22 A. Yeah. That would be logical. Yes. Somebody decided to
23 do an investigation.

24 Q. Were you that person that decided to do an investigation
25 of Professor Woodcock?

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1 A. It was part of a collaborative process I would say.

2 Q. Was it your authority in deciding to --

3 A. Well, I don't think the appointment --

4 Q. -- (indiscernible) investigation?

5 A. Well, I did not appoint the investigator.

6 Q. Sir, this is just for the court reporter's benefit. I
7 know it's not a normal conversation. Just wait until the very
8 end of the question for the court reporter's sake.

9 You did not decide to launch the investigation; is that
10 right?

11 A. No, I did not decide to launch the investigation. It was
12 not my sole decision to launch an investigation and what I --

13 Q. Whose --

14 A. -- what I asked was what are the -- what are the normal
15 practices in a situation like this?

16 Q. Whose decision was it to launch an investigation?

17 A. I assume counsel for the president, for the university --

18 Q. Okay.

19 A. -- and others who were involved in the deliberations.

20 Q. And it wasn't your decision to launch an investigation,
21 correct?

22 A. Well, it's not a yes or no answer.

23 Q. So in part it was your decision to launch the
24 investigation?

25 A. Well, as I've mentioned before, I asked what were the

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1 normal -- what are the normal processes, procedures involved
2 in a situation like this. In certain circumstances
3 investigations are conducted.

4 In my view, I thought that it was wise to have an
5 independent investigator involved. So I was in agreement.
6 Although I don't recall being involved in a specific
7 conversation about that, but I was in agreement with the
8 decision to pick an independent investigator.

9 Q. Okay. Let's look at the -- the end of that first
10 sentence in the President Capilouto letter where it says, "An
11 online petition calling for the destruction of a people based
12 on national origin."

13 Do you see that you?

14 A. Yes.

15 Q. Do you -- did you read Professor Woodcock's Petition for
16 Military Action Against Israel?

17 A. Did I read it --

18 Q. Yes.

19 A. -- or have I read it?

20 Q. Have you read it?

21 A. I have seen it, yes.

22 Q. Did you read it prior to deciding to ban
23 Professor Woodcock from the law school building?

24 A. I don't recall the timing on that.

25 Q. Did you read it prior to taking away Professor Woodcock's

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1 classes?

2 A. I'm sure that I saw it before, you know, those decisions
3 were made.

4 MR. ABBAS: And, Your Honor, can I introduce -- not
5 introduce, but show him an exhibit that was already marked as
6 Defendants' Exhibit 3?

7 THE COURT: Yes, sir. You may.

8 BY MR. ABBAS:

9 Q. Just before we get to this, just to close out the last
10 bit.

11 Who else besides yourself was involved in the decision to
12 launch an investigation of Professor Woodcock?

13 A. Well, there was the counsel's office of the university,
14 and then the provost and president. I mean, the whole
15 infrastructure of the administration of the university.

16 Q. It was a decision taken at the highest level of the
17 university, correct?

18 A. Yes.

19 Q. And all right. So in this petition, Defendants'
20 Exhibit 3, Petition for Military Action Against Israel, have
21 you seen this document before?

22 A. I think I've seen it in a different format. I think I
23 saw it as an attachment to an email.

24 Q. Okay. You see where -- the first sentence in the
25 Capilouto letter says it's "an online petition calling for the

Exhibit 84



University of Kentucky
Office of Legal Counsel
301 Main Building
Lexington, KY 40506-0032
P: 859-257-2936
www.uky.edu/legal

July 18, 2025

Ramsi Woodcock
Wyatt, Tarrant & Combs Professor of Law
Rosenberg College of Law
University of Kentucky
Lexington, KY 40505

Via Email to ramsi.woodcock@uky.edu only

RE: Investigation

Dear Professor Woodcock:

Recently, the University became aware of your writings on certain websites, your conduct at academic conferences, and your postings on American Association of Law Schools list serves, and other actions. These activities *may* create a hostile environment for Jewish members of the university community or otherwise constitute harassment as defined by the Supreme Court. The University has concerns that your actions *may* violate Title VI of the Civil Rights Act of 1964, the equivalent state laws, and various university policies. Consequently, the University is launching an investigation.

Because the allegations require the involvement of multiple university offices, the University has decided to engage outside counsel to conduct the investigation in coordination with the appropriate university offices. Specifically, Farnaz Farkish Thompson of the Washington office of McGuire-Woods LLP will lead the investigation.

Ms. Thompson will be in touch with you soon to schedule meetings and provide greater detail as to the scope of the investigation. If you retain counsel, please have your counsel contact both Ms. Thompson and me.

Sincerely,

William E. Thro
General Counsel

Exhibit 85

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION
CASE NO. 5:25-cv-00424-DCR

Ramsi A. Woodcock,

Plaintiff,

v.

Eli Capilouto (in his official and individual capacities),
Robert DiPaola (in his official and individual capacities),
William Thro (in his official and individual capacities),
James Duff (in his official and individual capacities),
Linda McMahon, in her official capacity as
United States Secretary of Education, and
Russell Coleman (in his official capacity as
Attorney General of the Commonwealth of Kentucky);

Defendants.

“[F]reedom prohibits the prescription of political orthodoxy.”¹

—William E. Thro, General Counsel, University of Kentucky

AMENDED COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

NOW COMES the plaintiff, Ramsi Woodcock (“Plaintiff” or “Woodcock”), by counsel, and for his complaint against the defendants, Eli Capilouto (in his official and individual capacities); Robert DiPaola (in his official and individual capacities); William Thro (in his official and individual capacities); James Duff (in his official and individual capacities); and Linda McMahon, in her official capacity as United States Secretary of Education; alleges as follows:

¹ William E. Thro, *No Clash of Constitutional Values: Respecting Freedom and Equality in Public University Sexual Assault Cases*, 28 REGENT U. L. REV. 197, 198 (2016).

Introduction

1. The University of Kentucky (“the University”) has suspended and launched an investigation against one of its tenured law professors, Ramsi Woodcock, because he spoke against Israeli colonialism, apartheid and genocide at academic conferences, in online discussion groups for law professors, and through a Petition for Military Action Against Israel which he posted on antizionist.net in November 2024.

2. Professor Woodcock argues that the international norm against colonization established in the 20th century “will survive only so long as states are willing to go to war to defend it,” and that states therefore have a duty not only to stop the genocide but bring about “dissolution of the colonial government.”² Relatedly, he argues that “the Palestinian people alone should decide how Palestine should be governed after independence,” and rejects any “externally imposed solution.” He defines “the Palestinian people” as the native people of Palestine, including Palestinian Jews.

3. Although Professor Woodcock had openly expressed these views since at least February 2024, and had sent an earlier statement about them to the University’s law faculty listserv in March 2024 with no issue, the University moved in July 2025 to suspend him and ban him from the law building after Kentucky Senate Joint Resolution 55 became law in the Commonwealth of Kentucky in April 2025. That law imposes on public universities in Kentucky the IHRA definition of antisemitism, which characterizes broad categories of constitutionally-protected speech critical of Israel as antisemitic.³

² *Petition for Military Action Against Israel*, ANTIZIONIST LEGAL STUD. MOVEMENT (Nov. 12, 2024), <https://antizionist.net/petition-for-military-action-against-israel/>; Ramsi A. Woodcock, *A Law and Economic Argument for Ending Israel*, ANTIZIONIST LEGAL STUD. MOVEMENT (Oct. 20, 2024), <https://antizionist.net/petition-for-military-action-against-israel/>.

³ *Working Definition of Antisemitism*, INT’L HOLOCAUST REMEMBRANCE ALLIANCE, <https://holocaustremembrance.com/resources/working-definition-antisemitism>.

4. Until recently, University regulations permitted a suspension, or “assign[ment] to other duties in lieu of suspension, only if immediate harm to the faculty member or others is threatened by the faculty member’s continuance,” and only upon consultation with the Faculty Senate Advisory Committee on Privilege and Tenure. In violation of those requirements, the University “reassign[ed]” Professor Woodcock’s workload away from the usual mix of teaching, research, and service to “100% professional development.”

5. Defendants are now searching for evidence that Professor Woodcock created “a hostile environment for Jewish members of the university community” in order to permanently exclude him from the University, even though they have not alleged a single example of an anti-Jewish remark by Professor Woodcock and have no objective basis for suspecting that a hostile environment exists.

6. The University’s suspension of Professor Woodcock violates his First Amendment right of freedom of expression and his right to procedural due process, discriminates against him in violation of the Civil Rights Act of 1866, threatens the democratic principles which sustain this country’s form of government, and degrades the quality of education at the University of Kentucky.

7. Plaintiff seeks an injunction prohibiting Defendants from continuing his suspension and banishment from the law building, an injunction requiring Defendants to cease the discriminatory investigation against him, and declaratory judgments pursuant to 28 U.S.C. § 2201 that Kentucky Senate Joint Resolution 55, as well as University policies compelling faculty to issue disclaimers before engaging in protected academic or private speech, are unconstitutional.

8. Plaintiff also seeks an injunction prohibiting Defendant McMahon from using or requiring the IHRA definition of antisemitism, and an injunction prohibiting Attorney General Coleman from enforcing Kentucky Joint Resolution 55, which imposes the IHRA definition on Kentucky’s public universities.

Parties

9. Ramsi Woodcock (“Plaintiff” or “Professor Woodcock”) is a tenured full professor in the University of Kentucky J. David Rosenberg College of Law (“the College of Law”).

10. Eli Capilouto (“President Capilouto” or “Defendant Capilouto”) is the President of the University of Kentucky. Among President Capilouto’s duties are to “supervise and administer all phases of the University” and to “take all measures necessary to comply with state and federal law.”

11. Robert DiPaola (“Provost DiPaola” or “Defendant DiPaola”) is the Provost of the University of Kentucky.

12. William Thro (“General Counsel Thro” or “Defendant Thro”) is General Counsel of the University of Kentucky.

13. James Duff (“Dean Duff” or “Defendant Duff”) is the Dean of the College of Law.

14. Linda McMahon (“Secretary McMahon” or “Defendant McMahon”) is the Secretary of Education for the United States Department of Education. Pursuant to Executive Order 13899, the Office of Civil Rights, under the leadership of and with the approval of Secretary McMahon, has used the IHRA definition of antisemitism to enforce Title VI against colleges and universities.

15. Russell Coleman (“Attorney General Coleman” or “Defendant Coleman”) is the Attorney General of the Commonwealth of Kentucky.

16. At all times relevant hereto, the University of Kentucky was and is a public educational institution established and maintained by the Commonwealth of Kentucky pursuant to Chapter 164 of the Kentucky Revised Statutes.

Jurisdiction & Venue

17. This Court’s jurisdiction over the subject matter of this action is invoked pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4).

18. This District is an appropriate venue for this action because the Defendants are located here and a substantial part of the actions alleged herein occurred in this district.

Factual Allegations

19. The University of Kentucky hired Professor Woodcock as an Assistant Professor starting on August 1, 2018.

20. Professor Woodcock is a devoted teacher praised by students for his enthusiasm, ability to explain complex ideas in simple terms, tolerance of diverse points of view, and commitment to student success. One student in his Contracts II course reports that Professor Woodcock held a review session that lasted from 10 a.m. until 1 a.m. the next morning and that Professor Woodcock ended the session only because students ran out of questions.

21. Professor Woodcock's research focuses on identifying opportunities to reform the law to redistribute wealth without harming efficiency. He has published extensively in the areas of antitrust law and personalized pricing and is perhaps best known for his Yale Law Journal article titled *The Obsolescence of Advertising in the Information Age* (127 Yale L.J. 2270). He is a founder of the inframarginalist movement in law and economics, which applies the methods of law and economics to the problem of wealth inequality. He teaches courses primarily in the areas of business and commercial law, including antitrust, business associations, contracts, and secured transactions. Since spring 2023, he has also taught an annual seminar on international law with a focus on governmental legitimacy.

22. The University granted Professor Woodcock tenure and promoted him to Associate Professor on July 1, 2022. On the unanimous recommendation of the College of Law's promotion and tenure committee and the former Dean, the University promoted Professor Woodcock to the position of Professor, the University's highest academic rank, on July 1, 2025.

Political Context for the University's Exclusion of Professor Woodcock

23. In 2021, responding to the President's Executive Order 13899, the Office of Civil Rights issued guidance requiring federal agencies "to consider" the Working Definition of Antisemitism published by the International Holocaust Remembrance Alliance ("the IHRA definition"), a definition promoted by groups working to silence criticism of Israel.⁴ The Department of Education, currently led by Secretary McMahon, maintains that policy on its website.⁵

24. The IHRA definition characterizes as "antisemitic" at least three categories of non-discriminatory political speech:

- "Drawing comparisons of contemporary Israeli policy to that of the Nazis";
- "Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor";
- "Applying double standards by requiring of [Israel] a behavior not expected or demanded of any other democratic nation."

25. The Nazi comparison category encompasses non-discriminatory political speech because all people and states, regardless of religious affiliation or ancestry, are capable of following bad policies, including policies comparable to those of the Nazis. If Israel were to engage in colonization, apartheid, or genocide, all of which were policies also adopted by the Nazis, a critic of Israel might wish to compare Israel to the Nazis because the comparison would be apt not because of Israel's claimed Jewish character. To proscribe this speech would grant to Israel an exemption from criticism for the pursuit of bad policies not enjoyed by any other state.

⁴ *Id.*

⁵ U.S. Dep't Educ. Off. Civil Rights, QUESTIONS AND ANSWERS ON EXECUTIVE ORDER 13899 (COMBATTING ANTISEMITISM) AND OCR'S ENFORCEMENT OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (2021), <https://www.ed.gov/media/document/faqs-executive-order-13899-combating-anti-semitism-and-ocrs-enforcement-of-title-vi-of-civil-rights-act-of-1964-2021-33939.pdf>.

26. The self-determination category encompasses non-discriminatory speech because it encompasses attempts to question legal or political rights and a state project based on non-compliance with prevailing legal rules or political norms rather than for the purpose of denying rights to Jewish people in particular or criticizing Israel because of its claimed Jewish character. For example, a critic of Israel might deny the right of Jewish people to self-determination in Palestine and characterize Israel as a racist endeavor because he believes that any claim of self-determination in Palestine by any predominately non-native group, regardless of religious affiliation, violates the international norm against colonization and springs from a racist orientation toward the native population. For example, if the critic would also have spoken against a Presbyterian right of self-determination in Palestine and characterized a state in Palestine claiming to represent Presbyterians as a racist endeavor, then his opposition to a Jewish right of self-determination and criticism of Israel as a racist endeavor is not anti-Jewish but rather anti-colonial. To proscribe this speech would grant to Israel and the Zionist movement an exemption from criticism not enjoyed by any other state or nationalist movement.

27. The self-determination category also encompasses non-discriminatory speech because it encompasses speech applying a general principle of opposition to self-determination based on religious affiliation. A critic might deny a right of Jewish people to self-determination because he rejects all rights of self-determination based on religious affiliation and believes that political rights should not be tied to religious faith rather than because he harbors animus toward Jewish people or the Jewish faith in particular. To prohibit denial of the right of Jewish people to self-determination is to accord to Jewish religious nationalism protection from criticism that is not enjoyed by Christian religious nationalism, Muslim religious nationalism or any other form of religious nationalism.

28. The double standards category sweeps in non-discriminatory political speech because Israel may differ from all other democracies in more than just its claimed Jewish character. A critic of

those other differences would not discriminate against Israel based on its claimed Jewish character but instead based on those other differences. For example, an opponent of Western colonialism in the Middle East might observe that Israel is the last Western colony in the Middle East and demand an end to Israel on that basis. That would require of Israel a behavior (dissolution), not required of any other democratic country, but the basis for that requirement would not be Israel's claimed Jewish character but rather Israel's unique character as the last Western colony in the Middle East. While such a requirement might appear to single Israel out in relation to other democracies, it would not single Israel out in relation to other Western colonies in the Middle East. Not long ago there were many Western countries in the Middle East and all of them were brought to an end.

29. Former President Joe Biden employed the double standards rhetoric when he opposed the boycott, divestment, and sanctions (BDS) movement against Israel on the ground that it “singles out Israel,”⁶ contending on that basis that it is antisemitic. But, according to the BDS website, the movement targets Israel based on its “occupation and colonization of . . . Arab lands”, not its claimed Jewish character.⁷

30. Title VI does not and cannot constitutionally prohibit criticism of Israel. Defendant Thro has himself acknowledged this. He once wrote that a “public institution’s first obligation is to the Constitution, not Title IX [the sex discrimination analogue of Title VI] or the collegial epistles of the Assistant Secretary of Education for Civil Rights.”⁸

31. Shortly after October 7, 2023, the Heritage Foundation created Project Esther, which the New York Times describes as a “proposal to rapidly dismantle the pro-Palestinian movement in the

⁶ Toby Dershowitz & Orde Kittrie, *Biden Blasts BDS: Why It Matters*, JERUSALEM POST (Jun. 21, 2020), <https://www.jpost.com/american-politics/biden-blasts-bds-why-it-matters-632301>.

⁷ *BDS Call*, BDS Movement, <https://bdsmovement.net/bds-call>.

⁸ William E. Thro, *No Clash of Constitutional Values: Respecting Freedom and Equality in Public University Sexual Assault Cases*, 28 REGENT U. L. REV. 197, 201 (2016).

United States, along with its support at schools and universities, at progressive organizations and in Congress.”⁹ In early 2025, the Trump Administration adopted many of Project Esther’s recommendations by creating a multi-agency Task Force to Combat Antisemitism coordinated by the Department of Justice’s Civil Rights Division.¹⁰

32. Over the course of spring 2025, the Task Force engaged in a number of high-profile efforts to induce universities, including Harvard and Columbia, to suppress pro-Palestine speech on campus under threat of withdrawal of federal funding.¹¹ The College of Law receives little or no federal funding. But the University of Kentucky received \$250 million in federal funding in 2025.¹²

33. Meanwhile, a member of the Heritage task force known as the Combat Antisemitism Movement (CAM) helped bring about the enactment, on April 2, 2025, of Kentucky Senate Joint Resolution 55 directing public universities in Kentucky to use the IHRA definition of antisemitism to “combat” antisemitism.¹³ 2025 Ky. S.J.R. 55.

34. Kentucky Senate Joint Resolution 55’s prohibition of broad categories of political speech critical of Israel is flagrantly unconstitutional.

35. In spring 2025, the University attempted to restrict speech on campus that it thought might displease the Trump Administration. For example, on March 8, 2025, the Trump Administration

⁹ Katie J. M. Baker, *The Group Behind Project 2025 Has a Plan to Crush the Pro-Palestinian Movement*, N.Y. TIMES (May 18, 2025), <https://www.nytimes.com/2025/05/18/us/project-esther-heritage-foundation-palestine.html>.

¹⁰ See *Discriminating Against Dissent: The Weaponization of Civil Rights Law to Repress Campus Speech on Palestine*, AAUP at 21 (Nov. 5, 2025), <https://www.aaup.org/news/new-report-civil-rights-law-weaponized-chill-speech>.

¹¹ *Id.* at 23.

¹² *University of Kentucky Funding for FY25*, UK OFF. VICE PRESIDENT FOR RES.: STATES & RANKINGS, <https://research.uky.edu/vice-president-research/stats-rankings>.

¹³ Barney Breen-Portnoy, *Kentucky Governor Signs Law to Combat Antisemitism at State’s Colleges and Universities*, COMBAT ANTISEMITISM MOVEMENT (Apr. 3, 2025), <https://combatantisemitism.org/government-and-policy/kentucky-governor-signs-law-to-combat-antisemitism-at-states-colleges-and-universities/>.

detained Palestinian rights activist Mahmoud Khalil near the Columbia University campus and attempted to remove him from the country. In the wake of Khalil's detention and in response to reports by students of apprehension regarding immigration enforcement on campus, the College of Law's Community and Engagement Committee, for which Professor Woodcock served as chair, organized a forum for discussion of immigration enforcement on campus that was to be held in early April 2025. High-ranking University administrators, including the University's head of public relations, appear to have taken the unprecedented step of demanding that the Dean of the College of Law at the time cancel the event. After the College of Law Dean protested on the ground that such an action would violate the First Amendment and threatened to resign if the event were canceled, University administrators permitted the event to proceed on the condition that it would not be officially sponsored by any College of Law committee but instead hosted by Professor Woodcock in his individual capacity.

36. In or about July 2025, the University implemented a Discrimination and Harassment policy that requires its Office of Equal Opportunity ("OEO") to "utilize[]" the IHRA definition of antisemitism.¹⁴ The Board of Trustees approved the adoption of the IHRA definition in September of 2025.

37. Kenneth Stern, one of the drafters of the IHRA definition, has stated that "[t]he IHRA working definition of antisemitism that is being adopted as a de facto hate speech code at universities around the country was never intended to be used to determine whether speech should be disciplined. It was never intended to be used by campus administrators at all."¹⁵ He has lamented

¹⁴ *Discrimination and Harassment*, UK OFF. EQUAL OPPORTUNITY, <https://oeo.uky.edu/key-priorities/discrimination-and-harassment>.

¹⁵ Kenneth S. Stern, *A Bad Deal: By Adopting the IHRA Definition of Antisemitism, Universities Are Sacrificing Academic Freedom*, KNIGHT FIRST AMEND. INST. (Sept. 5, 2025), <http://knightcolumbia.org/content/a-bad-deal-why-using-the-ihra-definition-of-antisemitism-on-campus-is-incompatible-with-academic-freedom-and-students-right-to-open-inquiry>.

that “the working definition has been primarily used (and I argue, grossly abused) to suppress and chill pro-Palestinian speech.”¹⁶

38. As further detailed below, since July 2025, the University has been conducting what President Capilouto describes as a “neutral, third-party review” to assess whether Professor Woodcock’s speech about Israel and Palestine violated University policy or Title VI of the Civil Rights Act of 1964 (“Title VI”).

39. The investigation, General Counsel Thro announced, would be conducted by Farnaz Thompson, a contributor to a political manifesto titled “Project 2025” that aims to “[s]ustain support for Israel” and “ensur[e] Israel has both the military means and the political support and flexibility to take what it deems to be appropriate measures to defend itself against the Iranian regime and its regional proxies” (emphasis added).¹⁷

40. In service of the goal of ensuring continued “political support” for Israel in the face of protests at college campuses across the country opposing Israel’s genocide of Palestinians, Defendants relied on a Department of Education policy which directs the use of the IHRA definition under the guise of enforcing Title VI.

Context for the Protected Speech at Issue

41. Like many scholars, Professor Woodcock takes the view that Israel is a Western colonization project that practices apartheid and is currently committing genocide.¹⁸ According to this view, the

¹⁶ Kenneth S. Stern, *Biden’s Pick for Antisemitism Envoy Will Need to Answer These Tough Questions*, FORWARD (Jul. 27, 2021), <https://forward.com/opinion/473580/i-was-the-lead-drafter-of-the-definition-of-antisemitism-heres-what-id-ask/>.

¹⁷ *Mandate for Leadership: The Conservative Promise*, HERITAGE FOUND., 94, 185 (2023), https://static.heritage.org/project2025/2025_MandateForLeadership_FULL.pdf (Project 2025).

¹⁸ These views have substantial support in scholarly and expert circles. For example, a search of the Journal of Palestine Studies for “settler-colony” and “Israel” returns more than 3,000 results. Search for articles including “[All: ‘settler-colony’ israel] AND [in Journal: Journal of Palestine Studies]”, TAYLOR & FRANCIS ONLINE, SEARCH RESULTS, <https://www.tandfonline.com/action/doSearch?AllField=%22settler->

history of the State of Israel starts in the late 19th and early 20th centuries, when a group of European Jews formed a movement to ethnically cleanse Palestine of its native inhabitants—the multifaith group comprised mostly of Muslims, Christians and Jews known as the Palestinians—and set up a colony in their place.¹⁹ After leveraging Britain’s conquest of Palestine in 1917 to accumulate land and introduce settlers, the Zionist movement put its plan into action in 1947 and 1948, killing tens of thousands of Palestinians, forcing hundreds of thousands from their homes, and declaring the creation of Israel.²⁰ Thanks to local resistance and help from neighbors, Palestinians were able to cling to 22% of their land, including the West Bank and Gaza, into which the Zionist movement pushed most of the non-Jewish population that it did not force into exile.²¹ After seizing the remaining land in 1967, Israel has segregated Palestinians there for decades in what South African civil rights leaders have called an apartheid that is worse than what Black South Africans experienced.²² In an effort to complete the ethnic cleansing of Palestine, Israel is currently

[colony%22+israel&SeriesKey=rpal20](#). A majority of the International Court of Justice found in 2024 that Israel is committing apartheid. Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian, Including East Jerusalem, Advisory Opinion, 2024 I.C.J. No. 186 ¶ 224 (July 19), (available at <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>); see Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 2024 ICJ No. 186 pp. 4-8 ¶¶ 14-32 (July 19) (Salam Declaration), <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-01-en.pdf>. The International Association of Genocide Scholars recently resolved that Israel is committing genocide in Gaza. *LAGS Resolution on the Situation in Gaza*, INT’L ASS’N OF GENOCIDE SCHOLARS (Aug. 31, 2025), <https://genocidescholars.org/wp-content/uploads/2025/08/IAGS-Resolution-on-Gaza-FINAL.pdf>.

¹⁹ Ilan Pappé, *THE ETHNIC CLEANSING OF PALESTINE* 10–126 (Oneworld 2007).

²⁰ *Id.* at 127–198.

²¹ *The UN Partition Plan for Palestine*, INST. MIDDLE EAST UNDERSTANDING (IMEU), <https://imeu.org/resources/the-nakba/the-un-partition-plan-for-palestine/148>.

²² *Mandela’s Grandson Says Palestinians’ Plight is Worse than Apartheid*, REUTERS (Sep. 4, 2025 4:24 AM ET), <https://www.reuters.com/world/middle-east/mandelas-grandson-says-palestinians-plight-is-worse-than-apartheid-2025-09-04/>; Darryl Li, *On Law and Racial Capitalism in Palestine*, LPE PROJECT (Jun. 15, 2021), <https://lpeproject.org/blog/on-law-and-racial-capitalism-in-palestine/>.

exterminating or displacing the remaining Palestinian population of Gaza.²³ The ceasefire that began on October 10, 2025 has merely reduced the intensity.²⁴

42. Professor Woodcock follows Israeli historian Shlomo Sand in rejecting as unfounded the claim that the European Jews who created the State of Israel descend from an exiled ancient Jewish population. Sand argues that Judaism was a proselytizing religion in the first millennium CE and that the Jewish communities found throughout Europe and in the Middle East in the early 20th century were more likely to descend from communities of converts than from an exiled population.²⁵ By contrast, he agrees with David Ben-Gurion, who was a founder of the State of Israel, that Palestinians are likely to be descendants of an ancient Jewish population of Palestine, many of whom converted to Islam or Christianity over time.²⁶ In Professor Woodcock's view, even if all Jewish people were to descend from an exiled ancient Jewish population, that would not justify the colonization of Palestine any more than the origin of Germanic tribes on the Russian steppe justified the German invasion of Russia during the Second World War or the fact that France was a Celtic land in the first century BC would permit the Irish to invade and colonize France today.²⁷

43. Professor Woodcock's contribution to scholarly debates about Israel has been to argue that in light of Israel's character as a Western colony in Palestine, Israel must not be treated differently from the dozens of other Western colonies that once controlled nearly all of the Middle East, Africa,

²³ Zeeshan Aleem, *A Permanent Israeli Occupation of Gaza is the Stuff of Nightmares*, MSNBC (May 7, 2025), <https://www.msnbc.com/opinion/msnbc-opinion/israel-gaza-netanyahu-trump-ethnic-cleansing-rcna20506>.

²⁴ *Israel Has Rejected over 100 Aid Requests since Gaza Ceasefire, UN Says*, UN NEWS (Nov. 6, 2025), <https://news.un.org/en/story/2025/11/1166295>.

²⁵ Shlomo Sand, *THE INVENTION OF THE JEWISH PEOPLE* 129-249 (Verso 2009).

²⁶ *Id.*

²⁷ Robert B. Strassler, *The Landmark Julius Caesar: The Complete Works: Gallic War, Civil War, Alexandrian War, African War, and Spanish War* 3 (Kurt A. Raaflaub ed., Vintage 2019).

and Asia and were brought to an end within living memory.²⁸ In his view, Israel, too, must be brought to an end.²⁹ He believes that the continuation of a colony founded as recently as 1948 calls into question the international norm against colonization created in the 20th century. In his view, that in turn calls into question the right to exist of the more than eighty United Nations member states, from Algeria to Vietnam, that are the product of decolonization.³⁰

44. Professor Woodcock believes that the colonized population has a right to decide the legal status of the colonizer population in all cases, regardless of the religious affiliation of the colonizer population and regardless of the colony in question. In his view, there can be no meaningful rule against colonization if the colonizer population has a right to self-determination in the colony any more than there can be a rule against trespass if the trespasser gains a right of ownership in virtue of his entry. The owner must retain the right to decide whether to license the entry or reject it.

45. As applied to Palestine, the implication of this view is that Jewish people as a group do not have a right of self-determination in Palestine.³¹ However, in Professor Woodcock's view, Jewish people who descend from the native Palestinian population participate in the Palestinian right of self-determination as Palestinians.³² Professor Woodcock points out that although the colonized population has a right to reject the colonizer population, it also has a right to regularize the colonizer

²⁸ Ramsi A. Woodcock, *A Law and Economic Argument for Ending Israel*, ANTIZIONIST LEGAL STUD. MOVEMENT (Oct. 20, 2024), <https://antizionist.net/law-and-economics-for-ending-israel/>; Ramsi A. Woodcock, *Statement of an American Law Professor Opposing Our Colonization of Palestine and Commission of Genocide Therein*, WHAT AM I MISSING? (Mar. 30, 2024), <https://zephyranth.pw/2024/03/30/statement-of-an-american-law-professor-opposing-our-colonization-of-palestine-and-commission-of-genocide-therein/>.

²⁹ *Id.*

³⁰ See Ramsi A. Woodcock, *A Law Professor's Demand that the World Immediately End Israel by Force of Arms*, WHAT AM I MISSING? (Oct. 14, 2024), <https://zephyranth.pw/2024/10/14/the-world-must-end-israel-now/>; Ramsi A. Woodcock, *Petition for Military Action Against Israel*, ANTIZIONIST LEGAL STUD. MOVEMENT (Nov. 12, 2024), <https://antizionist.net/petition-for-military-action-against-israel/>.

³¹ *Antizionist Legal Studies Movement*, ANTIZIONIST LEGAL STUD. MOVEMENT (Oct. 20, 2024), <https://antizionist.net/> (listing principles of antizionism).

³² *Id.*

population, and in many cases of decolonization in the 20th century, the colonized granted citizenship rights to the colonizer. Moreover, according to Professor Woodcock, all Palestinian political factions have consistently expressed a desire to grant equal rights to the colonizer population.

46. In light of Israel's ongoing genocide of Palestinians in Gaza, which by one estimate has claimed 680,000 lives, Professor Woodcock believes that international military intervention is urgently required to end Israel.³³ Many other scholars have taken the position that military intervention is an appropriate response to colonization. For example, Yale professor Timothy Snyder has called for military intervention to stop Russia's colonization of Ukraine and to end the Russian empire.³⁴

47. Professor Woodcock believes that despite Israel's formal status as an independent state, Israel is so dependent upon the United States for diplomatic, political, military and economic support that Israel is not just a Western colony but, functionally, an American colony in Palestine.³⁵ Accordingly, he believes that Americans have a moral duty as citizens to call for an end to Israel. He further believes that American law professors have a professional duty to call for an end to Israel because their silence in the face of an American-sponsored genocide and colonization project calls

³³ Richard Hil & Gideon Polya, *Skewering History: The Odious Politics of Counting Gaza's Dead*, ARENA (Jul. 11, 2025), <https://arena.org.au/politics-of-counting-gazas-dead> (estimating 680,000 dead); Ramsi A. Woodcock, *We Need An International Coalition to Declare War on Israel Right Now*, ANTIZIONIST LEGAL STUD. MOVEMENT (Dec. 10, 2024), <https://antizionist.net/we-need-an-international-coalition-to-declare-war-on-israel-right-now/>; see also Rasha Khatib et al., *Counting the Dead in Gaza: Difficult but Essential*, 404 LANCET 237 (Elsevier Jul. 2024), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)01169-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)01169-3/fulltext) (suggesting that in excess of 186,000 Palestinians in Gaza may have been killed by Israel as of summer 2024).

³⁴ Sashko Shevchenko, *"Defeating Russia Is The Best Thing We Could Do For Russia": Historian Timothy Snyder On The Ukraine War*, RADIO FREE EUROPE/RADIO LIBERTY (Aug. 7, 2024), <https://www.rferl.org/a/timothy-snyder-russia-ukraine-war-victory/33067942.html> ("It would be good for [Russia] to lose this war, just like it was good for France to lose in Algeria, just like it was good for Germany to lose in 1945.").

³⁵ Ramsi A. Woodcock, *Statement of an American Law Professor Opposing Our Colonization of Palestine and Commission of Genocide Therein*, WHAT AM I MISSING? (Mar. 30, 2024), <https://zephyranth.pw/2024/03/30/statement-of-an-american-law-professor-opposing-our-colonization-of-palestine-and-commission-of-genocide-therein/>.

into question their competence to opine on any matter of justice in any area of the law.³⁶ Finally, he believes that he has a scholarly duty to call for an end to Israel because that is a conclusion of his research.

48. Professor Woodcock first became interested in the legal analysis of colonialism when the College of Law asked him to teach an additional course after obtaining tenure in 2022. Interested in applying his expertise in the economic analysis of law to an offbeat topic, he chose to teach a seminar on international law starting in spring 2023. He soon learned that the decolonization movement of the 20th century had transformed international law. When, like many scholars, Professor Woodcock concluded in fall 2023 that Israel was committing genocide, Professor Woodcock decided to study the causes of the genocide. Drawing on his recent work in international law, he asked whether Israel could be considered a Western colony in Palestine. He determined that the answer is “yes.” This led him to conclude that Israel should be brought to an end.

49. Professor Woodcock’s conclusion was informed by his mother’s experience growing up as a colonized and dispossessed native girl under French colonial rule. In 1961, she was twenty years old and had no hope of going to college despite graduating at the top of her class from high school. The following year, resistance forces brought French Algeria to an end and her life changed completely. Professor Woodcock’s mother moved to the capital city of Algiers, found a job, paid her way through college, graduated with a thesis on the American novelist John Dos Passos, and eventually immigrated to the United States, where she pursued a successful career in the social sciences that included fellowships at Harvard and the Institute for Advanced Study at Princeton.

50. Professor Woodcock started sharing his views in early 2024 in all of the ways in which a scholar would be expected to share research conclusions about how to stop a genocide. He

³⁶ See *id.*

presented his conclusions at a faculty research seminar at the College of Law, emailed the faculty listserv about them, spoke about them at conferences, wrote and circulated petitions based upon them, published an op-ed about them, issued a call for papers and planned a conference about them, discussed them at faculty meetings, blogged about them, posted to social media about them, discussed them in online discussion groups for law professors, and set up a website, antizionist.net, intended to start a scholarly movement based upon them.

51. Professor Woodcock did not, however, discuss his conclusions in his classes in part because he did not want to cause students to face persecution for speaking about Palestine and felt that faculty had a duty to speak about Palestine instead. As he wrote to one colleague on the question of encouraging students to speak about Palestine: “[S]tudents are some of the most vulnerable members of our community and . . . we as a faculty have a duty not to outsource our consciences to them---both as a way of protecting students and as a way of modeling the right way to behave as professionals.”

52. For more than a year after Professor Woodcock first presented his ideas to the College of Law faculty in February 2024, the University expressed no dissatisfaction with his views. Indeed, the University permitted Professor Woodcock to add a presentation on Israel’s genocide of Palestinians to the agenda of an August 2024 faculty meeting. At that meeting, the then-Dean of the College of Law introduced Professor Woodcock’s presentation by affirming his commitment to the First Amendment.

53. The University’s tolerance of this speech ended in summer 2025 after federal government threats to withdraw funding from universities, federal enforcement of the IHRA definition, and passage of Kentucky Senate Joint Resolution 55 enabled and pressured administrators to suppress speech critical of Israel and Zionism.

54. The immediate cause of the University's change in approach appears to be that, on July 6, 2025, Plaintiff posted links to antizionist.net, including a link to his Petition for Military Action against Israel, to four online discussion groups for law professor hosted by the Association of American Law Schools ("AALS"). (He had originally posted the petition to antizionist.net on November 12, 2024.)

Defendants Target Professor Woodcock for his Protected Speech

55. The University expressed concerns about Professor Woodcock's speech for the first time at a July 9, 2025 meeting with Vice Provost Jana Jasinski, in which she told Professor Woodcock that the Provost's office had received reports that he had talked about genocide at academic conferences. She also suggested that his College of Law profile page should not link to a personal website in which he talked about genocide. Vice Provost Jasinski did not, however, mention Professor Woodcock's Petition for Military Action or his posts to AALS online discussion groups. She also suggested that the end point of any discussion with her would be a request to cease making conference statements and to remove any links to personal websites. She did not mention an investigation, suspension, ban, or possible termination. As Vice Provost Jasinski had refused to disclose the topic of the meeting in advance, Professor Woodcock asked for time to collect his thoughts and offered to return the following day to answer her questions. The University never followed up.

56. The outreach from Vice Provost Jasinski was unusual. Until that time, the most senior member of University administration with whom Professor Woodcock had met formally over his seven years at the College of Law had been the College of Law dean. It was his understanding and expectation based on that experience that if senior University administrators ever wished to convey a message to him the normal channel would be through the College of Law dean.

57. Instead, on July 18, 2025, President Capilouto issued a public statement decrying the Petition for Military Action Against Israel from antizionist.net that Professor Woodcock had posted to AALS online discussion groups nine days earlier. President Capilouto falsely characterized the petition as “calling for the destruction of a people based on national origin.”³⁷ Professor Woodcock had posted an earlier version of the petition to a personal blog, as well as to social media, in October 2024.³⁸

58. President Capilouto’s public letter did not allege that Professor Woodcock had mistreated any member of the University community, made threats, or posed a physical threat to the University community or to the orderly conduct of university business. President Capilouto nonetheless announced an investigation into whether Professor Woodcock’s “expressions threaten the safety and well-being of the university’s students and staff.” President Capilouto had no objective basis for suspecting that Professor Woodcock posed any threat to the “safety and well-being” of the campus community. President Capilouto appointed Ms. Thompson, the attorney associated³⁹ with the Heritage Foundation, which, as noted above, had conceived Project Esther, to conduct what he described as a “neutral” investigation of Professor Woodcock.

59. Making clear that the impetus for the University’s investigation was disagreement with Professor Woodcock’s views, and purporting to speak for the University, President Capilouto wrote

³⁷ Professor Woodcock responded in an email to his colleagues on the day of his suspension: “[i]n the 20th century, decolonization was carried out dozens of times around the world, often through military action—including in my mother’s country, Algeria. The resulting states make up a large part of the United Nations today. No one would characterize the process of decolonization through which these states went as involving the destruction of a people based on national origin or an expression of hate. The same is true of calls to end the last Western colony in the Middle East, which we call Israel. Decolonization is a process of liberation and the ultimate affirmation of human freedom and dignity.”

³⁸ Ramsi A. Woodcock, *A Law Professor’s Demand that the World Immediately End Israel by Force of Arms*, WHAT AM I MISSING? (Oct. 14, 2024), <https://zephyranth.pw/2024/10/14/the-world-must-end-israel-now/>.

³⁹ *Mandate for Leadership: The Conservative Promise*, HERITAGE FOUND., https://static.heritage.org/project2025/2025_MandateForLeadership_FULL.pdf#page=31&search=%22Farkish%20Thompson%22 (Project 2025).

that “[t]he views expressed online certainly do not represent the institution’s views. . . . Let me be clear: the views expressed by this employee . . . are repugnant.” President Capilouto did not refer to any conduct or speech of Professor Woodcock apart from the Petition for Military Action against Israel.

60. President Capilouto has long associated with organizations that oppose Professor Woodcock’s view that Israel should be brought to an end. In college, President Capilouto was president of a chapter of Zeta Beta Tau, a fraternity that was founded as a Zionist group and describes itself as having a “deep connection to Israel.”⁴⁰ He appears to have later served on the board of the Jewish Federation of Birmingham, Alabama, which declares that it “stand[s] with Israel.”⁴¹ He contributed to an Alabama political action committee called Americans for Good Government which is listed as “pro-Israel” by Open Secrets.⁴² As President of the University of Kentucky, he denounced a 2013 resolution of the American Studies Association to boycott Israel—ironically, in light of President Capilouto’s attack on Professor Woodcock, on the ground that the boycott conflicted with academic freedom.⁴³

61. On July 18, 2025, General Counsel Thro informed Professor Woodcock that the University had launched an investigation into his “writings on certain websites”, “conduct at academic

⁴⁰ Sheila Steinman Wallace, *UK President Talks about His Jewish Roots*, JEWISH COMMUNITY OF LOUISVILLE (Oct. 25, 2014), <https://jewishlouisville.org/uk-president-talks-jewish-roots-dr-capilouto-tells-alpha-omega-dental-fraternity-changes-education-health-care-later-evening/>; *Israel Education*, ZETA BETA TAU, <https://zbt.org/programs/israelnow/>.

⁴¹ Shiela Steinman Wallace, *UK President Talks about His Jewish Roots*, JEWISH COMMUNITY OF LOUISVILLE (Oct. 25, 2014), <https://jewishlouisville.org/uk-president-talks-jewish-roots-dr-capilouto-tells-alpha-omega-dental-fraternity-changes-education-health-care-later-evening/>; *Israel Resources*, BIRMINGHAM JEWISH FOUND., <https://bjf.org/israel-resources/> (last visited Nov. 11, 2025).

⁴² Linda Blackford & Valarie Spears, *Capilouto: An Alabamian with a Reverence for Education*, LEXINGTON HERALD-LEADER (May 3, 2011), <https://www.kentucky.com/news/local/education/article44093370.html>; *PAC Profile: Americans for Good Government*, OPENSECRETS, <https://www.opensecrets.org/political-action-committees-pacs/americans-for-good-government/C00138701/summary/2018>.

⁴³ Becca Clemons, *Capilouto Rejects Boycott of Israel*, KY. KERNEL (Jan. 16, 2014), <https://kykernel.com/57547/news/capilouto-rejects-boycott-of-israel/>.

conferences”, “postings on American Association of Law Schools list serves [*sic*], and other actions.”

62. That same day, Dean Duff sent Professor Woodcock a letter informing him that he had consulted with the Provost’s office and that “we are temporarily reassigning you administratively,” explaining that he was expected to spend 100% of his time on “professional development.” The letter further stated that “[y]ou should not come to the Rosenberg College of Law while the investigation is ongoing,” and “[u]ntil the investigation has concluded, you are not permitted to be the supervisor of record for any staff, students or other personnel. You are not permitted to serve as the faculty advisor for any registered student groups or organizations.” Professor Woodcock did not receive notice prior to these actions and no hearing either before or after.

63. Although Dean Duff’s letter provided that the University would return “personal items” that Professor Woodcock might have in his office, the letter did not make provision for Professor Woodcock to access research materials or other files related to teaching or scholarship stored in his office. The letter also did not make provision for Professor Woodcock to visit the College of Law library to conduct research.

64. Dean Duff’s letter also demanded that Professor Woodcock surrender his work laptop for copying by the University. Professor Woodcock later objected on the grounds that he had not used his work laptop since 2021 (due to the University’s failure to update the machine), the University could easily verify that fact based on usage logs, and the University’s investigation was limited to statements about Palestine that he had made starting in 2024. However, the University nevertheless insisted on copying the entire contents of the laptop.

65. Dean Duff has made clear that the ban he imposed in his letter prevents Professor Woodcock from participating in College of Law faculty meetings. Defendant Thro has stated that Dean Duff has “absolute” authority to “reassign” Professor Woodcock and banish him from the

law building. However, Dean Duff has not responded to repeated requests by Professor Woodcock to speak with him. For example, in response to a September 10, 2025 entreaty from Professor Woodcock to lift the suspension, Dean Duff replied: “better to have your counsel contact UK’s General Counsel Bill Thro with these questions[.]” To date, Professor Woodcock has had no opportunity to challenge the University’s decision to suspend him and ban him from the law building during the pendency of the investigation.

66. Defendant Duff has stated that the decision to investigate, suspend, and ban Professor Woodcock was made collaboratively by Defendants Capilouto, Thro, DiPaola, and Duff. Dean Duff has also stated that at the time the decision was made to investigate, suspend, and ban Professor Woodcock he was in receipt of no complaints from any University of Kentucky student or faculty member regarding Professor Woodcock. OEO Director Sarah Mudd confirmed the absence of such complaints. However, Dean Duff has said that he had received complaints from outside interests about Professor Woodcock. On information and belief, the University did not consult any faculty body in advance of the suspension and investigation.

67. Defendant Capilouto has ultimate authority to adopt and rescind University regulations and has done so on an “interim” basis without formally consulting with University stakeholders in advance of adoption or rescission. As General Counsel of the University, Defendant Thro “serves as attorney, counselor, and problem-solver” for the University and advises President Capilouto and other Defendants regarding University actions.⁴⁴ Provost DiPaola’s portfolio includes faculty affairs. Before Regulations Affecting Employment § B(1)(f) was deleted by the University this fall, it tasked him, rather than Ms. Thompson, with preparing an initial statement of charges against tenured faculty threatened with termination. Dean Duff is the dean of the College of Law. According to Defendant Thro, Dean Duff’s authority to “reassign” Professor Woodcock is “absolute.”

⁴⁴ *General Counsel*, University of Kentucky Office of Legal Counsel, <https://legal.uky.edu/taxonomy/term/33>.

68. President Capilouto’s public mischaracterization of Professor Woodcock’s views as advocating the “destruction of a people”, being “repugnant”, and “express[ing] hate”, along with the University’s decision to summarily suspend him and banish him from campus, sent a signal of severe displeasure with Professor Woodcock to the University community and the world, placing potential witnesses in fear that they might suffer retaliation from the University were they to speak in favor of Professor Woodcock or participate fully in the investigation.

69. The investigation was initiated not because of a student complaint but rather, according to Ms. Thompson, because of reports by four professors—who presumably teach at other universities—about Professor Woodcock’s off-campus speech at conferences and online about Palestine or Israel.

70. As part of this investigation, Ms. Thompson is contacting students, University of Kentucky law professors, and law professors at other schools who are part of online discussion groups hosted by AALS. She is informing them that she has been retained by the University to “investigate Professor Ramsi Woodcock’s conduct and whether his conduct may violate University policies.”

71. Professor Emeritus Alvin Goldman, a self-described Zionist who debated Israel’s right to exist with Professor Woodcock on the law faculty listserv in May 2024, calls Professor Woodcock’s suspension “a threat to academic freedom and institutional integrity.” When Ms. Thompson approached Professor Goldman for an interview, he responded: “Although Prof. Woodcock and I have strong opposing views . . . , we have, in my opinion, engaged in these email debates in a civil and appropriate manner.”

72. In an August 25, 2025 letter, Ms. Thompson stated that at the end of the fact-gathering stage of the investigation, she will issue an attorney-client privileged report to the President which will not be shared with Professor Woodcock. Then, “the University President will issue a letter to Professor Woodcock . . . with the University’s findings,” including, if Professor Woodcock is found

“responsible for the allegations,” notice of “any sanction for such a finding”, such as “termination of a tenured appointment[.]”

73. University regulations contemplate that President Capilouto may issue a range of disciplinary sanctions to members of the faculty, including termination of employment or “a suspension without pay, a permanent reduction in salary or other appropriate sanction”. AR—Due Process (Interim) § II.F. Ms. Thompson’s letter suggested that Professor Woodcock would be afforded a right of appeal only if President Capilouto chooses to terminate Professor Woodcock. The letter states that “[s]hould the University President determine that termination of a tenured appointment may be appropriate, then the University shall comply with KRS 164.230[, requiring the Board of Trustees to hold a hearing before termination of a tenured professor,] and any applicable University regulations.” The letter does not affirm that the University will comply with University regulations, including regulations providing a right of appeal, in imposing any other sanction on Professor Woodcock. Cf. AR—Due Process (Interim) § I.A (providing for a formal hearing for employees facing “significant” sanction).

74. Although the investigation could conceivably conclude before the spring 2026 semester begins in January, the University is refusing to assign Professor Woodcock classes for that semester, even on a contingent basis, signaling it has already decided to terminate his employment, and that the investigation is merely an attempt to find a pretext to support a decision that has already been made.

75. In a July 22, 2025 Notice of Investigation, the University, through Ms. Thompson, stated four allegations that were the basis for the University’s initial decision to launch the investigation and suspension four days earlier. The allegations are:

- beginning a presentation at an academic conference in Hong Kong on May 30, 2025
“with a tirade against the United States and its ‘colony’ for coming [*sic*] genocide in

- Gaza” and responding to a question by “chanting ‘apartheid, apartheid, apartheid’” [In fact, Professor Woodcock briefly stated his opposition to colonization and genocide. When a heckler later accused him of being a Hamas supporter, he replied that Israel is a colonization project that practices apartheid and commits genocide.];
- asserting at an academic conference in Washington, DC on February 23, 2024 that “the United States government was supporting Israel in what was alleged to be a genocide of the Palestinian people” [In fact, Professor Woodcock stated that “[o]ur government is currently committing genocide in Palestine through the colony we maintain called Israel. We have killed 30,000 people so far and nearly 15,000 children, and that must stop.”];
 - “spamming listserves [*sic*] . . . with your personal viewpoints concerning the Israeli-Palestinian conflict”; and
 - “using the University’s resources to circulate an online petition, Petition for Military Action Against Israel.”

76. After listing these allegations, all of which are directed toward academic or private citizen speech by Professor Woodcock, the letter stated: “If you are doing anything that might violate University policy, you should stop immediately.” The letter then listed a number of University policies that related to speech, including the Ethical Principles and Employee Code of Conduct (as of January 2026 no longer linked from the University’s regulations website but still available for download from the site using the link provided in the letter), Institutional Statements Policy (apparently superseded in September 2025 by the Institutional Neutrality Policy), spam policy, and antidiscrimination policy (AR 6.1) (as of January 2026 no longer available from the University’s website).

77. On September 8, 2025, the University, through Ms. Thompson, issued an Amended Notice of Investigation with four additional allegations, which apparently emerged during the investigation, namely:

- “using his official position as a University of Kentucky professor to call for violence against Israel, the genocide of Israeli people who are predominantly Jewish, and the ultimate destruction of Israel” [The University has refused to explain what specific speech this allegation references.];
- “calling for violence against Israel, the genocide of Israeli people, and the ultimate destruction of Israel in a manner that uses anti-Semitic tropes” [The University has refused to explain what specific speech this allegation references.];
- “stating at an optional educational program with guest lecturers that he does not need to invite [speakers] with a pro-Israeli viewpoint because such speakers are pro-genocide” [This appears to be a reference to the following question posed by Professor Woodcock at a College of Law talk given by an expert on free speech on campus: “I [once] asked the University if I could bring someone to campus to talk about genocide and the response was ‘Yep, you can do that. But if you bring in somebody who’s like anti-genocide, you have to bring in someone who’s pro-genocide.’ What’s your view . . . ?”]; and
- “shouting ‘Free Palestine,’ while driving a car with University of Kentucky law students who won a bid during a fundraiser for the Student Public Interest Law Foundation to spend time with Professor Woodcock” [In fact, Professor Woodcock called out “Free Palestine” to two men in a crosswalk in downtown Cincinnati who were wearing kuffiyehs (an Arab nationalist symbol) while driving students who had paid to spend time with him in private life to dinner with his family. None of the students complained

to the University about this remark, and one of them has since described his reaction as follows: “I remember thinking it was pretty cool that a professor would stand up for what he believes in and rally with causes that are important.”].

78. Even if these allegations are taken as true, which, as reflected in the bracketed comments, they in many respects are not, they do not allege a single instance of antisemitic or harassing speech or conduct, let alone a pattern of conduct or speech directed at members of the University community that could form the basis for the initiation of a hostile environment investigation.

79. Ms. Thompson has mostly refused to specify which University policy provisions or rules of law in particular are allegedly implicated by each allegation.

80. General Counsel Thro has clarified that all eight of these allegations serve as the basis for Professor Woodcock’s “reassignment.” He has also indicated that the fishing expedition will continue: “If [Ms. Thompson] were to issue a third notice of investigation, those aspects would [be] an additional basis for the reassignment as well.”

University Policies that Implicate Speech

81. The University’s Ethical Principles and Employee Code of Conduct (GR XIV) policy (“Ethical Principles”) compels a faculty member speaking or writing as a “citizen” to “indicate that they are not speaking for the University” and to use “personal stationery and personal e-mail accounts”. The policy further compels a faculty member speaking “in a professional or expert capacity” who identifies themselves “by their relationship with the university” to “emphasize that any views expressed are their own and are not representative of the University of Kentucky” in cases “where the individual might give even the appearance of speaking on behalf of the University”. The policy further compels those who “act for the University” and “comment publicly as part of their official duties” to “do so using University stationery and e-mail accounts.” The policy also states that “[t]hose who act for the University are entrusted with protecting the property, equipment, and other

assets of the University and exercising responsible, ethical behavior when using University resources. University assets are intended for University activities.” Violation of the policy is punishable by “appropriate sanctions”.

82. The Institutional Statements or Institutional Neutrality policies state that faculty may speak as “an individual, scholar or subject matter expert” but state that “they should always take care to reinforce that they are speaking as an individual or in their capacity as a subject matter expert, not as a representative of the institution[.]” The policies also state that statements by a member of the community “as a private individual . . . must not include any content that suggests the message or communication represents any academic or administrative unit, activity or initiative of the university.” The policy further prohibits use of “University email, social accounts or web addresses” as well as “University stationery, backdrops or [print or electronic] signature lines” for private capacity statements. But “university name, logo or associated images,” can be used “as part of a position title by a faculty member to demonstrate a field of study or subject matter expertise”. Although the Institutional Statements/Neutrality policy does not state a sanction for a violation of its terms, the University cited the policy as a basis for the allegations against Professor Woodcock, which serve as the basis for the investigation, suspension and banishment and which the University has stated could result in termination of Professor Woodcock.

83. The University’s spam policy states that users of University technology resources must not send “unsolicited mass mailings or ‘spamming.’” It states that “[m]ass mailings must only be sent to clearly identified groups for official purposes, and may not be sent without proper authorization and coordination with UK Public Relations and Marketing.” Employees are subject to “legal and corrective action” for violations of this policy.

84. The University’s OEO has adopted the IHRA definition of antisemitism for use in “investigating any complaints of antisemitism”. The OEO website quotes the IHRA definition of

antisemitism as “a certain perception of Jews, which may be expressed as hatred toward Jews” and states: “Read more about the definition and examples from IHRA here” and provides a link to the examples, which include a number of examples of criticism of Zionism that need not reflect hatred of Jews, as discussed above.

**The University Has No Basis in Law or Policy
for Continuing the Investigation or Suspension**

a. Title VI Investigation as Pretext for Suppression of Speech

85. Defendants have no basis for suspecting that the speech referenced in the allegations was discriminatory or that Professor Woodcock mistreated anyone or denied anyone access to University resources. The investigation is a cover for punishment of Professor Woodcock for his speech.

86. Professor Woodcock presented the views for which he is now being persecuted to University audiences in the past with no issue. For example, on February 14, 2024, Professor Woodcock gave a research seminar at the College of Law on an early-state work titled “A Law and Economic Argument for Dismantling Israel.” In this work, which applied his expertise in law and economics to international law and politics, Professor Woodcock argued, by analogy to the law and economics of property, that the creation of Israel was inefficient in an economic sense because it resulted from the equivalent of land theft rather than a voluntary arms-length transaction.

87. Professor Woodcock engaged in similar speech at least two additional times in 2024. In May 2024, Professor Woodcock used the College of Law faculty email listserv to circulate a request that the faculty sign a statement he had drafted calling for an end to the genocide and to Israel.⁴⁵ This led to a scholarly debate via the listserv with his colleague Alvin Goldman regarding his position that Israel is a colonization project committing genocide and should be brought to an end. On August

⁴⁵ Ramsi A. Woodcock, *Statement of an American Law Professor Opposing Our Colonization of Palestine and Commission of Genocide Therein*, WHAT AM I MISSING? (Mar. 30, 2024), <https://zephyranth.pw/2024/03/30/statement-of-an-american-law-professor-opposing-our-colonization-of-palestine-and-commission-of-genocide-therein/>.

13, 2024, Professor Woodcock sent an email to the law faculty listserv renewing his request that the faculty sign his proposed statement calling for an end to the genocide and to Israel. In the email, he noted that the death toll in Gaza had reached 186,000 according to estimates published by the medical journal *The Lancet*, drew his colleagues' attention to a recent opinion by the International Court of Justice that Israel's occupation of Gaza was illegal, argued that military action by Palestinians to resist the occupation was consequently justified, and stated that "[w]e must deploy whatever moral authority we have to oppose this epochal crime now." He shared news accounts and a photo of a recent Israeli massacre of women and children in Gaza who had been gathered in prayer. He prefaced his email as follows: "Activism doesn't come naturally to me. I really hate it and have always tried to avoid it. But I draw the line at genocides committed by my government."

88. Defendants did not subject Professor Woodcock to investigation, suspension, or banishment for this speech in 2024.

89. Professor Woodcock's characterization of Israel's intentions and actions as colonial and genocidal, and its political structure as apartheid, though controversial in some circles in the United States, are neither antisemitic nor even outside the mainstream in international legal discourse. These statements say nothing about Jews as a people but rather characterize specific actions of governmental and political entities. The Zionist movement that created Israel itself described its mission as "colonization" before that phrase took on a negative connotation.⁴⁶ The genocide allegation is in fact a legal claim formally alleged by the Republic of South Africa in a case it brought before the International Court of Justice and which the Court deemed "plausible" in its interim

⁴⁶ For example, in 1898, the Zionist movement worked toward creating what it called a "Jewish Colonial Trust" and a "Colonization Commission" to facilitate its efforts in Palestine. Fayeze Sayegh, *Zionist Colonialism in Palestine (1965)*, 2 SETTLER COLONIAL STUD. 206 (Jan. 2012), <https://www.ohchr.org/sites/default/files/Documents/Issues/Truth/CallLegacyColonialism/CSO/Al-Haq-Annex-3.pdf>.

ruling in that ongoing case.⁴⁷ Genocidal intent is reflected in statements of Israeli officials themselves. For example, on October 10, 2023, Israeli Defense Minister Yoav Gallant said in a speech to soldiers, “Gaza won’t return to what it was before. We will eliminate everything. If it doesn’t take one day, it will take a week. It will take weeks or even months, we will reach all places.”⁴⁸ A majority of the International Court of Justice has ruled that Israel is practicing apartheid.⁴⁹

90. Similarly, Professor Woodcock’s call for military action and his call for the dismantling of colonial state structures is protected speech. Whether and the extent to which war is justified is a frequent topic of political science and international law. Scholars debate whether military intervention in 1999 to save Kosovo from Serbian colonization was appropriate or whether military intervention to stop Hutus from committing genocide against Tutsis in Rwanda in 1994 would have been appropriate. Colonialism is another common topic of academic and political discussion, including in the Project 2025 manifesto, which declares that “the American people rejected European monarchy and colonialism.” Academic calls for military action specifically to end colonialism have a long and distinguished scholarly pedigree, stretching back at least to the work of French psychiatrist Frantz Fanon, whose books are taught in universities across the country. When a scholar calls for an end to the Russian colonies in Ukraine known as the Donetsk People’s Republic

⁴⁷ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures, 2024 I.C.J. 3, 23 (January 26), <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>.

⁴⁸ Al Haq, *The Systematic Destruction of Gaza’s Healthcare System: A Pattern of Genocide* at p. 11, available at <https://www.alhaq.org/publications/25846.html>.

⁴⁹ Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian, Including East Jerusalem, Advisory Opinion, 2024 I.C.J. No. 186 ¶ 224 (July 19), (available at <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>); see Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 2024 ICJ No. 186 pp. 4-8 ¶¶ 14-32 (July 19) (Salam Declaration), <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-01-en.pdf>.

and the Luhansk People's Republic, or for the destruction of the Russian empire more generally, he is understood to take a position in favor of the liberation of the Ukrainian people and of all peoples subject to Russian imperialism. He is not understood to call for a genocide of Russian settlers in Ukraine or Russians more generally, or to pose a threat to ethnic Russians on campus. Indeed, only supporters of Russian colonization seeking to silence such a scholar would make such a claim. By the same token, a call for an end to Israel is a call for the liberation of Israel's victims. Only supporters of the colonization of Palestine seeking to silence Professor Woodcock would claim that it is anything else.

91. As the foregoing suggests, there is an objective basis for Professor Woodcock's position that Israel is a colonization project that practices apartheid and commits genocide and that the international community therefore has a duty to intervene militarily to bring Israel to an end. The University has no evidence that these arguments are "on the ground of race, color, or national origin", rather that on the basis of the objective facts outlined above. The University also has no evidence that Professor Woodcock has harassed or otherwise mistreated Jewish members of the campus community.

92. Similarly, for a professor to call for freedom for Palestinians in a public street is protected speech, just as it was protected speech when black students held signs in a public street reading, "Down with segregation" in 1961. *Edwards v. South Carolina*, 372 U.S. 229, 231 (1963).

93. To the extent that the IHRA definition prohibits calling for the dismantling of colonial state structures, prohibits legal scholars from debating the contours of the right of self-determination, prohibits allegations of race discrimination, and prohibits allegations of genocide, the IHRA definition is unconstitutional.

b. The University's Selective Pacifism

94. Two of the allegations fault Professor Woodcock for “calling for violence against Israel.” Defendant Capilouto said in his July 18, 2025 statement to the University community: “We condemn any call for violence.”

95. These allegations result from viewpoint discrimination. Defendants routinely tolerate calls for violence in other contexts.

96. As of the date of this filing, a webpage maintained by the University's College of Arts and Sciences links to a document that encourages readers to visit a website called “Help Save Ukraine”,⁵⁰ which solicits donations to the Ukrainian military. The Ukrainian military is itself engaged in armed resistance to a colonization project.

97. The University's Patterson School routinely collaborates with the Army War College to conduct “wargaming” exercises. Participants in the exercises advocate for war and other acts of violence against sovereign states.

98. On information and belief, Defendants have not subjected the individuals engaging in these calls for violence to investigation, suspension or bans from buildings on campus.

c. The University's Novel Interpretations of its Longstanding Technology and “Ethical Principles” Policies

99. The University's allegations relating to use of technology are also pretext for suppressing Professor Woodcock's speech.

100. The University's contention that it is “spamming” for a law professor to send a message to law faculty listservs or discussion groups is pretext for its disagreement with his views. The University does not normally police the messages faculty send to the College of Law faculty listserv

⁵⁰ See *Statement on the Russian Invasion of Ukraine*, UK COLLEGE OF ARTS AND SCIENCES: DEPARTMENT OF MODERN AND CLASSICAL LANGUAGES, LITERATURES AND CULTURES, <https://mcl.as.uky.edu/statement-russian-invasion-ukraine> (last visited Nov. 12, 2025).

or post in AALS online discussion groups, which include messages that have nothing to do with University business or that have political content. For example, the University did not “reassign” a law professor who sent to the law faculty listserv a meme of Luigi from The Super Mario Brothers Movie enjoying a cheeseburger with police officers wearing McDonald’s insignia. It did not “reassign” a law professor who circulated a letter expressing support for Black Lives Matter protestors.

101. Similarly, the University has not identified any policy that is violated by a law professor engaging at academic conferences or in AALS online discussion groups about international legal issues or political issues with legal implications. The University’s Ethical Principles and Employee Code of Conduct (GR XIV) policy states that “[i]ndividuals writing or speaking publicly in a professional or expert capacity may identify themselves by their relationship with the University,” and that they must emphasize that their views are their own in instances “where the individual might give even the appearance of speaking on behalf of the University.” None of Professor Woodcock’s communications had the appearance of being made on behalf of the University. Scholars at conferences and in online fora for faculty do not understand each other to act as spokespeople for their institutions when they speak. When a University of Kentucky English professor speaks about Shakespeare, the University of Kentucky does not appear to take an official position on Hamlet. Similarly, when Professor Woodcock speaks at conferences or online, the University of Kentucky does not appear to take a position on peace in the Middle East.

102. The University’s claim that Professor Woodcock used “the University’s resources to circulate an online petition” is also pretext for punishing Professor Woodcock for the content of his speech. Not only do members of the University community use the University’s resources for non-official communications on a daily basis without being sanctioned, but such practices are explicitly permitted by the University’s Administrative Regulation 10:1 regarding Use of Technology

Resources, which provides that “[i]ncidental personal use is an accepted and appropriate benefit of being associated with the University’s technology environment” and by the University’s Ethical Principles and Employee Code of Conduct (GR XIV) policy, which states that “[l]imited personal use of fixed University resources, such as computers . . . which does not result in a charge to the University is permitted as long as the use does not interfere with assigned job duties.” In any case, the First Amendment prohibits public universities from denying access to university resources in retaliation for engaging in protected speech, which includes academic speech carried out by faculty as part of their assigned duties.

103. The University has maintained a policy variously called an “Institutional Statements” or “Institutional Neutrality” policy which applies to “public” statements by faculty. The policy acknowledges that faculty have a “right to make statements as an individual scholar or subject matter expert”, “but that they should always take care to reinforce that they are speaking as an individual or in their capacity as a subject matter expert not as a representative of the institution unless so designated by the president”. Read in conjunction with the Ethical Principles and Employee Code of Conduct (GR XIV) policy quoted above, the “take care to reinforce” language suggests that faculty must issue a disclaimer that they do not speak for the university only when an audience might reasonably be expected otherwise to misunderstand that the faculty member speak for the university. The policy represents that it “in no way impacts an individual’s First Amendment rights[.]” However, to the extent that the University reads this policy and the one in Ethical Principles and Employee Code of Conduct (GR XIV) to compel a member of the faculty to issue a disclaimer as a condition for avoiding sanction for engaging in protected speech as a teacher, scholar, or private citizen, it flagrantly violates the First Amendment. Moreover, faculty members at the College of Law regularly make statements at conferences and online without issuing a disclaimer and do not appear ever to have been sanctioned for it.

104. The Institutional Statements and Neutrality policies further provide that any statements made by a member of the University community “as a private individual . . . must not include any content that suggests the message or communication represents any academic or administrative unit, activity or initiative of the university.” It further provides that “University email . . . or web addresses should not be used when issuing statements in a private capacity”. It permits use of “Elements of the University of Kentucky visual identity” including “university name, logo or associated images” when “used as part of a position title by a faculty member to demonstrate a field of study or subject matter expertise” but also states that “University stationery, backdrops or signature lines, either in print or electronically, should not be used for statements made in private capacity.” To the extent that the University reads this policy to prohibit faculty from using their university email accounts or reporting their university job title or affiliation when engaging in academic speech or speech as a private citizen it flagrantly violates the First Amendment. Moreover, faculty members at the College of Law regularly use their university email accounts or report their university job title or affiliation while engaging in academic speech or speech as a private citizen and do not appear ever to have been sanctioned for it.

105. In September 2025, apparently in response to Professor Woodcock’s statements about Palestine at conferences, the University amended the policy variously known as the “Institutional Statements” or “Institutional Neutrality” policy to include the following provision: “When speaking at professional or academic conferences or engaging in activities related to professional associations, community members should make it clear that they are speaking for themselves and not for the institution.” The provision would therefore require a member of the University’s English Department to repeat the following disclaimer before giving a paper at a conference on Shakespeare attended by other English literature scholars who are well aware that as a general matter scholars do not speak for their institutions: “The views I will articulate about Hamlet are mine alone and not

those of the University of Kentucky.” This new provision retaliates against Professor Woodcock for speaking about Palestine at conferences. To the extent that it would compel him to issue a disclaimer as a condition for avoiding sanction for protected speech as a teacher, scholar, or private citizen, it, too, flagrantly violates the First Amendment.

106. In short, the investigation itself, along with the suspension and banishment, are punishment for Professor Woodcock’s protected speech, not a genuine inquiry into whether he violated University policy or law.

d. The University Rewrites the Rules

107. When the University decided to suspend Professor Woodcock and ban him from the law building, it faced a problem: Unlike the University’s sexual harassment regulation (AR 6.2) or its regulation regarding termination of faculty members (Regulations Affecting Employment § B(1)(f)), the anti-discrimination regulation that the University wished to invoke against Professor Woodcock (AR 6.1) did not authorize suspension or banishment during pendency of an investigation. The University sought to get around this difficulty by styling Professor Woodcock’s suspension as a “reassignment” of his job responsibilities from his usual distribution of effort of 45% teaching, 50% research, and 5% service to 100% “professional development.” The University hoped this might also justify banning Professor Woodcock from his office because, as Defendant Thro put it in a September 19, 2025 letter, “[a]s [Professor Woodcock] has no teaching assignments, there is no reason for him to be present in the law school building.”

108. But the “reassignment” subterfuge created other headaches for the University. The University’s termination regulation permitted a suspension, or “assign[ment] to other duties in lieu of suspension, only if immediate harm to the faculty member or others is threatened by the faculty member’s continuance,” and only upon consultation with the Faculty Senate Advisory Committee

on Privilege and Tenure⁵¹—a process the University had not followed. The “immediate harm” language was lifted directly from the American Association of University Professors (AAUP)’s Recommended Institutional Regulations on Academic Freedom and Tenure.⁵² AAUP guidance made clear that “immediate harm” meant physical harm, as in a professor “making serious threats against others on campus [and] known to have access to weapons”, something that was not the case for Professor Woodcock, who had made no threats of any kind.⁵³ Moreover, the University’s workload regulation mandated that workloads be “comparable” with other members of the faculty and that they be based on expertise rather than the need to protect the University. The College of Law had further elaborated on the standard by setting minimum and maximum faculty workloads in the three areas of faculty responsibility. According to that policy, the minimum workload for law faculty was 40% for teaching, 35% for research, and 5% for service.

109. In September 2025, Plaintiff complained that the University’s “reassignment” represented a de facto suspension not authorized by the anti-discrimination policy (AR 6.1) and that it violated the University’s policy against reassignment in lieu of suspension without immediate harm (Regulations Affecting Employment § B(f)(3)). On October 27, 2025, the University responded by revoking the anti-discrimination policy and deleting the policy against reassignment in lieu of suspension. The University replaced them with new policies on “Equal Dignity” and “Due Process” that authorized the head of the OEO or the Provost to issue a suspension pending an investigation upon a showing of “a threat to the safety and well-being of others.” The University did not follow the required procedure of seeking comment from stakeholders prior to issuing this new policy.

⁵¹ Regulations Affecting Employment § B(1)(f)(3).

⁵² Recommended Institutional Regulations on Academic Freedom and Tenure at § 5(c)(1), AAUP, <https://www.aaup.org/reports-publications/aaup-policies-reports/topical-reports/recommended-institutional-regulations>.

⁵³ Lawrence S. Poston, *The Use and Abuse of Faculty Suspensions*, 94 ACADEME 45 (AAUP 2008), https://www.aaup.org/sites/default/files/2025-07/The_Use_and_Abuse_of_Faculty_Suspensions.pdf.

e. The University's Investigation Procedures Are *Ad Hoc*

110. The University's investigation is an ad hoc act of political persecution. The University had almost no written procedures to call upon when it started the investigation and has attempted to invent a process specifically for this case.

111. At an August 22, 2025 meeting, the University's Director of the OEO claimed that written procedures governing the investigation exist but refused to disclose them. At the meeting, Ms. Thompson suggested that the investigation would follow no procedure but later appeared to change her mind and followed up with her August 25, 2025 letter, in which she indicated that Professor Woodcock would have an opportunity to review evidence (albeit in a limited, copy-restricted environment) and provide follow-up questions.

112. The University regulation under which Ms. Thompson claims to be proceeding (AR 6.1), provided no process for investigations or the determination of any resulting sanction, in contrast to other university regulations governing investigations. For example, before its recent deletion, the University's sexual harassment regulation (AR 6.2) provided a process for "emergency suspension", the empanelment of hearing and appeals boards, a hearing procedure, burdens of proof, and an appeals process. The University's recently deleted termination regulation (Regulations Affecting Employment § B(1)(f)) provided a process for suspension pending an investigation, advance mediation discussions with administrators, a "reasonably detailed statement of charges", an investigation by the Faculty Senate Advisory Committee on Privilege and Tenure and a hearing on sanctions by a panel.

113. As noted in the previous section, after Plaintiff complained about the absence of process, the University issued new regulations and deleted the regulation under which it had claimed that the investigation was proceeding (AR 6.1). The new regulations appeared to have been drafted with the investigation of Professor Woodcock in mind. For the first time, they contemplated that an

investigation might be conducted by “external entities or individuals retained by the institution” such as Ms. Thompson and provided for “interim suspension.” The university has not yet invoked the new regulations in Professor Woodcock’s case and is still nominally proceeding under the deleted regulation (AR 6.1).

114. The investigation will also not afford Professor Woodcock a meaningful opportunity to raise constitutional objections. As noted above, Dean Duff, whose authority to “reassign” and banish Professor Woodcock is alleged by Defendant Thro to be “absolute,” has refused to discuss the matter with him. The University offered no substantive response to a letter from Plaintiff challenging the University’s decision to investigate. Ms. Thompson’s activities hardly create an alternative forum for the presentation of constitutional objections. In her August 25, 2025 letter, Ms. Thompson stated that she will give Professor Woodcock an opportunity to respond to “evidence” but that he will not be permitted to review and respond to her report and recommendation to Defendant Capilouto. The letter made no mention of an opportunity to present a legal argument or constitutional challenge. The letter acknowledges that “this investigation may raise unique First Amendment issues” (in fact, the First Amendment issues are basic) but does so only to explain why the University has “the right to seek attorney-client privileged legal advice” from Ms. Thompson. She insists that she will “not serve as the decision-maker” but instead that the same University President who chose to initiate a retaliatory investigation against Professor Woodcock will issue a letter determining liability and imposing any sanction. As noted above, Ms. Thompson has suggested that Professor Woodcock will have an opportunity to appeal only the sanction of termination, but not other sanctions such as those involving a reduction in pay or permanent suspension without pay.

115. Overall, the process University Defendants are following transfers to them responsibility for commencing and resolving a discrimination investigation that is normally initiated and resolved by the OEO. The process places the same university president who publicly described Plaintiff’s

views as “repugnant” in charge of choosing the sanction to impose upon him based on a secret investigator’s report—whereas under the normal OEO process, a hearing panel of impartial decisionmakers would take the first crack at identifying a sanction based on an investigator’s report disclosed to Plaintiff.

116. Defendants may have acted outside of the scope of their employment in carrying out the suspension, banishment, investigation, and adoption of the IHRA definition of antisemitism, as the suspension, banishment, and investigation were not authorized by any University policy or regulation and violated several and Defendants have sought to cover up this deficiency by summarily deleting or rewriting conflicting regulations or policies, and Defendants applied the IHRA to Plaintiff before it had been adopted by the Board of Trustees and rushed the roll-out of the policy apparently to coincide with its application to Plaintiff.

Impact on the Campus Community and Professor Woodcock

117. The University’s suspension, banishment, and investigation of Professor Woodcock and its imposition of the IHRA definition on the campus have chilled speech. Faculty and students are afraid to protest Professor Woodcock’s suspension, to participate in the investigation, or to speak about Palestine, and some are considering separating from the University as a result.

118. Professor Woodcock’s suspension, banishment, and investigation are a detriment to the law school’s operations. The College of Law is understaffed. Nevertheless, the University canceled Professor Woodcock’s Fall 2025 Antitrust Law course, in which students had already enrolled, and assigned an adjunct professor to teach his Secured Transactions course. The adjunct professor had never taught the class before. Professor Woodcock lent him his course materials.

119. The University’s suspension, banishment, and investigation of Professor Woodcock have led to embarrassment, stigma, damage to his professional reputation, and isolation from his peers and students, many of whom are now afraid or disinclined to speak with him or falsely assume based

on the University's actions that he really is a danger to the campus community or advocates genocide. The suspension and banishment also inhibit or entirely preclude Professor Woodcock from meeting performance benchmarks in teaching, research, and service maintained by the University. Failure to meet performance benchmarks could prevent Professor Woodcock from receiving pay increases and lead to termination for cause based on a new Kentucky law that permits termination of tenured professors for failure to meet "university performance and productivity requirements". Ky. H.B. 424, 2025 Leg. Sess. § 5.

120. The suspension, banishment, and investigation have also prevented Professor Woodcock from developing and maintaining his skills as a teacher, which require practice.

121. Denial of access to the College of Law library and Professor Woodcock's office have further burdened his ability to conduct research. The University's actions have also forced Professor Woodcock to spend valuable time that could have been devoted to research responding to the University's information requests and defending himself and his reputation against the University's attacks. The chilling effect of Professor Woodcock's speech is reflected, *inter alia*, in a reduction in the average number of posts to social media or AALS discussion groups by Professor Woodcock, as well as a reduction in posting to antizionist.net. Professor Woodcock has suffered emotional distress, anxiety, and sleeplessness, which affect his ability to conduct research, to write, and to speak publicly.

122. The University's arbitrary and unreasonable insistence on copying highly personal files regarding his late mother that were irrelevant to the investigation on their face due to their having been created in 2021 or earlier, in spite of Professor Woodcock's Fourth Amendment right of privacy in the files, caused him embarrassment, humiliation, emotional distress, and attorney fees.

123. Ms. Thompson's direction to Professor Woodcock to "stop immediately" his speech on Palestine, along with the University's other actions, have imposed substantial anxiety on Professor

Woodcock regarding any speech in which he engaged on Palestine and forced him to consider the University possible reactions before stating anything publicly about Palestine.

124. The University's actions have also affected Professor Woodcock's family life and forced him to make difficult decisions regarding how to discuss the University's actions with members of his family.

125. The University's actions also appear to have caused Professor Woodcock to lose a valuable antitrust mentor and job reference, who stopped responding to emails from Professor Woodcock after the University acted against him.

126. The longer Professor Woodcock's suspension continues, the greater the risk that Professor Woodcock's speech and that of other members of the community at University of Kentucky will be permanently chilled—even if he later wins reinstatement. Habits of self-censorship solidify over time.

Legal Claims

Count I

First Amendment Free Speech Clause Retaliation (42 U.S.C. §§ 1983, 1985) Against Defendants Capilouto, DiPaola, Thro and Duff

127. Each paragraph of this Complaint is incorporated as if fully restated herein.

128. The speech which motivates Defendants to suspend Plaintiff from his position relates to matters of public concern.

129. Plaintiff's right to speak about these matters of public concern outweighs any interest of Defendants in avoiding controversy and discomfort.

130. Acting under the color of state law, Defendants DiPaola and Duff are using their authority as Provost of the University and Dean of the College of Law to "reassign" Plaintiff, effectively suspending him from teaching and service and banning him from the College of Law.

131. In approving this suspension and banishment, and acting under color of state law jointly and in conspiracy with each other, Defendants Capilouto and Thro are acting with deliberate indifference to Plaintiff's clearly established right to speak as a teacher, scholar, or public citizen about matters of public concern in ways that do not burden any legitimate University efficiency interest or to contribute to fora thrown open by the University to free expression that the University has no compelling interest in regulating. Moreover, they are acting with deliberate indifference to Plaintiff's clearly established right to speak without being compelled to issue a disclaimer regarding his affiliation.

132. Along with the suspension and banishment, Defendants Capilouto and Thro, acting under color of state law, approved and implemented an investigation into Professor Woodcock's protected speech.

133. The investigation is being conducted in bad faith in order to suppress Professor Woodcock's speech and punish him for his speech.

134. Defendants Capilouto and Thro have made public statements acknowledging their awareness of the danger to education itself of restricting faculty speech, and the importance to the University of academic freedom is acknowledged explicitly in the University's policies. President Capilouto, for example, has written about the "core" and "foundational" importance to the broader community of "protecting academic freedom — the idea that scholars and all members of the university community must always be free to inquire, to discover, to teach and to evaluate as they gain and impart understanding and knowledge."⁵⁴

135. All defendants are also aware that the University's discrimination policies do not apply to conduct that violates the First Amendment. The "Equal Dignity" policy, for example, acknowledges

⁵⁴ Eli Capilouto, *Many People, One Community*, UK OFF. PRESIDENT, <https://pres.uky.edu/news/many-people-one-community>.

that “regardless of definition, harassment does not include expression protected by the First Amendment.” Ex. A at p. 1, § II(A).

136. The suspension, banishment, and investigation are in accordance with Secretary McMahon’s decision to use the IHRA definition of antisemitism in enforcing Title VI at colleges and universities, including the University of Kentucky. In doing so, Secretary McMahon is requiring University officials to adopt special rules about criticizing Israel that violate the Free Speech Clause’s prohibition against viewpoint discrimination.

137. This suspension, banishment, and investigation would deter an employee of ordinary firmness from speaking.

138. Defendants took the actions alleged in this count in order to punish Plaintiff for his protected speech, to preclude him from further speech along those lines, and to isolate him from peers and students. In so doing, these co-conspirators conspired to accomplish an unlawful purpose by an unlawful means.

139. Plaintiff’s protected speech was a substantial motivating factor in Defendants’ actions.

140. Were it not for Plaintiff’s protected speech, Defendants would not have taken the actions alleged herein.

141. Defendants are not entitled to qualified immunity, since any reasonable official in their positions would understand that public university professors have a clearly established constitutional right to speak as a teacher, scholar, or public citizen about matters of public concern in ways that do not burden any legitimate University efficiency interest or to contribute to fora thrown open by the University to free expression that the University has no compelling interest in regulating—and that they cannot be compelled to issue a disclaimer regarding affiliation before they speak.

Count II
Violation of the First Amendment—University Policies; Overbreadth
(42 U.S.C. §§ 1983, 1985)
Against Defendants Capilouto, DiPaola, Thro and Duff

142. Each paragraph of this Complaint is incorporated as if fully restated herein.

143. The University’s Ethical Principles and Employee Code of Conduct (GR XIV) (“Ethical Principles”), Institutional Statements, Institutional Neutrality, spam, and antisemitism policies encompass speech that is fully protected under the First Amendment.

144. The academic speech of faculty pursuant to their official duties as public university employees, as well as the speech of faculty as private citizens about matters of public concern, is protected by the First Amendment.

145. The Ethical Principles and Institutional Statements/Neutrality policies violate the First Amendment in numerous ways, including as follows. To the extent that the distinction maintained by the policies between speaking “in a professional or expert capacity”, “comment[ing] publicly as part of their official duties”, or speaking as “scholar or subject matter expert” and speaking as a “citizen” or “private individual” is based on the content of the speech, including, for example, whether the topic of the speech falls within a definition of the area of expertise of a member of the faculty, the policy discriminates based on content. The First Amendment prohibits the government from compelling speech. The policies compel faculty to state that their views are their own when exercising their First Amendment rights to engage in academic speech or speech as a private citizen, require faculty speaking as private citizens to use personal email accounts and require faculty engaging in academic speech to use university email and stationery.

146. The First Amendment protects faculty academic speech and faculty speech as a private citizen on matters of public concern when using University resources. It also protects faculty speech in public, limited public, and nonpublic fora hosted by the University. To the extent that the requirement of “ethical behavior” with University resources and the statement that “University

assets are intended for University activities” would prohibit protected speech on campus, in University facilities, via University IT networks, during funded travel or in other circumstances in which protected speech touches on use of university resources, it violates the First Amendment. The First Amendment protects faculty academic and private citizen speech on matters of public concern, the freedom of faculty to associate, and the right of faculty to speak in limited public, public, and nonpublic fora, including digital fora. To the extent that the spam policy prevents faculty from exercising these rights, it violates the First Amendment.

147. The policies are unconstitutionally overbroad as they encompass protected speech and implicate the freedom of association, and there are a substantial number of instances where the policy cannot be applied consistent with the First Amendment.

148. The policies also objectively chill protected speech and expression by predating negative consequences upon whether a faculty member follows complex rules regarding which email account he is authorized to use for a particular statement, when he is required to issue a pro forma “views my own” statement, whether he is permitted to disclose his job title or affiliation with the University, whether he is benefitting from any of a wide range of University resources while speaking, and whether he is communicating electronically with too many people at the same time. This burden creates an incentive for faculty not to speak publicly, access protected fora, or digitally to associate with other faculty at all.

149. Defendants adopted these overbroad policies under color of state law.

Count III
Violation of the First Amendment—University Policies; Prior Restraint
(42 U.S.C. §§ 1983, 1985)
Against Defendants Capilouto, DiPaola, Thro and Duff

150. Each paragraph of this Complaint is incorporated as if fully restated herein.

151. A prior restraint exists when public officials “deny use of a forum in advance of actual expression.” *Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546, 553 (1974). There is a strong presumption against them. *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 (1963).

152. The University’s spam policy is a textbook prior restraint. It prevents the sending of “mailings” “without proper authorization and coordination with UK Public Relations and Marketing.” The University’s direction to Professor Woodcock in its August 22, 2025 Notice of Investigation to “stop immediately” conduct that by implication included the statements at conferences, posts to faculty and AALS listservs, and circulation of a petition for military action listed in the Notice of Investigation is also a prior restraint.

153. The spam policy grants University officials unbridled authority to grant or deny requests to speak to multiple people at the same time. It also fails to place any limits on the time that the University has to grant or deny permission. The absence of any standards falls woefully short of the concrete standards required by the First Amendment. The direction to “stop immediately” Professor Woodcock’s speech regarding Palestine articulates no concrete standards.

154. Faculty who violate the spam policy face discipline. The University stated in its July 22, 2025 Notice of Investigation that if the University uncovers additional misconduct it may bring additional allegations and impose additional discipline.

155. Defendants adopted the spam policy and imposed the directive to “stop immediately” under color of state law.

Count IV
Violation of the First Amendment—University Policies; Void for Vagueness
(42 U.S.C. §§ 1983, 1985)
Against Defendants Capilouto, DiPaola, Thro and Duff

156. Each paragraph of this Complaint is incorporated as if fully restated herein.

157. Numerous provisions in the Ethical Principles, Institutional Statements, spam, and antisemitism policies are vague, including the following. The distinction maintained in the Ethical Principles and Institutional Statements/Neutrality policies between those speaking “in a professional or expert capacity”, “comment[ing] publicly as part of their official duties”, or speaking as “scholar or subject matter expert” and speaking as a “citizen” or “private individual” is amorphous and subjective. “Public” and “institutional” statement, statements about “societal issues and events” are amorphous and subjective. Carve-outs for “academic freedom” and the right to speak as a private citizen add further uncertainty about what is being prohibited or required. The requirement to “emphasize” that views are one’s own and the requirement that faculty should say that views are their own whenever there is an “appearance” of speaking for the University are amorphous and subjective. The requirement not to use University signatures or titles in personal communications conflicts with the authorization to use the University name to demonstrate subject matter expertise in making personal statements. There is no definition of “spam” or “mass mailing” in the spam policy, making it impossible to know whether sending two emails or a hundred counts as spam. The direction to engage in “ethical” behavior with respect to university property is amorphous and subjective as is the statement that University resources are “intended” for University “activities.”

158. The antisemitism policy does not state whether the IHRA examples are considered part of the policy or not. The IHRA’s definition of antisemitism as “a certain perception of Jews, which may be expressed as hatred” is amorphous and subjective. The references in the examples to “double standards”, behavior “expected” of other “democratic nations”, “comparisons” with the Nazis, “right of self-determination”, and “racist endeavor”, are all amorphous and subjective. The

examples also do not make clear whether the “right to self-determination” that must not be denied relates to self-determination in Palestine or anywhere in the world.

159. The Ethical Principles, Institutional Statements, spam, and antisemitism policies are void for vagueness.

160. Defendants adopted these unconstitutional policies under color of state law.

Count V
Violation of the First Amendment’s Establishment Clause
(First Amendment, 42 U.S.C. §§ 1983, 1985)
Against All Defendants

161. Each paragraph of this Complaint is incorporated as if fully restated herein.

162. By adopting the IHRA definition of antisemitism, which favors particular Jewish beliefs over other Jewish beliefs and beliefs not grounded in Judaism by branding as hate speech criticism of claims that some people are entitled to political rights specifically in virtue of their religious affiliation, Defendants, acting under the color of state and federal law jointly and in conspiracy with each other, have and will unavoidably violate the “clearest command” of the Establishment Clause that “the government may not ‘officially prefe[r]’ one religious denomination over another.” *Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm’n*, 145 S. Ct. 1583, 1591 (2024) (quoting *Larson v. Valente*, 456 U.S. 228, 244 (1982) (alteration in original)).

163. Defendants do not treat as hate speech the denial of a right of self-determination to any other religious or secular group. Indeed, they would in some cases do the opposite: they would treat *support* for a right to self-determination based on adherence to the Christian religion, such as the right articulated by the Ku Klux Klan, as hate speech. Defendants’ adoption of the IHRA definition will not further a compelling governmental interest and, even if it did, it is not narrowly tailored to any such interest under the Establishment Clause.

164. Plaintiff is being and will be coerced to suppress expression of his beliefs, including in his work as a member of the faculty of the College of Law, via the continuing sanctions of

suspension, banishment, and investigation, along with the threat of permanent sanction up to and including termination, imposed by the University against him on the ground that he may have violated University, state, or federal antidiscrimination rules to which Defendants are applying the IHRA definition's self-determination example. Plaintiff is being and will be further coerced to suppress expression of his beliefs in order to avoid the disapproval of members of the University community and peers who have been or will be influenced by the University's adoption of the IHRA definition and its self-determination example.

165. There is no longstanding historical practice or tradition of endorsing the abstract right of a religious group to form a government either at home or abroad, nor is there a longstanding historical practice or tradition of punishing criticism thereof or treating it as hate speech. In fact, as the Establishment Clause itself attests, the United States was founded on the contrary principle that self-determination rights should not be based on religious affiliation.

166. The suspension, banishment, and investigation are in accordance with Secretary McMahon's and Attorney General Coleman's imposition of the IHRA definition of antisemitism on universities, including the University of Kentucky. In doing so, they are requiring University officials to adopt special rules about criticizing a Jewish-faith-based right of self-determination that violate the Establishment Clause's prohibition on asserting a preference for one religious denomination over others.

167. The IHRA definition's self-determination example facially differentiates among religions in that it singles out a Jewish-faith-based right of self-determination for protection against criticism. Defendants intended to convey a message of endorsement for the Jewish faith. A reasonable observer would conclude that the government intended to convey such a message. And the adoption of the IHRA definition's self-determination example excessively entangles the government with attempts to confer political power based on adherence to the Jewish faith by putting the

government in the position of regulating the speech of public university faculty to suppress criticism of such attempts.

168. Defendants acted with deliberate indifference to Plaintiff's rights. Defendants are not entitled to qualified immunity, since any reasonable official in their positions would understand that the Establishment Clause prohibits them from preferring one religious denomination over others and that Plaintiff has a clearly established right to be free of such a preference. All defendants are aware that the University's discrimination policies do not apply to conduct that violates the First Amendment, which includes the Establishment Clause.

Count VI
Violations of Right to Procedural Due Process
(42 U.S.C. §§ 1983, 1985)
Against Defendants Capilouto, Thro, DiPaola, and Duff

169. Each paragraph of this Complaint is incorporated as if fully restated herein.

170. Plaintiff has protected property and liberty interests in his tenured position at the University of Kentucky.

171. Acting under color of state law, Defendants deprived Plaintiff of his property right by "reassigning" Plaintiff to a non-existent position with no duties for the Fall semester of 2025 and continuing into the next semester.

172. Defendant Capilouto violated Plaintiff's liberty right by publicly announcing his suspension, publicly attributing it to reasons that seriously impugn his morality and professional competence, and banning him from accessing the law building. Although Defendant Capilouto did not explicitly name Plaintiff in his public communication, it was not difficult to infer who he was discussing and a journalist contacted Professor Woodcock for comment within an hour of Defendant Capilouto's announcement.

173. Teaching, research, service, and presence on campus are among the fundamental duties and privileges of faculty members.

174. While Dean Duff has some discretion in determining workload and course assignments, that discretion does not permit complete elimination of a professor's teaching, research, and service duties. According to the University's Administrative Regulation 3:8, which is among the regulations that "guide all aspects of the governance of the University," Workload assignments are made "to assure fairness in the distribution of responsibility among faculty employees." Ex. B at p. 5. Procedures and policies for assignments must "assure that all faculty employees within the unit have comparable workloads." Ex. B at p. 6, § A.

175. Elaborating on this standard, the College of Law developed a policy which set minimum and maximum faculty workloads in the three main areas of faculty responsibility. According to that policy, the minimum workload in teaching for law faculty is 40% and the maximum is 55%. Ex. D at pp. 24–25.

176. Defendants' suspension and banishment of Plaintiff was baseless, unwarranted, and served no important government interest.

177. Prior to suspending Plaintiff from his faculty position and banning him from the law building, Defendants did not provide him with adequate procedural protections. Specifically, Defendants did not provide Professor Woodcock with oral or written notice of the allegations against him, did not provide him with an explanation of any evidence against him, and did not provide him with the opportunity to tell his side of the story to an impartial decisionmaker.

178. Acting jointly and in conspiracy with one another, Provost DiPaola participated in the decision to suspend Professor Woodcock from his position and ban him from the law building, Dean Duff made the decision, and President Capilouto and General Counsel Thro approved it.

179. In implementing and approving Plaintiff's suspension, Defendants acted with deliberate indifference to Plaintiff's rights.

180. Before even speaking with Professor Woodcock and conducting any investigation, Defendants determined that his suspension and banishment were appropriate. Defendants are therefore not and are not impartial decisionmakers.

181. In addition, Defendants will actually and imminently deprive Professor Woodcock of property and liberty interests in his tenured position through the imposition of any of a range of threatened sanctions including termination, suspension without pay, pay reduction, or permanent banishment. These deprivations will result from a process having a high probability of bias. Defendants, who initiated the investigation and publicly accused Professor Woodcock of advocating the destruction of a people, harboring repugnant views, and expressing hate, will serve as the final decisionmaker with respect to liability and sanction. Moreover, the federal government has threatened to withdraw funding from institutions that fail to suppress pro-Palestine speech. Accordingly, the institution that Defendants lead stands to lose hundreds of millions of dollars in funding if Defendants rule in favor of Plaintiff. In addition, Defendant Capilouto harbors personal bias due to his longtime association with Zionist organizations. Finally, Defendants appointed an investigator who has personal and pecuniary bias due to her contribution to a political manifesto that supports Israel and partnership in a law firm having Zionist clients and associations. In consequence of this adjudicative and investigative bias, the outcome of the process is predetermined and the proceedings futile. Defendants created this imminent deprivation and biased process out of deliberate indifference to Plaintiff's rights and the deprivation and process are baseless and serve no important government interest.

182. At no time have Defendants informed Professor Woodcock that he has the option of requesting a name-clearing hearing. However, in a July 18, 2025 email copying President Capilouto and written after the announcement of the University's actions, Professor Woodcock stated: "I call upon President Capilouto to retract his statement, issue a public apology to me, and meet with me to

educate himself about the colonization of Palestine.” In a September 11, 2025 letter to Defendant Thro, Professor Woodcock further made a “Request for Protection of Due Process Rights,” requested “[a] public statement from the University indicating that it wrongfully suspended Professor Woodcock and that he will be returned to teaching immediately,” and requested, if the University insisted on proceeding with the investigation, “compliance with the University’s procedural rules set forth in the Regulations Affecting Employment and other applicable policies,” which provide for a hearing.

183. Defendants are not entitled to qualified immunity, since any reasonable official in their positions would understand that summary suspension and banishment of a tenured professor without any notice or process would violate his constitutional rights, as would the use of accusers as adjudicators and adjudicators and investigators having actual personal and pecuniary bias. In so doing, these co-conspirators conspired to accomplish an unlawful purpose by an unlawful means.

Count VII
Race Discrimination in Violation of 42 U.S.C. § 1981
(42 U.S.C. § 1983, 1985)
Against Defendants Capilouto, Thro, DiPaola, and Duff

184. Each paragraph of this complaint is incorporated as if fully restated herein.

185. Defendants have violated 42 U.S.C. § 1983 by depriving Plaintiff of rights guaranteed under 42 U.S.C. § 1981 under color of state law.

186. Plaintiff is an Arab of Algerian national origin or ancestry. On information and belief, he is the only Arab faculty member in the College of Law. Support for Palestinian liberation is disproportionately associated with people of Arab ancestry or national origin. University administrators were aware of Plaintiff’s national origin or ancestry and associated his speech in favor of Palestine with his national original or ancestry. After Plaintiff shared his views about Palestine with the College of Law community, one College of Law administrator joked at a College of Law event that he would give Plaintiff a “fez”, which is a headdress stereotypically associated with North

Africans during the colonial period. Another College of Law administrator pointedly asked him if he is a “practicing” Muslim. A third administrator asked him if he celebrated Christmas. A senior member of the faculty at the College of Law repeatedly told Plaintiff that Plaintiff’s views about Palestine must be due to his mother, who he knew to be of Algerian descent. This colleague also suggested that Plaintiff speak publicly about his Algerian ancestry or national origin because this would help people better to understand his views.

187. Plaintiff and the University of Kentucky are parties to an employment contract whereby the University employs Plaintiff as a tenured professor in the College of Law.

188. Defendants “reassigned” or approved the reassignment of nearly all Professor Woodcock’s job duties, imposing on him terms and conditions of employment it does not impose on non-Arab tenured faculty.

189. Defendants deprived Prof. Woodcock of equal rights in the making, modification and enjoyment of the benefits, privileges, terms and conditions of his contractual relationship with the University because of his race in violation of 42 U.S.C. § 1981.

190. But for Plaintiff’s race, Defendants would not have taken the actions alleged herein. Defendants tolerate and support speech in favor of military action that is internationally recognized as a genocide of Palestinians. For example, in fall 2023, Defendants Capilouto and Thro permitted a soldier who had recently returned from participating in a military action in Palestine that had already been termed a genocide or potential genocide by numerous international law scholars and genocide experts, to speak on campus in defense of that military action or his participation in it. Arab students were horrified by this event and protested it. However, the University did not cancel the event or sanction the organizers. Instead, a University administrator participated in the event. A College of Law administrator told Plaintiff in early 2024 that high level University administrators had decided that any pro-Palestine event on campus must give “both sides”. On information and belief this

“both sides” policy has never been suggested or applied by the University in relation to speech on any other subject, including pro-Israel speech. Defendants have sought to exploit anti-Arab and Islamophobic tropes characterizing Arabs or Muslims as genocidal, blood-thirsty terrorists and antisemites by repeatedly characterizing his principled call for military action to stop a genocide as itself a call for genocide of Jewish people or Israeli despite the absence of any basis in his writings or recorded statements for doing so and even after Plaintiff pointed out same to Defendants. After Plaintiff challenged the impartiality of the University’s investigator on the ground that she is associated with a brand of Christianity that considers support for Israel to be divinely required, Defendants again sought to exploit anti-Arab and Islamophobic tropes by portraying Plaintiff as anti-Christian, even though his challenge to the investigator’s neutrality was transparently based on concern about the strength of her support for Israel not that she is Christian per se. Defendants would not have made these statements about Plaintiff if he were not of Arab or Algerians national origin or ancestry.

191. Defendants’ actions have also created a hostile environment for Plaintiff. Defendant Capilouto’s false public statements that Plaintiff wishes to destroy a people, expresses hate and holds repugnant views, which Defendants could have reasonably expected members of the University community to attribute to Plaintiff, combined with Defendants’ decision to send the very strong signal of disapproval of Plaintiff associated with suspending, banning, and investigating him have caused College of Law colleagues to shun him, cut him off from access to students, and inspired members of the public to send nasty and threatening emails to his University email account and his University postal mailbox. These severe, pervasive, and objectively offensive acts of harassment created a hostile environment for him and have deprived him of the benefit of his contractual relationship with the University, including the ability to teach, access students and research facilities, confer with colleagues, engaging in service and faculty governance.

192. Defendant's unlawful actions have caused Plaintiff embarrassment, isolation, emotional distress, irreparable damage to his career, attorneys' fees, and other consequential damages.

193. Defendants are not entitled to qualified immunity, since any reasonable official in their positions would understand that depriving Plaintiff of his contractual rights based on his Arab or Algerian national origin or ancestry would violate his rights under 42 U.S.C. § 1981 and § 1983. In so doing, these co-conspirators conspired to accomplish an unlawful purpose by an unlawful means.

Count VIII
Race Discrimination in Violation of the Equal Protection Clause
(42 U.S.C. §§ 1983, 1985)
Against Defendants Capilouto, Thro, DiPaola, and Duff

194. Each paragraph of this complaint is incorporated as if fully restated herein.

195. Defendants have violated 42 U.S.C. § 1983 by depriving Plaintiff of rights guaranteed under the Equal Protection Clause of the Fourteenth Amendment under color of state law.

196. Defendants publicly condemned, suspended, banished, and initiated an investigation including threat of termination into Plaintiff based on his Arab or Algerian national origin or ancestry, which was apparent to University administrators, which University administrators and College of Law faculty associated with his views regarding Palestine, and which are disproportionately held by people of Arab or Algerian ancestry or national origin. Defendants actions were adverse actions that were but-for caused or motivated by Plaintiff's Arab or Algerian national origin or ancestry. Defendants did not act against speakers of non-Arab national origin or ancestry expressing support for military action in Palestine but did act against Plaintiff. Moreover, Defendants' actions constituted harassment so severe or pervasive and objectively offensive as to deprive Plaintiff of the benefits of his employment and to create a hostile environment for him including by preventing him from accessing the College of Law campus, causing colleagues to shun him, and depriving him of access to his students and research facilities and the ability to teach, confer with colleagues, and engage in service and faculty governance.

197. Defendant’s unlawful actions have caused Plaintiff isolation, emotional distress, irreparable damage to his career, attorneys’ fees, and other consequential damages.

198. Defendants are not entitled to qualified immunity, since any reasonable official in their positions would understand that public excoriation, summary suspension, banishment, and investigation under threat of termination of a tenured professor based on his Arab or Algerian national origin or ancestry would violate the Equal Protection Clause of the Fourteenth Amendment. In so doing, these co-conspirators conspired to accomplish an unlawful purpose by an unlawful means.

Count IX
Administrative Procedure Act, 5 U.S.C. § 706

199. Plaintiff brings his Administrative Procedure Act (APA) claim against Defendant McMahon in her official capacity—facially and pre-enforcement.

200. The APA requires courts to “set aside agency action” when the action is, among other things, “not in accordance with law,” “in excess of statutory jurisdiction, authority or limitations, or short of statutory right,” and “without observance of procedure required by law.” 5 U.S.C. § 706 (emphasis added).

201. Secretary McMahon has authority to make and rescind rules and regulations governing the manner of operation of the programs the Department of Education administers, including the Office of Civil Rights. 20 U.S.C. § 1221e-3.

202. The Department of Education’s use of the IHRA definition is not in accordance with law because it makes viewpoint discrimination a part of the agency’s Title VI enforcement practices.

203. Presidential orders on December 11, 2019 and January 29, 2025 compel the Department of Education to enforce Title VI in accordance with the IHRA definition of antisemitism.

204. The Department of Education has complied with these presidential orders, enforcing Title VI in accordance with the IHRA definition. In a document currently available on the agency’s

website, for example, Defendant McMahon explains its approach to complying with the December 11, 2019 order as follows: that it “will consider the IHRA definition in handling complaints of anti-Semitism.”⁵⁵

205. By adopting a policy mandating consideration of the IHRA definition in the enforcement of Title VI, the Department of Education has issued a final agency action. The Department of Education treats the policy establishing the IHRA definition as controlling, and that policy has impacted its approach to enforcement.

206. The policy affects the Free Speech Clause and Establishment Clause rights of government employees (like Professor Woodcock) whose speech becomes regulated by the IHRA definition when universities (like the University officials sued here) use the IHRA definition to punish on the basis of viewpoint, including denial of a right of self-determination based on adherence to the Jewish faith.

207. Because of Defendant McMahon’s policy of using the IHRA definition, university officials, including those sued here, are pressured to use the IHRA definition out of fear that Defendant McMahon will find their university in violation of Title VI.

208. University officials specifically relied on federal guidance about the use of the IHRA definition in justifying their suspension, campus ban and investigation of Professor Woodcock. In relying on the IHRA definition, University officials singled out Professor Woodcock’s views as an academic or private citizen regarding the legitimacy of a foreign country’s territorial claims even though the topic is a common and typical area of scholarly inquiry. In relying on the IHRA definition, University officials also endorsed Jewish-faith-based claims to self-determination and

⁵⁵ U.S. Dep’t Educ. Off. Civil Rights, QUESTIONS AND ANSWERS ON EXECUTIVE ORDER 13899 (COMBATTING ANTISEMITISM) AND OCR’S ENFORCEMENT OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (2021), <https://www.ed.gov/media/document/faqs-executive-order-13899-combating-anti-semitism-and-ocrs-enforcement-of-title-vi-of-civil-rights-act-of-1964-2021-33939.pdf>.

punished Professor Woodcock for opposing them. University officials would not have endorsed such claims by any other religious group or punished criticism thereof.

Count X
Violation of the First Amendment—Kentucky Senate Joint Resolution 55
(42 U.S.C. §§ 1983)
Against Attorney General Coleman

209. Each paragraph of this Complaint is incorporated as if fully restated herein.

210. Kentucky Senate Joint Resolution 55 (“SJR 55”) directs Kentucky’s “public postsecondary education institutions” to “adopt policies to combat antisemitism within their institutions that use as guidance the definition of ‘antisemitism’” of the IHRA, such as the University antisemitism policy that serves as the basis for the University’s suspension, banishment, and investigation of Professor Woodcock under threat of termination.

211. SJR 55 directs public universities to engage in viewpoint discrimination because the examples that the IHRA incorporated into its definition of antisemitism describe speech that is critical of Zionism but which are not necessarily or obviously motivated by hatred for Jewish people.

212. SJR is unconstitutionally overbroad as it encompasses protected speech and there are a substantial number of instances where the policy cannot be applied consistent with the First Amendment. SJR 55 directs universities to prohibit or regulate political speech including by professors, where the First Amendment is at its fullest and most urgent application.

213. The policies also objectively chill protected speech and expression by predicated negative consequences (“combat[]”) on failure to comply with an expansive definition of antisemitism that appears to sweep in broad areas of political critique.

214. SJR 55 is also void for vagueness. The antisemitism policy does not state whether the IHRA examples are considered part of the policy or not. The IHRA’s definition of antisemitism as “a certain perception of Jews, which may be expressed as hatred” is amorphous and subjective. The

references in the examples to “double standards”, behavior “expected” of other “democratic nations”, “comparisons” with the Nazis, “right of self-determination”, and “racist endeavor”, are all amorphous and subjective. The examples also do not make clear whether the “right to self-determination” that must not be denied relates to self-determination in Palestine or anywhere in the world.

215. Defendant Coleman enforces, intends to enforce, and intends to defend this unconstitutional policy under color of state law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

- A declaration that Kentucky Senate Joint Resolution 55’s incorporation of the IHRA definition of antisemitism violates the First Amendment to the Constitution;
- A declaration that the University’s Ethical Principles, Institutional Statements, Institutional Neutrality, spam, and antisemitism policies violate the First Amendment to the Constitution;
- A declaration that the University of Kentucky may not rely on the IHRA definition of antisemitism in disciplinary proceedings;
- An injunction ordering Secretary McMahon to refrain from requiring or using the IHRA definition of antisemitism in enforcing Title VI;
- An injunction ordering Defendants Capilouto, Thro, DiPaola, and Duff to act in their official capacities to restore Professor Woodcock to his position as a full-time professor in the College of Law with the typical workload and privileges of a tenured professor in the College of Law and access to the law building commensurate with that of other faculty, and expunge any record of the suspension, banishment, or investigation from his personnel file;

- An injunction ordering Defendants Capilouto and Thro to act in their official capacities to cease the investigation into Professor Woodcock as described herein;
- Monetary damages for emotional distress and reputational damage (against the individual defendants in their personal capacities with respect to Counts I and VI, and against all defendants to Counts VII and VIII);
- Attorneys' fees and costs;
- Punitive damages against the individual Defendants;
- Pre- and post-judgment interest; and
- Such other relief as law and justice allow.

REQUEST FOR TRIAL BY JURY

Plaintiff hereby requests a trial by jury with respect to any issues so triable.

WHEREFORE, Plaintiff prays that this Court grant judgment against Defendants in an amount commensurate with their damages, punitive damages, interest as allowed by law, and all other relief just and proper in the premises.

Respectfully submitted,

/s/ Gadeir Abbas

/s/ Rima Kapitan

CAIR Legal Defense Fund

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Exhibit 86



Rima Kapitan <rima@kapitangomaa.com>

Re: question about basis for the "reassignment"

1 message

Rima Kapitan <rima@kapitangomaa.com>

Thu, Oct 30, 2025 at 9:53 PM

To: "Thro, William" <william.thro@uky.edu>

Cc: "Thompson, Farnaz Farkish" <fthompson@mcguirewoods.com>, Joe <joe@jchilderslaw.com>

Mr. Thro and/or Ms. Thompson,

Your information is outdated, as we have already provided Ms. Thompson with witness declarations as well as documentary and video evidence (despite continuing lack of clarity about the content and nature of some of the allegations), and Ms. Thompson has provided November 7 as the deadline for additional witnesses and evidence. Has the University already determined that the investigation will either continue into next semester or that Prof. Woodcock will be fired? If not, it is not clear why the University continues to refuse to assign him classes in the Spring, even on a contingent basis.

Attached is an additional declaration.

Rima

On Thu, Oct 30, 2025 at 7:12 PM Thro, William <william.thro@uky.edu> wrote:

Ms. Kapitan,

The basis for the continuation of his reassignment is all aspects of Ms. Thompson's first and second notices of investigation. If she were to issue a third notice of investigation, those aspects would be an additional basis for the reassignment as well.

Ms. Thompson can provide more details as to the precise timelines for the conclusion of the investigation. However, Ms. Thompson tells me that she has not yet received Professor Woodcock's list of witnesses, documents, and additional information. Ms. Thompson cannot prepare written questions for Professor Woodcock's until she has interviewed Professor Woodcock's witnesses and considered his documents and evidence.

As you know, there is no right to teach in general or to teach a particular class. Professor Woodcock continues to draw his full salary.

I trust this email answers your questions. Ms. Thompson can provide additional details about the course of the investigation.

William E. Thro
General Counsel
University of Kentucky

Sent from iPad

The contents of this email and any attachments are confidential and are intended solely for the intended recipients. The information may also be legally privileged. If you have received this transmission in error, please do not reproduce or disseminate this message. If you are not an intended recipient, please notify me by reply email to William.Thro@UKy.Edu or at 859-257-2936 and delete this message and any attachments. Thank you.

From: Rima Kapitan <rima@kapitangomaa.com>
Sent: Thursday, October 30, 2025 6:14:48 PM
To: Thro, William <william.thro@uky.edu>
Cc: Thompson, Farnaz Farkish <fthompson@mcguirewoods.com>; Joe <joe@jchilderslaw.com>
Subject: Re: question about basis for the "reassignment"

CAUTION: External Sender

Mr. Thro,

I understand. Given that the investigation may conclude before the beginning of next semester, however, shouldn't the University assign Professor Woodcock to teach classes for next semester?

Also, please answer my question about which of the 8 allegations serve as the basis for the ongoing "reassignment."

Rima

On Thu, Oct 30, 2025, 3:40 PM Thro, William <william.thro@uky.edu> wrote:

Ms. Kapitan,

The investigation is on-going. He is reassigned until the investigation is done.

William E. Thro
General Counsel
University of Kentucky

Sent from iPad

The contents of this email and any attachments are confidential and are intended solely for the intended recipients. The information may also be legally privileged. If you have received this transmission in error, please do not reproduce or disseminate this message. If you are not an intended recipient, please notify me by reply email to William.Thro@UKy.Edu or at 859-257-2936 and delete this message and any attachments. Thank you.

From: Rima Kapitan <rima@kapitangomaa.com>
Sent: Thursday, October 30, 2025 4:37:53 PM
To: Thro, William <william.thro@uky.edu>; Thompson, Farnaz Farkish <fthompson@mcguirewoods.com>
Cc: Joe <joe@jchilderslaw.com>
Subject: question about basis for the "reassignment"

CAUTION: External Sender

Dear Mr. Thro and/or Ms. Thompson,

Professor Woodcock was omitted from the course list for next semester, which we assume means the "reassignment" is going to remain in place into next semester. Is the basis for the "reassignment" the initial four allegations in Ms. Thompson's 7/22 letter, or is the University also relying on the additional four allegations identified in the 9/8 letter?

Thanks,

Rima

—

Rima Kapitan | Partner

Kapitan Goma Law

(312) 566-9590 ext. 0 | Direct

www.kapitangomaa.com



25-10-29_Declaration of Zach Lee.pdf

158K

Exhibit 87



September 19, 2025

University of Kentucky
Office of Legal Counsel

301 Main Building
Lexington, KY 40506-0032

O: 859-257-2936

www.uky.edu

Rima Kapitan, Esq.
Kapitan Gomaa
P.O. Box 46503
Chicago, IL 60604

Via electronic mail only to Rima@Kapitangomma.com

RE: University's response to your letter of September 11, 2025

Dear Ms. Kapitan:

Thank you for your letter of September 11, 2025. As you requested, the University is responding by September 19, 2025.

At the outset, I want to clear up some misconceptions in your letter, in FIRE's advocacy on behalf of Professor Woodcock, and Professor Woodcock's statements to others.

First, 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.

Second, Professor Woodcock has not been disciplined or punished for his expression. The University is simply investigating whether Professor Woodcock has violated Title VI, state law equivalents, and university policies. The investigation may well conclude that Professor Woodcock did not violate any law or policy. If so, then the Dean may decide that he should return to teaching. Alternatively, the investigation may determine that Professor Woodcock has violated a law or policy. If so, then disciplinary proceedings may be appropriate. Of course, if disciplinary proceedings are initiated, then Professor Woodcock will receive due process in accordance with the Kentucky Revised Statutes and the University's Governing and Administrative Regulations in effect at the time the disciplinary proceedings are started.

Rima Kapitan, Esq.
September 19, 2025
Page 2

Third, the scope of the investigation is not defined by President Capilouto's email, which never mentioned Professor Woodcock by name. Rather, the scope of the investigation is defined by Ms. Thompson's Notice of Investigation, her Amended Notice of Investigation, and any subsequent amendments. Contrary to your letter, Ms. Thompson's notices are far more detailed than what is normally provided in an internal investigation. Nevertheless, if you wish clarification, please contact her directly.

Fourth, despite your assertions, it is not certain that Professor Woodcock's speech is protected by the First Amendment. As you know, whether speech is protected turns on many factors, including content, form, context, whether made as a private citizen or as a university employee, and whether it constitutes harassment as defined by the Supreme Court. Even if Professor Woodcock's expression is protected, the University's interest in efficient delivery of its mission may outweigh his interest in speaking. Because Professor Woodcock expressed his views in a variety of contexts and many of those contexts involved the use of university resources, it may be that some of his speech is protected, and some is not. This is why it is necessary to investigate.

Fifth, much of your letter is devoted to the assertion that Professor Woodcock's speech is not antisemitic. Given its obligations under Title VI, the University must assess whether his expression regarding Israel and other matters has created a hostile environment for students, faculty, and staff. In doing so, the University will use the definition of antisemitism adopted by its Board of Trustees, mandated by the Kentucky General Assembly, and used by the federal government. Of course, the University will apply this definition of antisemitism in a manner consistent with the First Amendment.

Having addressed the misconceptions in your letter, in FIRE's advocacy, and Professor Woodcock's statements, I now turn to your demand that the University cease its investigation. The University rejects this demand.

As the University has said repeatedly, the University has a federal law obligation to investigate. The University will fulfill its obligations. Unfortunately, Professor Woodcock has refused to cooperate with the investigation. For example, he took more than a month to return the University's standard preservation notice. Even then, he insisted on modifying it. Similarly, although the Dean asked Professor Woodcock to make his university owned laptop available for copying immediately, he took more than a month to return the University's property. Professor Woodcock need not participate in the investigation, but the University will finish the investigation regardless of whether he participates.

Rima Kapitan, Esq.
September 19, 2025
Page 3

To the extent that you have questions regarding the investigation, please contact Ms. Thompson. Should you choose to initiate litigation, please contact Mr. Beaman.

Sincerely,


William E. Thro
General Counsel

cc: Bryan Beaman, Esq.
Farnaz Thompson, Esq.
Joe Childers, Esq.
Richard Getty, Esq.

Exhibit 88

Ramsi Woodcock
Edward H. Metcalf Jr. Professor of Law
J. David Rosenberg College of Law
University of Kentucky
rwo236@uky.edu

Gregory Van Tatenhove
Dean
J. David Rosenberg College of Law
University of Kentucky
gfva222@uky.edu

July 22, 2026

Re: Rescinding the Reassignment and Ban of Professor Woodcock

Dear Dean Van Tatenhove:

I write to you in your capacity as Dean of the University of Kentucky J. David Rosenberg College of Law. I am a member of the faculty whom the University is “simply investigating,” who has neither been charged with violating any policy of the University nor disciplined for doing so, and who is, consistent with the University’s policy that “[i]n all circumstances” an employee is “presumed innocent, and the University has the burden of proof,” a member of the law faculty in good standing. Ex. 1 at § I; Ex. 4 at 1.

On July 18, 2025, James C. Duff, who was Interim Dean from July 1, 2025, through June 30, 2026, reassigned me to a workload of “100% profession development” and, by arithmetic implication, to 0% teaching, 0% research, and 0% service. Ex. 2 at 1. He also banned me from the law building and stated that both actions would continue “for the duration of” an investigation initiated by the University that same day into my constitutionally protected speech in opposition to the State of Israel. *Id.* Dean Duff claimed to act “to protect both you and the University”. *Id.* As you may know, Israel is widely regarded by scholars and jurists the world over, including me, as a colonization project that practices apartheid and commits genocide. The project consists of Zionist Jews from all over the world invading Palestine to dispossess, kill, and expel the native Muslims and Christians living there. Both law and morality require all of us—including you—to oppose such a throwback to barbarism.

I write to request that, effective immediately, you (1) permit me to return to the law building and to my office under conditions of access consistent with those enjoyed by every other law school faculty member of my rank, (2) permit me to teach my fall courses as they are currently listed on the schedule and remove the “pending” designation applied to them by Associate Dean Steenken in an asterisk footnote to the schedule, Ex. 3, (3) restore my distribution of effort to my desired,

pre-reassignment percentages, which are 45% teaching, 50% research, and 5% service, (4) restore my access to faculty meetings and chairmanship of the Community Engagement and Speakers Committees, (5) revoke all other actions outlined or based upon Dean Duff's July 18, 2025 letter to me, Ex. 2, and (6) issue a public apology on behalf of the law school for my reassignment and ban. Please confirm that you have undertaken (1)–(5), and have or will imminently undertake (6) no later than **Friday, July 25, 2026 at 5:00 pm**.

The University's position is that the decision to reassign me to 0% teaching, research, and service was an exercise of discretion by Dean Duff and not mandated by University administrators, such as the University's President, Provost, or General Counsel. And the University's position is that the reassignment necessitated my ban from the law building because, "ha[ving] no teaching assignments, there is no reason for" me "to be present" there. Ex. 4 at 1. Accordingly, you have discretion to reverse both the reassignment and the ban.

The University's position that you have discretion to act is evident in statements of both the University's General Counsel, William Thro, and those of Dean Duff. Thro wrote to me last year that the basis for my suspension and ban is that "[t]he Dean has absolute authority to determine the assignments of a faculty member." Ex. 4 at 1. Consistent with this position, Dean Duff stated in sworn testimony in federal court in December that although he acted in "consultation" with "people throughout the university", "[i]t was my judgment. It was my authority to" order the reassignment and that it was a "judgment call" on his part to take that action. Ex. 5 at 184. The University's position is that once Dean Duff ordered the reassignment, the ban followed automatically because "[a]s [I] ha[ve] no teaching assignments, there is no reason for [me] to be present in the law school building." Ex. 4 at 1.

You must reverse my reassignment and ban immediately because they violate written University policies, accreditation requirements, the University's contract with me, U.S. and Kentucky statutes, and the U.S. and Kentucky Constitutions. I set forth some of the violations in what follows.

Violation of University Rules and Regulations

The reassignment and ban violate University regulations. According to the University's Administrative Regulation governing University organization, the dean "shall seek the advice of the faculty of the college" "in connection with" "the assignment of duties to all personnel". Ex. 6 at § F.2.c. Accordingly, Dean Duff was required to consult with the faculty prior to reassigning me to 0% teaching, research, and service. Dean Duff did not seek the counsel of the law faculty in imposing the reassignment, which is a clear violation of the rule.

The University's workload regulation further governs assignments. According to that regulation, a dean may alter workloads to the end of "maximizing the application of faculty expertise" or by "consider[ing]" "1. Difficulty, scope, size, and level of courses taught[; and] 2. Research responsibilities and/or service expectations." Ex. 7 at § III.C. Nothing in the policy authorizes a

dean to alter a faculty workload “to protect both you and the University” during an investigation, as Dean Duff claimed to do when he assigned me to 0% teaching, research, and service. Ex. 2 at 1.

The workload regulation further directs that a dean “assure that full-time regular-title series faculty employees have comparable total effort” and decrees that “individual distributions of teaching, research, and service may vary but should not result in reduced effort for some individuals within an educational unit.” Ex. 7 at § III.A. Reassigning me to 0% teaching, research, and service, which is a workload to which no other full-time regular-title series faculty member at the law school is assigned, violates the requirement that “full-time regular-title series faculty employees have comparable total effort.” *Id.*

A dean is bound to follow the University’s regulations. As you know, as an employee of the University, a dean is bound by the University’s Employee Code, which provides that “employees must comply with applicable . . . [University] Administrative Regulations[.]” Ex. 8 at §§ I, I.D. The code also directs an employee to “be responsible for [his] own actions and . . . recognize [his] obligation to ensure a University-wide culture of compliance.” Ex. 8 at § I.D. All employees, including me, “must report incidents that may constitute a violation of any . . . Administrative Regulations.” *Id.* at § E.1. Failure to do so can result in “suspension without pay and up to separation of employment.” *Id.* at § E.2.

As you noted in the *Shehata* and *Cunningham* cases, the University’s practice of characterizing the stripping of substantially all of an employee’s job duties as a “reassignment” rather than a suspension is “disingenuous” and a “euphemism.” *Shehata v. Blackwell*, No. 3:20-cv-00012-GFVT-EBA, slip op. at 9 (E.D. Ky. May 3, 2023) (Van Tatenhove, J.); *see also Shehata v. Blackwell*, No. 3:20-cv-00012-GFVT-EBA, slip op. at 12 (E.D. Ky. October 22, 2021) (Van Tatenhove, J.) (describing the practice as “artful”); *Cunningham v. Blackwell*, 568 F. Supp. 3d 799, 810–11 (E.D. Ky. 2021) (Van Tatenhove, J.) (ditto). The Sixth Circuit implicitly agreed, characterizing the reassignments in both cases as “suspensions.” *Cunningham v. Blackwell*, 41 F. 4th 530, 535, 537 (6th Cir. 2022). Dean Duff’s reassignment of my workload to 0% teaching, research, and service functionally suspended me from my job. Yet no University regulation authorizes a dean to suspend a professor. The version the University’s Regulations Affecting Employment (formerly Governing Regulation X) in force on July 18, 2025 authorized the *President* to impose a suspension after consultation with the Faculty Senate Advisory Committee on Privilege and Tenure “if immediate harm to the faculty member or others is threatened[.]” Ex. 9 at § B.1.f.(3). Current regulations and policies authorize the *provost* to impose a suspension based on a finding of “a threat to the safety and well-being of others[.]” Current regulations and policies also authorize the *Executive Director of the Office of Equal Opportunity* to impose a suspension based on a written “individualized safety and risks analysis” that concludes that an employee “present[s] a threat to the physical health or safety of an individual or the University Community.” Ex. 10 at § VI. None of these regulations authorizes a *dean* to suspend a member

of the faculty “to protect both [the professor] and the University,” as Dean Duff purported to do. Ex. 2 at 1.

Violation of Accreditation Standards

Dean Duff’s failure to consult with faculty prior to reassigning and banning me placed the University in breach of accreditation requirements. The University’s accreditor, SACSCOC, requires that the University “publish[] and implement[] policies on the authority of faculty in academic and governance matters[.]” Ex. 11 at 96.

The right of the faculty to be consulted by the dean in relation to the “assignment of duties to all personnel,” which is provided in the University’s organization regulation, is a “polic[y] on the authority of faculty in academic and governance matters[.]” Ex. 6 at § F.2.c; Ex. 11 at 96. Accordingly, SACSCOC requires that the University “implement[]” that policy. Dean Duff’s failure to implement that policy (by failing to consult with the faculty prior to reassigning and banning me) places the University in violation of a SACSCOC accreditation requirement. As a University employee, a dean is bound by University regulations to abide by accreditation requirements. Ex. 8 at §§ I, I.D.

Breach of Contract

The reassignment violates my contract with the University, which includes all of the University rules, regulations, and accreditation standards that, as described above, the University violated in imposing the reassignment.

Violation of Constitutional Due Process Rights

My reassignment breached the due process guarantee contained in the Fourteenth Amendment to the U.S. Constitution and Sections 1, 2 and 14 of the Kentucky Constitution. I have a property interest in the teaching, research, and service activities that are guaranteed to me under my contract. According to the faculty rules, which are part of my contract, teaching is “the most important element” of my job. L. Fac. R. & Pols. § 13.A. I accept substantially less from the University in pay than I would earn in practice as an attorney because of the value of my property interest in teaching, research, and service at the University.

The U.S. and Kentucky Constitutions required that Dean Duff provide me with notice and a hearing before depriving me of my property in teaching, research, and service. He reassigned and banned me without notice or a hearing of any kind. Indeed, he refused to meet with me throughout his term as dean.

Violation of Free Speech Rights

The First Amendment to the U.S. Constitution and Sections 1 and 8 of the Kentucky Constitution prohibit a dean from retaliating against me based on my protected speech.

Dean Duff's action was retaliation for protected speech in violation of the First Amendment and the Kentucky Constitution. The President's public announcement of the investigation, suspension, and ban on July 18, 2026 makes clear that the trigger for these actions was my circulation of a petition for international military action against Israel. Exs. 12, 23. I circulated the petition on July 6, 2026 by posting it to Association of American Law Schools discussion groups. The petition is protected by the First Amendment and the speech provisions of the Kentucky Constitution. The petition is on a matter of public concern and is neither intended nor appears to be government speech. It explicitly states that "[i]nstitutional affiliations are listed for informational purposes and do not imply institutional endorsement of this statement." See *DeCrane v. Eckart*, 12 F. 4th 586, 594–96 (6th Cir. 2021) (analogizing the government speech inquiry to the law of agency). It is either the speech of a private citizen or the speech of a scholar reporting research conclusions and advocating policy responses in line with those conclusions. *Meriwether v. Hartop*, 992 F. 3d 492, 505 (6th Cir. 2021) (holding that the scholarly speech of faculty within the scope of their university employment is protected). As you may know, until my suspension, I taught a seminar on international law. The question of Palestine is among the most important questions of international law today.

In sworn testimony, Dean Duff has stated that at the time that he acted he had received no complaints about me from any member of the University community, whether student or faculty member. Ex. 5 at 180–81. He also stated that he was aware of no complaint that I had said anything objectionable in the law building. Ex. 5 at 176. Accordingly, there was no suggestion that reassigning me was needed to ensure the efficient operation of the University. As you know, “undifferentiated fear of disturbance” is not sufficient to justify retaliation for the protected speech of a professor. *Hardy v. Jefferson Community College*, 260 F. 3d 671, 682 (6th Cir. 2001).

The University has claimed that “[g]iven its obligations under Title VI, the University must assess whether [my] expression regarding Israel and other matters has created a hostile environment for students, faculty, and staff.” Ex. 4 at 2. But Title VI does not protect people who are not “attempting to participate” in University “program[s] or activit[ies].” *Snyder-Hill v. Ohio State University*, 48 F. 4th 686, 708 (6th Cir. 2022). Indeed, the University’s Office of Equal Opportunity, which is normally tasked with deciding whether to launch hostile environment investigations, and which the University bypassed¹ in my case, takes the position that “[w]hile anyone may submit reports to Equal Opportunity, those who are not members of the University

¹ The University has adopted an ad hoc process unique to my case according to which an outside investigator with ties to Heritage Foundation, which has undertaken a campaign against the “pro-Palestinian movement” “on most university and college campuses” with the goal of “remove[ing] or fir[ing]” “supporting faculty”, will share a report with the President that will be protected by attorney client privilege, after which the President will issue a decision whether to bring disciplinary charges against me. Ex. 16 at 2–3. This contrasts with the University’s written policy for investigating hostile environment claims, pursuant to which the “Executive Director [of the Office of Equal Opportunity] determines [whether] the elements of Probable Cause are met to refer to a hearing” and “the University . . . provide[s] a statement of charges to the respondent” “including the final investigative report[.]” Ex. 10 at § IV.B.6; Ex. 17 at § I.C.1.

Community may not serve as complainants in a resolution process.” Ex. 10 at § II.C. Dean Duff testified that none of the complainants were members of the University community. Ex. 5 at 180–81. And anyway, even if Title VI required an investigation, it would not follow that a reassignment and ban from the building were required as well. Title VI requires only that the University not exhibit “deliberate indifference” to “actual notice” of a hostile environment. *Wamer v. University of Toledo*, 27 F. 4th 461, 466–67 (6th Cir. 2022). Title VI does not require that the University reassign me when, by the University’s own admission, “[t]he investigation may well conclude that [I] did not violate any law or policy.” Ex. 4 at 1.

The University has claimed that “[t]he basis for the continuation of [my] reassignment is all aspects of [the investigator’s] first and second notices of investigation.” Exs. 13–15. The first notice of investigation, which the University issued on July 22, 2025, references my statements at conferences in addition to my petition. But, as the notice acknowledges, I made the first of those conference statements “on or about February 23, 2024,” seventeen months before Dean Duff reassigned me, and the second “on or about May 30, 2025”, nearly two months before my reassignment. Ex. 14 at 1–2. They were not the trigger of the retaliation. Their inclusion in the allegations is instead part of the University’s retaliation for my posting of the petition.

The statements alleged in the second, “amended” notice of investigation, which was issued on September 8, 2025, were reported only in consequence of the initiation of the investigation on July 18, 2025, which is to say, only in consequence of the unconstitutional retaliation. Ex. 15. Accordingly, the second notice, too, is part of the University’s unconstitutional retaliation for my posting of the petition.

Violation of Constitutional Equal Protection Rights, Title VII, and the Kentucky Civil Rights Act

The Fourteenth Amendment to the U.S. Constitution, Sections 1, 2, and 3 of the Kentucky Constitution, Title VII of the Civil Rights Act of 1964, and the Kentucky Civil Rights Act prohibit discrimination by a state employer, such as the University.

Israel is an American-backed colonization project committing apartheid and genocide at the heart of the Arab world, which is predominantly Muslim. I am an Arab American, an Algerian American, and a Muslim. Like the vast majority of Arabs and Muslims the world over, I oppose the existence of Israel. Exs. 21–22. My reassignment was motivated by animus directed at my race, religion, and national origin. Faculty at the University of Kentucky regularly call for war against states, including war to end states. For four years, the College of Arts and Sciences has maintained a University-branded webpage soliciting donations for the Ukrainian military, which aims to destroy the Russian-backed Donetsk People’s Republic and the Russian-backed Luhansk People’s Republic. Exs. 18–20. The University has not alleged that the webpage might create a hostile environment for Russian members of the University community because, in contrast to me, the faculty promoting the destruction of Donetsk and Luhansk are perceived as having

European descent or national origin, or as belonging to the Christian or Jewish faiths. Faculty in the Department of Political Science have delivered defenses of Israel's commission of genocide in Gaza in their classrooms, distressing Arab American and Muslim students in those classes. The University has not opened an investigation into the faculty responsible for this conduct because, in contrast to me, they are perceived as having European descent or national origin or belonging to the Christian or Jewish faiths.

I look forward to hearing from you.

Sincerely,



Ramsi A. Woodcock

List of Exhibits

Exhibit 1: Admin. Reg. — Due Process (Interim)

Exhibit 2: Duff Letter

Exhibit 3: Fall Course Schedule

Exhibit 4: Thro Letter

Exhibit 5: Duff Testimony

Exhibit 6: Admin. Reg. — University Organization

Exhibit 7: Admin. Reg. 3:8 Faculty Workload Policy Statement

Exhibit 8: Admin. Reg. — Employee Code

Exhibit 9: Admin. Reg. — Regulations Affecting Employment (Formerly GR X)

Exhibit 10: Office of Equal Opportunity Policy

Exhibit 11: Requirement 10.4 in Southern Association of Colleges and Schools Commission on Colleges, Resource Manual for the Principles of Accreditation: Foundations for Quality Enhancement (4th ed. 2024).

Exhibit 12: Petition for Military Action

Exhibit 13: Thro Email

Exhibit 14: First Notice of Investigation

Exhibit 15: Second Notice of Investigation

Exhibit 16: Thompson Letter

Exhibit 17: Due Process — Equal Dignity

Exhibit 18: Statement on the Russian Invasion of Ukraine

Exhibit 19: Donate to Ukraine's Defenders

Exhibit 20: Donbass Reintegration

Exhibit 21: Poll of Arabs

Exhibit 22: Poll of Non-Arab Muslims

Exhibit 23: Capilouto Message

Exhibit 89



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July 22, 2025

By Electronic Mail Only

Ramsi Woodcock
Wyatt, Tarrant & Combs Professor of Law
Rosenberg College of Law
University of Kentucky
Ramsi.Woodcock@uky.edu

Re: Notice of Investigation

Dear Professor Woodcock:

The University of Kentucky has received notice that you may have violated the Ethical Principles and Employee Code of Conduct ([Administrative Regulation – GR XIV](#)); the [Institutional Statements Policy](#); the Use of Technology Resources Policy ([Administrative Regulation 10:1](#)); and the Policy on Discrimination and Harassment ([Administrative Regulation 6:1](#)), which incorporates the International Holocaust Remembrance Alliance’s [definition of anti-Semitism](#). This investigation is consistent with the University’s Declaration of Principles ([Governing Regulation I](#)) and Significant Policies ([Administrative Regulation – Formerly GR I](#)). This investigation also is consistent with the First Amendment to the U.S. Constitution and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution as well as any similarly governing provision of the Constitution of the Commonwealth of Kentucky and the Kentucky Religious Freedom Restoration Act, KRS 446.350. This investigation addresses requirements under Title VI of the Civil Rights Act of 1964, which the Supreme Court of the United States has held is coextensive with the Equal Protection Clause, Title VII of the Civil Rights Act of 1964, and any similarly applicable provision under the Kentucky Civil Rights Act, KRS Chapter 344, *et seq.*

The University recently received reports about your conduct from four professors who have attended academic conferences where you allegedly spoke in your capacity as a University of Kentucky Law Professor or who are part of listserves with you. The allegations against you are:

- The Chinese University of Hong Kong’s Center for Legal Innovation and Digital Society sponsored an academic conference about law and technology on or about May 30, 2025. You attended in your capacity as a University of Kentucky Law Professor and allegedly began your presentation in which you were invited to speak about antitrust law “with a tirade against the United States and its ‘colony’ for coming genocide in Gaza.” When a law professor attempted to speak, you allegedly spoke over him and began chanting “apartheid, apartheid, apartheid” such that this law professor was unable to present a counterviewpoint concerning the Israeli-Palestinian conflict.

- The George Mason University Law Review held an [Antitrust Symposium](#) on or about February 23, 2024, in which you were invited to speak on a panel to address antitrust and privacy. You attended in your capacity as a University of Kentucky Law Professor and began your remarks by allegedly asserting that the United States government was supporting Israel in what was alleged to be a genocide of the Palestinian people. A number of other law professors and faculty allegedly walked out as a result of your conduct. The Dean of the George Mason University Law School allegedly publicly stated that your conduct during this professional conference was inappropriate.
- You allegedly spammed and are spamming listserves, including the Association of American Law Schools (AALS) listserve, which you have access to as a University of Kentucky Law Professor, with your personal viewpoints concerning the Israeli-Palestinian conflict.
- You allegedly are using the University's resources to circulate an online petition, [Petition for Military Action Against Israel](#).

To be clear, the University is not investigating any viewpoints or speech expressed in your personal capacity. Additionally, as stated in the Declaration of Principles, the University is “‘deeply committed to safeguarding academic freedom, which is of transcendent value’ for the entire institution.” The University’s Declaration of Principles provides in relevant part: “Regardless of tenure status or tenure eligibility, faculty academic freedom covers all speech in a formal instructional setting related to the subject of the course and all scholarly speech *related to the faculty member’s area or expertise*.” (Emphasis added.)

As part of this investigation, you may have an advisor present with you for interviews, meetings, and other matters. Your advisor may be but is not required to be an attorney. Although your advisor may attend meetings and interviews with you, your advisor may not speak for you or on your behalf during interviews and meetings. Please let me know if you wish to have an advisor and provide your advisor’s name and contact information as soon as possible.

Please call (859) 257-8927 to schedule a meeting with me and a member of the University’s Office of Equal Opportunity to discuss this matter. The University’s Administrative Support team will assist you in scheduling your meeting. During this meeting, a member of the University’s Office of Equal Opportunity will provide information regarding your rights under the University’s policies as well as any appropriate resources. A list of resources available to employees is attached to this email.

To avoid further complaints, you need to know the following:

- If you are doing anything that might violate University policy, you should stop immediately.
- The Ethical Principles and Employee Code of Conduct establishes guidelines for professional conduct for those who act for the University, including trustees, executive officers, faculty, staff and other individuals employed by the University, those using University resources or facilities and volunteers and representatives acting as agents of the University. The Ethical Principles and Employee Code of Conduct addresses, but is not limited to, the following: the Use of the University’s Name, the Civic Responsibility of the Individual, Discrimination and Harassment, Conflict of Commitment, and Conflict of Interest.
- The Institutional Statements Policy clearly states that as a public institution of higher education and state agency, the University does not take official positions on or issue public statements

about societal issues and events that do not directly impact the mission or function of the University. This policy applies to administrative and academic units across the University and states that university leaders, colleges, departments, and units should not issue any institutional statements. “This policy in no way impacts an individual’s First Amendment rights to voice their views, on behalf of themselves and not the institution, nor does it impact a faculty member’s academic freedom or ability to speak as a subject matter expert within their domain of expertise.”

- The Use of Technology Resources prohibits users of technology from unauthorized uses of technology, including for example sending unsolicited mass mailings or “spamming.”
- The Policy on Discrimination and Harassment protects the University community and guests from unfavorable treatment and from unwelcome, unwanted behavior that is based on one or more of the following: race, color, national origin, ethnic origin, religion, creed, age, physical or mental disability, veteran status, uniformed service, political belief, sex, sexual orientation, gender identity, gender expression, pregnancy, marital status, genetic information, social or economic status, or whether the person is a smoker or nonsmoker (as long as the person complies with University policy concerning smoking). Behavior that is not tolerated includes but is not limited to, comments or jokes based upon one of the categories listed above, unwanted touching, harassing written materials (hard copy or electronic), gestures, intimidation, and assault.

In addition, please be advised of the following information:

- The University reviews reports objectively and does not advocate for either party. We value the perspectives of all parties.
- If you elect to submit statements, information, or supporting evidence through the course of this investigation, any knowing submission of false statements or information will be grounds for University discipline.
- If, in the course of this investigation, the University discovers any additional complaints, reports, or allegations about you that are not included in this original notice, the University is not precluded from incorporating those additional allegations into this investigation, the corresponding findings and determination, and any resulting discipline. In that case, the University will issue an amended notice of investigation to you. The University will make a determination of responsibility only at the conclusion of this investigation.
- Administrative Regulation 6:1 prohibits retaliation. Retaliation occurs when an adverse action is taken against a covered individual because they engaged in a protected activity, i.e., reporting discrimination or participating in an investigation of a discrimination report. If at any time you feel that you are being retaliated against as a result of your association with this matter, please contact me or the Equal Opportunity immediately at (859) 257-8927 or submit a report online at <https://oeo.uky.edu/>.
- This investigation is private, and we will only share information with those individuals who have a legitimate business reason to know or as the law requires.
- The University process is separate from any criminal or civil proceeding that may be ongoing regarding this incident.

I look forward to speaking with you regarding this matter.

Sincerely,



Farnaz Farkish Thompson
Partner

cc: Bill Thro, General Counsel, University of Kentucky
Sarah Mudd, Executive Director, Office of Equal Opportunity

Exhibit 90



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August 25, 2025

By Electronic Mail Only

Joe F. Childers, Esq.
Joe F. Childers & Associates
201 West Short Street, Suite 300
Lexington, KY 40507
joe@jchilderslaw.com

Re: University of Kentucky, Office of Equal Opportunity, Case No. 20251230

Dear Mr. Childers:

I appreciate your and Professor Ramsi Woodcock's time this past Friday, August 22, 2025. I understand that you are acting as both Professor Woodcock's attorney and his advisor for this investigation. I am following up regarding the procedures for this investigation. On July 22, 2025, Professor Woodcock received a Notice of Investigation. If there are any additional allegations against Professor Woodcock, he will receive an Amended Notice of Investigation.

Role of the Advisor. As previously noted, Professor Woodcock has the right to be accompanied at any meeting or proceeding by an advisor of his choice. The advisor may be any person, including an attorney, but need not be an attorney. The advisor also may not be a party or witness involved in the investigation. This investigation is not a legal proceeding. A party's advisor of choice may provide support and advice to the party at any meeting or interview, but the party's advisor may not speak on behalf of the party or otherwise participate in, or in any manner delay, disrupt, or interfere with any meetings or interviews. The advisor may observe, provide support, and provide guidance or advice to the party in a non-disruptive manner. As Ms. Sarah Mudd, the Executive Director for the Office of Equal Opportunity, noted, the University of Kentucky may remove or dismiss advisors who attempt to speak on behalf of the party, participate in, delay, disrupt, or interfere with meetings or interviews.

Timeline for the Investigation. As I stated when I met with Professor Woodcock this past Friday, I cannot provide an exact timeline for this investigation because Professor Woodcock has not yet returned his University-issued laptop, even though he was asked to return the University's laptop on July 18, 2025. I will seek to complete the fact-gathering stage of my investigation within 60 to 90 calendar days after the University receives Professor Woodcock's laptop. As Ms. Mudd explained, the University gathers evidence, interviews witnesses, and typically interviews the respondent last. I anticipate that I will conduct this investigation in the same manner barring any unforeseen circumstances.

Fact-Gathering Stage. During the fact-gathering stage, I will interview witnesses, including individuals who made reports regarding Professor Woodcock's conduct, collect evidence, and seek to

identify additional witnesses. Professor Woodcock is welcome to provide names of potential witnesses and any evidence he would like me to consider as soon as possible. Such evidence may include text messages, email exchanges, timelines, photographs, etc.

My colleague, Maricris Prendingue, or I will attempt to contact each potential witness three times. If after our third attempt, we do not receive a response from the potential witness, we will assume that the witness does not wish to participate in this investigation.

Although the University typically interviews all parties in person or via Zoom conference call, I am willing to provide Professor Woodcock with written questions that he may respond to in writing in lieu of an in-person interview. Professor Woodcock shall have seven (7) calendar days to respond to these written questions. His responses will become part of the evidence for this investigation.

First Evidence Review. At the conclusion of the fact-gathering stage of my investigation, I will make the evidence, whether inculpatory or exculpatory, available for Professor Woodcock's and your review as you are his advisor. You will have access to review such evidence in electronic format through a program that gives you and Professor Woodcock read-only access to the evidence. You and Professor Woodcock will have an opportunity to review any evidence obtained as part of the investigation that is directly related to the allegations in the Notice of Investigation, including the evidence upon which the University does not intend to rely on in reaching a determination regarding responsibility. You and Professor Woodcock will have an opportunity to read and review the interview transcripts of any witnesses whom I interview as part of this investigation. Professor Woodcock will have two weeks or fourteen (14) calendar days to respond to the evidence in writing and also to provide any follow-up questions, directly related to the allegations in the Notice of Investigation, for any witnesses who participate in this investigation. Professor Woodcock, thus, will have a meaningful opportunity to respond to the evidence prior to the conclusion of the investigation.

Second Evidence Review. I will ask any follow-up questions from Professor Woodcock that are directly related to the allegations in the Notice of Investigation. After following up with witnesses and receiving the witnesses' responses, Professor Woodcock and you will have an opportunity to review any additional evidence obtained as part of this investigation, including any witnesses' responses to Professor Woodcock's follow-up questions. Professor Woodcock will have seven (7) calendar days to respond in writing to this Second Evidence Review. After the Second Evidence Review, the fact-gathering stage of the investigation will conclude absent extraordinary circumstances.

Attorney-Client Privileged Report. As I explained during my meeting with Professor Woodcock on August 22, 2025, I will submit an attorney-client privileged report to the University of Kentucky's General Counsel who will share the report with only people who have a need to know to receive legal advice. The attorney-client privilege belongs to the University, and only the University may waive the attorney-client privilege. As Professor Woodcock noted, this investigation may raise unique First Amendment issues, and the University has the right to seek attorney-client privileged legal advice with respect to this investigation. I will not serve as the decision-maker with respect to the allegations against Professor Woodcock.

Letter of Findings and Determination. After the University receives and considers all the evidence as well as Professor Woodcock's responses to the evidence after the First and Second Evidence Reviews, the University President will issue a letter to Professor Woodcock with a copy to you with the University's findings, including the rationale for any such findings. The University may

determine that Professor Woodcock is responsible or not responsible for the allegations in the Notice of Investigation and any violations of policies or regulations referenced in the Notice of Investigation. If Professor Woodcock is found responsible for any violations of policies or regulations referenced in the Notice of Investigation, the letter from the University President will include any sanction for such a finding. Should the University President determine that termination of a tenured appointment may be appropriate, then the University shall comply with KRS 164.230 and any applicable University regulations.

I look forward to receiving Professor Woodcock's laptop, list of potential witnesses, and any evidence he would like me to consider as soon as possible.

Sincerely,



Farnaz Farkish Thompson
Partner

cc: Bill Thro, General Counsel, University of Kentucky
Sarah Mudd, Executive Director, Office of Equal Opportunity
Richard Getty, Counsel for Professor Woodcock