

FRANKLIN CIRCUIT COURT
DIVISION I
CONSOLIDATED CIVIL ACTION NOS. 26-CI-00885;
26-CI-01010; 26-CI-01017

RAMSI A. WOODCOCK

PLAINTIFF

v.

ELI CAPILOUTO, *et al.*

DEFENDANTS

**DEFENDANTS' MOTION FOR TO DISMISS
WOODCOCK'S OPERATIVE COMPLAINT IN 26-CI-01010¹**

The University of Kentucky Officials—President Eli Capilouto, Provost Robert DiPaola, General Counsel William Thro, Dean Gregory Van Tatenhove and Former Dean of the College of Law James Duff—submit this Motion to Dismiss all of the claims asserted by Woodcock under CR 12(a) and CR 12(f). A supporting Memorandum of Law is filed with this Motion.

NOTICE

This motion shall be heard on November 2, 2026 at 9:00 am in Franklin Circuit Court, Division 1, or as soon thereafter as counsel may be heard.

Respectfully submitted,

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¹ See *Ramsi Woodcock v. University of Kentucky, et al.* 26-CI-00885 Order (Sept. 21, 2026).

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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2026, the foregoing document was electronically filed using KYeCourt's e-filing system, which will send notification of such filing to all parties registered to receive electronic filings.

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DEFENDANTS

**MEMORANDUM IN SUPPORT OF MOTION FOR TO DISMISS
WOODCOCK’S OPERATIVE COMPLAINT IN 26-CI-01010¹**

The University of Kentucky Officials—President Eli Capilouto, Provost Robert DiPaola, General Counsel William Thro, Dean Gregory Van Tatenhove and Former Dean of the College of Law James Duff—move the Court to dismiss Ramsi Woodcock’s operative Complaint under CR 12(a) for lack of subject matter jurisdiction & 12(f) for failure to state a claim upon which relief can be granted.

INTRODUCTION

Ramsi Woodcock is an anti-trust scholar and the Evertt H. Metcalf, Jr. Professor of Law at the University of Kentucky’s Rosenberg College of Law.² Woodcock publicly rejects the foundational idea of Israel—“the right of the Jewish people to national rebirth in its own country” and “to be masters of their own fate,

¹ See *Ramsi Woodcock v. University of Kentucky, et al.* 26-CI-00885 Order (Sept. 21, 2026).

² Prior to July 1, 2026, Woodcock served as the Wyatt Tarrant & Combs Professor of Law. However, because of Woodcock’s antisemitic views, the law firm of Wyatt, Tarrant and Combs (now known as Bricker Graydon Wyatt) expressed a desire not to be associated with him. The University accommodated that request. Woodcock was appointed to a different endowed professorship at the same salary.

like all other nations, in their own sovereign State.”³ Woodcock goes beyond this to “explicitly argue for the violent destruction of Israel and laying out a plan for a global war against the Jewish State.”⁴ In essence, he publicly urges for the annihilation of a sovereign nation and the Jewish people who constitute it.⁵ Speech calling for a second holocaust is antisemitic under the definition used by both the federal government⁶ and the Commonwealth of Kentucky.⁷

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

Of course, antisemitic “speech cannot be restricted simply because it is upsetting or arouses contempt.”⁸ “The hallmark of the protection of free speech is to

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

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

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

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

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

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

allow free trade in ideas—even ideas that the overwhelming majority of people might find distasteful or discomforting.”⁹ However, Woodcock’s free-speech rights are not absolute. Nor is the University of Kentucky allowed to turn a blind eye to alleged discrimination in violation of federal law. Indeed, as the Supreme Court of Kentucky recently held, there are situations where the federal law *requires* the University to conduct certain proceedings.¹⁰

There are at least *three* situations in which the University of Kentucky could take action because of Woodcock’s expression. First, if Woodcock is speaking as a University of Kentucky employee or using the University’s resources to advance his speech, it is not constitutionally protected.¹¹ Second, if his expression amounts to harassment, as defined by the Supreme Court,¹² then it is not constitutionally protected.¹³ Third, even if Woodcock was speaking as a private citizen and even if his speech did not constitute harassment, it is necessary to strike a “balance between the interests of” Woodcock “as a citizen, in commenting upon matters of public concern” and the interest of the University, “as an employer, in promoting the efficiency of the public services it performs through its employees.”¹⁴

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

¹⁰ *Kamineni v. University of Kentucky*, ___ S.W.3d ___, ___, 2026 WL 2516060, at *2-3 (Ky. Aug. 20, 2026). *See also Kamineni v. University of Kentucky*, Order Granting the University’s Motion to Publish (Ky. Oct. 7, 2026) (attached as Exhibit 1).

¹¹ *Garcetti v. Cabellos*, 547 U.S. 410, 417 (2006).

¹² *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 650 (1999).

¹³ *See DeJohn v. Temple University*, 537 F.3d 301, 317–18 (3rd Cir. 2008).

¹⁴ *Pickering v. Bd. of Educ. of Twp. High Sch. Dist. 205, Will Cnty.*, 391 U.S. 563, 568 (1968).

Because antisemitic statements can violate Title VI¹⁵ and because the University cannot ignore a possible Title VI violation,¹⁶ the University began to investigate Woodcock’s actions.¹⁷ As it routinely does, the University reassigned Woodcock to other duties while the investigation is pending, but continues to pay him his full salary.¹⁸ When informing him of the investigation, the University emphasized it “is not investigating any viewpoints or speech expressed in [Woodcock’s] personal capacity,” and that the University is “deeply committed to safeguarding academic freedom, which is of transcendent value’ for the entire institution.”¹⁹ The University also assured it “reviews reports objectively and does not advocate for either party” and he “could submit statements, information, or supporting evidence through the course of this investigation.”²⁰ Finally, the University also provided him with a detailed description of the process that would be used in the investigation.²¹

¹⁵ Exec. Order No. 13,899 (Combating Anti-Semitism), 84 Fed. 68,679 (Dec. 11, 2019).

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

¹⁷ As individuals who are “accessing university libraries or other resources, or attending campus tours, sporting events, or other activities” can bring a Title IX claim, *Snyder-Hill v. Ohio State Univ.*, 48 F.4th 686, 708 (6th Cir. 2022), and Title IX and Title VI are interpreted in the same way, *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 258259 (2009), so it follows that anyone who interacts with the University or its employees can sue under Title VI. Moreover, in recent months, the federal government has investigated many institutions for alleged Title VI violations.

¹⁸ The Sixth Circuit held the University’s practice of reassigning a professor while an investigation is pending does not violate a professor’s rights. *Cunningham v. Blackwell*, 41 F.4th 530, 536–39 (6th Cir. 2022).

¹⁹ *See* Exhibit 2 - July 22, 2025, Notice of Investigation.

²⁰ *Id.*

²¹ *See* Exhibit 3 August 25, 2025, correspondence from Farnaz Farkish Thompson to Joe Childers, counsel for Ramsi Woodcock, sent after the initial meeting with Woodcock.

The University Notice of Investigation,²² and subsequent Amended Notice of Investigation,²³ which define the scope of the inquiry, have focused on whether: (1) he used university resources to develop and promote his Petition for Military Action Against Israel; (2) seizing control of a panel discussion at two academic conferences to present his views; (3) used his university email address to send spam to the American Association of Law Schools listserv and internal faculty listserv setting out antisemitic views; (4) while serving as Chair of the law school's Committee on Community Engagement, made antisemitic comments at a public event; and (5) the alleged violation of various university policies.²⁴

The investigation *may* conclude that Woodcock's speech is fully protected and that he has not violated any university policies.²⁵ If so, the Dean of the law school likely will alter his assignment and *may* return him to teaching.²⁶ Alternatively, it may conclude his speech is not protected and he has violated university policies. If the University concludes the latter, then Woodcock will receive due process in accordance with the University's Administrative Regulations²⁷ and Kentucky law.²⁸

²² See Exhibit 2 - Notice of Investigation.

²³ See Exhibit 4 - Amended Notice of Investigation.

²⁴ See Exhibit 2 - Notice of Investigation; Exhibit 4 - Amended Notice of Investigation.

²⁵ The University's investigator is a partner in an international law firm and a former Deputy General Counsel at the U.S. Department of Education.

²⁶ The Dean of a College has discretion to determine who will teach and what they will teach. There is no right to teach or to teach specific courses. The Dean also has discretion to determine how much of professors distribution of effort is devoted to research or the development of new courses.

²⁷ *University of Kentucky Administrative Regulation-Due Process (Interim)*, <https://perma.cc/B3BS-VR7B>.

²⁸ KRS § 164.230.

Yet Woodcock does not want the University to finish its investigation²⁹ or possibly initiate disciplinary proceedings.³⁰ Instead, in November 2025, he filed suit in federal court seeking to stop the Title VI investigation, challenge the constitutionality of a federal executive order and a state legislative act, and recover damages from the University Officials.³¹ The University moved to dismiss the federal court lawsuit or, in the alternative, to abstain under *Younger*. Woodcock moved for a preliminary injunction.

Although the Eastern District Court held a full day preliminary injunction hearing in December 2025, the court ultimately decided that *Younger* abstention

²⁹ The Investigation is in its final stages. Currently, Woodcock has an opportunity to review the evidence and raise follow-up questions and concerns. The Investigator anticipates submitting a final report by November 2, 2026.

³⁰ The investigation is incomplete *solely* because of Woodcock's actions. Initially, Woodcock objected to the investigator because she is a devout Christian, a Republican, and played a minor role in the Heritage Foundation's Project 2025. See Exhibit 5 Joe Childers Aug. 22, 2025 correspondence to Farnaz Thompson. Although the University asked Woodcock to return a University-owned laptop computer, he delayed doing so for several weeks and threatened litigation. See Exhibit 6, collectively: Richard Getty Aug. 20, 2025 correspondence to William Thro; William Thro Aug. 25, 2025 correspondence to Richard Getty; Richard Getty Aug. 27, 2025 correspondence to Bryan Beauman; Bryan Beauman Aug. 29 correspondence to Richard Getty. When the investigator asked him to answer written questions on December 1, 2025, he declined to do so until after this Court on his Motion for a Preliminary Injunction and then until after the Sixth Circuit ruled on his appeal. See Exhibit 7 December 1-4, 2025, email chain and correspondence. After the Sixth Circuit issued its decision on August 24, 2026, he asked to delay answering the questions until after this Court ruled on his preliminary injunction hearing. See Exhibit 8, email correspondence. Because the Investigator refused to allow further delays, he finally responded to the questions in the early morning hours of September 9, 2026.

³¹ *Woodcock v. University of Kentucky*, 820 F. Supp. 3rd 555 (E.D. Ky.), further proceedings, 2026 WL 184253 (E.D. Ky.), *injunction pending appeal denied*, (6th Cir.), *petition for initial hearing en banc denied*, (6th Cir.), *rev'd and remanded*, 188 F.4th 969, 2026 WL 2474872 (6th Cir.), *rehearing denied* (6th Cir. Sept. 10, 2026).

applied.³² Woodcock’s preliminary injunction motion remains pending in the federal case.³³ Woodcock immediately appealed.³⁴

While the Sixth Circuit was considering his appeal, Woodcock then filed suit in the Fayette Circuit Court in July 2026 raising substantively identical claims against the same parties. As in the federal court, the substance of his claim is that all of his conduct obviously was constitutionally protected, and the University could not even inquire as to whether he had violated policies.³⁵ Nevertheless, Woodcock informed the Sixth Circuit that the *sole* reason for this litigation was to preserve the statute of limitations and that he *intended to stay the state court proceeding pending the outcome of the federal case*.

On August 24, 2026, the Sixth Circuit reversed the district court’s decision to abstain.³⁶ Because formal charges had not been filed, *Younger* did not apply.³⁷ The Sixth Circuit expressed no opinion on the merits of Woodcock’s claims. On August 26, 2026, Woodcock asked the Sixth Circuit to issue the mandate immediately so that the district court could hear his motion for a preliminary injunction.³⁸ He also informed

³² *Id.*

³³ It is fully briefed and this Court has the benefit of the transcript of the full day hearing before Judge Reeves. The case is now before Judge Beaton.

³⁴ Woodcock also sought an injunction pending appeal in the district court and, after it was denied, in the Sixth Circuit. After the Sixth Circuit denied his injunction, he sought initial en banc review, which was also denied.

³⁵ Woodcock seems to believe that the University may never investigate a faculty member for expressive conduct. Such a position—which is overly simplistic and has no basis in law—ignores the University’s obligations to determine if Woodcock was speaking as an employee or as private citizen, whether his speech is harassment or on a matter of public concerns, and, if he is speaking as a private citizen on a matter of public concern, whether the University’s interests in efficient operations outweigh his interest in speaking.

³⁶ *Woodcock v. University of Kentucky*, 188 F.4th 969, 973 (6th Cir. 2026).

³⁷ *Id.* at 972-73.

³⁸ Plaintiff’s Emergency Motion for Immediate Issuance of Mandate, No. 26-5057 (Aug. 26, 2026) [D.E. 100].

the district court that it should expect an emergency motion for a preliminary injunction and demanded a ruling by September 11.³⁹

When it became apparent that the Sixth Circuit was not going to issue the mandate early, Woodcock decided to pursue his claims in the courts of the Commonwealth and filed a substantively identical complaint in this Court.⁴⁰ The only difference is that his claims are based on the Kentucky Constitution rather than the United States Constitution. The Supreme Court of Kentucky generally interprets the Kentucky free-speech provisions as being coextensive with the federal provisions.⁴¹

But he cannot pursue substantively identical claims in this Court. court. Kentucky’s exclusive concurrent jurisdiction doctrine “essentially prevents the same parties from litigating the same issues in two courts by giving priority to the court that first properly acquired jurisdiction over the parties and their dispute.”⁴² In other words, once a plaintiff files suit in one court and that court has jurisdiction, the plaintiff cannot file a substantively identical suit in another court. The court where the plaintiff first filed has exclusive concurrent jurisdiction. The second court cannot proceed. So, this Court must stay proceedings.⁴³

³⁹ See *Ramsi Woodcock v. University of Kentucky et al.*, 5:25-cv-00424-BJB, Woodcock’s Status Report and Notice of Forthcoming Emergency Motion [DE 57], attached as Exhibit 9.

⁴⁰ Woodcock initially obtained a transfer of his Fayette Circuit Court claim to this Court. But when the transfer did not occur instantaneously, he filed a new suit in this Court and later consolidated them.

⁴¹ See *Kentucky Downs, LLC v. ARKK Props., LLC*, 734 S.W.3d 788, 801 (Ky. App. 2026) (citing *McDonald v. Ethics Committee of the Kentucky Judiciary*, 3 S.W.3d 740, 743 (Ky. 1999)). See also *Graham v. Sec’y of State Michael Adams*, 684 S.W.3d 663, 699 (Ky. 2023) (Nickell, J., concurring in part and dissenting in part).

⁴² *Beshear v. Ridgeway Props., LLC*, 647 S.W.3d 170, 177 (Ky. 2022).

⁴³ The University has advised the Franklin Circuit Court of the doctrine.

However, Woodcock ignored this principle and asked this Court to enjoin the investigation. This Court denied that motion and directed the parties to provide the Court with notice as to when the investigation completed.⁴⁴

Having failed to persuade this Court to stop the investigation, Woodcock returned to federal court seeking the same relief.⁴⁵ The federal district court held a hearing on October 6, 2026 and declined to immediately rule. Rather, the federal court will issue an opinion at a later time.⁴⁶ Because of Woodcock's blatant forum shopping the University has now litigated the TRO issue in both state and federal courts. Presumably, Woodcock intends to litigate all other issues in both courts.

Woodcock's claims against the University and the University Officials should be dismissed, and the University should be allowed to complete its investigation to comply with Title VI.

STANDARD OF REVIEW

Under Civil Rule 8, a complaint must "contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief,"⁴⁷ and the Court must dismiss a complaint for failure to state a claim if it "appears the pleading party would

⁴⁴ See *Ramsi Woodcock v. University of Kentucky et al.*, 26-CI-00885 Order (Sept. 24, 2026).

⁴⁵ See *Ramsi Woodcock v. University of Kentucky et al.*, 5:25-cv-00424-BJB, Woodcock's Response to University's Defendant's Dispositive Motions and Brief on the Issues Identified in the Court's Oct. 5, 2026 Order [DE 70], attached as Exhibit 10.

⁴⁶ See *Ramsi Woodcock v. University of Kentucky et al.*, 5:25-cv-00424-BJB, TEXT ORDER entered October 7, 2026) [DE 73], attached as Exhibit 11.

⁴⁷ CR 8.01(1)(a).

not be entitled to relief under any set of facts which could be proved in support of [the] claim.”⁴⁸ This determination is a question of law.⁴⁹

ARGUMENT

I. Because the *Haydon Bridge* doctrine does not apply, sovereign immunity bars Woodcock’s injunctive relief claims.

As an “independent body politic”⁵⁰ within the Executive Branch,⁵¹ the University has sovereign immunity in the federal courts,⁵² the courts of Kentucky,⁵³ and the courts of other States.⁵⁴ “Sovereign immunity is both broad and exacting and if the sovereign has not waived immunity or consented to suit *an injunction is foreclosed in most circumstances.*”⁵⁵ But most circumstances are not all circumstances. There are two instances when courts may impose injunctive relief.

First, under the *Ex parte Young* doctrine,⁵⁶ “when a federal court commands a state official to do nothing more than refrain from violating federal law, he is not the State for sovereign-immunity purposes.”⁵⁷ But that is the extent of the doctrine. It applies only when the “complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.”⁵⁸ Unless there is an on-going violation

⁴⁸ *Pari-Mutuel Clerks’ Union of Kentucky, Local 541, SEIU, AFL-CIO v. Kentucky Jockey Club*, 551 S.W.2d 801, 803 (Ky. 1977).

⁴⁹ *James v. Wilson*, 95 S.W.3d 875, 883–84 (Ky. App. 2002).

⁵⁰ *Commonwealth ex rel. Beshear v. Commonwealth ex rel. Bevin*, 498 S.W.3d 355, 379, 382 (Ky. 2016).

⁵¹ *Univ. of Kentucky v. Moore*, 599 S.W.3d 798, 806 (Ky. 2019).

⁵² *Hutsell v. Sayre*, 5 F.3d 996, 999 (6th Cir. 1993).

⁵³ *Furtula v. Univ. of Kentucky*, 438 S.W.3d 303, 305 (Ky. 2014); *Withers v. Univ. of Kentucky*, 939 S.W.2d 340, 343 (Ky. 1997).

⁵⁴ *Franchise Tax Bd. of California v. Hyatt*, 587 U.S. 230, 236 (2019).

⁵⁵ *Beshear v. Haydon Bridge Co.*, 416 S.W.3d 280, 288 (Ky. 2013) (emphasis added).

⁵⁶ *Ex parte Young*, 209 U.S. 123 (1908).

⁵⁷ *Virginia Off. for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 255 (2011).

⁵⁸ *Verizon Md. Inc. v. Public Serv. Comm’f of Md.*, 535 U.S. 635, 645 (2002).

of federal law, this Court may not order the University to stop its investigation, refrain from initiating disciplinary proceedings, and allow him to return to the classroom. In other words, the key to invoking *Ex parte Young* is to state a claim of an on-going violation of federal law.⁵⁹

Second, in *Beshear v. Haydon Bridge Co.*,⁶⁰ the Supreme Court of Kentucky, following the reasoning of the *Ex parte Young* doctrine,⁶¹ declared, “prospective injunctive powers are available to Kentucky courts in cases such as this and those powers include both temporary relief pending a declaration of unconstitutionality under the Kentucky Constitution as well as permanent relief in a final judgment.”⁶² Thus, “injunctive relief is available to *restrain* an unconstitutional exercise of legislative or executive power.”⁶³

Although Kentucky’s *Haydon Bridge* doctrine is not nearly as developed as the federal *Ex parte Young* doctrine, the parameters of the two doctrines are the same. Just as the *Ex parte Young* doctrine requires a plaintiff to actually state a claim for an on-going violation of federal law,⁶⁴ the *Haydon Bridge* doctrine requires a plaintiff to state a claim for an on-going violation of the Kentucky Constitution. If the plaintiff fails to state a claim, sovereign immunity bars the injunctive relief claims.

However, Woodcock’s Complaint fails to meet even this minimal standard. As explained in more detail below, there is no on-going violation of the Kentucky

⁵⁹ See *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984) (claiming a violation of state law is insufficient to invoke *Ex parte Young*).

⁶⁰ *Haydon Bridge*, 416 S.W.3d at 280.

⁶¹ *Id.* at 288-89.

⁶² *Id.* at 289.

⁶³ *Id.* at 296 (emphasis original) (citation modified).

⁶⁴ *Morgan*, 63 F.4th at 515.

Constitution. Quite simply, Title VI preempts Kentucky law and the Kentucky Constitution.⁶⁵ Federal law requires the University to investigate possible Title VI violations.⁶⁶ Indeed, as the Supreme Court of Kentucky observed, “we cannot conceive how UK proceeding according to federal law” can justify injunctive relief.⁶⁷

Similarly, the Kentucky Constitution does not preclude the University from reassigning a faculty member while it investigates.⁶⁸

As to the merits of the Complaint, Woodcock has not alleged an ongoing violation of the Kentucky Constitution. To the contrary, he seeks to enjoin the University from investigating conduct that state law may prohibit based on a definition of antisemitism adopted by the General Assembly.⁶⁹ Further, there is no ongoing violation of the state constitution. law. The University has taken no final action against Woodcock. Although he is not currently teaching students, he remains employed by the University, continues to receive his salary, and still researches issues related to Palestine. Accordingly, there is no ongoing violation of the state Constitution this Court to enjoin.

⁶⁵ Cf. *Coal. to Defend Affirmative Action v. Granholm*, 473 F.3d 237, 251 (6th Cir. 2006) (explaining Title VI’s conflict preemption clause). See also *Brown-Forman Corp. v. Miller*, 528 S.W.3d 886, 890 (Ky. 2017).

⁶⁶ See *Foster v. Bd. of Regents of Univ. of Michigan*, 982 F.3d 960, 965 (6th Cir. 2020) (A “university’s job is to respond in good faith when allegations of harassment arise.”) (citation modified); *Wamer v. Univ. of Toledo*, 27 F.4th 461, 472-73 (6th Cir. 2022) (holding the plaintiff plausibly stated a Title IX claim by alleging the university only investigated her alleged claims for three weeks).

⁶⁷ *Kaminen*, 2026 WL 2516060, at *2 (citation modified).

⁶⁸ *Kaplan*, 10 F.4th at 581, 583-84.

⁶⁹ See Operative Compl. (26-CI-01010) at ¶¶ 14, 38.

II. Sovereign immunity bars all claims against the University Officials in their official capacities.

Just as sovereign immunity bars all claims against the University, it also bars all claims against the University Officials in their official capacities.⁷⁰ Thus, the University Officials in their official capacity is co-extensive with the University itself.⁷¹ Because the University is immune, the University Officials are immune.

III. Qualified immunity bars all damages claims against the University Officials in their individual capacities.

All of the claims against the University Officials in their individual capacities the University Officials are entitled to qualified official immunity.⁷² The University Officials receive the benefit of qualified immunity for the performance of “(1) discretionary acts or functions, (2) undertaken in good faith, and (3) within the scope of the employee’s authority.”⁷³ “Whether Defendants are protected by official immunity is a question of law.”⁷⁴

“If an employee demonstrates that the act in question was discretionary and within the scope of his or her employment, the burden shifts to the complaining party to prove that the act was not performed in good faith.”⁷⁵ First, decisions on how to handle employee matters are typically considered a discretionary act subject to

⁷⁰ See *Autry v. W. Kentucky Univ.*, 219 S.W.3d 713, 718 (Ky. 2007); *Yanero v. Davis*, 65 S.W.3d 510, 521-22 (Ky. 2001).

⁷¹ *Autry*, 219 S.W.3d at 718.

⁷² *Yanero*, 65 S.W.3d at 522.

⁷³ *Morales v. City of Georgetown*, 709 S.W.3d 146, 155 (Ky. 2024).

⁷⁴ *Sloas*, 201 S.W.3d at 475 (citation modified).

⁷⁵ *Benningfield v. Fields*, 584 S.W.3d 731, 740 (Ky. 2019).

qualified official immunity.⁷⁶ Similarly, decisions on whether to conduct a good faith investigation into potential misconduct are discretionary.⁷⁷ Consequently, the decision of whether to investigate Woodcock for his statements that may violate federal law, state law, and university policies is discretionary.

Second, whether to institute an investigation into an employee's conduct was clearly within the scope of all University Officials' scope of authority. All University Officials sued here are high ranking University Officials who may make these types of decisions, provide advice to the decision makers, or hold supervisory authority over Woodcock. Therefore, there is no doubt that this element of qualified immunity has also been satisfied.

Third, to defeat qualified official immunity, Woodcock must provide proof that the University Officials acted in bad faith.⁷⁸ This is most often shown by presenting proof of a violation of a "clearly established right" that an official "would have known was afforded to a person in the defendant's position."⁷⁹ Or by showing the official "willfully or maliciously intended to harm the plaintiff or acted with a corrupt motive."⁸⁰

Woodcock has not alleged the University Officials knew the investigation and reassignment would be a "violation of a constitutional, statutory, or other clearly

⁷⁶ See *id.*; *Jefferson Cnty. Fiscal Ct. v. Pearce*, 132 S.W.3d 824, 834 (Ky. 2004) (holding qualified official immunity shielded the county-judge executive for a decision to terminate a police officer).

⁷⁷ *Ritchie v. Turner*, 559 S.W.3d 822, 842 (Ky. 2018).

⁷⁸ *Rowan Cnty. v. Sloas*, 201 S.W.3d 469, 481 (Ky. 2006).

⁷⁹ *Yanero*, 65 S.W.3d at 523.

⁸⁰ *Ritchie*, 559 S.W.3d at 844.

established right.”⁸¹ In fact, Woodcock makes no allegation at all that the University Officials acted in bad faith when taking the alleged unconstitutional acts. Thus, he has not even made allegations that would meet his burden to show the University Officials acted in bad faith.

Even if Woodcock had alleged facts sufficient to establish bad faith, the facts he does allege demonstrate that the University Officials were operating in an uncertain and unsettled area of the law. One of the principal purposes of qualified official immunity is to protect public officials from “liability for good faith judgment calls made in a legally uncertain environment.”⁸² Here, the University Officials were plainly acting within what they reasonably believed the Kentucky Constitution permitted and, at most, in a legally uncertain environment. Such circumstances fall squarely within the protections afforded by qualified official immunity.

Woodcock claims state law prohibits the University from investigating, but federal law *requires* the University to investigate possible Title VI violations.⁸³ Moreover, the Supreme Court of Kentucky has made clear state courts will not enjoin the University’s compliance with federal law.⁸⁴ He asserts the Kentucky Constitution prevents the University from reassigning him while it investigates, but the Sixth

⁸¹ *Bryant v. Pulaski Cnty. Det. Ctr.*, 330 S.W.3d 461, 466 (Ky. 2011).

⁸² *Yanero*, 65 S.W.3d at 522.

⁸³ See *Foster v. Bd. of Regents of Univ. of Michigan*, 982 F.3d 960, 965 (6th Cir. 2020) (A “university’s job is to respond in good faith when allegations of harassment arise.”) (citation modified); *Wamer v. Univ. of Toledo*, 27 F.4th 461, 472-73 (6th Cir. 2022) (holding the plaintiff plausibly stated a Title IX claim by alleging the university only investigated her alleged claims for three weeks).

⁸⁴ *Kaminen*, 2026 WL 2516060, at *4. (citation modified).

Circuit has permitted reassignment of faculty members during investigations.⁸⁵ He says that he has a right to teach classes in the law school, but the Sixth Circuit says otherwise.⁸⁶ He argues all his speech is protected by the Kentucky Constitution, but speech as an employee is not protected.⁸⁷ Nor is speech that amounts to Title VI harassment.⁸⁸ Even if he was speaking as a private citizen on a matter of public concern, the University could still react to his speech in some circumstances.⁸⁹ All of this demonstrates that the University Officials were acting in a manner they reasonably believed the law permitted. Accordingly, they are entitled to qualified official immunity under these circumstances.

IV. Woodcock fails to state a Kentucky Constitution Free Speech retaliation claim.

Because the Kentucky Constitution's free speech provisions generally are coextensive with the First Amendment, to state a Kentucky Free Speech retaliation claims, Woodcock must show that (1) he "engaged in constitutionally protected speech;" (2) "an adverse action was taken against him that would deter a person of ordinary firmness from continuing to engage in that conduct; and (3) the adverse action was motivated at least in part by his protected conduct."⁹⁰ Moreover, Woodcock

⁸⁵ *Kaplan*, 10 F.4th at 581, 583–84. *See also Gasaway v. Commonwealth*, 671 S.W.3d 298, 333 (Ky. 2023) ("This Court has consistently construed due process under Section 11 of the Kentucky as co-extensive with the due process provisions under the Fifth and Fourteenth Amendments of the federal constitution.").

⁸⁶ *Parate v. Isibor*, 868 F.2d 821, 832 (6th Cir. 1989).

⁸⁷ *Garcetti*, 547 U.S. at 417.

⁸⁸ *See DeJohn*, 537 F.3d at 301.

⁸⁹ *Pickering*, 391 U.S. at 568 (citation modified).

⁹⁰ *Myers v. City of Centerville*, 41 F.4th 746, 759-760 (6th Cir. 2022). *See also Cook v. Popplewell*, 394 S.W.3d 323, 328 (Ky. 2011); *Mendez v. Univ. of Kentucky Bd. of Trs.*, 357 S.W.3d 534, 546 (Ky. App. 2011).

must prove “the exercise of the protected right was a substantial or motivating factor” in the defendant’s alleged retaliation, and if they do, then the defendant bears the burden of showing the same action would have been taken absent the protected conduct.⁹¹ As explained below, Woodcock has not suffered an adverse employment action and his speech is not constitutionally protected.

A. Woodcock Has Not Experienced An Adverse Employment Action.

An adverse employment action “must be more disruptive than a mere inconvenience or an alteration of job responsibilities.”⁹² Instead, it may be shown by “a termination of employment, a demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits, significantly diminished material responsibilities, or other indices that might be unique to a particular situation.”⁹³ As the Sixth Circuit observed, “neither an internal investigation into suspected wrongdoing by an employee nor that employee’s placement on paid administrative leave pending the outcome of such an investigation constitutes an adverse employment action.”⁹⁴ In most contexts, “the act of investigating possible employee misconduct is not an adverse employment action.”⁹⁵

To be sure, in the free speech retaliation context, courts focus on whether “an adverse action was taken against the plaintiff that *would deter a person of ordinary*

⁹¹ *Smith v. Campbell*, 250 F.3d 1032, 1037 (6th Cir. 2001); *Mendez*, 357 S.W.3d at 546.

⁹² *See Brooks v. Lexington-Fayette Urb. Cnty. Hous. Auth.*, 132 S.W.3d 790, 802 (Ky. 2004); *Arnold v. City of Columbus*, 515 F. App’x 524, 531 (6th Cir. 2013).

⁹³ *Brooks*, 132 S.W.3d at 802.

⁹⁴ *Dendinger v. Ohio*, 207 Fed. Appx. 521, 527 (6th Cir. 2006).

⁹⁵ *Kuhn v. Washtenaw Cnty.*, 709 F.3d 612, 625 (6th Cir. 2013) (citation modified).

firmness from continuing to engage in that conduct.”⁹⁶ Yet it is still a standard a Complaint must satisfy, and the “benefits of such a standard are that it is an objective inquiry, . . . and capable of screening the most trivial of actions from constitutional cognizance.” Thus, the purpose of this threshold is to screen out claims based on merely “inconsequential actions.”⁹⁷ While Kentucky law does not recognize a private cause of action for alleged violations of the Kentucky Constitution,⁹⁸ federal courts addressing analogous First Amendment claims have emphasized that a plaintiff must still demonstrate a meaningful injury.⁹⁹ Indeed, the Sixth Circuit cautioned that “it would trivialize the First Amendment to hold that harassment for exercising the right of free speech was always actionable no matter how unlikely to deter a person of ordinary firmness from that exercise.”¹⁰⁰

Woodcock alleges the type of “genuinely ‘inconsequential’ official actions” that should *not* go to the jury.¹⁰¹ He remains a tenured full professor. His salary is the same as before the University began investigating. The only thing that has changed is that he has been reassigned from teaching duties to other duties while the University conducts a federally mandated investigation. As the Sixth Circuit observed, “a suspension *with* pay and full benefits pending a timely investigation into

⁹⁶ *Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir. 1999).

⁹⁷ *Id.* at 398.

⁹⁸ *St. Luke Hosp., Inc. v. Straub*, 354 S.W.3d 529, 534 (Ky. 2011).

⁹⁹ *Thaddeus-X*, 175 F.3d at 397.

¹⁰⁰ *Thaddeus-X*, 175 F.3d at 397. *See also* *Carpenter v. Kenney*, 2022 WL 5265070, at *7 (Ky. App. Oct. 7, 2022).

¹⁰¹ *Cf. Josephson v. Ganzel*, 115 F.4th 771, 787 (6th Cir. 2024).

suspected wrongdoing is not an adverse employment action.”¹⁰² The same result applies here.

Moreover, if simply reassigning an employee to other duties with full pay and benefits while investigating alleged misconduct is an adverse employment action, then the University’s efforts to fulfill its federal law obligations will be undermined. If the University receives allegations of sex discrimination, race discrimination, financial impropriety, or endangering patients, the University must be able to reassign or even suspend employees while the investigation is on-going.¹⁰³

B. Woodcock’s speech is not protected by the Kentucky Constitution.

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

1. Woodcock’s speech as an employee is not constitutionally protected.

As *Garcetti v. Ceballos* makes clear, when a public university faculty member speaks as a university employee, his speech is not constitutionally protected.¹⁰⁴ Indeed, there is no constitutional protection when employees “make statements

¹⁰² *Kuhn*, 709 F.3d at 625.

¹⁰³ When the University limited clinical assignments away from two dentistry professors while investigating financial impropriety, the Sixth Circuit found no violation of constitutional rights. *Cunningham*, 41 F.4th at 536–39.

¹⁰⁴ *Garcetti v. Ceballos*, 547 U.S. 410, 417 (2006)

pursuant to their official duties.”¹⁰⁵ So, if Woodcock was speaking as a university employee, his speech is not protected.

2. Neither the U.S. Supreme Court nor the Kentucky Supreme Court has created an academic freedom exception to *Garcetti*.

But *Garcetti* also recognized that “expression related to academic scholarship or classroom instruction” may implicate “additional constitutional interests that are not fully accounted for by this Court’s customary employee-speech jurisprudence.”¹⁰⁶ Nevertheless, the Court declined to “decide whether the analysis we conduct today would apply in the same manner to a case involving speech related to scholarship or teaching.”¹⁰⁷

In the twenty years since *Garcetti*, neither the U.S. Supreme Court nor the Kentucky Supreme Court has recognized an academic freedom exception to *Garcetti*.¹⁰⁸ In the absence of a definitive decision from one of our highest courts, the University does not concede there is a faculty academic freedom exception to *Garcetti*. Indeed, there are three reasons why this Court should reject an academic freedom exception to *Garcetti*.

First, “fitting academic freedom within the rubric of the First Amendment,” or the analogous Kentucky constitutional provision “is in many respects an extremely difficult challenge. The term ‘academic freedom,’ ... is nowhere mentioned in the text

¹⁰⁵ *Id.* at 421.

¹⁰⁶ *Id.* at 425.

¹⁰⁷ *Id.*

¹⁰⁸ Of course, this Court is bound to follow decisions of the U.S. Supreme Court and Kentucky Supreme Court. *Hutto v. Davis*, 454 U.S. 370, 375 (1982) (per curiam).

of the First Amendment” or the Kentucky Constitution. “It is inconceivable that those who debated and ratified the First Amendment thought about academic freedom.”¹⁰⁹ It is equally inconceivable that the Delegates to the 1891 Kentucky Constitutional Convention or the People who voted to adopt the Kentucky Constitution thought about academic freedom. In short, the original public meaning of the First Amendment in 1791 or the analogous Kentucky provisions in 1891 did not envision faculty members as having greater rights than ordinary state employees. Indeed, in 1825, the University of Virginia’s governing board, which included both Jefferson and Madison, prohibited faculty members from teaching “principles of government” which were “incompatible with those on which the Constitutions of this State and the U.S. were genuinely bases.”¹¹⁰

Second, in constitutional law terms, “academic freedom belongs to the university,” not the faculty either collectively or individually.¹¹¹ “Significantly, the Court has never recognized that professors possess a First Amendment right of academic freedom to determine for themselves the content of their courses and scholarship, despite opportunities to do so.”¹¹² Instead, “the Court has focused its discussions of academic freedom solely on issues of institutional autonomy.”¹¹³

¹⁰⁹ David M. Rabban, *Functional Analysis of “Individual” and “Institutional” Academic Freedom Under the First Amendment*, 53 LAW & CONTEMP. PROBS. 227, 237 (1990) (citation modified). Professor Rabban, an endowed professor at the University of Texas, is one of the leading experts on academic freedom.

¹¹⁰ Petition for Writ of Certiorari at 6-7, *Florida Board of Governors v. Pernell*, No. 26- 475, (U.S. Oct. 5, 2026), attached as Exhibit 12.

¹¹¹ *McDonald*, 2026 WL 2349271, at *10 (Easterbrook, J concurring).

¹¹² *Urofsky v. Gilmore*, 216 F.3d 401, 414, (4th Cir. 2000) (en banc).

¹¹³ *Id.* at 415 (emphasis added).

Indeed, “the four essential freedoms that constitute academic freedom” are all centered on the institution.¹¹⁴

Third, recognizing individual faculty academic freedom contradicts standard constitutional doctrine of neutrality.¹¹⁵ Initially, “it asks the courts to treat publicly employed academics differently from all other classes of public employees.”¹¹⁶ Additionally, “because of this difference in the treatment of speakers, individual academic freedom inherently also requires the courts to designate scholarly and classroom speech as uniquely valuable,” as compared to speech of other public employees.

Of course, while disputing the existence of faculty academic freedom as a matter of constitutional law, the University and University Officials reaffirm the importance of academic freedom as a matter of policy. Indeed, the University’s Governing Regulations guarantee academic freedom to all members of the University Community.¹¹⁷

3. To the extent the federal courts of appeal have recognized an academic freedom exception to *Garcetti*, it is limited to professionally competent speech in the classroom and research.

While neither the U.S. Supreme Court nor the Kentucky Supreme Court have recognized an academic freedom exception to *Garcetti*, some of the federal courts of

¹¹⁴ *Regents of Univ. of California v. Bakke*, 438 U.S. 265, 312 (1978) (Powell, J., announcing the judgement of the Court).

¹¹⁵ Scott R. Bauries, *Individual Academic Freedom: An Ordinary Concern of the First Amendment*, 83 Miss. L.J. 677, 729-30 (2014). Professor Bauries, who now holds an endowed law professorship at the University of South Carolina, was previously at the University of Kentucky.

¹¹⁶ *Id.* at 731.

¹¹⁷ UNIVERSITY OF KENTUCKY GOVERNING REGULATION I—DECLARATION PRINCIPLES at C.

appeal have recognized a narrow exception.¹¹⁸ Others have rejected such an exception.¹¹⁹

In *Meriwether v. Hartop*, the Sixth Circuit created a narrow academic freedom exception to *Garcetti* for “core academic functions.”¹²⁰ And, *Josephson v. Ganzel*, this academic freedom exception to *Garcetti* was extended to speech at academic conferences *involving the faculty member’s expertise*.¹²¹

But the Sixth Circuit’s academic freedom exception does not extend to every responsibility of the faculty member’s job.¹²² Nor does it extend to a faculty member’s complaints about employment practices.¹²³ And the First Amendment - or any Kentucky constitutional speech protection - certainly “does not require a public employer to tolerate an embarrassing, vulgar, vituperative, ad hominem attack, even if such an attack touches on a matter of public concern.”¹²⁴ While not explicitly addressing academic freedom, the Sixth Circuit has recognized a public university can change a faculty member’s job duties¹²⁵ and remove a faculty member from an administrative post.¹²⁶

¹¹⁸ See *Heim v. Daniel*, 81 F. 4th 212, 223-28 (2nd Cir. 2023); *Merriwether v. Hartop*, 992 F.3d 492, 504-06 (6th Cir. 2021); *Deemers v. Austin*, 746 F.3d 402, 412 (9th Cir. 2014)

¹¹⁹ See *Reken v. Gregory*, 541 F.3d 768, 773-75 (7th Cir. 2008); *Uroksky*, 216 F.3d at 407-10; *Edwards v. California Univ, of Pennsylvania*, 156 F.3d 491 (3rd Cir. 1998) (Alito, J.).

¹²⁰ *Meriwether*, 992 F.3d at 506.

¹²¹ *Josephson*, 115 F.4th at 786.

¹²² *Savage v. Gee*, 665 F.3d 732, 738–39 (6th Cir. 2012).

¹²³ *Kyrkanides v. Kluemper*, 2026 WL 766491 (E.D. Ky. Mar. 18, 2026), *appeal docketed*, No-26—5336 (6th Cir). See also *Patterson v. Kent State Univ*, 155 F.4th 635, 649 (6th Cir. 2025) (explaining “complaining about your boss and coworkers is not protected by the First Amendment just because you work for the government”).

¹²⁴ *Id.* at 650–51 (a university’s “business is educating students. When an employee seriously undercuts the university’s power to do its basic job, the Constitution doesn’t elevate the employee over the public that Kent State exists to serve”).

¹²⁵ *Cunningham v. Blackwell*, 41 F.4th 530 (6th Cir. 2022).

¹²⁶ *Crosby v. University of Kentucky*, 863 F.3d 545 (6th Cir. 2017).

Other Circuits, when adopting their own academic freedom exceptions to *Garcetti*, have emphasized the narrowness of the exception. The Fourth Circuit held the exception does not extend to internal discussions among faculty or a faculty member’s email with other faculty.¹²⁷ The Eleventh Circuit, while emphasizing the academic freedom of faculty within the classroom,¹²⁸ also recognized a public university may exercise “editorial control” over even classroom speech “so long as the university’s actions are reasonably related to legitimate pedagogical concerns.”¹²⁹ In fact, a public university is not “powerless” to “exclude” classroom speech “that veers outside of well-understood parameters—personal tangents irrelevant to the subject matter, conspiracy theories, and the like.”¹³⁰ Put differently, “university administrators (and perhaps other government officials too) have a legitimate interest in ensuring that a professor’s in-class speech is both ‘germane’ to the curriculum and ‘professionally competent.’”¹³¹

In sum, to the extent it exists, the judicially created academic freedom exception to *Garcetti* protects professionally competent speech in the classroom that is germane to the subject of the class. Speech about the faculty member’s personal religious or political views does not qualify. The academic freedom exception also applies to professionally competent scholarship, including an academic conference

¹²⁷ See *Porter v. Bd. of Trs. of N.C. State Univ.*, 72 F.4th 573, 582–84 (4th Cir. 2023), *cert. denied*, 144 S. Ct. 693 (2024).

¹²⁸ *Pernell v. Florida Board of Governors of the State University*, 181 F.4th 1135 (11th Cir. 2026).

¹²⁹ *Id.* at 1159 (citation omitted and modified).

¹³⁰ *Id.* at 1160.

¹³¹ *Id.* (citation omitted).

presentation, which reflects the faculty member’s expertise.¹³² But it does not extend to personal rants that have nothing to do with subject matter of the presentation or the faculty member’s expertise.

4. If this Court creates an academic freedom exception to *Garcetti*, the exception must be limited to professionally competent speech involving teaching and scholarship.

If this Court creates an academic freedom exception to *Garcetti*, this Court must recognize two principles.

First, any exception should not be “premised on viewpoint neutrality but on requirements of professional competence and peer review.”¹³³ For example, astronomy faculty members should not teach their students that the moon is made of green cheese or author research papers defending such a proposition.¹³⁴ If faculty members defy these professional norms, any academic freedom exception to *Garcetti* exception should not apply.

Second, any academic freedom exception to *Garcetti* should not extend to those aspects of faculty members’ responsibilities that do not involve teaching or scholarship.¹³⁵ When faculty members perform administrative work, serve on an institutional committee, or represent their institution in a non-academic setting, then the faculty members’ expression logically should receive the same treatment as the

¹³² But if a faculty member deviated from stated purpose of the conference presentation, that deviation would not be protected by academic freedom.

¹³³ ERWIN CHERMERINSKY & HOWARD GILMAN, *CAMPUS SPEECH AND ACADEMIC FREEDOM: A GUIDE FOR DIFFICULT TIMES* 195 (2026). Dean Chmerinsky and Chancellor Gilman are among the leading legal scholars of academic freedom.

¹³⁴ ROBERT C. POST, *DEMOCRACY, EXPERTISE, AND ACADEMIC FREEDOM: A FIRST AMENDMENT JURISPRUDENCE FOR THE MODERN STATE* 76-77 (2012). Dean Post is a leading authority on academic freedom.

¹³⁵ *Porter*, 72 F.4th 573, 583-84 (4th Cir. 2023).

speech of any other public employee. Similarly, faculty members, like other employees, must adhere to the institutional policies regarding procurement, use of equipment, and approvals for outside employment.

5. Woodcock spoke as an employee and outside any academic freedom exception to *Garcetti*.

Applying these principles, Woodcock’s speech is outside any academic freedom exception to *Garcetti*.¹³⁶ When he seized the conference stage at an anti-trust law conference and again at a law and technology conference to offer his opinion on Israel, *he was not speaking on his expertise* nor even on the topic of the seminar. Woodcock appeared at those conferences in his capacity as a University law professor, and there is no suggestion he was speaking as a private citizen.¹³⁷ He was simply ranting at the University’s expense.¹³⁸

Similarly, when he used his university email account to spam both the American Association of Law Schools and internal faculty listservs with his views, he was acting as an employee not as private citizen.¹³⁹ Indeed, he could not accomplish this objective using a private email account. In the same vein, to the extent he used a university owned computer to develop and spread his Petition for Military Action

¹³⁶ The Kentucky Supreme Court has not recognized an academic freedom exception to *Garcetti*, but three justices have recognized the government is allowed to regulate an employee’s speech “if it impairs the government employer’s efficient operation.” *Cook v. Popplewell*, 394 S.W.3d 323, 341 (Ky. 2011) (Abramson, J., concurring). Moreover, as recently as August, a federal district court rejected an academic freedom exception to *Garcetti*. *Simon v. Ivey*, 2025 WL 2345845, at *57–59 (N.D. Ala 2025).

¹³⁷ In contrast, the faculty member in *Josephson* made it clear that that he was speaking in his individual capacity and not on behalf of his employer. *Josephson*, 115 F. 4th at 784.

¹³⁸ The University’s payment of Woodcock’s expenses is another distinguishing feature from *Josephson*. There, the institution did not pay for the faculty member to attend the conference. *Cf. Josephson*, 115 F.4th at 784.

¹³⁹ *See Porter*, 72 F.4th at 582–84.

Against Israel he was acting as an employee, not a private citizen. Finally, when, as Chair of the law school's Committee on Community Engagement, he made comments at a public event, he was acting as an employee.¹⁴⁰

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

B. Woodcock's speech is not protected by the University's Academic Freedom Policy.

Of course, while disputing the existence of faculty academic freedom as a matter of federal and state constitutional law, the University reaffirms the importance of academic freedom as a matter of *policy*.¹⁴¹ Because “democracy and speech, including academic speech, assist one another,” faculty with “expertise within their given fields can aid popular representatives in reaching decisions and in shaping an informed response to rapid change.”¹⁴² Consequently, the University's Governing Regulations guarantee academic freedom to all members of the University Community.¹⁴³

The University's definition of academic freedom is expansive. “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

¹⁴⁰ Woodcock was appointed to be Chair of the Committee on Community Engagement by the previous Dean. This role was part of his duties.

¹⁴¹ UNIVERSITY OF KENTUCKY GOVERNING REGULATION I—DECLARATION PRINCIPLES at C, Ex. 1.

¹⁴² *Urofsky*, 216 F.3d at 434-35 (Wilkinson, J., concurring) (citation modified).

¹⁴³ UNIVERSITY OF KENTUCKY GOVERNING REGULATION I—DECLARATION PRINCIPLES at C (emphasis added), Ex. 1.

related to the faculty member's area or expertise." ¹⁴⁴ But the University also recognizes academic freedom is not absolute. "Formal instruction does not allow for faculty members to impose their personal viewpoints on students or engage in promotion of ideas outside their domains of expertise. Formal instruction is for learning and discussion, not indoctrination." ¹⁴⁵

The University's academic freedom definition allows Woodcock to praise or criticize court decisions within the context of the course he is teaching and to pursue professionally competent scholarship in his area of expertise. It does not allow him to use the classroom or the conference stage to promote his own personal views or ideas that are unrelated to his expertise. While this academic freedom definition encourages learning and discussion, it forbids attempts to indoctrinate a captive audience.

Woodcock's expressive conduct falls outside the University's academic freedom definition. His rants at academic conferences about Israel and Palestine are an attempt to impose his personal views and promote ideas outside of his area of expertise. His shouting down of another academic undermines, rather than promotes, learning and discussion. His emails to American Association of Law School List Servs are not about scholarly dialogue, but the promotion of his own self-serving agenda. Using the University's email system to promote his own political cause is well outside academic freedom.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

Of course, reasonable people may disagree about the exact parameters of the University’s academic freedom definition. That is why the University’s Governing Regulations empower the President to the President to interpret the academic freedom definition and why his “interpretation is binding on all members of the University community, unless otherwise prescribed by the Board.”¹⁴⁶ So, Woodcock must accept the President’s interpretation.¹⁴⁷

C. If Woodcock’s speech amounts to harassment, it is not constitutionally protected.

If this Court concludes Woodcock spoke as a private citizen when he seized an academic conference stage and used the university email system to advance his views, then this Court must evaluate whether his speech involves a matter of public concern. Speech involves matters of public concern “when it can ‘be fairly considered as relating to any matter of political, social, or other concern to the community,’ or when it ‘is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public.’”¹⁴⁸

In some circumstances, however, private speech on a matter of public concern may still be outside of First Amendment protection. For example, if speech on a matter of public concern amounts to a true threat, then it is not constitutionally

¹⁴⁶ UNIVERSITY OF KENTUCKY GOVERNING REGULATION III—THE PRESIDENT at B, attached as Exhibit 13.

¹⁴⁷ Woodcock claims that all of the University’s Governing Regulations and Administrative Regulations are incorporated into his offer letter. The University disagrees, but if Woodcock is correct, then he is contractually obligated to accept the President’s reasonable interpretation.

¹⁴⁸ *Lane*, 573 U.S. at 241.

protected.¹⁴⁹ Similarly, when Woodcock’s speech amounts to harassment in violation of Title VI, it is not constitutionally protected.¹⁵⁰

“There is no categorical harassment exception to the First Amendment’s free speech clause,”¹⁵¹ but the Supreme Court held that public school districts can incur monetary liability under Title IX for responding with deliberate indifference to one student’s “harassment” of another student.¹⁵² As such, by inference, expression that amounts to “harassment” under Title IX is not within the freedom of speech. Because Title IX and Title VI are interpreted in the same manner,¹⁵³ speech that amounts to harassment under Title VI is also unprotected by the First Amendment. Under both Title VI and Title IX, harassment is limited to expression or conduct so “severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school.”¹⁵⁴ Thus, when Woodcock’s speech amounts to harassment, it is not constitutionally protected.

1. Even if all of Woodcocks’ speech was as a private citizen on a matter of public concern, the University’s interests in efficient operation outweigh Woodcock’s interest in speaking.

It is necessary to “strike a balance between the interests of” Woodcock “as a citizen, in commenting upon matters of public concern” and the interest of the University, as an employer, “in promoting the efficiency of the public services it

¹⁴⁹ *Black*, 538 U.S. at 359–60 (true threats).

¹⁵⁰ *See DeJohn v. Temple University*, 537 F.3d 301, 317–18 (3rd Cir. 2008).

¹⁵¹ *Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 204 (3rd Cir. 2001) (Alito, J.).

¹⁵² *Davis*, 526 U.S. at 650.

¹⁵³ *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 258–59 (2009).

¹⁵⁴ *Davis*, 526 U.S. at 650.

performs through its employees.”¹⁵⁵ The balancing test focuses on a number of factors including whether the speech “undermines the mission of the employer.”¹⁵⁶

Under the balancing test, the University prevails.¹⁵⁷ Antisemitic speech undermines the teaching aspect of the University’s mission. First, even if Woodcock’s speech currently does not amount to harassment under Title VI, it may cross that line at some future date. The University has an obligation to prevent Title VI harassment from occurring. Second, when (i) a failure to act appropriately to an employee’s speech may subject the University to legal liability under federal civil rights law; and (ii) existing precedent requires the University to perform *Pickering* balancing, there must be room for the University to address interim measures.

Third, because Woodcock has a public facing role which involves teaching and presenting at academic conferences, the University has greater leeway to address his speech.¹⁵⁸ It is one thing for a university groundskeeper or custodian to spew antisemitic speech on a private social media account, it is quite another for a tenured full professor to do so at academic conferences financed by the University, on listservs restricted to law school faculty, or at public events sponsored by the law school. The

¹⁵⁵ *Pickering*, 391 U.S. at 568 (citation modified); *State Bd. for Elementary & Secondary Educ. v. Howard*, 834 S.W.2d 657, 662 (Ky. 1992) (explaining a court must balance the rights of an individual against the states interest). *See also Cook*, 394 S.W.3d at 341 (Abramson, J., concurring).

¹⁵⁶ *Bennett v. Metro. Gov’t of Nashville & Davidson Cnty.*, 977 F.3d 530, 539–40 (6th Cir. 2020); *Cook*, 394 S.W.3d at 341 (Abramson, J., concurring).

¹⁵⁷ Although court must apply Supreme Court precedent when analyzing the First Amendment, the *Pickering* balancing test is contrary to the judicial interpretative tradition, requires a comparison of incomparable things, and forces judges to act like legislators. *Noble v. Cincinnati & Hamilton County Public Library*, 112 F.4th 373, 385 (6th Cir. 2004) (Sutton, C.J., dissenting); *Bennet*, 977 F.3d at 553–54 (Murphy, J., concurring). The University and University Officials reserve the right to challenge the continuing validity of the *Pickering* balancing test.

¹⁵⁸ *Hedgepath v. Britton*, 152 F.4th 789, 796 (7th Cir. 2025).

University’s “business is educating students. When an employee seriously undercuts the University’s power to do its basic job, the Constitution doesn’t elevate the employee over” the University’s mission.¹⁵⁹

V. Woodcock fails to state a claim for preferential treatment to a religious sect or the rights of conscience.

Woodcock received a Notice of Investigation from the outside investigator indicating the University received notice that he may have violated certain university policies.¹⁶⁰ Woodcock believes that International Holocaust Remembrance Alliance’s definition for “antisemitism” indicates a preference of one religious denomination over others in violation of Section 5 of the Kentucky Constitution.

But Woodcock’s allegation represents a fundamental misunderstanding of Section of the Constitution and its interpreting case law. The Kentucky Supreme Court has expressly held that Section 5 “offers no more protection than” its federal counterpart and provides no greater protection for religious practice than the First Amendment.¹⁶¹ Under that precedent, “the clearest command of the Establishment Clause” is that the government may not “officially prefer” one religious denomination

¹⁵⁹ *Patterson*, 155 F.4th at 650.

¹⁶⁰ The Notice of Investigation referred to 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 [(“IHRA”)] definition of anti-Semitism.” See July 22, 2025, Notice of Investigation, at 5. In the fifteen months since the investigation began, the University has repealed and replaced Administrative Regulation-GR XIV and Administrative Regulation 6.1. But the new regulations, Administrative Regulation-Employee Code and Administrative Regulation—Equal Dignity, impose substantively identical standards.

¹⁶¹ *Gingerich v. Com.*, 382 S.W.3d 835, 840 (Ky. 2012); *id.* at 844 (“Since the Kentucky Constitution provides no greater protection to religious practice than the federal Constitution does, this Court will follow federal precedent.”) (citation modified).

over another.¹⁶² In other words, the state is allowed to enact laws for the common good even if they touch various religious beliefs.¹⁶³ And it is in the interest of the common good to eliminate discrimination against a particular group.¹⁶⁴

In an Establishment Clause challenge, “the plaintiff has the burden of proving a set of facts that would have historically been understood as an establishment of religion. That requires proving both a set of facts, like in all litigation, and proving that those facts align with a historically disfavored establishmentarian practice.”¹⁶⁵

Establishment Clause claims were once evaluated under the three-part *Lemon* test, which assessed whether a government action (1) had a secular purpose, (2) had a principal or primary effect that neither advances nor inhibits religion, and (3) did not foster an excessive government entanglement with religion.¹⁶⁶ If the action satisfied all three prongs, it did not violate the Establishment Clause.¹⁶⁷

While *Lemon* was well thought to have been jettisoned, in 2022, the Supreme Court plainly held so. In *Kennedy v. Bremerton School District*, the Court recognized the “long ago abandon[ment]” of *Lemon* and held that in *Lemon*’s wake, “the Establishment Clause must be interpreted by reference to historical practices and understandings.”¹⁶⁸

¹⁶² *Larson v. Valente*, 456 U.S. 228, 244 (1982) (citation modified).

¹⁶³ *Gingerich v. Com.*, 382 S.W.3d 835, 840 (Ky. 2012).

¹⁶⁴ See *Roberts v. U.S. Jaycees*, 468 U.S. 609, 624 (1984) (stating a state has a “compelling interest in eradicating discrimination against its female citizens”).

¹⁶⁵ *Firewalker-Fields v. Lee*, 58 F.4th 104, 123 (4th Cir. 2023); see also *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 536 (2022) (“An analysis focused on original meaning and history, this Court has stressed, has long represented the rule rather than some exception within the Court’s Establishment Clause jurisprudence”) (quotation modified).

¹⁶⁶ *Lemon v. Kurtzman*, 403 U.S. 602, 612–13 (1971).

¹⁶⁷ *Id.*; *Satawa v. Macomb County Road Comm’n*, 689 F.3d 506, 526 (6th Cir. 2012).

¹⁶⁸ *Kennedy*, 597 U.S. at 534–35.

The same result occurs here. To begin the analysis, Woodcock alleges the University’s use of the antisemitism definition mandated by the General Assembly violates the Establishment Clause. Thus, the Court must conduct its analysis under the presumption that the definition is constitutional as recognized by the General Assembly.¹⁶⁹ Additionally, arguments similar to the one here have failed.

A federal district court has already rejected the argument Woodcock makes in his Complaint. At issue in *McClanahan v. Trump* was Executive Order 13899, which the President issued to direct federal agencies to use the IHRA definition of antisemitism in enforcing Title VI of the Civil Rights Act.¹⁷⁰ On a temporary restraining order, the plaintiff argued that “by adopting the IHRA definition of antisemitism, which can encompass criticism of religious and political aspects of Isreal, the government effectively endorses a particular religious and ideological perspective” in violation of the Establishment Clause.¹⁷¹ But the court disagreed.

“Here, Plaintiff simply makes conclusory statements arguing Executive Order 13899 effectively endorses a particular religious and ideological perspective *just by adopting the IHRA definition of antisemitism.*”¹⁷² Although Executive Order 13899 protected against a certain religion, the executive order had a secular purpose, which

¹⁶⁹ *R. L. P. v. Commonwealth*, 733 S.W.3d 265, 279 (Ky. 2026) (“In conducting our review, we remain mindful of “the presumption that the challenged statutes were enacted by the legislature in accordance with constitutional requirements,” and that “a constitutional infringement must be ‘clear, complete and unmistakable’ in order to render the statute unconstitutional.”) (citation modified).

¹⁷⁰ *McClanahan v. Trump*, No. 3:25-CV-05025-MDH, 2025 WL 1643500, at *1 (W.D. Mo. June 9, 2025).

¹⁷¹ *Id.* at *5 (quotation modified).

¹⁷² *Id.* at *6 (emphasis added).

was to give effect to Title VI of the Civil Rights Act.¹⁷³ Additionally, the plaintiff could not show how the executive order (1) either advances or inhibits the practice of religion in its principal or primary effect, and (2) fostered an excessive government entanglement with religion in promulgating a directive combatting antisemitism.¹⁷⁴

Woodcock has not pleaded any of the elements required in an Establishment Clause challenge, and another court has already rejected this type of argument. No religious preference is made in AR 6:1. Woodcock’s Establishment Clause claim does not have merit.

VI. Woodcock fails to allege any University policy violates the Kentucky Constitution.

A. The policies are not overbroad.

Because 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,” Woodcock believes various University policies are unconstitutional.¹⁷⁵ Specifically, he alleges the University’s Ethical Principles, Institutional Statements, Institutional Neutrality, spam, and antisemitism policies are overbroad because they encompass protected speech and, allegedly, cannot be applied consistent with the First Amendment.¹⁷⁶

In order to be overbroad, the policy’s prohibition on impermissible conduct also prohibits constitutionally permissible conduct.¹⁷⁷ But courts should interpret statutes

¹⁷³

Id.

¹⁷⁴

Id.

¹⁷⁵

Compl. at ¶¶ 104, 108-10.

¹⁷⁶

Id. at ¶ 103.

¹⁷⁷

Masters v. Commonwealth, 551 S.W.3d 458, 461 (Ky. App. 2017).

in a manner to avoid constitutional problems before declaring it out right unconstitutional.¹⁷⁸ Consequently, under the traditional test for assessing restrictions on expressive conduct, a regulation—or university policy—will be upheld if: “(1) it is unrelated to the suppression of expression, (2) it furthers an important or substantial government interest, and (3) it does not burden substantially more speech than necessary to further the interest.”¹⁷⁹ Woodcock bears the burden of demonstrating that the policies reach “a ‘substantial’ amount of protected free speech, ‘judged in relation to the [policies] plainly legitimate sweep.’”¹⁸⁰

This is a high burden. And “the mere fact that one can conceive of some impermissible applications of a [policy] is not sufficient to render it susceptible to an overbreadth challenge.”¹⁸¹ This is especially true when a limiting construction could be placed on the policy to limit interference with constitutionally protect activities.¹⁸² The policies Woodcock challenges do not reach a substantial amount of protected speech. His conclusory assertion that the policies at issue “encompass speech that is fully protected” is insufficient to plead overbreadth.

Under its policies, the University has a compelling interest in ensuring its students and employees’ speech and opinions are not mistaken as those of the University. Of course, if the University permitted students and employees to speak as a citizen or private individual while simultaneously on behalf of the University,

¹⁷⁸ *Martin v. Com.*, 96 S.W.3d 38, 54 (Ky. 2003).

¹⁷⁹ *Blau v. Fort Thomas Pub. Sch. Dist.*, 401 F.3d 381, 387 (6th Cir. 2005).

¹⁸⁰ *Virginia v. Hicks*, 539 U.S. 113, 118–19 (2003) (quoting *Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973)).

¹⁸¹ *Mems. of the City Council of the City of L.A. v. Taxpayers for Vincent*, 466 U.S. 789, 800 (1984).

¹⁸² *Martin*, 96 S.W.3d at 54.

the University would expose itself to a host of constitutional violations. Perhaps most importantly, however, the University has a compelling interest in ensuring members of the University community are not subject to harassment or a hostile environment. This is accomplished through its policies, and the policies only prevent speech to the extent necessary to maintain a non-hostile environment and to prevent harassment.

That Woodcock may conceive of a scenario where a University policy inadvertently restricts his speech is insufficient for an overbreadth challenge.¹⁸³ His Complaint fails to state a claim.

B. Because the University’s internal email system is a nonpublic forum, Woodcock’s prior restraint claim fails.

Woodcock also believes the University’s spam policy is a “classic prior restraint” in violation of Sections 1, 2, and 8 of the Kentucky Constitution.¹⁸⁴ His theory posits that the spam policy “grants University officials unbridled authority to grant or deny requests to speak to multiple people at the same time” and “fails to place any limits on the time that the University has to grant or deny permission.”¹⁸⁵

A prior restraint is any law “forbidding certain communications when issued in advance of the time that such communications are to occur.”¹⁸⁶ The threshold inquiry is the forum of the speech: traditional public forums, designated public forums, and nonpublic forums.¹⁸⁷ In a nonpublic forum, a space that is not by

¹⁸³ *Taxpayers for Vincent*, 466 U.S. at 800.

¹⁸⁴ Compl. at ¶ 113.

¹⁸⁵ *Id.* at ¶ 153.

¹⁸⁶ *Alexander v. United States*, 509 U.S. 544, 550 (1993).

¹⁸⁷ *Minnesota Voters All. v. Mansky*, 585 U.S. 1, 11 (2018).

tradition or designation a forum for public communication, the government has “much more flexibility to craft rules limiting speech.”¹⁸⁸

The Supreme Court considers a public school’s “internal mail system” a nonpublic forum.¹⁸⁹ When “there is no indication in the record that the school mailboxes and interschool delivery system are open for use by the general public,” even despite providing selective access to some civic and church organizations, it does not transform government property into a public forum.¹⁹⁰

Applying a nonpublic forum analysis to an allegation that a university’s email spam filter effectively silenced a faculty member’s speech, the Fifth Circuit declined to find any First Amendment violation.¹⁹¹ The court held:

the disputed restrictions and the spam filter were uniformly applied system-wide and were not content-based; there is no evidence to suggest that the goal of these policies was to suppress any viewpoint. Further, these UHD policies were reasonable in light of the need to control the quantity of data stored on the system and to filter data coming into the system. Doing away with these policies would “substantially interfere with the activities . . . of the school.”¹⁹²

The same is true of the University’s internal electronic mail system and spam policy. The spam policy is uniformly applied “to all users of technology resources at or through the University,” system-wide, and it is not content based.¹⁹³ The goal of the University’s spam policy is not to suppress any viewpoint; rather, it is to promote the

¹⁸⁸ *Id.* at 11–12.

¹⁸⁹ *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 47 (1983).

¹⁹⁰ *Id.*

¹⁹¹ *Faculty Rights Coalition v. Shahrokhi*, 204 F. App’x. 416, 419 (5th Cir. 2006).

¹⁹² *Id.* (quoting *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 513 (1969)).

¹⁹³ AR 10:1, at 1.

appropriate use of technology resources.¹⁹⁴ Therefore, given the University’s flexibility to craft rules impacting its internal email system, there is no prior restraint violation.

C. The policies are not void for vagueness.

Woodcock maintains that numerous provisions in the Ethical Principles, Institutional Statements, spam, and antisemitism policies are vague in violation of Sections 1, 2, and 8 of the Kentucky Constitution. Specifically, he claims the University’s Ethical Principles and Institutional Statements maintain a distinction 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 those speaking as a “citizen” or “private individual” is amorphous and subjective.¹⁹⁵

The void for vagueness doctrine requires a statute—or, in this case, a policy—to provide fair notice by containing sufficient definiteness so that ordinary people can understand what conduct is prohibited.¹⁹⁶ Even where a risk of discriminatory enforcement is present, if the forbidden conduct is described “sufficiently,” the speculative danger of arbitrary enforcement does not render the ordinance void for vagueness.¹⁹⁷

Here, Woodcock identifies only ordinary, commonly understood terms. For example, the distinction between “professional or expert capacity” and “private

¹⁹⁴ *Id.*

¹⁹⁵ Compl. at ¶ 121.

¹⁹⁶ *Wilfong v. Com.*, 175 S.W.3d 84, 95 (Ky. App. 2004) (citing *Kolender v. Lawson*, 461 U.S. 352, 357 (1983)).

¹⁹⁷ *Id.* at 95-96.

individual” is generally well understood by those who want to understand the distinction. The context of the policy draws clear lines between speaking on behalf of the University and speaking in a private capacity, and it does so in common terms that provide fair warning. The objective categories described in the policy include use of University insignia and University accounts, which provide clear guardrails for those looking for them.

Woodcock also maintains that the absence of a definition of “spam” or “mass mailing” in the spam policy leaves faculty to “guess whether sending two emails” triggers disciplinary sanctions.¹⁹⁸ But again: the definition of “spam” or “mass mailing” is generally well understood by those who want to understand them. The University policies identified by Woodcock are not void for vagueness.

VII. Woodcock fails to state a Due Process Claim.

Woodcock claims the University’s investigation deprived him of his alleged “property and liberty interests in his tenured position at the University of Kentucky.”¹⁹⁹ He fails to state a claim under either legal theory.

A. Woodcock fails to state a property interest claim.

While there is no federal analogue to the prohibition on arbitrary power, the Kentucky Supreme Court has “long interpreted the scope of Section 2 consistently with federal equal protection and due process protections.”²⁰⁰

¹⁹⁸ Compl. at ¶ 125.

¹⁹⁹ *Id.* at ¶ 135.

²⁰⁰ *Graham*, 684 S.W.3d at 699 (Nickell, J., concurring in part and dissenting in part).

Kentucky courts apply the three-prong analysis found in *Mathews v. Eldridge* to test due process concerns.²⁰¹ “The factors to be considered are: 1) the nature and weight of the private interest that will be affected by the action challenged; 2) the risk of erroneous deprivation of such interest; and, 3) the governmental function involved and state interest served by such procedures, as well as administrative and fiscal burdens that would result from additional or substituted procedures.”²⁰² Woodcock fails on all three.

1. Woodcock has no property interest in teaching.

While tenured professors at the University of Kentucky have a constitutionally protected property interest in their faculty position,²⁰³ that interest does not extend to teaching classes.²⁰⁴ The University retains the discretion to determine the nature of a faculty member’s assignments including whether a faculty member will teach and, if so, what courses. Moreover, when there are allegations of misconduct, the Sixth Circuit has permitted suspension or reassignment of faculty members during investigations.²⁰⁵ Similarly, the Kentucky Court of Appeals has held that a government agency may suspend an employee without a pre-deprivation hearing without violating an employee’s due process rights.²⁰⁶

²⁰¹ *Hardin v. Louisville/Jefferson Cnty. Metro. Gov't*, 701 S.W.3d 155, 167 (Ky. 2024); *Transportation Cabinet v. Cassity*, 912 S.W.2d 48, 51 (Ky. 1995).

²⁰² *Id.*

²⁰³ *Board of Regents v. Roth*, 408 U.S. 564, 576–77 (1972) (cited by *TECO Mechanical Contractor, Inc.*, 366 S.W.3d at 393-94).

²⁰⁴ *Parate*, 868 F.2d at 832; *see also Kaplan*, 10 F.4th at 581, 586 (Observing similarities between *Kaplan* and *Parate*).

²⁰⁵ *Kaplan*, 10 F.4th at 581, 583–84.

²⁰⁶ *Barrow v. Lexington-Fayette Urb. Cnty. Civ. Serv. Comm'n*, 222 S.W.3d 237, 240-41 (Ky. App. 2006).

Although Woodcock is unhappy that he is not teaching, his property interest in being a tenured professor does not allow him to choose his work assignments. Were it otherwise, the University could never direct faculty members to teach a particular class if they did not wish to do so. Importantly, Woodcock receives his full salary, has access to his university email account, and can pursue his scholarship. He also still has the ability for a post-suspension hearing under the University policy should the investigation find he acted contrary to University policy

2. Woodcock has received due process.

Even if Woodcock has a constitutionally protected property interest in teaching, the Court “must next determine whether the procedures provided for its deprivation satisfy due process.”²⁰⁷ That answer requires evaluation of the government’s interest, the individual’s stake in the matter, and the suitability of the procedures.²⁰⁸ “Different circumstances call for different processes. While notice and an opportunity to be heard remain the hallmarks of due process, they need not necessarily arrive before the deprivation does.”²⁰⁹ A hearing of some sort is required before a tenured professor is fired,²¹⁰ but a hearing is not required before each and every intermediate action.²¹¹ When the University “imposes a lighter penalty, such as a suspension, a post-deprivation hearing or a combination of pre- and post-deprivation safeguards may suffice.”²¹²

²⁰⁷ *TECO Mechanical Contractor, Inc.*, 366 S.W.3d at 393.

²⁰⁸ *Gilbert v. Homar*, 520 U.S. 924, 931–32 (1997).

²⁰⁹ *Cunningham*, 41 F.4th at 536. *See also Hardin*, 701 S.W.3d at 167 (explaining ““due process is flexible and calls for such procedural protections as the particular situation demands”)

²¹⁰ *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 & n.7 (1985).

²¹¹ *Cunningham*, 41 F.4th at 536.

²¹² *Id.* at 536–37.

Woodcock *has not been fired*; he has simply been reassigned—at full salary—while the University investigates. As antisemitic speech can violate Title VI, the University cannot ignore allegations of a Title VI violation, and the consequences of a Title VI violation are significant, the University had to investigate. However, instead of initiating tenure revocation proceedings, the University “customized” the reassignment “to the problem at hand:” preventing a possible Title VI violation.²¹³

Woodcock has numerous opportunities to influence the Investigator’s conclusions.²¹⁴ Although the University generally requires those under investigation submit to an in-person interview, the University allowed Woodcock to respond to written questions.²¹⁵ He finally did so on September 8, 2026. He has been provided access to the investigator’s evidence and has until September 25 to comment upon that.²¹⁶ Upon receiving Woodcock’s written response to this *first* evidence review, the Investigator will ask any follow up questions of the witnesses.²¹⁷ Woodcock will then have a *second* opportunity to review all evidence and submit a written response.²¹⁸ After receiving all the evidence and Woodcock’s first and second responses, the Investigator will issue a detailed letter of findings.²¹⁹ This process meets any hallmark of due process. If Woodcock will participate in this process, the remaining final stages should be complete by early November.

²¹³ *Id.* at 537.

²¹⁴ See Exhibit 3 August 25, 2025, correspondence from Farnaz Farkish Thompson to Joe Childers, counsel for Ramsi Woodcock.

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ *Id.*

That letter of findings may conclude that Woodcock has violated no University policy – or that he has. If there are grounds to conclude a violation occurred and if the University determines tenure revocation or a lengthy suspension without pay is appropriate, then Woodcock will receive an even more formal hearing and, if found responsible, the opportunity to appeal.²²⁰ Following that process, the President will determine whether to initiate tenure revocation proceedings.²²¹ If the President initiates tenure revocation proceedings, Woodcock will ultimately receive a full hearing before the University’s Board of Trustees.²²²

B. Woodcock fails to state a liberty interest claim.

When the University decided to investigate and to reassign Woodcock pending investigation, President Capilouto informed the University Community that a faculty member was under investigation.²²³ President Capilouto did not identify Woodcock or the College of Law.²²⁴ Nevertheless, Woodcock claims this message deprived him of a liberty interest in his reputation.

He is wrong. Alleged “defamation alone is not enough to invoke due process concerns. Some alteration of a right or status ‘previously recognized by state law,’ such as employment, must accompany the damage to reputation.”²²⁵ Rather, Woodcock must plead that (1) statement was made in conjunction with his

²²⁰ University of Kentucky Administrative Regulation—Due Process (Interim) <https://regs.uky.edu/sites/default/files/2025-10/ar-due-process-interim.pdf>.

²²¹ University of Kentucky Administrative Regulation—Due Process (Interim) § F. <https://regs.uky.edu/sites/default/files/2025-10/ar-due-process-interim.pdf>.

²²² KRS § 164.230.

²²³ See Eli Capilouto, Important Message for Our Community (July 18, 2025), <https://perma.cc/9ZRD-ESYS>.

²²⁴ *Id.*

²²⁵ *Quinn v. Shirey*, 293 F.3d 315, 319 (6th Cir. 2002).

termination of employment; (2) the statement was something more than an allegation of improper or inadequate performance, incompetence, neglect of duty, or malfeasance; (3) the statements must be made public; (4) the statements must be false; and (5) the public dissemination was voluntary.²²⁶ If all five elements are met, then Woodcock “is entitled to a name-clearing hearing upon request.”²²⁷

Yet, Woodcock *has not requested a name-clearing hearing*. This “failure to request a name-clearing hearing is fatal to his claim.”²²⁸ “It is the denial of a requested name-clearing hearing that deprives the plaintiff of his liberty interest without due process.”²²⁹ On that basis alone, his claim should be dismissed.

Moreover, even if he had requested a name clearing hearing, his claim fails for three other reasons. First, his claim fails at the first element because he has not been terminated.²³⁰ Second, although mere allegations of incompetence are not sufficient,²³¹ Woodcock alleges the statements impugn his professional competence.²³² Third, his claim fails to allege the charges made against him were false.

VIII. Woodcock has not alleged a viable equal protection claim.

Woodcock alleges the University Officials placed him under investigation “based on his Arab ancestry, Muslim faith, and Algerian national origin.”²³³

²²⁶ *Kaplan*, 10 F.4th at 584.

²²⁷ *Id.*

²²⁸ *Id.* (citation modified).

²²⁹ *Id.*

²³⁰ *Ferencz v. Hairston*, 119 F.3d 1244, 1250 (6th Cir. 1997).

²³¹ *Kaplan*, 10 F.4th at 584.

²³² Compl. ¶ 141.

²³³ Compl. ¶ 159.

“Sections 1, 2, and 3 of the Kentucky Constitution provide that the legislature does not have arbitrary power and shall treat all persons equally.”²³⁴ However, “a class-of-one claim is not applicable in the public employment context.”²³⁵ And when the government acts as an employer it “has far broader powers than does the government as sovereign.”²³⁶ This is because not every employment decision rises to a constitutional concern.²³⁷ In other words, the equal protection clause does not displace “managerial discretion by judicial supervision.”²³⁸

Woodcock is a class of one. Even if we assume, other university employees spoke in favor of military action in Palestine, they did not potentially do it on the University dime or while speaking in their official capacity as a university employee. They did not circulate a petition calling for the destruction of Israel while holding themselves out as a law professor teaching at the University of Kentucky J. David Rosenberg College of Law. In other words, no one else acted as extreme as Woodcock, putting him in a class of his own.

Because a class of one is no class at all under the equal protection clause, Woodcock has failed to state a claim for a violation of Sections 1, 2, or 3 of the Kentucky Constitution, and this claim should be dismissed.

IX. Woodcock fails to state a race or national origin discrimination claim.

Woodcock fails to state a race or national origin discrimination claim for three

²³⁴ *Cain v. Lodestar Energy, Inc.*, 302 S.W.3d 39, 43 (Ky. 2009).

²³⁵ *Pub. Prot. Cabinet v. Caudill*, No. 2025-CA-0616-MR, 2026 WL 2065771 , at *2 (Ky.App. July 17, 2026) (quoting *Engquist v. Oregon Dep't of Agr.*, 553 U.S. 591, 594 (2008)).

²³⁶ *Id.*

²³⁷ *Id.* at *3 (citing *Connick* 461 U.S. at 143).

²³⁸ *Id.* (citing *Garcetti*, 447 U.S. at 423).

reasons. The KCRA is similar to federal civil rights law and is generally interpreted consistent with federal law.²³⁹ Consequently, courts routinely consider federal court decisions when interpreting the KCRA.

Woodcock alleges the University and the University Officials discriminated against him because of his race and national origin.²⁴⁰ He alleges “Defendants Capilouto, DiPaola, Thro, and Duff, acting in their individual and official capacities,” discriminated against him because of these characteristics.²⁴¹

Woodcock’s claims fail for several reasons. First, his claims against the University Officials in their individual capacity under the KCRA fails as a matter of law. As the Kentucky Supreme Court explained, a claim for unlawful discrimination cannot be made against individuals who are not the employee’s employer.²⁴² This principle has been consistently reinforced by Kentucky courts and federal courts: “[T]o the extent that any claim could lie under the Kentucky Civil Rights Act, the Act does not allow suit to be filed against individuals. Rather, the proper defendant in such cases is the employer.”²⁴³

Second, his claims fail because the KCRA does not allow for claims made based on political viewpoint or speech-based allegations. Woodcock’s Complaint alleges the

²³⁹ *Fugate v. United Ground Express*, 2024 WL 4716067, at *3 (E.D. Ky. Nov. 7, 2024) (citing *Ammerman v. Bd. of Educ., of Nicholas Cnty.*, 30 S.W.3d 793, 797-98 (Ky. 2000)).

²⁴⁰ Compl. ¶¶ 167-169, 175.

²⁴¹ *Id.* ¶ 177.

²⁴² *Palmer v. Int’l Ass’n of Machinists & Aerospace Workers, AFL-CIO*, 882 S.W.2d 117, 121 (Ky. 1994). See also *Davis v. Se. Freight Lines, Inc.* 2025 WL 2701287, at *3 (E.D. Ky. Sept. 22, 2025) (“[U]nder the Kentucky Civil Rights Act, discriminatory actions by individuals acting in their official capacities as agents of their employer do not create individual liability.”)

²⁴³ *Juarez v. Schilling*, 668 S.W.3d 225, n 8 (Ky. App. 2023) (citing *Effinger v. Philip Morris, Inc.*, 984 F.Supp. 1043, 1046 (W.D. Ky. 1997); see also *Palmer v. International Ass’n of Machinists and Aerospace Workers, AFL-CIO*, 882 S.W.2d 117, 120 (Ky. 1994).

University's investigation and his reassignment of duties were performed in response to his petition and related speech and incorporates the KCRA claim seemingly as an afterthought. While Woodcock alleges the University would not have taken the adverse employment actions against him "[b]ut for [his] race and national origin," there are no facts alleged to support this claim.²⁴⁴ Rather, his allegations focus on his speech. But an allegation that one "retaliated against [an employee] for exercising their right to free speech simply does not fall within the scope of the KCRA."²⁴⁵ Because Woodcock has not pleaded discrimination on the basis of race or national origin, he cannot recover for a KCRA violation.

CONCLUSION

For these reasons, the Court should grant the Defendants' Motion to Dismiss.

Respectfully submitted,

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²⁴⁴ Compl. at ¶ 175.

²⁴⁵ *Lemaster v. Lawrence County, Kentucky*, 2020 WL 6162123, at *4 (E.D. Ky. Oct 21, 2020).

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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2026, the foregoing document was electronically filed using the Court's KYeCourt's e-filing system, which will send notification of such filing to all parties registered to receive electronic filings.

/s/Bryan H. Beauman
*Counsel for Defendants Dr. Eli Capilouto, Dr.
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EXHIBIT 1

Supreme Court of Kentucky

2026-SC-0170-I

SRINATH KAMINENI, M.D.

MOVANT

V.

ON REVIEW FROM COURT OF APPEALS
NO. 2026-CA-0312
FRANKLIN CIRCUIT COURT NO. 26-CI-00054

UNIVERSITY OF KENTUCKY

RESPONDENT

ORDER

The motion of Respondent, University of Kentucky, for publication of the Court's opinion in the above-styled matter, rendered August 20, 2026, is GRANTED. The Clerk of the Supreme Court is directed to modify the Court's prior unpublished Opinion and Order to a "TO BE PUBLISHED" Opinion and Order of the Court by Justice Conley.

All sitting. All concur.

ENTERED: October 7, 2026.



CHIEF JUSTICE

EXHIBIT 2

July 22, 2025

By Electronic Mail Only
Ramsi Woodcock
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Rosenberg College of Law
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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

Resource Guide

Employees



The Office of Equal Opportunity

859-257-8297

<https://oeo.uky.edu/>

24/7 Crisis Resources	
<u>Crisis Text Line</u>	Text “Start” to 741-741 A live, trained crisis counselor receives the text and responses from a secure online platform
<u>9-8-8 Suicide and Crisis Lifeline</u>	9-8-8 Formerly the National Suicide Prevention Lifeline Free, confidential support for people in distress Prevention and crisis resources for you or your loved ones
<u>Ampersand Sexual Violence Resource Center of the Bluegrass</u>	1-800-656-4673 Available to support and provide resources for those who have been impacted by sexual violence
<u>GreenHouse17</u>	1-800-544-2022 Formerly Bluegrass Domestic Violence Program Specially trained crisis counselors available to help those harmed by intimate partner violence
<u>New Vista Crisis Line</u>	1-800-928-8000 Crisis trained counselors who can assist in your situation and explore possible solutions
<u>Trans Lifeline</u>	877-565-8860 Connects trans people to community support and resources

Campus Specific Resources	
<u>Work-Life Connections Counseling</u>	859-257-9355 Holistic mental health and wellness support for UK employees, including free therapy options, physical health and financial wellness resources
<u>Center for the Enhancement of Learning and Teaching</u>	Resources on how to navigate difficult conversations in the classroom and more services to support engaging, inclusive, and innovative learning
<u>C.R.I.S.I.S Program</u>	859-257-9242 Assists UK employees experiencing personal financial hardship
<u>Employee Relations</u>	859-257-8758 Provides guidance on UK HR Policies and Procedures; consults with employees, managers, and administrators on a variety of workplace topics
<u>Headspace</u>	A meditation and mindfulness platform available to UK faculty and staff for a free one-year membership
<u>LiveSafe</u>	UKPD provides a free app that allows a discreet and convenient way to communicate directly with UKPD about potential risks and threats
<u>Individual, Relational, and Financial Therapy (I-RAFT) Clinic</u>	859-257-7755 For couples: Professional mental health appointments (in-person or telehealth) with a marriage and family therapist-in-training at the I-RAFT Clinic
<u>Violence Intervention and Prevention (VIP) Center</u>	859-257-3574 Works with students, staff, and faculty toward the mission of eliminating the perpetration of sexual or gender-based interpersonal violence Confidential advocates can meet with you to review your options

Community Resources	
<u>Center for Healing Racial Trauma</u>	Offers services and trainings designed to heal racially/ethnically marginalized people from racism
<u>Children's Advocacy of the Bluegrass</u>	859-225-5437 Local nonprofit organization dedicated to reducing the trauma experienced by child victims of sexual abuse
<u>God's Pantry Food Bank</u>	859-255-6592 Serves 50 counties in Central and Eastern Kentucky in partnership with more than 475 food pantries and meal programs
<u>Lexington-Fayette Health Department</u>	859-252-2371 Helping Lexington be well
<u>Lexington Health Center</u>	317-205-8088 Planned Parenthood is one of the nation's leading providers of high-quality, affordable healthcare, and the nation's largest provider of sex education
<u>The Nest</u>	859-259-1974 Supports individuals and families in crisis, facing adversity, or who have unexpected needs through early childhood education and care; basic human needs; counseling/advocacy for survivors of Intimate Partner Violence
<u>Self-Care Apps</u>	Resource for variety of well-being Android and iPhone Apps
<u>Psychology Today</u>	The world's largest portal to psychotherapy; includes free access to hundreds of thousands of professionals

Legal Resources	
<i>Always call 9-1-1 in an emergency!!</i>	
<u>UK Police Department (24hr)</u>	859-257-8573
<u>UKPD's Special Victims Unit (SVU)</u>	Consists of Lieutenant, Detective, and Victim Advocates Helps victims of interpersonal violence navigate the criminal justice system with respect and integrity
<u>Fayette County Attorney's Office</u>	859-254-4941 Prosecutes misdemeanor cases
<u>Fayette Commonwealth Attorney's Office</u>	859-246-2060 Prosecutes felony cases
<u>Fayette County Sheriff's Department</u>	859-252-1771
<u>Sheriff Department's Amanda's Center</u>	24-7 assistance to those dealing with issues of domestic violence. They have advocates who can assist victims in filing Emergency Protective Orders (EPOs), provide safe phones, offer cameras and other safety measures, etc.
<u>Legal Aid of the Bluegrass</u>	859-431-8200 and press option 4 Legal help for people living at or near poverty, veterans, those who are disabled and victims of domestic violence
<u>Lexington Police Department (24 hr)</u>	859-258-3600
<u>Kentucky State Police</u>	1-800-222-5555
<u>Office of the Attorney General</u>	1-800-372-2551
<u>VINE Registration</u>	1-800-511-1670 The nation's most reliable and confidential source for updated custody status and criminal case information. Register and stay informed

EXHIBIT 3

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

EXHIBIT 4

September 8, 2025

By Electronic Mail Only

Joe Childers, Esq.

Joe F. Childers & Associates

Counsel to Professor Ramsi Woodcock

Joe@JChildersLaw.com

Re: Amended Notice of Investigation
University of Kentucky, Office of Equal Opportunity, Investigation No. 20251230

Dear Mr. Childers:

As you know, the University of Kentucky has received notice that Professor Ramsi Woodcock 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 has received reports by four students, some of whom are Jewish. Based on these reports, the University is amending its July 22, 2025, Notice of Investigation to include the following additional allegations:

- Professor Woodcock created a hostile environment on the basis of race, color, or national origin by allegedly:
 - 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;

- o calling for violence against Israel, the genocide of Israeli people, and the ultimate destruction of Israel in a manner that uses anti-Semitic tropes;
- o making anti-Semitic and anti-Israeli remarks during an optional lecture, described as an optional educational program with guest lecturers; such remarks include that Professor Woodcock does not need to invite or include any speakers or guest lecturers with a pro-Israeli viewpoint because such speakers are pro-genocide; and
- o 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.

I reiterate my request to receive Professor Woodcock's list of 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

EXHIBIT 5

JOE F. CHILDERS & ASSOCIATES

ATTORNEYS AT LAW
THE LEXINGTON BUILDING

201 West Short Street, Suite 300
Lexington, Kentucky 40507

Telephone: (859) 253-9824
Facsimile: (859) 258-9288

Joe F. Childers, Esquire

By Electronic Transmission only to: fthompson@mcguirewoods.com

August 22, 2025

Farnaz F. Thompson
McGuireWoods LLP

RE: Professor Ramsi Woodcock, My Client

Dear Ms. Thompson:

At the outset of our meeting today, I would like for you to respond to the matters addressed in this letter, or alternatively address these matters in writing. Particularly I ask that you address the overriding question: can you be an unbiased "neutral" in conducting this investigation.

In his email to the university community concerning this investigation, President Capilouto said that he was appointing an "independent" and "neutral" investigator. Moreover, the AR on Ethical Principles states that "[t]he public's respect and confidence in the University of Kentucky must be preserved. Confidence in the University of Kentucky is put at risk when the conduct of those who act for the University does, or may reasonably appear to, involve a conflict between private interests and obligations to the University. Those who act for the University shall avoid conduct that might in any way lead members of the general public to conclude that he or she is using an official position to further professional or private interests[.]" AR on Ethical Principles B.9.

In a profile of you on the Christian Broadcasting Network (CBN) website, you talked about how the 700 Club and the CBN played a role in your decision to go to Regent University School of Law, and how you feel "closest to God when I am practicing law," and how the law school gave you the "opportunity to grow closer to God" .

Pat Robertson founded CBN and Regent University. He believed that Christians have a divine responsibility to support Israel. Consistent with that religious conviction, Regent University has an "Israel Institute" the mission of which is to equip Christians to "counter . . . anti-Zionist narratives." Given that support for Israel is built into the brand of religious faith promoted by Regent University, and that you have publicly stated that your time at the university helped you "grow closer to God," it is reasonable to wonder whether you hold religious

JOE F. CHILDERS & ASSOCIATES

ATTORNEYS AT LAW

August 22, 2025
Page 2

convictions regarding Israel's right to exist that might make it difficult for you to conduct a neutral investigation of someone who opposes the existence of Israel.

There are other aspects of your profile that call into question whether you have a conflict of interest with respect to my client's case based on associations with Israel or Zionism. Your law firm, McGuireWoods, has an "Israel group" that includes "more than 50 lawyers and consultants." The firm has numerous Israeli clients including "large, well-established, multinational conglomerates, as well as small, innovative start-up companies." The firm's lobbying operation "assist[s] Israeli companies with government relations matters in the U.S. and help[s] them have a voice in shaping US legislation."

The firm also advertises relationships with numerous pro-Israel organizations, including the American Society for Technion-Israel Institute of Technology, the American-Israel Chamber of Commerce Chicago, and the Texas-Israel Chamber of Commerce. And the firm has an affiliation with an Israeli law firm. Obviously, it's reasonable to suppose that if you were to exonerate a scholar who opposes the existence of Israel, this might create tensions between the firm and its pro-Israel clients.

Finally, it appears that you are also a political partisan. You are listed as a contributor to the Heritage Foundation's "Project 2025," an April 2023 report meant to reshape the federal government of the United States and consolidate executive power in favor of right-wing policies. The report calls for support for Israel. I note that in addition to producing Project 2025, the Heritage Foundation also hosts Project Esther, which aims to suppress pro-Palestinian protests on campus.

In light of this, I ask for you to disclose whether you support the existence of Israel either as a matter of religious conviction or political ideology, and whether you are a member of any pro-Israel organizations, including religious Zionist organizations. Furthermore, you should disclose whether you have any financial conflicts of interest (e.g., clients who are based in Israel or who are affiliated with the Israeli government or Zionist organizations in the United States), and whether you have any formal or informal associations with the Trump Administration or Project Esther. Finally, I believe that you or the university should disclose the terms of your engagement by UK. If according to those terms you owe a duty to zealously represent the university, then it is hard to view you as "independent" and "neutral" as President Capilouto

JOE F. CHILDERS & ASSOCIATES

ATTORNEYS AT LAW

August 22, 2025
Page 3

demand. I look forward to your response, either in writing or at today's initial meeting. Supporting documents are attached.

Sincerely,



Joe F. Childers

Cc: Professor Ramsi Woodcock
Richard Getty, Esq.
William Thro, Esq.
JFC/ds

EXHIBIT 6

THE GETTY LAW GROUP^{PLLC}

ATTORNEYS AT LAW

THE OFFICES AT CITY CENTER
100 West Main Street, Suite 200
Lexington, Kentucky 40507
Telephone: (859) 259-1900
Facsimile: (859) 259-1909

Richard A. Getty, Managing Member
Extension 2217
E-Mail: rgetty@gettylawgroup.com

Via dello Studio
No. 8
50122 Florence, Italy
Telephone: 011-39-055-290-394
Facsimile: 011-39-055-264-5596

E-MAILED ONLY
william.thro@uky.edu

August 20, 2025

William E. Thro, Esq.
General Counsel
301 Main Building
University of Kentucky
Lexington, Kentucky 40506-0032

Re: Professor Ramsi Woodcock

Dear Mr. Thro:

Please be advised that this firm and the undersigned have been retained by Professor Ramsi Woodcock relating to his dispute with the University of Kentucky, specifically its demand that he provide access to data on a laptop computer provided by the University.

On July 18, 2025, you and Dean James C. Duff wrote letters to Professor Woodcock regarding commencement of an investigation into Professor Woodcock. The same date, you wrote Professor Woodcock a memorandum demanding preservation of evidence, including electronic evidence. Dean Duff's letter and your memo both instructed Professor Woodcock to hand over the laptop provided to him by UK to the UK IT department to make a digital image of that device.

On July 22, 2025, Farnaz Farkish Thompson of the firm McGuireWoods LLP sent Professor Woodcock a more detailed letter, in which she stated that UK was investigating alleged violations by Professor Woodcock of, among other things, UK's Use of Technology Resources Policy, specifically Administrative Regulation 10:1. Notably, Ms. Thompson did not request access to Professor Woodcock's laptop (and therefore this letter is not directed to her). In fact, the only conduct of a technological nature described in that letter involved sending "spam" emails, something which could just as easily if not more accurately be investigated via email servers, as opposed to Professor Woodcock's laptop.

THE GETTY LAW GROUP PLLC

William E. Thro, Esq.
August 20, 2025
Page 2

On August 15, 2025, Joe F. Childers, counsel for Professor Woodcock with regard to the bulk of UK's investigations, wrote to you and informed UK that Professor Woodcock was extremely troubled by UK's request for access to his laptop. In particular, Professor Woodcock is concerned about providing UK access to conversations on the laptop with his now deceased mother prior to her death. That letter summarized Professor Woodcock's concerns and stated that additional counsel would be representing him regarding the computer. This firm is the additional counsel to whom Mr. Childers referred. Going forward, please direct to this firm any communications regarding these issues.

On Professor Woodcock's behalf, we have retained a forensic consultant to make a digital image of Professor Woodcock's laptop. He will secure the image in his safe and execute an Affidavit regarding his work. We will provide you with that Affidavit in a few days.

We hope this will satisfy UK's concerns that evidence is being preserved. If it does not, and if UK insists that it have immediate direct access to the laptop's contents and if UK insists that it be allowed in its sole discretion to review files or data on the laptop, then it will become necessary for us to seek declaratory relief in Court to preserve Professor Woodcock's privacy interests and rights. Professor Woodcock hopes that is not necessary.

I am available to discuss these issues further after we have safeguarded a digital image of the laptop with our forensic consultant and provided you with his Affidavit.

Sincerely yours,



Richard A. Getty

RAG/cte

cc: Prof. Ramsi A. Woodcock, JD, MSc
C. Thomas Ezzell, Esq.
Farnaz Farkish Thompson, Esq.

ragltr13223



University of Kentucky
Office of Legal Counsel

301 Main Building
Lexington, KY 40506-0032
O: 859-257-2936
www.uky.edu

August 25, 2025

Richard A. Getty, Esq.
The Getty Law Group PLLC
The Offices at City Center
100 West Main Street, Suite 200
Lexington, KY 40507

Via Email Only to rgetty@gettylawgroup.com

RE: The University's Laptop Computer

Dear Mr. Getty:

Thank you for your letter of August 20 concerning the University's laptop computer. While the University appreciates your attempt at a proposed solution, your suggestion reflects misconceptions and misunderstandings about the University's property, Professor Woodcock's privacy rights, why the University needs to examine the University's laptop computer, and the importance of the University's laptop computer to the University's investigation into Professor Woodcock's actions. Thus, the University rejects your offer.

I write to clarify the University's position and, more importantly, to convey explicit directives to Professor Woodcock.

First, the laptop is property of the University. It does not belong to Professor Woodcock. It was issued to Professor Woodcock for his *professional*, not his personal use. While University policy does allow *incidental personal* use, University policies make it clear that this *incidental personal* use cannot violate the law, including federal civil rights laws, or university policies.

Second, Professor Woodcock has no privacy rights or expectation of privacy in the data on the University's property. Indeed, all data on the University's computers qualifies as a "public record" under the Kentucky Open Records Act. Moreover, University policies explicitly allow the University to access an employee's data where there is a concern about illegal activity, including conduct that may violate federal civil rights laws, or a failure to comply with the University's policies. The University certainly has such concerns here.

Richard A. Getty, Esq.

August 25, 2025

Page 2

Third, contrary to your assertions, the needs of the University are far more than simply preservation of the data on the University's laptop computer. As I made clear in my July 18 letter to Professor Woodcock informing him of the investigation, the University believes his actions "*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." The University has a federal law obligation to investigate these concerns. This is not about preservation for future litigation; it is the University fulfilling its statutory obligations.

Fourth, the University's laptop is a key component of that investigation. Ms. Thompson confirmed the significance of the University's laptop to her investigation in her August 5, 2025 email to Mr. Childers, her August 18, 2025 letter to Professor Woodcock, her August 21, 2025 letter to Mr. Childers, and during the August 22, 2025 initial intake meeting with Professor Woodcock. Her message is clear—the University *must* receive its property *without alteration* by Professor Woodcock.

Professor Woodcock's refusal to comply with the University's request to return the University's property is hindering the University's investigation. This is unacceptable. Until the University's property is returned and reviewed, Ms. Thompson cannot interview Professor Woodcock.

To resolve this matter so that the University can fulfill its federal law obligation, please convey the directives set out below to your client.

First, the University directs your client to deliver the University's laptop computer to the University's IT Department at 411 South Limestone, Room 124, Lexington, KY 40508 by 4:00 P.M. on Friday, August 29, 2025. As an employee of the University, your client has a responsibility to comply with this instruction.

Second, the University directs your client to refrain from making any additional changes to the University's laptop computer before delivering it to the University. As an employee of the University, your client has an obligation to comply with this instruction.

Third, prior to returning the University's laptop computer to the University's IT department, the University directs Professor Woodcock to identify the specific file names and file locations for the audio conversations with his late Mother. Mr. Childers tells the University that the audio conversations are deeply personal and are the sole personal items on the University's laptop computer. As a matter of courtesy, the University agrees that it will not listen to or access the specific files

Richard A. Getty, Esq.
August 25, 2025
Page 3

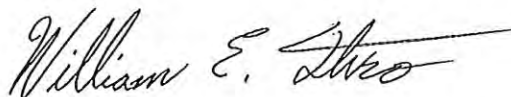
identified by Professor Woodcock. If it later becomes necessary to listen to or access these audio conversations, the University will contact you and engage in good faith discussions to resolve any issues.

Fourth, the University informs your client that it will not be returning the University's laptop computer. Rather, the University will retain its property. Because Professor Woodcock remains an employee, the University will supply your client with a *new* University laptop computer when he returns the University laptop computer to the University's IT Department. This new University laptop computer is for his *professional* use only. Of course, his use of it is subject to all applicable University policies. Consistent with the University policy allowing a restriction on incidental personal use, the University directs him not to use the new University laptop for his incidental personal use.

The University expects Professor Woodcock to comply with these directives. As a faculty member of the University, he has an obligation to comply.

I trust that this letter will resolve any issues related to the return of the University's laptop computer. The University looks forward to Professor Woodcock returning the University's property so that it may fulfill its obligations under federal law.

Sincerely,

A handwritten signature in black ink, reading "William E. Thro". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

William E. Thro
General Counsel

cc: Mr. Childers
Ms. Thompson
Provost DiPaola
Dean Duff
Chief Information Officer Nichols

THE GETTY LAW GROUP_{PLLC}

ATTORNEYS AT LAW

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E-MAILED ONLY

bbeauman@sturgillturner.com

August 27, 2025

Bryan H. Beaman, Esq.
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street, Suite 1500
Lexington, Kentucky 40507-1681

Re: Professor Ramsi Woodcock

Dear Mr. Beaman:

Please allow this to respond to William Thro's letter dated August 20, 2025 and your letter of earlier this afternoon. We are concerned that the purpose of the University's Friday deadline is to permit the University to declare that Professor Woodcock has violated University IT policy if he fails to return the laptop and will move to sanction him on that ground even though he has a Fourth Amendment right to demand that the University not search the personal data on the laptop, the university has unreasonably linked consent to search his personal data to return of the laptop, university regulations do not require that he consent to a search of his personal data, and those regulations explicitly protect rights of privacy, confidentiality, and intellectual property in data stored on university devices. Contrary to your statement, the laptop is not key to the investigation. The timing of its production has had not prevented the university from commencing its investigation. In fact, UK's outside counsel has already interviewed at least one witness to Professor Woodcock's statements and so it is false to say Ms. Thompson cannot begin the investigation without the laptop.

Without responding point by point to the legal arguments in Mr. Thro's letter, you surely know that the Supreme Court has held that the Fourth Amendment applies to searches by public employers. See O'Connor v Ortega, 480 U.S. 709, 715 (1987). As a result, the University needs to show probable cause and obtain a warrant to access the personal data that Professor Woodcock has stored on the laptop. There is no probable cause to search data from 2021 and earlier in relation to an investigation about statements he allegedly made in 2024 and 2025.

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Bryan H. Beauman, Esq.
August 27, 2025
Page 2

The Supreme Court recognizes a limited exception to the warrant requirement for public employers in relation to items that are under the employer's control and related to work. *Id.* For searches falling under this exception, no warrant is required if the search meets a reasonable suspicion standard. *Id.* at 725-26. The Court has illustrated the limits of this exception by pointing out that an employer would need a warrant to search personal luggage stored in the office prior to a trip. The luggage is under the control of the employer while in the office but it is not related to work. Similarly, personal files stored on a work laptop would not appear to fall under the exception. A warrant would be required to access them.

Even if the warrant exception did apply, the University would lack reasonable suspicion sufficient to search the files. The Supreme Court has held that the reasonable suspicion standard requires that (1) there be reasonable grounds for suspecting that the search will turn up evidence that the employee is guilty of work related misconduct (reasonable in inception) and (2) that the measures adopted be reasonably related to the objectives of the search and not excessively intrusive given the nature of the misconduct (reasonable in scope). *Id.* The University demand to search the laptop fails both prongs of this test. It is not reasonable to undertake a search of a laptop that has not been used since 2021 to investigate speech from 2024 and 2025. Even if it were, the scope of any investigation would be limited to examining metadata on the laptop to confirm that the data on the laptop dates from 2021. It would not extend to examining the content of the data itself.

The University may wish to argue that accessing personal data on the laptop does not constitute a "search" within the meaning of the Fourth Amendment because there is no reasonable expectation of privacy in personal data stored on a work laptop. But determining whether there is an expectation of privacy is a context-dependent inquiry for which government ownership of the laptop is unlikely to be dispositive. Whether an expectation of privacy is reasonable depends on many factors, including who owns the property subject to search, whether the employee had notice or consented, whether the item searched was widely accessible, or accessible only to the individual, the location of the search, the intrusiveness of the investigatory technique, the manner of the investigation, and the status of the individual (e.g., arrestees have less of an expectation of privacy than employees, but employees have less of an expectation than private citizens in their own homes).

It is notable that when given the opportunity to treat ownership of the device as dispositive, the Supreme Court declined to do so. *See Ontario v. Quon*, 560 U.S. 746 (2010), in which the Court declined to decide the matter simply on the basis that the phone in question was technically not the property of the officer. *Id.* at 759-760.

You might wish to argue that there is consent to the search. But the University regulations (AR 10.1) do not support such a contention. The regulations authorize the University administrators to access data under certain circumstances but they do not command users of university IT resources to provide access to their data or to waive any constitutional or intellectual

THE GETTY LAW GROUP PLLC

Bryan H. Beauman, Esq.

August 27, 2025

Page 3

property rights in relation to their data. These are important distinctions. The regulations also authorize personal use of University devices, recognize a limited right to privacy and confidentiality, and prohibit distribution of copyrighted material without the copyright owner's consent.

Although this is an area of the law in which courts are sometimes deferential toward employers, the University's demand of access to a laptop that cannot conceivably be relevant to its investigation is overreach. Cf. United States v. England, No. 21-5273 (6th Cir. Feb. 6, 2023) (Murphy, J., concurring) (not precedential) (suggesting that a fireman's "near exclusive" use of his work laptop creates a privacy interest).

We remain committed to trying to work this dispute out without going to court. Professor Woodcock is making a thorough review of the laptop to identify by file location any personal information on the laptop, such as recordings with his mother, which he does not wish for UK to view or hear. We will provide it to you tomorrow. Professor Woodcock will drop the laptop off Friday if UK will agree not to listen to or view the contents of the files identified in the list, consistent with what Mr. Thro already agreed to in "directive" three on pages 2 and 3 of his last letter, and if UK further agrees not to view or listen to the contents of any files on the computer that were created or modified not later than 2022 (long before the conduct (actually speech) UK claims to need to investigate). In other words, you actually only need to look at the metadata of files to determine if the files relate to the investigation. This is consistent with what Mr. Thro proposed in his last letter.

If UK will agree to the preceding paragraph, we can avoid the need for a formal Court filing and an injunction to maintain the status quo.

Sincerely yours,



Richard A. Getty

RAG/cte

cc: William E. Thro, Esq.
Farnaz Farkish Thompson, Esq.
Joe F. Childers, Esq.
C. Thomas Ezzell, Esq.
Prof. Ramsi A. Woodcock, JD, MSc

ragltr13229



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www.sturgillturner.com

Bryan H. Beaman
Member
bbeaman@sturgillturner.com

August 29, 2025

VIA EMAIL

Richard A. Getty
The Getty Law Group, PLLC
The Offices at City Center
100 West Main Street, Suite 200
Lexington, KY 40507
rgetty@gettylawgroup.com

Re: Professor Ramsi Woodcock

Dear Mr. Getty:

I have reviewed your two letters of today, the list of files from Professor Woodcock included with your first letter of this morning, and conferred with my client. Thank you for your second letter of today sent by email at approximately 1:09 p.m. which provides Professor Woodcock's latest proposal. Although the University does not agree with the legal position stated in your correspondence, and in particular the discussion of the Fourth Amendment, as a courtesy the University agrees to: (1) not listen to or access the files identified in Professor Woodcock's list of earlier today numbered 1 through 13; and (2) for the access of files on the computer which predate 2022, it will follow the process as you outlined in your 1:09 p.m. correspondence of today.

With this understanding, as we discussed, I have told the University to expect delivery of the laptop either this afternoon or on Tuesday before 4:00 p.m.

Sincerely,

STURGILL, TURNER, BARKER & MOLONEY, PLLC

A handwritten signature in blue ink that reads "Bryan H. Beaman". The signature is stylized with a large, looped "B" and a cursive "Beaman".

Bryan H. Beaman

EXHIBIT 7

From: [Rima Kapitan](#)
To: [Thompson, Farnaz Farkish](#)
Cc: [Thro, William](#); [Mudd, Sarah G.](#); [Prendingue, Maricris](#); [Gadeir Abbas](#); [Joe](#); [Nieves Bolanos](#); [Patrick Cowlin](#); [Summer Murshid](#); [Bryan Beaman](#)
Subject: Re: Written Questions for Office of Equal Opportunity Case No. 20251230
Date: Thursday, December 4, 2025 9:41:19 AM

****EXTERNAL EMAIL; use caution with links and attachments****

Thank you. In that case, he will plan to respond after the Court's order on the injunction motion, if necessary.

Rima

On Wed, Dec 3, 2025 at 8:15 PM Thompson, Farnaz Farkish
<FThompson@mcguirewoods.com> wrote:

Dear Rima,

Please contact Bryan Beaman regarding the timing of any motion or brief.

With respect to your request for an extension, Professor Woodcock may take more time to respond to the written questions. Please let us know when he intends to respond. Please note that any delay in receiving Professor Woodcock's responses to the written questions will delay this investigation.

The written questions relate to the policies listed in the July 22, 2025, Notice of Investigation, and September 8, 2025, Amended Notice of Investigation. Many of the written questions referenced in your email, below, address allegations concerning the University of Kentucky's Institutional Statements Policy, which is attached.

With respect to the Association of American Law Schools (AALS) listserve, Professor Woodcock is only eligible to participate in any AALS listserve because he is a Law Professor at the University of Kentucky's College of Law.

Sincerely,
Farnaz

Farnaz Farkish Thompson 

Partner
McGuireWoods LLP
T: +1 202 857 2488 | M: +1 703 798 0182
fthompson@mcguirewoods.com

From: Rima Kapitan <rima@kapitangomaa.com>
Sent: Wednesday, December 3, 2025 2:33 PM
To: Thompson, Farnaz Farkish <FThompson@mcguirewoods.com>

Cc: Thro, William <william.thro@uky.edu>; Mudd, Sarah G. <sarah.mudd@uky.edu>; Prendingue, Maricris <mprendingue@mcguirewoods.com>; Gadeir Abbas <gAbbas@cair.com>; Joe <joe@jchilderslaw.com>; Nieves Bolanos <mnbolanos@hq-law.com>; Patrick Cowlin <pcowlin@hq-law.com>; Summer Murshid <smurshid@hq-law.com>

Subject: Re: Written Questions for Office of Equal Opportunity Case No. 20251230

****EXTERNAL EMAIL; use caution with links and attachments****

Dear Farnaz,

We are in receipt of your email from Monday with the 42 factual and legal questions. Many of these questions have no arguable relation to any University policy. See e.g. Question 19 (“Describe in detail or provide any emails from you regarding the Israeli-Palestinian conflict on listserves [sic] that the University of Kentucky or the Association of American Law Schools (‘AALS’) host.”). Some of them are also unreasonably broad. See e.g. “Provide any . . . legal arguments . . . you deem relevant to this investigation.”).

We are filing a motion for injunctive relief this week regarding this investigation. I ask that the University extend the deadline for Professor Woodcock’s response to these questions until after the Court’s ruling on that motion. We will seek a hearing date prior to December 14 if necessary, but we would prefer to provide the parties and the Court more time for briefing. Please let us know if the University is amenable to this extension.

Thank you,

Rima

On Mon, Dec 1, 2025 at 7:40 AM Thompson, Farnaz Farkish <FThompson@mcguirewoods.com> wrote:

Dear Rima,

I hope you had a good Thanksgiving. Attached, please find my letter with the written questions for Professor Woodcock. Please do not hesitate to contact me, should you have any questions.

Sincerely,

Farnaz

Farnaz Farkish Thompson 

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From: [Rima Kapitan](#)
To: [Thompson, Farnaz Farkish](#)
Cc: [Thro, William](#); [Mudd, Sarah G.](#); [Prendique, Maricris](#); [Gadeir Abbas](#); [Joe](#); [Nieves Bolanos](#); [Patrick Cowlin](#); [Summer Murshid](#)
Subject: Re: Written Questions for Office of Equal Opportunity Case No. 20251230
Date: Wednesday, December 3, 2025 2:33:36 PM

****EXTERNAL EMAIL; use caution with links and attachments****

Dear Farnaz,

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Dear Rima,

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Sincerely,

Farnaz

Farnaz Farkish Thompson 

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fthompson@mcguirewoods.com

[Bio](#) | [VCard](#) | www.mcguirewoods.com



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From: [Thompson, Farnaz Farkish](#)
To: [Rima Kapitan](#)
Cc: [Thro, William](#); [Mudd, Sarah G.](#); [Prendique, Maricris](#)
Subject: Written Questions for Office of Equal Opportunity Case No. 20251230
Attachments: [2025.12.01 Letter to R Kapitan - Written Questions - OEO Case No. 20251230.pdf](#)

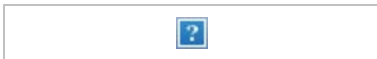
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Sincerely,
Farnaz

Farnaz Farkish Thompson 

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December 1, 2025

By Electronic Mail Only

Rima Kapitan
Kapitan Gomaa Law, P.C.
P.O. Box 6779
Chicago, IL 60680
rima@kapitangomaa.com

Re: Written Questions
University of Kentucky, Office of Equal Opportunity Investigation No. 20251230

Dear Ms. Kapitan:

As you are Professor Ramsi Woodcock's attorney and advisor for the University of Kentucky's Office of Equal Opportunity Investigation No. 20251230, I am sending you the written questions for Professor Woodcock to respond to in writing **on or before December 15, 2025**. Although my letter, dated August 25, 2025, states that Professor Woodcock will have seven (7) calendar days to respond to written questions, Professor Woodcock is welcome to take fourteen (14) calendar days.

Evidence from Professor Woodcock. By way of background, I met with Professor Woodcock on or about August 22, 2025, and requested that he provide the names of potential witnesses and any evidence that he would like me to consider. I reiterated this request in my August 25, 2025, and September 29, 2025, letters and in my October 14, 2025, email to you. I have received the following items from you on behalf of Professor Woodcock:

- Received October 9, 2025:
 - "link to Prof. Woodcock's remarks at the antitrust symposium . . . in bullet point 2 of [the] July 22, 2025 Notice of Investigation" (link to video)
 - "recording of the 'optional lecture' . . . referenced in [the] September 8, 2025 Amended Notice of Investigation" (link to audio recording)
- Received the following pdf files on October 29, 2025:
 - 25-10-27_Declaration of Lucy Bolter
 - 25-10-28_Declaration of Ben Caldwell
 - 25-03-17 University of Kentucky Mail - Letter Opposing Detention & Deportation of Critics of US Foreign Policy (1)
 - 25-03-17 University of Kentucky Mail - Letter Opposing Detention & Deportation of Critics of US Foreign Policy
 - 24-12-10 University of Kentucky Mail - Fwd_ Busted
 - 24-10-25 University of Kentucky Mail - Fwd_ The History of the Teddy Bear _ Smithsonian

- 24-10-10 University of Kentucky Mail - Fwd_ This XXL Cordon Bleu Recipe Is Jam-Packed With Extra Ham, Cheese & Deliciousness! - YouTube
- 24-09-14 University of Kentucky Mail - Fwd_ Did your human try to eat you dog lawyer cartoon
- 21-04-26 University of Kentucky Mail - Sign before Monday at 2 PM
- 21-04-20 University of Kentucky Mail - Update re_ our letter, and announcement about a special Senate Meeting.
- 21-04-20 University of Kentucky Mail - FW_ Please sign and share this letter in support of faculty governance
- 21-01-21 University of Kentucky Mail - Fw_ Georgia lawyer said he kicked in Pelosi's door, she could've been 'torn into little pieces'
- 20-07-23 University of Kentucky Mail - For those of you interested_ Petition to divest UK retirement funds from private prisons
- 20-06-10 University of Kentucky Mail - Fw_ Call to Action for Letters to the Editor
- 20-06-09 University of Kentucky Mail - Join me by signing this letter
- Received the following pdf file on October 30, 2025:
 - 25-10-29_Declaration of Zach Lee
- Received the following png files on October 31, 2025:
 - 25-11-03_Reproductive Rights
 - 25-10-23_DEI_Constitutional crisis
 - 25-09-24_Fed Soc. originalism
 - 25-03-25_electoral college is good
- Received the following pdf file on November 1, 2025:
 - 25-10-31_Declaration of Bird-Pollan
- Received the following pdf files on November 8, 2025:
 - 25-11-07_Declaration of Florentino Hawthorne
 - 25-11-07_Declaration of Donovan
 - 23-12-23 - Genocide Issues_Redacted
- Filed November 13, 2025:
 - *Woodcock v. The University of Kentucky, et al.*, Complaint and Request for Injunctive Relief, U.S. District Court for the Eastern District of Kentucky, Lexington Division, No. 5:25-cv-00424 (Nov. 13, 2025) (hereinafter "Complaint").

Written Questions for Professor Woodcock. Please provide written responses to the questions below. If Professor Woodcock does not know the answer to the question, please state that he does not know. If Professor Woodcock knows part of the answer to a question, please provide all responsive information known and specify in what respect the response is or may be incomplete due to partial lack of knowledge. If Professor Woodcock does not know the exact dates, amounts, or other figures or facts, but he has sufficient information to make an approximate or estimated answer, please respond to the question and indicate that it is an approximation or estimate because more precise information is not known or available to Professor Woodcock. "You," "your," or "yours" refers to Professor Woodcock in the following questions:

I. Law and Technology Conference, Chinese University of Hong Kong, Center for Legal Innovation and Digital Society – May 30, 2025

1. Describe your conduct on or about May 30, 2025, at the Law and Technology Conference in Hong Kong, hosted by the Chinese University of Hong Kong, Center for Legal Innovation and Digital Society (hereinafter “CUHK Conference”).
2. Who invited you to present at the CUHK Conference? If no one invited you, how did you come to present at the CUHK Conference?
3. What is the topic that you were asked to present about (or volunteered to present about) at the CUHK Conference?
4. Do you agree that the agenda for the CUHK Conference is accurately captured [here](#) and attached as Exhibit A? If not, provide a copy of the agenda for the CUHK Conference or describe the agenda.
5. According to Exhibit A, the title of your panel is “Competition Law and Policy in Digital Markets.” Does this title accurately capture the topic that you were expected to address at the CUHK Conference? If not, why not?
6. Did you address any topic other than “Competition Law and Policy in Digital Markets” during your panel presentation at the CUHK Conference? If so, which other topic(s) did you address and why?
 - a. Did you address the Israeli-Palestinian conflict at the CUHK Conference? If so, please describe how you addressed this topic and include any statements you made about the Israeli-Palestinian conflict.
 - b. What relevance, if any, did the Israeli-Palestinian conflict have to the panel on “Competition Law and Policy in Digital Markets” at the CUHK Conference?
 - c. If the Israeli-Palestinian conflict was not relevant to the topic of your panel, why did you address the Israeli-Palestinian conflict while presenting at the CUHK Conference?
7. Describe what occurred during the question and answer (“Q&A”) session at the conclusion of your presentation at the CUHK Conference.
 - a. Do you recall any interactions with a professor or attendee who sought to address the Israeli-Palestinian conflict during this Q&A session? If so, describe all interactions with this professor or attendee.
 - b. Did you state or chant “apartheid, apartheid, apartheid,” when a professor or attendee attempted to make a remark or ask a question about the Israeli-Palestinian conflict during the Q&A session at the conclusion of your panel presentation at the CUHK Conference? If so, describe your conduct.

- c. Did the moderator for your panel at the CUHK Conference attempt to take your microphone away during the Q&A session at the conclusion of your panel? If so, how did you react or respond to the moderator?
8. Describe in detail your efforts, if any, to demonstrate or clarify that you were not representing or speaking on behalf of the University of Kentucky or its College of Law when you addressed the Israeli-Palestinian conflict at the CUHK Conference.

II. 27th Annual Antitrust Symposium, George Mason Law Review – February 23, 2024

9. Describe your conduct on or about February 23, 2024, at the 27th Annual Antitrust Symposium, George Mason Law Review (hereinafter “GMU Conference”).
10. Who invited you to present at the GMU Conference? If no one invited you, how did you come to present at the GMU Conference?
11. What is the topic that you were asked to present about (or volunteered to present about) at the GMU Conference?
12. Do you agree that the agenda for the GMU Conference is accurately captured [here](#) and attached as Exhibit B? If not, please include a copy of the agenda for the GMU Conference or describe the agenda.
13. According to Exhibit B, the title of your panel is “Antitrust and Privacy.” Does this title accurately capture the topic that you were expected to address at the GMU Conference? If not, why not?
14. Did you address any topic other than “Antitrust and Privacy” during your panel presentation at the GMU Conference? If so, which other topic(s) did you address and why?
 - a. Did you address the Israeli-Palestinian conflict at the GMU Conference? If so, please describe how you addressed this topic and include any statements you made about the Israeli-Palestinian conflict. (You previously provided a [link](#) to a recording of this GMU Conference, and you are welcome to refer to that recording. Please state whether you agree that the recording you previously provided accurately captures your conduct.)
 - b. What relevance, if any, did the Israeli-Palestinian conflict have to the panel on “Antitrust and Privacy” at the GMU Conference?
 - c. If the Israeli-Palestinian conflict was not relevant to the topic of your panel, why did you address the Israeli-Palestinian conflict while presenting at the GMU Conference?
15. After you addressed the Israeli-Palestinian conflict during your panel presentation at the GMU Conference, did you notice anyone leave the GMU Conference? If so, please describe in detail approximately how many people left and what happened.

- a. Do you know why attendees left the GMU Conference immediately after you addressed the Israeli-Palestinian conflict during your panel presentation?
 - b. Did anyone at the GMU Conference ever address with you why attendees left the GMU Conference immediately after you addressed the Israeli-Palestinian conflict during your panel presentation?
16. Do you recall whether any official on behalf of GMU addressed the attendees at the GMU Conference to clarify that GMU and the GMU Law Review do not hold, espouse, or in any way support the position regarding the Israeli-Palestinian conflict that you presented at the GMU Conference? If so, describe what occurred.
 17. Describe in detail your efforts, if any, to demonstrate and clarify that you were not representing or speaking on behalf of the University of Kentucky or its College of Law when you addressed the Israeli-Palestinian conflict at the GMU Conference.
 18. State whether you communicated with organizers from George Mason University or its Law Review before or after the GMU Conference to address concerns and, if so, describe those communications.

III. Use of Listserves

19. Describe in detail or provide any emails from you regarding the Israeli-Palestinian conflict on listserves that the University of Kentucky or the Association of American Law Schools (“AALS”) host.
20. Explain the relevance your emails have, if any, to the subject or purpose of each listserve.
21. Provide any email address(es) you used when you sent emails about or related to the Israeli-Palestinian conflict to any AALS listserves or any University of Kentucky listserves.
22. For each listserve, including listserves not affiliated with the University of Kentucky or AALS, on which you used your University of Kentucky email address, and on which you addressed the Israeli-Palestinian conflict, state the basis of your access to such listserve (e.g., by virtue of your faculty status, by virtue of provision by the University of Kentucky, or personal subscription).
23. For each listserve, including listserves not affiliated with the University of Kentucky or AALS, on which you posted using your University of Kentucky email address, and on which you addressed the Israeli-Palestinian conflict, state the purpose, membership, moderation rules, and applicable policies.
24. Define the frequency and volume of your posts, messages, or emails regarding the Israeli-Palestinian conflict, to the AALS listserves, the University of Kentucky listserves, and any other listserves you accessed using your University of Kentucky email address.

- a. Describe whether your posts, messages, or emails on these listserves were solicited or responsive to other posts, messages, or emails.
 - b. Describe whether any moderators (or other individuals who help administer these listserves) warned, limited, or sanctioned you for the substance or frequency of your posts.
25. At the time you sent emails about or related to the Israeli-Palestinian conflict to any listserves, did your email signature identify you as a Professor at the University of Kentucky? If so, replicate that email signature below.
26. Describe in detail any efforts you took, statements you made, and any other ways you demonstrated or clarified, when sending emails, posts, or any other messages about or related to the Israeli-Palestinian conflict on listserves, that you were not representing or speaking on behalf of the University of Kentucky or its College of Law.

IV. Online Platforms – Official Versus Personal Capacity

27. List any online platforms, including but not limited to blogs, social media websites, discussion boards, or organizational websites, on which you have made statements about or related to the Israeli-Palestinian conflict and on which you have identified yourself as a Professor at the University of Kentucky or its College of Law. For each platform, explain in detail where and how you identified yourself in this way, e.g., in your social media bio, in the content posted, or in your title.
28. By identifying yourself as a University of Kentucky professor, have you represented that your posts represent or are made on behalf of the University of Kentucky or its College of Law?
- a. If not, describe what efforts you took, statements you made, and any other ways you demonstrated or clarified that your posts were not made on behalf of the University of Kentucky or its College of Law.
29. For the online “Petition for Military Action Against Israel” (“Petition”), identify the platform, the date of creation, the Petition’s text, and all means by which you distributed it.
- a. Identify any and all University of Kentucky, including College of Law, resources used to create, host, circulate, or promote the Petition, including, but not limited to, email accounts, listserves, websites, or devices.
 - b. For the identified resources above, state whether you sought or obtained approval to use any such resources.
30. Describe in detail any efforts you took to demonstrate or clarify when distributing this Petition that you were not speaking on behalf of the University of Kentucky or its College of Law.

V. Optional Lecture

31. Did you organize the optional lecture in this [recording](#) provided in Ms. Kapitan's email, dated October 9, 2025?
32. What was the purpose of the optional lecture? Who was invited to this optional lecture?
33. How was this optional lecture advertised or made known to students?
34. Provide the relevant context for the following statement in Ms. Kapitan's, October 9, 2025, email that you made during this optional lecture:

So I have a question. So we had an incident last year on campus that raised some questions for me. We had some students who, I think it was like in November, you know, a little while. **It was sort of after October 6 7th, and the Israeli genocide of Palestinians was getting underway.** And these students sent an email to, they wanted to send an email to the entire student body. And I don't know exactly how it works, but like to send an email to the entire student body, they had to go through the president of the student government here, the SBA, and they so this SBA chair, and the email said something like, you know, there's, you know, crimes against humanity going on right now in Palestine. We urge you to reach out to your, you know, senators, congressmen. Here's a link to a web form where you can just put your name in and it'll sort of send a hand, you know, complaint about American policy. And so they sent this and the SBA head said, you know, so I don't know if all the emails that go out to the student listserv have to be checked by the SBA head with sort of the administration or if this one was just flagged by the head. Like, I don't know all the facts, but somehow this particular email got sent to the administration and apparently got run all the way up the flagpole. Like it went all the way up to sort of the very top of the university. I guess this was within a few months of the United. Yeah, it was like late November. And so before the campus protest stuff started in the spring. And so the word came back to the students that they weren't allowed to send this because it was political in nature. That was the word that was given. So this student said, well, wait a second, you know, under the previous dean, like over the past few years, they had received several communications from the College of Law Dean's Office about sort of outside events that could be understood as being political. So, for example, when there was like a mass shooting in California that involved an Asian massage parlor, the dean sent a message to the entire student body saying, you know, we stand in solidarity with Asian Pacific Americans." And there'd been a few other instances like that in which this list serve had been used by the administration to take what might be considered political positions. soon said, you know, this is an inconsistent treatment, you know, this

form has been opened up to political discussion in the past, and we want to communicate with other students about this issue that, you know, we find incredibly troubling. And the administration sort of thought about it again and said, no, sorry, we're not going to do it. And so, and that was it. And the students were, and, you know, just to give some background, like, you know, these students were, you know, sort of, I'd say some of the very few students coming from an immigrant background in, you know, in in our College of law community. And they really, it had this like incredible effect on them. I mean, they just sort of were like, okay, you know, we're not, we don't feel welcome in this space, basically. And that was it. Like they just sort of went undercover and kind of disappeared. And, you know, and so I didn't even hear about this. Like, normally, you know, I was chair last year of the same community and engagement committee when we normally, you know, normally there's like communication between the administration and me about issues like this, and there was like no communication with me at all. It was like handled entirely, you know, without sort of faculty input. And so I only found out about it like at the end of December. It was like six weeks after it had actually happened. And so when I asked the administration about this, I was told that there had been some like very high level working group that had been convened. And the working group had decided that specifically with respect to Palestine, there could be no discussion that wasn't both sides in nature. And that was that was the language that was given to me. **Because I had said, well, you know, maybe we should support these students by like, you know, having bringing somebody in to talk, you know, let's bring a genocide expert in to talk about what's going on. And the word 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. I mean, that's basically what I was told. So, where does that stand in terms of like, you know, First Amendment protection, um you know, you know, what's your view as a, you know, as a First Amendment scholar?"**

- a. Identify who said that "if you bring in somebody who's like anti-genocide, you have to bring in someone who's pro-genocide."
 - i. Did this individual say that if you invite someone who is pro-Palestinian, then you have to invite someone who is pro-Israeli? If so, is it your interpretation that anyone who is pro-Israeli is pro-genocide?
- b. During this recording, you suggested bringing in a "genocide expert." Who would qualify as a "genocide expert" in your opinion? What credentials or academic expertise would one need to have to qualify as a "genocide expert" in your opinion?

VI. Public Interest Law Foundation Fundraiser

35. Describe your role, if any, in the Public Interest Law Foundation Fundraiser (“Fundraiser”) in spring 2025.
 - a. Did students approach you about being involved in this Fundraiser? If so, who?
 - b. Did students propose a day with you as an item that students may bid for as part of this Fundraiser? If not, who proposed a day with you as an item for the Fundraiser?
36. In your opinion, is the Public Interest Law Foundation a student organization that the University of Kentucky recognizes? Why or why not?
37. Describe what occurred on or about March 22, 2025, with the students who won the bid to spend the day with you as part of the Fundraiser.
 - a. How did your conduct on March 22, 2025, with students align with your statement to your colleague referenced in Paragraph 47 of the Complaint that “[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”?
38. Identify the names of all students who spent the day with you on or about March 22, 2025, as part of the Fundraiser.

VII. Scope of Appointment at the University of Kentucky & Academic Freedom

39. Describe the full scope of your appointment at the University of Kentucky.
40. List all formal correspondence from the University of Kentucky appointing you to a professorship, promoting you, or granting you any other professional role at the institution. Provide such correspondence and documentation of appointments.
41. Describe your academic expertise. (Paragraph 20 of the Complaint states: “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.”)
 - a. Is your academic expertise in antitrust and commercial law?

- b. Do you consider your academic expertise to include international law or governmental legitimacy? If so, please list your courses, research, and scholarly publications about international law or governmental legitimacy.
- c. Describe your research regarding genocide as referenced in Paragraphs 43, 44, and 46.

VIII. Miscellaneous

- 42. Provide any facts, legal arguments, names of witnesses, or any other information you deem relevant to this investigation.

* * *

I look forward to receiving your responses to these questions. Please note that your responses will become part of the evidence for the First Evidence Review described in my August 25, 2025, letter. As stated in my August 25, 2025, letter, 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. 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 original Notice of Investigation and Amended 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 (2) 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.

Please do not hesitate to contact me at 202-857-2488 or fthompson@mcguirewoods.com, should you have any questions.

Sincerely,



Farnaz F. Thompson
Partner

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

EXHIBIT A

5TH MACHINE LAWYERING CONFERENCE 29-30 May 2025 Hosted by Centre for Legal Innovation & Digital Society (CLINDS), CUHK LAW	
29 May 2025 (Thursday)	
09:00-09:10	<u>Welcome Remarks and Ceremony for Best Paper Prize & Honourable Mention Award</u> Moderator: Prof. Eliza MIK – Assistant Professor, CUHK LAW • Prof. Jyh-An LEE – Acting Dean and Executive Director, CLINDS, CUHK LAW
09:10-09:50	<u>Keynote Speech I</u> Moderator: Prof. Stuart HARGREAVES – Associate Professor, CUHK LAW • Prof. Joel SLAWOTSKY – Professor, Harry Radzyner Law School, Reichman University, <i>New Frontier Technologies, Competition Law, and National Security in the Era of Strategic Rivalry</i> (Best Paper Prize)
09:50-10:30	<u>Keynote Speech II</u> Moderator: Prof. Stuart HARGREAVES – Associate Professor, CUHK LAW • Prof. Lin William CONG – Rudd Family Professor of Management & Professor of Finance, Cornell University; Ms. Yu YAN, PhD Candidate in Finance, National University of Singapore, <i>Centralized Governance in Decentralized Organizations</i> (Best Paper Prize)
10:30-10:50	Tea Break
10:50-12:10	<u>Navigating the Complex Landscape of IP</u> Moderator: Mr. Paul SCHMIDT – Professional Consultant, CUHK LAW • Prof. Michael GOODYEAR – Acting Assistant Professor, New York University School of Law, <i>Artificial Infringement</i> (Honourable Mention)

	• Prof. Lin William CONG – Rudd Family Professor of Management & Professor of Finance, Cornell University, <i>Understanding Patenting Disparities via Causal Human+Machine Learning</i> • Mr. Ronald YU – Visiting Fellow, City University of Hong Kong School of Law, <i>Do Today's IP Rights Offer Sufficient Protection for Agentic AI?</i>
12:10-13:10	<u>Lunch Break</u>
13:10-14:05	<u>Regulating FinTech</u> Moderator – Prof. Eliza MIK, Assistant Professor, CUHK LAW • Mr. Alessio AZZUTTI – Lecturer, University of Glasgow, <i>Good Administration in AI-Enhanced Banking Supervision: A Risk-Based Approach</i> • Prof. Jingyi WANG – Assistant Professor, CUHK LAW, <i>A Simplified Tax Regime for Taxing Cryptocurrencies</i>
14:05-15:00	<u>Making Legal Sense of AI</u> Moderator: Prof. Jingyi WANG – Assistant Professor, CUHK LAW • Prof. María L MENA-DURÁN – Assistant Professor, Caedenal Herrea University, CEU Universities; Prof. Antonio FALCÓ MONTESINOS – Professor, Department of Mathematics, Physics, and Technological Sciences, Cardenal Herrera University, CEU Universities, <i>Is Your Kettle AI? The Expanding Scope of AI Regulation</i> • Prof. Eliza MIK, Assistant Professor, CUHK LAW, <i>From Fake Citations to Flying Pigs: The Dangers of Legal Hallucinations</i>
15:00-15:20	Tea Break
15:20-16:40	<u>Digital Legislature and Judiciary</u> Moderator: Prof. Yueming YAN, Assistant Professor, CUHK LAW • Prof. Xing LIU – Assistant Professor of Finance, Tsinghua University, <i>Unveiling the Fog of Law: Judicial Transparency and Entrepreneurship</i> • Ms. Lilia LAW – JD Candidate, CUHK LAW, <i>Hide-and-Seek with DeepSeek: Legal Liabilities in AI Interactions</i>

30 May 2025 (Friday)	
09:00-09:40	<u>Keynote Speech III</u> Moderator: Prof. Sandra MARCO COLINO – Associate Professor, CUHK LAW • Prof. Kasim BALARABE – Professor and Associate Dean, Jindal Global Law School, <i>Neuro-Legal Interfaces: Exploring the Convergence of Neurotechnology, Artificial Intelligence, and the Law</i> (Best Paper Prize)
09:40-11:00	<u>Competition Law and Policy in the Digital Markets</u> Moderator: Mr. Hans-Guenther HERRMANN – Professional Consultant, CUHK LAW • Prof. Ramsi WOODCOCK – Associate Professor, University of Kentucky, <i>Antitrust & Platforms: A Complete Theory</i> • Prof. Sandra MARCO COLINO – Associate Professor, CUHK LAW, <i>The Calm after the (Chinese Tech Crackdown) Storm</i> • Mr. Jiawei ZHANG – PhD Candidate, Technical University of Munich School of Social Sciences and Technology, <i>From Deepfake 1.0 to 2.0: How Deepfake Ruins Inter-Informational Competitive Order, and How Can We Rebuild It?</i> (Honourable Mention)
11:00-11:20	Tea Break
11:20-12:15	<u>Digital Criminal Justice</u> Moderator: Prof. Dicky TSANG – Associate Professor, CUHK LAW • Prof. Chung-Chia HUANG – Assistant Professor, National Taiwan University, <i>Holding Users Accountable: Users' Criminal Liability for Harm Caused by their AI Systems</i> • Ms. Jasmine WAN – JD Candidate, CUHK LAW, <i>Virtual Crimes, Real Consequences: Addressing the Legal Implications of the Metaverse in Relation to Virtual Property Theft, Unauthorised Access and Regulations in Hong Kong</i>
12:15-13:15	<u>Lunch Break</u>
13:15-14:35	<u>Challenges in Protecting Digital Personal Data and Privacy</u>

	Moderator: Prof. Normann WITZLEB – Associate Professor, CUHK LAW • Ms Qian YIN – PhD Candidate, CUHK LAW, <i>Data Privacy Rights in Health Data Sharing: A Government-Centric Paradigm in China</i> • Ms. Peng GUO – PhD Candidate, Faculty of Law, University of Macau, <i>Safeguarding Sacred Brain Privacy: Addressing Legal Challenges in the Age of Brain-Computer Interface Technology</i> • Ms. Anqi WANG, PhD Candidate, CUHK LAW, <i>It's Not All About Privacy: the Hidden Interests for Data Protection</i>
14:35-14:55	Tea Break
14:55-15:45	<u>Digital Natives</u> Moderator: Professor Siyi LIN – Assistant Professor, CUHK LAW • Ms. Chattrika NAPATANAPONG – Lecturer, Faculty of Law, University of the Thai Chamber of Commerce (UTCC); Ms. Atcharaporn ARIYASUNTHORN – Researcher, Thailand Development Research Institute (TDRI), <i>Reinforcing Child Data Protection Laws in Thailand in the Age of Technological Change</i> • Ms. Zelin WANG – PhD Candidate, CUHK LAW, <i>Understanding China's Unique Approach to Online Gaming Regulation</i>
15:45-16:35	<u>Economic and Empirical Analysis of Digital Technology Law</u> Moderator: Professor Siyi LIN – Assistant Professor, CUHK LAW • Mr. Yida CAI – PhD Candidate, School of Law, City University of Hong Kong, <i>Essential Facilities Doctrine for Second Phase Data Competition: From the Perspective of Econometric Efficiency</i> • Mr. Dong WANG – JD Candidate, CUHK LAW, <i>Copyright Protection of AI-Generated Works: An Empirical Analysis of Academic Impact in Law and Literature</i>
16:35- 16:40	<u>Closing Remarks</u> • Prof. Jyh-An LEE – Professor and Executive Director, CLINDS, CUHK LAW

EXHIBIT B

GEORGE MASON
LAW REVIEW<https://lawreview.gmu.edu>

CATEGORY: SYMPOSIA (/SYMPOSIA)

2024 SYMPOSIUM • FEBRUARY 23, 2024

27th Annual Antitrust Symposium

Spring Symposium in collaboration with the Global Antitrust Institute

REGISTER HERE

([HTTPS://WEB.CVENT.COM/EVENT/DA9D53A3-624B-4B53-A68F-D6B13379FC89/REGPROCESSSTEP1](https://web.cvent.com/event/DA9D53A3-624B-4B53-A68F-D6B13379FC89/REGPROCESSSTEP1))

F97EAG1A-5B79-4AA6-BF27-C74F537C7DDA : 000109 of 000235

The poster features a blue background with a stylized illustration of a person holding scales of justice, surrounded by icons representing law, economics, and global connectivity. The text is in white and yellow, providing details about the event.

George Mason Law Review

27th Annual Antitrust Symposium

February 23, 2024

Antonin Scalia Law School
Arlington, Virginia

GAI GLOBAL ANTITRUST INSTITUTE
ANTONIN SCALIA LAW SCHOOL | GEORGE MASON UNIVERSITY

GEORGE MASON LAW REVIEW
Scientia et Veritas

LAW & ECONOMICS CENTER

Schedule



GEORGE MASON
LAW REVIEW

All panels will be in Van Metre Hall

(<https://lawreview.gmu.edu>)

8:00 – 8:50 A.M.

Continental Breakfast, Van Metre Hall Gallery

9:00 – 9:10 A.M.

Welcome & Opening Remarks

Megan Dill, Symposium Editor, George Mason Law Review

Donald J. Kochan, Professor of Law and Executive Director, Law & Economics Center, George Mason University Antonin Scalia Law School

John M. Yun, Associate Professor of Law, George Mason University Antonin Scalia Law School

9:10 – 10:30 A.M.

Panel 1: *The FTC and DOJ's Draft Merger Guidelines*

Dennis W. Carlton, David McDaniel Keller Professor of Economics Emeritus, The University of Chicago Booth School of Business; Senior Managing Director, Compass Lexecon

Aviv Nevo, Director, Bureau of Economics, Federal Trade Commission; George A. Weiss and Lydia Bravo Weiss University Professor, University of Pennsylvania College of Arts and Sciences

Eric A. Posner, Kirkland & Ellis Distinguished Service Professor of Law and Arthur and Esther Kane Research Chair, The University of Chicago Law School

Howard Shelanski, Joseph and Madeline Sheehy Chair in Antitrust Law and Trade Regulation and Professor of Law, Georgetown University Law Center

Valerie Suslow, Professor of Economics, Johns Hopkins Carey Business School

More panelists to be announced.

Moderator: Alexander Raskovich, Director of Research, Global Antitrust Institute (GAI)

10:30 – 10:50 A.M.

Break

10:50 A.M. – 12:10 P.M.

Panel 2: Digital Markets Act Enforcement and Compliance

Neil Chilson, Senior Research Fellow, Center for Growth and Opportunity

Nikhil Shanbhag, Vice President and Associate General Counsel, Product Legal, Competition and Telecommunications Law, Meta Inc.

More panelists to be announced.

Moderator: Judge Douglas H. Ginsburg, Judge, U.S. Court of Appeals for the District of Columbia Circuit; Professor of Law, George Mason University Antonin Scalia Law School

12:10 – 12:35 P.M.

Lunch, *Van Meter Hall Multipurpose Room*

12:35 – 1:55 P.M.

Lunch & Panel 3: Antitrust and Privacy

D. Daniel Sokol, Carolyn Craig Franklin Chair in Law, Professor of Law and Business, Gould School of Law, and Affiliate Professor of Business, Marshall School of Business, University of Southern California

Andrew Stivers, Director, NERA Economic Consulting, Inc.

Ramsi Woodcock, Wyatt, Tarrant & Combs Associated Professor of Law Secondary Appointment, Gatton College of Business & Economics, J. David Rosenberg College of Law, University of Kentucky

Koren W. Wong-Ervin, Partner, Jones Day

More panelists to be announced.

Moderator: James C. Cooper, Director, Program on Economics & Privacy; George Mason University Antonin Scalia Law School

1:55 – 2:05 P.M.

Break

2:05 – 3:25 P.M.

Panel 4: U.S. Tech Litigation Download

Ling Ling Ang, Managing Director, NERA Economic Consulting, Inc.

Dale Collins, Adjunct Professor of Law, Georgetown University Law Center

Kristen Limarzi, Partner, Gibson Dunn & Crutcher LLP

Michael A. Salinger, Jacqueline J. and Arthur S. Bahr Professor of Management and Professor of Economics, Boston University School of Management; Senior Academic Advisor, Charles River Associates

(<https://lawreview.gmu.edu>)

More panelists to be announced.

Moderator: John M. Yun, Associate Professor of Law, George Mason University Antonin Scalia Law School

3:25 – 3:45 P.M.

Break

3:45 – 4:45 P.M.

A Conversation on Antitrust

An esteemed **Special Guest** (to be announced) joins **Judge Douglas H. Ginsburg**

4:45 – 4:55 P.M.

Closing Remarks

Judge Douglas H. Ginsburg, Judge, U.S. Court of Appeals for the District of Columbia Circuit; Professor of Law, George Mason University Antonin Scalia Law School

4:55 – 6:00 P.M.

Reception

GMU

CONTACT

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EXHIBIT 8

From: [Rima Kapitan](#)
To: [Thompson, Farnaz Farkish](#)
Cc: [Joe](#); [William E. Thro](#); [Sarah G. Mudd](#); [Prendingue, Maricris](#); [Bryan Beaman](#); [Carmine G. Iaccarino](#); [Nieves Bolanos](#)
Subject: Re: Professor Woodcock's Response to the Written Questions
Date: Tuesday, September 1, 2026 10:32:48 AM

Dear Farnaz,

Because the Court of Appeals did not address the substantive merits of the injunction motion, we ask that the deadline for Prof. Woodcock to respond to your questions about his political speech be postponed until two weeks after the decision of the District Court on his injunction motion or the decision on any appeal thereof, whichever is later. Whether it is legal to ask Prof. Woodcock to respond to those questions is one of the questions at issue in this motion.

Thank you,

Rima

On Tue, Aug 25, 2026 at 8:03 AM Thompson, Farnaz Farkish
<FThompson@mcguirewoods.com> wrote:

Dear Rima,

We previously agreed that Professor Woodcock may respond to the written questions two weeks (14 calendar days) after the U.S. Court of Appeals for the Sixth Circuit has ruled on the merits of Professor Woodcock's appeal of the federal district court's decision. I understand that on August 24, 2026, the U.S. Court of Appeals for the Sixth Circuit ruled on the merits of Professor Woodcock's appeal of the federal district court's decision. Accordingly, Professor Woodcock has until Tuesday, September 8, 2026, to respond to the attached written questions. If I do not receive a response to the written questions on or before September 8, 2026, I will conclude that Professor Woodcock does not wish to participate in this investigation.

Kind regards,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: [+1 202 857 2488](tel:+12028572488) | M: [+1 703 798 0182](tel:+17037980182)

fthompson@mcguirewoods.com

From: Rima Kapitan <rima@kapitangomaa.com>
Sent: Friday, February 20, 2026 8:33 PM
To: Thompson, Farnaz Farkish <FThompson@mcguirewoods.com>
Cc: Joe <joe@jchilderslaw.com>; William E. Thro <william.thro@uky.edu>; Sarah G. Mudd <sarah.mudd@uky.edu>; Prendingue, Maricris <mprendingue@mcguirewoods.com>; Bryan Beauman <BBeauman@sturgillturner.com>; Carmine G. Iaccarino <Carmine@sturgillturner.com>
Subject: Re: Professor Woodcock's Response to the Written Questions - Due March 6, 2026

****EXTERNAL EMAIL; use caution with links and attachments****

Thank you for letting me know.

Rima

On Fri, Feb 20, 2026 at 7:10 PM Thompson, Farnaz Farkish <FThompson@mcguirewoods.com> wrote:

Dear Rima,

Professor Woodcock may respond to the written questions two weeks (14 calendar days) after the U.S. Court of Appeals for the Sixth Circuit rules on the merits of your appeal of the federal district court's decision.

Sincerely,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: [+1 202 857 2488](tel:+12028572488) | M: [+1 703 798 0182](tel:+17037980182)

fthompson@mcguirewoods.com

On Feb 20, 2026, at 7:01 PM, Rima Kapitan <rima@kapitangomaa.com> wrote:

****EXTERNAL EMAIL; use caution with links and attachments****

Farnaz,

Yes, we're seeking a two-week extension until after the decision on our appeal of the district court's decision denying our motion for injunctive relief and granting the motion to abstain.

Rima

On Fri, Feb 20, 2026, 5:26 PM Thompson, Farnaz Farkish <FThompson@mcguirewoods.com> wrote:

Dear Rima,

I am not sure I understand your request. Are you requesting an extension until two weeks after the U.S. Court of Appeals for the Sixth Circuit decides the merits of Professor Woodcock's appeal of the federal district court's order, granting the University of Kentucky's and other defendants' Motion to Abstain?

Thank you for clarifying your request.

Sincerely,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: [+1 202 857 2488](tel:+12028572488) | M: [+1 703 798 0182](tel:+17037980182)

fthompson@mcguirewoods.com

On Feb 20, 2026, at 4:46 PM, Rima Kapitan
<rima@kapitangomaa.com> wrote:

****EXTERNAL EMAIL; use caution with links and attachments****

Dear Farnaz,

We ask that the deadline for answering the questions be delayed until after a decision on our appeal of the injunction. We are filing a motion to expedite, and the University would not be harmed by the additional delay.

Rima

On Fri, Feb 20, 2026 at 10:26 AM Thompson, Farnaz Farkish
<FThompson@mcguirewoods.com> wrote:

Dear Rima,

I am following up on your e-mail, below. As the U.S. Court of Appeals for the Sixth Circuit denied the motion for injunction pending appeal, I assume we can expect Professor Woodcock's responses to the written questions within 14 days or on or before March 6, 2026.

Sincerely,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: [+1 202 857 2488](tel:+12028572488) | M: [+1 703 798 0182](tel:+17037980182)

fthompson@mcguirewoods.com

From: Rima Kapitan <rima@kapitangomaa.com>

Sent: Friday, January 23, 2026 7:27 PM

To: Thompson, Farnaz Farkish

<FThompson@mcguirewoods.com>

Cc: Joe <joe@jchilderslaw.com>; William E. Thro

(<william.thro@uky.edu> <william.thro@uky.edu>; Mudd, Sarah

G. <sarah.mudd@uky.edu>; Prendingue, Maricris

<mprendingue@mcguirewoods.com>

Subject: Re: injunction motion pending

****EXTERNAL EMAIL; use caution with links and attachments****

Great, thank you for responding.

Rima

On Fri, Jan 23, 2026 at 6:22 PM Thompson, Farnaz Farkish

<FThompson@mcguirewoods.com> wrote:

Dear Rima,

I hope you are doing well. I would like to confirm that Professor Woodcock would like to request an extension to respond to the written questions after the Sixth Circuit rules on his motion for injunction pending appeal. If I am understanding your request correctly and if the Sixth Circuit denies the motion for injunction pending appeal, Professor Woodcock may respond to the written questions within 14 days after the Sixth Circuit rules on this motion.

Sincerely,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: [+1 202 857 2488](tel:+12028572488) | M: [+1 703 798 0182](tel:+17037980182)

ftompson@mcguirewoods.com

From: Rima Kapitan <rima@kapitangomaa.com>

Sent: Friday, January 23, 2026 4:59 PM

To: Thompson, Farnaz Farkish

<FTompson@mcguirewoods.com>; Joe

<joe@jchilderslaw.com>

Subject: injunction motion pending

****EXTERNAL EMAIL; use caution with links and attachments****

Farnaz,

Joe Childers is filing an injunction motion in the Sixth Circuit Court of Appeals now. We expect a ruling fairly soon. Can Prof. Woodcock have an extension on responding to your list of questions until the ruling on that motion?

Thank you,

Rima

--

Rima Kapitan | Partner

Kapitan Gomaa Law

(312) 566-9590 ext. 0 | Direct

www.kapitangomaa.com

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EXHIBIT 9

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

Ramsi A. Woodcock,

Plaintiff,

v.

Case No. 5:25-cv-00424-BJB

University of Kentucky et al.,

Defendants.

**PLAINTIFF'S STATUS REPORT AND
NOTICE OF FORTHCOMING EMERGENCY MOTION**

On January 8, 2026, this Court denied Plaintiff's motion for a preliminary injunction, holding that the abstention doctrine set forth in *Younger v. Harris*, 401 U.S. 37 (1971) precluded federal review of the state actions at issue. That Order directed the parties to "tender joint status reports every thirty days, apprising the Court of the status of the investigation as well as any other future proceedings". *Woodcock v. University of Kentucky*, 820 F. Supp. 3d 555, 582 (E.D. Ky. 2026). However, no joint status report has been submitted since June 5, 2026. On July 17, 2026, Judge Benjamin J. Beaton was designated to preside in this case after Judge Caldwell's recusal.¹ Plaintiff respectfully submits this individual status report in light of the forthcoming issuance of the appellate mandate, the recent change in this Court's assigned judge, and the parties' lack of a consensus on the substance of this status report.²

¹ On July 20, 2026, Judge Karen K. Caldwell recused herself from the case and ordered the matter reassigned to Chief Judge David L. Bunning for processing. Order, Dkt. 53. That same day, Chief Judge Bunning referred the matter to Chief Judge Jeffrey S. Sutton of the U.S. Court of Appeals for the Sixth Circuit for reassignment, retroactive *nunc pro tunc* to July 14, 2026. Order, Dkt. 54. Pursuant to that referral, Chief Judge Sutton designated U.S. District Judge Benjamin J. Beaton to the case, which was formally updated on the docket on July 17, 2026. Case Assignment Docket Entry, July 17, 2026.

² Plaintiff sent a draft of this report to counsel for the University defendants and the Attorney General on August 31, 2026. They do not join in this report.

On August 24, 2026—the first day of classes at the University of Kentucky J. David Rosenberg College of Law (“law school”)—the U.S. Court of Appeals for the Sixth Circuit reversed this Court’s abstention order and remanded the case for consideration of Plaintiff’s motion for a preliminary injunction. *Woodcock v. University of Kentucky*, No. 26-5057, slip op. at 5 (6th Cir. Aug. 24, 2026). On August 26, 2026, Plaintiff filed an emergency motion requesting immediate issuance of the mandate in order to allow this Court time to return Plaintiff to teaching this semester. Pl.’s Emerg. Mot. for Immediate Issuance of the Mandate at 2, *Woodcock v. Univ. of Ky.*, No. 26-5057 (6th Cir. Aug. 26, 2026), Dkt. 100-1. Because “[c]lasses during the first week or two of the semester are usually non-substantive or introductory in nature” and the law school “occasionally” “substitutes teaching assignments during or immediately after this period,” Plaintiff has a rapidly closing two-week window (as of yesterday) to obtain an order from this Court returning him to teaching during the fall semester. Woodcock Decl. ¶ 1, Jan. 21, 2026, R. 42-6, Page ID# 2120. On August 27, 2026, the Court of Appeals ordered Defendants to “respond to the motion on or before Wednesday, September 2, 2026. The defendants are requested to include in their response whether they intend to seek, or are considering seeking, rehearing.” Order at 1, *Woodcock v. Univ. of Ky.*, No. 26-5057 (6th Cir. Aug. 27, 2026), Dkt. 101. Accordingly, the Court of Appeals may issue the mandate as soon as this Wednesday, September 2, 2026.

Plaintiff respectfully informs this Court that immediately after the issuance of the mandate, Plaintiff intends to file an emergency motion requesting that this Court hold oral argument and issue a ruling on Plaintiff’s motion for a preliminary injunction **no later than Friday, September 11, 2026**. Dkt. 19, Mot. for Prelim. Inj. & Expedited Consideration.

The investigation, suspension, and ban at issue in Plaintiff's motion for a preliminary injunction are ongoing. On July 22, 2026, Plaintiff wrote to Defendant Van Tatenhove,³ who had taken office as the new dean of the law school on July 20, 2026, to ask that he exercise his authority—which the University characterizes as “absolute”—to end the suspension and ban imposed on Plaintiff by Van Tatenhove's predecessor. Thro Letter, Sept. 19, 2025, at 1, Dkt. 19-4. On the afternoon of Saturday, August 22, 2026, two days before the start of fall term classes on August 24, 2026, Defendant Van Tatenhove emailed Plaintiff a response letter, dated August 21, 2026, that stated that the interim suspension imposed on Plaintiff was “made for the duration of the investigation”, which is “ongoing,” and that “a review of your status will not be conducted until the investigation is complete.” Exhibit A at 1. On August 25, 2026, the lawyer hired by Defendants to investigate Plaintiff's speech wrote to Plaintiff to request that he respond to written questions by September 8, 2026. Exhibit B at 1.

Respectfully submitted,

/s/ Rima Kapitan

Rima Kapitan
Kapitan Gomaa Law, P.C.
P.O. Box 46503
Chicago, IL 60646
(312) 566-9590

Joe F. Childers
Joe F. Childers & Associates
The Lexington Building
201 West Short Street
Suite 300
Lexington, Kentucky 40507
(859) 253-9824
joe@jchilderslaw.com

³ When he took office as the new dean of the law school on July 20, 2026, Van Tatenhove was automatically substituted as official capacity defendant for former Interim Dean James C. Duff pursuant to Fed. R. Civ. P. 25(d).

INDEX OF EXHIBITS

Exhibit A: Van Tatenhove Email and Letter, August 22, 2026

Exhibit B: Thompson Email, August 25, 2026

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2026, a copy of the foregoing was served electronically in accordance with the method established under this Court's CM/ECF Administrative Procedures and Standing Order upon all parties in the electronic filing system in this case.

/s/ Rima Kapitan

Counsel for Plaintiff

Letter

Van Tatenhove, Gregory F. <gregory.van.tatenhove@uky.edu>
To: "rwo236@g.uky.edu" <rwo236@g.uky.edu>

Sat, Aug 22, 2026 at 3:56 PM

Professor,

Please see the attached.

Sincerely,

Greg

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

Sent: Wednesday, July 22, 2026 7:12 AM

To: Van Tatenhove, Gregory F. <gfva222@uky.edu>

Subject: Letter

You don't often get email from rwo236@g.uky.edu. [Learn why this is important](#)

[Quoted text hidden]



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29K



J. David Rosenberg
College of Law
Office of the Dean

August 21, 2026

Ramsi Woodcock
620 S. Limestone
J. David Rosenberg College of Law
University of Kentucky

Dear Professor Woodcock:

With a letter dated July 18, 2025, from Interim Dean Jim Duff, you were informed of your temporary administrative reassignment. At that time, you were notified that the reassignment was made for the duration of the investigation of allegations related to your conduct. As you know, this investigation is ongoing.

I have had the opportunity to carefully review your letter dated July 22, 2026. In that letter you request that we rescind your reassignment. For the reasons previously stated, a review of your status will not be conducted until the investigation is complete. When this occurs, I will consult with OEO, HR and the Provost's office as to next steps.

We share a common interest in making sure that the process continues to be fair and is resolved as expeditiously as possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory F. Van Tatenhove', with a long horizontal line extending to the right.

Gregory F. Van Tatenhove
Dean
University of Kentucky
J. David Rosenberg College of Law

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



Rima Kapitan <rima@kapitangomaa.com>

RE: Professor Woodcock's Response to the Written Questions

1 message

Thompson, Farnaz Farkish <FThompson@mcguirewoods.com>

Tue, Aug 25, 2026 at 8:02 AM

To: Rima Kapitan <rima@kapitangomaa.com>

Cc: Joe <joe@jchilderslaw.com>, "William E. Thro" <william.thro@uky.edu>, "Sarah G. Mudd" <sarah.mudd@uky.edu>, "Prendingue, Maricris" <mprendingue@mcguirewoods.com>, Bryan Beauman <BBeauman@sturgillturner.com>, "Carmine G. Iaccarino" <Carmine@sturgillturner.com>

Dear Rima,

We previously agreed that Professor Woodcock may respond to the written questions two weeks (14 calendar days) after the U.S. Court of Appeals for the Sixth Circuit has ruled on the merits of Professor Woodcock's appeal of the federal district court's decision. I understand that on August 24, 2026, the U.S. Court of Appeals for the Sixth Circuit ruled on the merits of Professor Woodcock's appeal of the federal district court's decision. Accordingly, Professor Woodcock has until Tuesday, September 8, 2026, to respond to the attached written questions. If I do not receive a response to the written questions on or before September 8, 2026, I will conclude that Professor Woodcock does not wish to participate in this investigation.

Kind regards,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: +1 202 857 2488 | M: +1 703 798 0182

fthompson@mcguirewoods.com

From: Rima Kapitan <rima@kapitangomaa.com>

Sent: Friday, February 20, 2026 8:33 PM

To: Thompson, Farnaz Farkish <FThompson@mcguirewoods.com>

Cc: Joe <joe@jchilderslaw.com>; William E. Thro <william.thro@uky.edu>; Sarah G. Mudd <sarah.mudd@uky.edu>; Prendingue, Maricris <mprendingue@mcguirewoods.com>; Bryan Beauman <BBeauman@sturgillturner.com>; Carmine G. Iaccarino <Carmine@sturgillturner.com>

Subject: Re: Professor Woodcock's Response to the Written Questions - Due March 6, 2026

****EXTERNAL EMAIL; use caution with links and attachments****

Thank you for letting me know.

Rima

F97EA61A-5B79-4AA6-BF27-C74F537C7DDA : 000129 of 000235

On Fri, Feb 20, 2026 at 7:10 PM Thompson, Farnaz Farkish <FThompson@mcguirewoods.com> wrote:

Dear Rima,

Professor Woodcock may respond to the written questions two weeks (14 calendar days) after the U.S. Court of Appeals for the Sixth Circuit rules on the merits of your appeal of the federal district court's decision.

Sincerely,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: +1 202 857 2488 | M: +1 703 798 0182

fthompson@mcguirewoods.com

On Feb 20, 2026, at 7:01 PM, Rima Kapitan <rima@kapitangomaa.com> wrote:

****EXTERNAL EMAIL; use caution with links and attachments****

Farnaz,

Yes, we're seeking a two-week extension until after the decision on our appeal of the district court's decision denying our motion for injunctive relief and granting the motion to abstain.

Rima

On Fri, Feb 20, 2026, 5:26 PM Thompson, Farnaz Farkish <FThompson@mcguirewoods.com> wrote:

Dear Rima,

I am not sure I understand your request. Are you requesting an extension until two weeks after the U.S. Court of Appeals for the Sixth Circuit decides the merits of Professor Woodcock's appeal of the federal district court's order, granting the University of Kentucky's and other defendants' Motion to Abstain?

Thank you for clarifying your request.

Sincerely,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: +1 202 857 2488 | M: +1 703 798 0182

fthompson@mcguirewoods.com

On Feb 20, 2026, at 4:46 PM, Rima Kapitan <rima@kapitangomaa.com> wrote:

****EXTERNAL EMAIL; use caution with links and attachments****

Dear Farnaz,

We ask that the deadline for answering the questions be delayed until after a decision on our appeal of the injunction. We are filing a motion to expedite, and the University would not be harmed by the additional delay.

Rima

On Fri, Feb 20, 2026 at 10:26 AM Thompson, Farnaz Farkish <FThompson@mcguirewoods.com> wrote:

Dear Rima,

I am following up on your e-mail, below. As the U.S. Court of Appeals for the Sixth Circuit denied the motion for injunction pending appeal, I assume we can expect Professor Woodcock's responses to the written questions within 14 days or on or before March 6, 2026.

Sincerely,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: +1 202 857 2488 | M: +1 703 798 0182

fthompson@mcguirewoods.com

From: Rima Kapitan <rima@kapitangomaa.com>
Sent: Friday, January 23, 2026 7:27 PM
To: Thompson, Farnaz Farkish <FThompson@mcguirewoods.com>
Cc: Joe <joe@jchilderslaw.com>; William E. Thro (william.thro@uky.edu) <william.thro@uky.edu>; Mudd, Sarah G. <sarah.mudd@uky.edu>; Prendingue, Maricris <mprendingue@mcguirewoods.com>
Subject: Re: injunction motion pending

****EXTERNAL EMAIL; use caution with links and attachments****

Great, thank you for responding.

Rima

On Fri, Jan 23, 2026 at 6:22 PM Thompson, Farnaz Farkish <FThompson@mcguirewoods.com> wrote:

Dear Rima,

I hope you are doing well. I would like to confirm that Professor Woodcock would like to request an extension to respond to the written questions after the Sixth Circuit rules on his motion for injunction pending appeal. If I am understanding your request correctly and if the Sixth Circuit denies the motion for injunction pending appeal, Professor Woodcock may respond to the written questions within 14 days after the Sixth Circuit rules on this motion.

Sincerely,

Farnaz

Farnaz Farkish Thompson 

Partner

McGuireWoods LLP

T: +1 202 857 2488 | M: +1 703 798 0182

fthompson@mcguirewoods.com

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Sent: Friday, January 23, 2026 4:59 PM

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Subject: injunction motion pending

EXTERNAL EMAIL; use caution with links and attachments

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Joe Childers is filing an injunction motion in the Sixth Circuit Court of Appeals now. We expect a ruling fairly soon. Can Prof. Woodcock have an extension on responding to your list of questions until the ruling on that motion?

Thank you,

Rima

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Rima Kapitan | Partner

Kapitan Gomaa Law

(312) 566-9590 ext. 0 | Direct

www.kapitangomaa.com

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EXHIBIT 10

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

Ramsi A. Woodcock,

Plaintiff,

v.

Case No. 5:25-cv-00424-BJB

Eli Capilouto et al.,

Defendants.

**PLAINTIFF'S RESPONSE TO UNIVERSITY DEFENDANTS' DISPOSITIVE
MOTIONS AND BRIEF ON THE ISSUES IDENTIFIED IN THE COURT'S
OCTOBER 2, 2026 ORDER**

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TBA

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INTRODUCTION

The Court’s October 2 Order asks three questions: whether this phase of the investigation is likely to cause irreparable harm or bears on Woodcock’s likelihood of success, how immunity applies at the temporary-restraining-order stage, and how judicial action or inaction would affect third parties. DN 68. Part I answers those questions. Part II responds to the University Officials’ motion for judgment on the pleadings (DN 63).

Woodcock offers the following short answers. The investigation is not a prelude to the challenged action; it is the challenged action, and its remaining stages (the Second Evidence Review, a report Woodcock will never see, and the President’s findings and any sanction) cannot be undone once they occur. Immunity is no obstacle: qualified immunity does not apply to injunctive relief, and *Ex parte Young* permits prospective relief against officials for an ongoing violation, as the Sixth Circuit held for a professor’s retaliation claim in *Josephson v. Ganzel*, 115 F.4th 771, 782–83 (6th Cir. 2024). And the third parties most affected by the Court’s choice are students who will lose another semester of courses and colleagues who have told the Court they are afraid to speak, while a pause costs the University nothing it did not voluntarily accept for nine months.

Woodcock asks the Court to enter a revised proposed order (Ex. A), which supersedes the one filed with DN 65 and clarifies that he seeks relief from the investigation and suspension only against the University Officials. The University’s motion to dismiss (DN 61) may be denied as moot, because the University itself is not a defendant. Am. Compl. (DN 36) at 1616; *see* MJOP at 2197 n.4 (acknowledging that Woodcock “dropped the University as a defendant”). Given the Order’s expedited schedule, Woodcock requests leave to file a supplemental response to DN 63 by October 16, its due date under LR 7.1(c), if the Court does not resolve that motion at the hearing.

Counsel for the parties conferred about narrowing the disputed issues, as the Order directs. Woodcock proposed pausing the investigation and listing his Spring 2027 courses while the Court

decides the preliminary-injunction motion, as Defendants did while the case was on appeal; Defendants declined, offering only to finish the investigation and give ten days' notice before taking any disciplinary action based on the secret investigation report.

BACKGROUND

The facts relevant to the Court's questions are set out in Woodcock's emergency motion (Mot. TRO (DN 65) at 2315–18) and summarized briefly here. On July 18, 2025, twelve days after Woodcock circulated a Petition for Military Action Against Israel to law professors in discussion groups hosted by the Association of American Law Schools (AALS), the University opened an investigation into his speech. The Dean reassigned him from all teaching, research, and service to “100% professional development,” and barred him from the law school building “while the investigation is ongoing.” Am. Compl. ¶¶ 54, 57–62 (DN 36) at 1633–36;¹ Duff Ltr., July 18, 2025 (DN 19-3) at 493; Capilouto Email, July 18, 2025 (DN 19-3) at 496–97. The Dean restored Woodcock's access to the building on September 28, 2026, four days after the state court asked Defendants to reconsider the ban, but left the reassignment in place. Van Tatenhove Ltr., Sept. 28, 2026 (DN 65-8) at 2405; Franklin Cir. Ct. Order ¶ 5 (DN 69-1) at 2444. The investigator's procedures letter describes the stages of the investigation: fact-gathering, a First Evidence Review, a Second Evidence Review with seven days to respond, a privileged report that Woodcock will not see, and a letter from the President with “the University's findings,” which “will include any sanction,” including possible “termination of a tenured appointment.” Thompson Ltr., Aug. 25, 2025 (DN 19-15) at 1569–71; Am. Compl. ¶ 72 (DN 36) at 1638–39.

Defendants paused the investigation for nine months while this Court and the Sixth Circuit considered Woodcock's motion for a preliminary injunction. Extension Emails (DN 65-2) at 2358,

¹ Page citations to documents filed in this case refer to the PageID numbers assigned by the Court's electronic filing system.

2362, 2370–72. On August 24, 2026, the Sixth Circuit reversed this Court’s abstention order and remanded “for consideration of Woodcock’s motion for a preliminary injunction.” *Woodcock v. Univ. of Ky.*, No. 26-5057, slip op. at 5 (6th Cir. Aug. 24, 2026) (DN 65-4) at 2393. The court held that the investigation “remain[s] in a preliminary, investigatory stage” and that the University “has not even made a threshold determination that Woodcock violated one of its policies.” *Id.* at 4. The day after that decision, Defendants set a September 8 deadline for Woodcock’s answers, and when he asked them to wait for this Court’s ruling, they refused: “I cannot grant any additional extensions.” Extension Emails (DN 65-2) at 2367–69; MJOP at 2202 n.37, 2230. Defendants tell the Court that the investigator will ask follow-up questions of witnesses, conduct the Second Evidence Review, and then issue findings, and that “the remaining final stages should be complete by early November.” *Id.* at 2230–31. The reassignment continues; the new Dean has said it “will not be reviewed until the investigation is complete.” Van Tatenhove Ltr., Sept. 28, 2026 (DN 65-8) at 2405. Defendants accuse Woodcock of forum shopping, DN 69 at 2433–34, but they also argue that this Court, where Woodcock first filed, has priority over the state court, *id.* at 2434 n.9, and the state court denied temporary relief against the investigation only without prejudice, Franklin Cir. Ct. Order ¶ 4 (DN 69-1) at 2444.

ARGUMENT

I. The Court’s Questions

A. The Investigation’s Irreparable Harm and Bearing on Likelihood of Success

1. The Remaining Stages of the Investigation Will Cause Irreparable Harm

a. The investigation is the challenged action. Woodcock does not challenge the investigation as a step toward some later, separate injury. He alleges that Defendants opened and are conducting the investigation to punish his speech, that “the investigation itself, along with the suspension and

banishment, are punishment for Professor Woodcock’s protected speech,” and that it “is being conducted in bad faith in order to suppress Professor Woodcock’s speech and punish him for his speech.” Am. Compl. ¶¶ 106, 132–33 (DN 36) at 1652, 1659.

An investigation of protected speech is itself an injury. “Merely to summon a witness and compel him, against his will, to disclose the nature of his past expressions and associations is a measure of governmental interference” with freedoms the First Amendment protects, and “[s]cholarship cannot flourish in an atmosphere of suspicion and distrust.” *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957) (plurality opinion). The Sixth Circuit has recognized the same thing: a “formal investigative process . . . itself is chilling even if it does not result in a finding of responsibility or criminality.” *Speech First, Inc. v. Schlissel*, 939 F.3d 756, 765 (6th Cir. 2019). A president’s creation of a special committee to review a professor’s writings “conveyed a chilling threat of discipline.” *Levin v. Harleston*, 966 F.2d 85, 89–90 (2d Cir. 1992). And an official demand that burdens First Amendment rights inflicts its injury “not just when [it] is enforced, but when it is made and for as long as it remains outstanding,” because a reasonable target “would be induced . . . to trim its protected advocacy knowing it now stands in the government’s crosshairs.” *First Choice Women’s Res. Ctrs., Inc. v. Davenport*, 608 U.S. 174, 189, 193 (2026).

Here, too, Woodcock challenges the investigation itself: his prayer for relief asks the Court to order Defendants “to cease the investigation” and to expunge it from his file. Am. Compl. (DN 36) at 1677–78. Preliminary relief halting its remaining stages is therefore “intermediate relief of the same character as that which may be granted finally.” *De Beers Consol. Mines, Ltd. v. United States*, 325 U.S. 212, 220 (1945); see *Colvin v. Caruso*, 605 F.3d 282, 300 (6th Cir. 2010).

b. What remains is the part that cannot be undone. When an injury consists of “being subjected” to an unconstitutional proceeding, it “is impossible to remedy once the proceeding is over”: a court can vacate the result, but “[a] proceeding that has already happened cannot be undone.” *Axon Enter., Inc.*

v. FTC, 598 U.S. 175, 191 (2023). Like holders of an immunity from suit, litigants who challenge a proceeding as unconstitutional “will lose their rights not to undergo the complained-of . . . proceedings if they cannot assert those rights until the proceedings are over.” *Id.* at 192. Applying *Axon* to the preliminary-injunction factors, the Fifth Circuit has explained that where “the proceeding is the injury,” “[t]he harm is not downstream from the process—it is the process,” and “once an unconstitutional proceeding begins, the damage is done. That is the essence of irreparability.” *Space Expl. Techs. Corp. v. NLRB*, 151 F.4th 761, 780 (5th Cir. 2025). That is this case: the investigation is not a means of reaching a later adverse action but the adverse action itself, and once the Second Evidence Review closes and the report issues, Woodcock cannot undo it. Defendants quote the prior opinion’s remark that the investigation “could exonerate him,” DN 69 at 2436, but the Sixth Circuit reversed that decision. And a report clearing Woodcock would not undo fourteen months of exclusion from teaching or the chill on others; speech the First Amendment protects needs no exoneration.

Preliminary relief exists for exactly this situation. Its purpose “is always to prevent irreparable injury so as to preserve the court’s ability to render a meaningful decision on the merits.” *Stenberg v. Cheker Oil Co.*, 573 F.2d 921, 925 (6th Cir. 1978) (cleaned); accord *United Food & Com. Workers Union, Loc. 1099 v. Sw. Ohio Reg’l Transit Auth.*, 163 F.3d 341, 348 (6th Cir. 1998). Interim relief safeguards “the efficacy of the court’s remedial options.” *Hutson, Inc. v. Waggener*, No. 5:25-cv-47-BJB, slip op. at 10 (W.D. Ky. Aug. 27, 2026) (Beaton, J.) (cleaned). In *Hutson*, “the trees ha[d] already been cut.” *Id.* at 11. Here they have not: the investigation’s remaining stages and the President’s findings letter are still to come, and once they issue, “a favorable final judgment might well be useless.” *Id.* at 12 (quotation omitted). Even if Defendants call the fourteen-month-old reassignment the status quo, “[i]f the currently existing status quo itself is causing one of the parties irreparable injury, it is necessary to alter the situation so as to prevent the injury,” including “by returning to the last

uncontested status quo between the parties.” *Stenberg*, 573 F.2d at 925 (cleaned); *United Food*, 163 F.3d at 348.

c. The harm is present and continuing. Where the government’s conduct threatens to impair the plaintiff’s ability to speak “at the time relief was sought,” the injury is irreparable, “because damages don’t remedy ‘[t]he loss of First Amendment freedoms.’” *Fischer v. Thomas*, 78 F.4th 864, 868–69 (6th Cir. 2023) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). There is irreparable harm here in three ways. First, the reassignment presently and categorically prevents Woodcock from speaking as a teacher, and it will continue for as long as the investigation does. Van Tatenhove Ltr., Sept. 28, 2026 (DN 65-8) at 2405; Am. Compl. ¶¶ 62, 65, 118–21 (DN 36) at 1636–37, 1656–57. Second, the investigation threatens Woodcock’s ongoing speech, not merely his past speech. Woodcock continues to speak and write about Palestine, though less than before because of the investigation. Woodcock Decl., Jan. 2, 2026 (DN 35) at 1608–10; Woodcock Supp. Decl., Sept. 29, 2026, ¶ 15 (DN 65-1) at 2344–45. The first notice of investigation told him that “[i]f you are doing anything that might violate University policy, you should stop immediately,” without saying what that was, First NOI (DN 19-15) at 1559, and the General Counsel has warned that any further notice of investigation “would [be] an additional basis for the reassignment as well,” Thro Email, Oct. 30, 2025 (DN 19-4) at 1085. That is precisely the “choice between self-censorship and uncertain sanction[]” that led the Sixth Circuit to stop an ongoing investigation into speech and the initiation of formal proceedings, in *Fischer v. Thomas*, 52 F.4th 303, 310, 313 (6th Cir. 2022). Third, the chill extends to others. Colleagues and students are afraid to support Woodcock publicly or to speak about Palestine, and his own academic output and public writing have declined. Woodcock Decl., Jan. 2, 2026 (DN 35) at 1608–12; Michael Decl. (DN 19-7) at 1109; Bolter Decl. (DN 19-9) at 1250; Lee Decl. (DN 19-11) at 1258–59; Donovan Decl. (DN 19-12) at 1262; Woodcock Supp. Decl., Sept. 29, 2026, ¶ 15 (DN 65-1) at 2344–45. Defendants have not disputed that evidence.

The reassignment does not merely penalize past speech; it silences Woodcock now, removing him from the classroom, from advising and supervising students, and from service and faculty governance. Duff Ltr., July 18, 2025 (DN 19-3) at 493; Am. Compl. ¶ 62 (DN 36) at 1636; Van Tatenhove Ltr., Sept. 28, 2026 (DN 65-8) at 2405. Those are the settings in which the First Amendment’s protection is at its height. “The classroom is peculiarly the ‘marketplace of ideas,’” and academic freedom is “a special concern of the First Amendment.” *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967). The First Amendment protects a professor’s speech in “core academic functions, such as teaching and scholarship.” *Meriwether v. Hartop*, 992 F.3d 492, 505 (6th Cir. 2021). Each day the reassignment continues, that speech is suppressed, and that is the “loss of First Amendment freedoms” that is irreparable “for even minimal periods of time.” *Elrod*, 427 U.S. at 373 (plurality opinion) (employees discharged or threatened with discharge).

d. Reinstatement or damages after final judgment would not be adequate. Harm is irreparable if “not fully compensable by monetary damages,” and “[w]hen constitutional rights are threatened or impaired, irreparable injury is presumed.” *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012). The Sixth Circuit rejected the argument that “monetary damages and reinstatement subsequent to a trial on the merits would provide an adequate remedy” in a speech-retaliation case, explaining that a person “subjected to direct and intentional retaliation for having exercised the protected constitutional right of expression[] continues to suffer irreparable injury,” because the injury “result[s] from impinging [his] First Amendment rights, and not from any denial of property interests or monetary damage.” *Newsom v. Norris*, 888 F.2d 371, 378 (6th Cir. 1989). Damages are also likely unavailable here, not merely inadequate: the Eleventh Amendment bars them against the University and its officers in their official capacities, and the individual Defendants invoke qualified immunity. MJOP at 2207–08. *Cf. Kentucky v. Biden*, 57 F.4th 545, 556 (6th Cir. 2023) (“sovereign immunity typically makes monetary losses like these irreparable”).

e. Timing makes the harm imminent. Defendants say the remaining stages should be complete by early November. MJOP at 2231. The law school sets its spring teaching schedule during the fall, so relief now is the surest way to keep Woodcock from losing the Spring 2027 semester, his fourth consecutive semester out of the classroom. Woodcock Supp. Decl., Sept. 29, 2026, ¶¶ 2–3 (DN 65-1) at 2340.

f. The motions panel's contrary view rested on abstention. When a motions panel of the Sixth Circuit denied an injunction pending appeal, it found no irreparable harm only because abstention meant “the state proceedings will provide [Woodcock] with an adequate opportunity to raise his constitutional claims.” Order at 10, *Woodcock v. Univ. of Ky.*, No. 26-5057 (6th Cir. Feb. 20, 2026), Dkt. 37. The merits panel has since held that there is no ongoing proceeding at all. Slip op. at 4–5. Defendants do not contend otherwise. *See* DN 69 at 2436 n.20 (raising abstention only if “formal charges” are later filed). The premise of the earlier conclusion is gone, and the presumption of irreparable harm that applies to ongoing First Amendment injuries governs.

2. The Remaining Stages of the Investigation Cannot Improve Defendants' Position on the Merits, and the Investigation Itself Is Adverse Action

This phase also bears on the merits, in two ways, both favorable to Woodcock.

a. The investigation is itself an adverse action. An adverse action in the First Amendment context is one that “would chill or silence a person of ordinary firmness from future First Amendment activities.” *Josephson*, 115 F.4th at 787 (cleaned). In *Josephson*, the court held that the requirement of giving disclaimers when teaching and the “tracking” of the plaintiff's conduct could constitute retaliatory adverse actions. *Id.* at 787–88. And “threats alone can constitute an adverse action if the threat is capable of deterring a person of ordinary firmness from engaging in protected conduct.” *Kubala v. Smith*, 984 F.3d 1132, 1140 (6th Cir. 2021) (cleaned); *see also Coszalter v. City of Salem*, 320 F.3d 968, 975–76 (9th Cir. 2003) (“an unwarranted disciplinary investigation” can be adverse action);

Reges v. Cauce, 175 F.4th 1014, 1029 (9th Cir. 2026) (investigation over syllabus statement, with reprimand and threatened discipline, “plainly qualif[ied] as adverse employment action”). Here Defendants publicly removed Woodcock from the classroom, barred him from the law school for fourteen months, opened an investigation into his political speech carried out by an outside lawyer who has interviewed more than twenty students, colleagues, and others about it, and tied the investigation to a possible sanction of “tenure revocation or a lengthy suspension without pay.” Thompson Decl. (DN 26-4) at 1450–51; Thompson Ltr., Aug. 25, 2025 (DN 19-15) at 1571; MTD (DN 23) at 1298. “[T]he adverseness inquiry is an objective one, and does not depend upon how the particular plaintiff reacted.” *Bell v. Johnson*, 308 F.3d 594, 606 (6th Cir. 2002). Those actions have in fact deterred others: colleagues and students are afraid to support Woodcock publicly or to speak about Palestine. *See* Part I.A.1.c. Courts have held that investigations of this kind chill speech even when they end without sanctions. *Schlissel*, 939 F.3d at 765; *Levin*, 966 F.2d at 89–90; *White v. Lee*, 227 F.3d 1214, 1228–29 (9th Cir. 2000) (eight-month investigation); *Media Matters for Am. v. Paxton*, 138 F.4th 563, 581 (D.C. Cir. 2025) (government “campaign of retaliation, including an investigation,” “reflects concrete and present harm”); *Endocrine Soc’y v. FTC*, No. 26-512 (JEB), slip op. at 21–23, 31–34 (D.D.C. May 7, 2026) (preliminarily enjoining retaliatory investigative demand). And these actions are judged together, not one by one: harassment “which though trivial in detail may have been substantial in gross” is actionable. *Bart v. Telford*, 677 F.2d 622, 625 (7th Cir. 1982) (Posner, J.); *see Thaddens-X v. Blatter*, 175 F.3d 378, 396–98 (6th Cir. 1999) (en banc) (adopting *Bart*’s standard).

b. Neither Blick nor Defendants’ Title VII cases hold otherwise. The Order cites *Blick v. Ann Arbor Public School District*, 105 F.4th 868 (6th Cir. 2024). *Blick* did not decide that an investigation cannot be adverse action for First Amendment purposes. The court expressly declined to decide the adverse-action question, resting instead on the plaintiff’s failure to identify her protected speech. *Id.* at 881–82. Here, by contrast, Woodcock has identified his protected speech with precision: the Petition for

Military Action Against Israel that he circulated on July 6, 2025, Pet. (DN 65-7) at 2400–03, and the conference remarks and online posts listed in the notices of investigation, First NOI (DN 19-15) at 1558–60; Second NOI (DN 19-15) at 1573–74; Am. Compl. ¶¶ 75, 77 (DN 36) at 1639–42.

Moreover, because Woodcock alleges that the petition triggered the July 18 actions, Woodcock need only show that the posting of the petition was protected; the burden then shifts to Defendants. *See* Part II.B.2.a below. *Blick*’s discussion of paid leave applied Title VII precedent requiring a “materially adverse” change in the terms of employment, 105 F.4th at 885, as do the pre-*Muldrow* Title VII anti-discrimination cases on paid suspension that Defendants cite, MJOP at 2209–10. That rule does not govern here. The First Amendment adverse-action standard is distinct from the standard for employment-discrimination claims. *Benison v. Ross*, 765 F.3d 649, 659 (6th Cir. 2014); *see also Dye v. Off. of the Racing Comm’n*, 702 F.3d 286, 304 (6th Cir. 2012) (change in benefits without loss of pay was adverse under the First Amendment standard, though not under the FLSA). Even within Title VII, the paid-leave rule comes from the anti-discrimination provision, not the retaliation provision. *Ahmed v. Hamtramck Pub. Schs.*, 178 F.4th 975, 982 (6th Cir. 2026) (so treating *Dendinger v. Ohio*, 207 F. App’x 521, 527 (6th Cir. 2006), which Defendants quote, MJOP at 2209); *see Dendinger*, 207 F. App’x at 527 n.6 (adverse action is “broader in retaliation cases than in discrimination cases”). And after *Muldrow v. City of St. Louis*, 601 U.S. 346 (2024), the rule is doubtful even there. *Blick* observed that “one might reasonably argue that a temporary suspension (even with pay) causes ‘some harm,’” 105 F.4th at 885, and such leave is adverse where the employee cannot do her job and suffers reputational harm from a publicly announced investigation, *Ahmed*, 178 F.4th at 984–85.

And there is a more basic difference. The investigation in *Blick* rested on evidence of misconduct, including an assistant’s report that she had flagged a custodian’s fraudulent timesheets to the principal, who ignored her concerns. *Blick*, 105 F.4th at 874. Nothing in that case suggests that the investigation lacked a factual basis or targeted speech. The investigation in the present case

began with no complaint from any member of the University community. Hr’g Tr. (DN 40) at 1982. The reports came from four professors at other institutions, who alleged no harm to any student or employee of the University. First NOI (DN 19-15) at 1558–59. They could not have been complainants under the University’s policy, which generally makes investigations “Complainant driven” and does not permit persons outside the University community to serve as complainants, OEO Pol’y (DN 42-1) at 2075, 2079–80. Nor did Title VI protect them, because they were not attempting to participate in a University program or activity. *See Snyder-Hill v. Ohio State Univ.*, 48 F.4th 686, 708 (6th Cir. 2022) (Title IX). The first notice therefore charged “spamming,” speaking for the University, and misuse of resources, rules that Defendants had not enforced against Woodcock’s earlier statements on the same subject or against other faculty. First NOI (DN 19-15) at 1558–60; Bird-Pollan Decl. (DN 19-8) at 1113–14; Hr’g Tr. (DN 40) at 1819–20, 1949–51. Defendants’ argument that universities must be able to reassign employees while investigating misconduct, MJOP at 2210–11; DN 69 at 2435, 2437, therefore assumes the conclusion. The First Amendment permits investigating conduct, not punishing protected speech under the label of an investigation. *See White*, 227 F.3d at 1228–30; *Major League Baseball v. Crist*, 331 F.3d 1177, 1187–89 (11th Cir. 2003).

c. An investigation of speech requires an adequate foundation. The First Amendment does not permit officials to investigate protected expression “at will and without relation to existing need.” *DeGregory v. Att’y Gen. of N.H.*, 383 U.S. 825, 829 (1966). “[A]n adequate foundation for inquiry must be laid before proceeding in such a manner as will substantially intrude upon and severely curtail or inhibit constitutionally protected activities” *Gibson v. Fla. Legislative Investigation Comm.*, 372 U.S. 539, 557 (1963). Courts enjoin investigations that rest on nothing but lawful conduct: “investigations premised solely upon legal activity are the very type of ‘fishing expeditions’” the law forbids, and the investigator “need not have absolute proof of a violation prior to commencing an investigation,” but

must “have *something*.” *Crist*, 331 F.3d at 1187 & n.23, 1189. The notices of investigation identify political speech about colonization, apartheid, and genocide. Am. Compl. ¶¶ 75, 77 (DN 36) at 1639–42. Defendants identify no conduct directed at any member of the University community. Defendants’ brief confirms the point, defending the investigation on the ground that Woodcock’s speech, “even if [it] currently does not amount to harassment under Title VI, it may cross that line at some future date.” MJOP at 2218. A speculative future violation is not a foundation for investigating present protected speech.

d. Completing the investigation cannot change the dispositive facts. Causation turns on what Defendants knew and why they acted on July 18, 2025. The President’s announcement that day identified only the petition, and the timing points to its circulation on July 6, 2025, as the trigger. Capilouto Email, July 18, 2025 (DN 19-3) at 496–97. Reports gathered later cannot have caused the decision; an employer “could not have been motivated by knowledge it did not have.” *McKennon v. Nashville Banner Publ’g Co.*, 513 U.S. 352, 360 (1995). Nor do Defendants need more facts to evaluate the speech they charged. When officials sought to justify an investigation of protected advocacy as necessary to determine whether it crossed a legal line, the Ninth Circuit answered that they “did not need to gather additional information,” because “[t]hat the First Amendment protected the authors and distributors of the flyers was plain.” *White*, 227 F.3d at 1230. The same is true of a petition, conference remarks, and listserv posts already in the record, and the petition that triggered the July 18 actions is core political speech. *See* Part II.B.2.a below. Nor can Defendants justify further investigation as necessary to perform *Pickering* balancing. Defendants must substantiate their interests with evidence, and on the pleadings that burden is at its height. *Myers v. City of Centerville*, 41 F.4th 746, 764 (6th Cir. 2022) (requiring “as strong or stronger evidence” at the pleadings stage than at summary judgment); *see Rankin v. McPherson*, 483 U.S. 378, 388–89 (1987). Defendants have offered no evidence of disruption. *See* Part II.B.2.e. Completing the investigation would add only

after-the-fact justifications, which the General Counsel has already said will become “additional basis for the reassignment.” Thro Email, Oct. 30, 2025 (DN 19-4) at 1085.

B. Immunity at the Temporary-Restraining-Order Stage

Qualified immunity. “The defense of qualified immunity protects officials from individual liability for money damages but not from declaratory or injunctive relief.” *Flagner v. Wilkinson*, 241 F.3d 475, 483 (6th Cir. 2001); *Gunasekera v. Irwin*, 551 F.3d 461, 471 (6th Cir. 2009). Defendants’ qualified-immunity argument (DN 63, Part III) is therefore directed only at Woodcock’s damages claims and cannot affect the temporary restraining order.

Sovereign immunity and Ex parte Young. *Ex parte Young* requires only a “straightforward inquiry into whether [the] complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective,” an inquiry that “does not include an analysis of the merits of the claim.” *Verizon Md. Inc. v. Pub. Serv. Comm’n*, 535 U.S. 635, 645–46 (2002) (cleaned). Defendants’ only *Ex parte Young* argument, that “there is no on-going violation of federal law” because “federal law does not require the University to refrain from an investigation of alleged misconduct,” MJOP at 2206; DN 69 at 2434–36, is a merits argument of exactly that kind. And their assertion that official-capacity claims are “no different from a suit against the State itself,” MJOP at 2207, ignores that the Supreme Court passage that language comes from recognized that “official-capacity actions for prospective relief are not treated as actions against the State.” *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 & n.10 (1989) (cleaned). Applying *Verizon*, *Josephson* held that a professor’s requests for reinstatement and for expungement of his personnel file are prospective and not barred. 115 F.4th at 782–83. Defendants distinguish *Josephson* because the professor there sought reinstatement, DN 69 at 2437–38, but Woodcock likewise seeks restoration of his regular duties. Ex. A. Stopping an investigation that is still underway and ending a reassignment that is still in effect are prospective by definition. And each official-capacity Defendant has a direct role in that conduct: the President

initiated the investigation and will decide any findings and sanction; the Dean made the reassignment and ban decision, with the Provost's participation and the President's and General Counsel's approval; Dean Van Tatenhove, whom Defendants acknowledge has been substituted for former Dean Duff, has continued the reassignment; and the General Counsel has tied it to the investigation. Capilouto Email, July 18, 2025 (DN 19-3) at 496–97; Thompson Ltr., Aug. 25, 2025 (DN 19-15) at 1570–71; Am. Compl. ¶ 178 (DN 36) at 1668; MJOP at 2196; Fed. R. Civ. P. 25(d); Van Tatenhove Ltr., Sept. 28, 2026 (DN 65-8) at 2405; Thro Email, Oct. 30, 2025 (DN 19-4) at 1085. Woodcock seeks no official-capacity damages.

C. Effects on Third Parties

If the Court acts. An order pausing the remaining stages of the investigation and restoring Woodcock's regular duties would benefit, not burden, the people closest to this dispute. Law students would regain a tenured teacher of contracts, antitrust, business associations, secured transactions, and international law. The law school canceled his Fall 2025 Antitrust course and Spring 2026 international law seminar and gave his Secured Transactions and Contracts courses to teachers who had rarely or never taught them. Am. Compl. ¶¶ 21, 118 (DN 36) at 1620, 1656; Woodcock Decl., Dec. 12, 2025, ¶¶ 44–45 (DN 19-3) at 229–30; Woodcock 2d Supp. Decl. ¶ 2 & Ex. B. This fall it listed him for Antitrust and Secured Transactions as late as August 21, 2026, then offered neither. Woodcock 2d Supp. Decl. ¶¶ 3–4 & Ex. A (attached as Ex. B). The spring course list goes to the faculty in mid-October, so relief now would return him to the Spring 2027 schedule with the least disruption. *Id.* ¶ 5 & Exs. B–C. The faculty is already “thin,” and losing a tenured teacher leaves “major holes in [the] curriculum.” Donovan Decl. ¶ 8 (DN 19-12) at 1262. Colleagues and students afraid to speak about Palestine or to support Woodcock would be relieved of the signal that such speech leads to investigation, *see supra* Part I.A.1.c, and witnesses would not be asked to participate further while the Court decides the investigation's lawfulness.

On the other side of the ledger, the University kept this investigation on hold for nine months while the courts considered the preliminary-injunction motion, so a pause of a few more weeks costs it nothing it did not voluntarily accept. Extension Emails (DN 65-2) at 2358, 2362, 2370–72. The proposed order reaches only this investigation, which began without any complaint from a member of the University community, Hr’g Tr. (DN 40) at 1982, and leaves the University “free to take appropriate enforcement measures” against any actual “harassing or otherwise inappropriate conduct.” *Seum v. Osborne*, No. 3:17-cv-00069-GFVT, slip op. at 2, 5–7, 9 (E.D. Ky. Sept. 28, 2018) (Van Tatenhove, J.) (enjoining ban meant “to avoid any potential future harassment” based on speaker’s protected remarks). If Woodcock does not prevail, the investigation can resume.

If the Court does not act. The investigation will likely be completed, and the President’s findings will issue, before the Court can decide the preliminary-injunction motion that the Sixth Circuit remanded for decision, and students will lose another semester of Woodcock’s courses. *See* Part I.A.1.e. And faculty and students will learn that the University can remove a professor from the classroom for more than fourteen months and set in motion a complete investigation of his political speech without a single complaint from anyone on campus. That lesson is the chill. Am. Compl. ¶ 117 (DN 36) at 1656. “[I]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *G & V Lounge, Inc. v. Mich. Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994).

II. Response to Defendants’ Dispositive Motions

Defendants ask the Court to decide this motion first, MJOP at 2196–97 & n.3, but the concurrence they cite leaves the order of decision to this Court, and the Court’s October 2 Order has set the temporary-restraining-order questions for decision now. A Rule 12(c) motion is reviewed like a Rule 12(b)(6) motion: the Court accepts the Amended Complaint’s well-pleaded facts as true and draws all reasonable inferences for Woodcock. *Lindsay v. Yates*, 498 F.3d 434, 437 n.5 (6th Cir.

2007); MJOP at 2205; *Gunasekera*, 551 F.3d at 466 & n.1, 468. The motion relies on matters outside the pleadings: correspondence about investigator bias, Woodcock's laptop, the pause of the investigation, and the investigator's letter establishing the ad hoc process. MJOP at 2202, 2230–31 & Exs. 2, 4–7. To the extent those materials are offered to contradict the Amended Complaint, they cannot be considered without converting the motion under Rule 12(d). Fed. R. Civ. P. 12(d).

A. Immunity (DN 63, Parts I–III)

For the reasons in Part I.B, neither sovereign nor qualified immunity bars Woodcock's claims for prospective relief against the University Officials. As to his individual-capacity damages claims, qualified immunity does not warrant dismissal on the pleadings. It is "generally inappropriate" to grant a motion to dismiss on that basis; the time to decide it "is usually summary judgment." *Wesley v. Campbell*, 779 F.3d 421, 433–34 (6th Cir. 2015). The right of a public university professor to be free from retaliation for academic and private-citizen speech on matters of public concern is clearly established in this Circuit. *Josephson*, 115 F.4th at 789–90 (denying qualified immunity to university officials who retaliated against a professor for speech on a matter of public concern); *Merivether*, 992 F.3d at 504–07. So is the rule that a professor suspended from duties in which he has a property interest must receive notice and an opportunity to be heard. *Gunasekera*, 551 F.3d at 468–69, 471.

B. The First Amendment Retaliation Claim (DN 63, Part IV)

Defendants do not dispute causation. *See* MJOP at 2209. They argue only that Woodcock suffered no adverse action and that his speech is unprotected. Both arguments fail at this stage.

1. Adverse Action

Defendants argue that a paid reassignment pending investigation is not an adverse action. MJOP at 2209–11. Part I.A.2.a–b explains why Defendants' actions are adverse under the First Amendment standard, which Defendants themselves quote, MJOP at 2210, and why their Title VII cases do not

apply. On the pleadings, Defendants’ argument is weaker still. Whether an action would deter a person of ordinary firmness is “a question of fact,” and all but “genuinely ‘inconsequential’ official actions ‘should go to the jury.’” *Josephson*, 115 F.4th at 787 (cleaned); *see Bart*, 677 F.2d at 625 (whether harassment reaches “the threshold of actionability” is “a question of fact”). Even under the Title VII retaliation standard, it is “at least plausible that placement on paid administrative leave for over a year, pending investigation of alleged misconduct, would dissuade a reasonable worker.” *Ahmed*, 178 F.4th at 982. The Amended Complaint alleges much more: public condemnation by the President, removal from teaching and service, a fourteen-month ban, a directive to “stop immediately,” the copying of personal files, and the warning that further notices would extend the reassignment. Am. Compl. ¶¶ 57–65, 72–80, 122–23, 137 (DN 36) at 1634–42, 1657–60.

2. Protected Speech

a. Woodcock need only show that the petition was protected. The President’s July 18 announcement identified only the petition, and it removed Woodcock from the classroom “[a]s a result,” “pending an investigation” for which the University had “engaged with outside legal counsel.” Capilouto Email, July 18, 2025 (DN 19-3) at 496–97. The petition thus triggered the investigation as well as the reassignment. If the petition was protected speech and a motivating factor, the burden shifts to Defendants to prove they would have acted anyway. *Lemaster v. Lawrence Cnty.*, 65 F.4th 302, 309 (6th Cir. 2023). Other speech that the notices later swept in cannot defeat the claim at the pleading stage. And the other speech is protected as well. *See* Parts II.B.2.b–e below.

b. Garcetti does not apply. The question is not whether a professor used his employer’s resources or was identified by his affiliation, but whether he spoke as the government’s agent, considering the motivation, setting, and audience of the speech. *DeCrane v. Eckart*, 12 F.4th 586, 594–96 (6th Cir. 2021); *see Garcetti v. Ceballos*, 547 U.S. 410, 420 (2006) (employees “may receive First Amendment protection for expressions made at work”). Woodcock posted the petition on a website he founded

and circulated it in discussion groups hosted by another organization, to law professors at other institutions; the petition stated that “[i]nstitutional affiliations . . . do not imply institutional endorsement.” Am. Compl. ¶¶ 50, 54 (DN 36) at 1631–33; Pet. (DN 65-7) at 2400. He made the conference remarks at events hosted by other institutions: a February 2024 symposium at the Antonin Scalia Law School and a May 2025 conference at the Chinese University of Hong Kong. First NOI (DN 19-15) at 1558–59. The University itself treated the speech as personal: the Dean testified that he acted because “the taxpayers of Kentucky should not have to fund someone’s personal viewpoints,” and, asked whether the petition was “academic work,” answered, “It wasn’t.” Hr’g Tr. (DN 40) at 1993, 1995. Defendants cannot treat the same speech as both personal political opinion and official employee speech. Their claim that Woodcock “seized the conference stage” at both events to “rant[] at the University’s expense,” MJOP at 2215–16, contradicts the Amended Complaint, which controls on this motion. Am. Compl. ¶¶ 75, 101 (DN 36) at 1639–40, 1649.

c. In the alternative, the speech is protected academic speech. If Woodcock spoke in his professional capacity, his speech was scholarship, and the Sixth Circuit recognizes an academic-freedom exception to *Garvetti* for “speech related to scholarship or teaching” that covers a professor’s classroom speech on matters of public concern “whether that speech is germane to the contents of the lecture or not.” *Merivether*, 992 F.3d at 504–07; *Josephson*, 115 F.4th at 784–86. If the exception protects speech to a captive audience of students, it protects a scholar’s speech to his peers outside the classroom all the more. *See Bishop v. Aronov*, 926 F.2d 1066, 1074 (11th Cir. 1991) (university may impose “‘reasonable restrictions’ over in-class speech that it could not censor outside the classroom”). Woodcock’s conclusions about colonization and decolonization grew out of his scholarship and his international-law seminar. Am. Compl. ¶¶ 43–50 (DN 36) at 1628–32. And discussion of research conclusions at academic conferences, in a petition aimed at law scholars, and in AALS discussion groups for law scholars fits the definition of scholarship. Pet. (DN 65-7) at 2400

(“Law scholars are invited to join . . .”); Woodcock Decl., Dec. 12, 2025, ¶¶ 8, 19, 38–41 (DN 19-3) at 221–22, 226, 228–29. Defendants concede that “this Court must apply the Sixth Circuit’s faculty academic freedom exception to *Garvetti*,” which *Josephson* “extended to speech at academic conferences.” MJOP at 2212–13. Their objection that the Supreme Court has never recognized it, *id.* at 2213–15, is for another court.

d. Title VI does not strip the speech of protection. Defendants argue that speech amounting to harassment under Title VI is unprotected. MJOP at 2217–18. But “[t]here is no categorical ‘harassment exception’ to the First Amendment’s free speech clause.” *Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 204 (3d Cir. 2001) (Alito, J.). And Defendants never identify any speech by Woodcock that meets the standard they invoke: harassment “so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school.” *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 650 (1999). The notices identify political speech at conferences, on listservs, and online, and two remarks at extracurricular events about which no one complained. Am. Compl. ¶¶ 75, 77 (DN 36) at 1639–42. Nor are the professors whose reports triggered the investigation covered by Title VI. *See* Part II.B.1.

e. Pickering balancing favors Woodcock, and it cannot be resolved against him on the pleadings. At this stage, the Court accepts the allegation that the University received no complaint from any student or faculty member and identified no disruption of its operations. Am. Compl. ¶¶ 66, 69, 85 (DN 36) at 1637–38, 1644. “[U]ndifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression.” *Hardy v. Jefferson Cmty. Coll.*, 260 F.3d 671, 682 (6th Cir. 2001) (cleaned). Defendants’ principal asserted interest is that speech that is not harassment today “may cross that line at some future date.” MJOP at 2218. That is undifferentiated fear by definition. Their others, room for “interim measures” and Woodcock’s “public facing role,” *id.* at 2219, rest on the same speculation. Defendants offer nothing more, and on the pleadings they must. *Myers*, 41 F.4th at

764; *Merivether*, 992 F.3d at 511. Defendants’ footnote about a law firm’s request, MJOP at 2198 n.10, is outside the pleadings, Fed. R. Civ. P. 12(d), and an outside critic’s objection is the “undifferentiated fear” that cannot justify restricting a professor’s speech. *Hardy*, 260 F.3d at 675, 681–82. Defendants also label Woodcock’s speech “antisemitic.” MJOP at 2218. The Amended Complaint disputes that characterization, which cannot be accepted on the pleadings. Am. Compl. ¶¶ 78, 85–93 (DN 36) at 1642, 1644–47. And a label directed at the viewpoint expressed cannot supply an employer interest: “[a]n interest in banning disfavored viewpoints is not in line with the workplace management concerns that give the government extra leeway in the employee speech cases.” *Pernell v. Fla. Bd. of Governors*, 181 F.4th 1135, 1152 (11th Cir. 2026).

C. The Establishment Clause Claim (DN 63, Part V)

Defendants invoke the secular-purpose requirement that *Gordon v. City of Hamtramck* left open after *Lemon*’s abandonment, MJOP at 2220–21, but *Gordon* addressed a claim of religious motive, not a denominational preference, and did not decide whether that requirement survives. No. 25-1917, slip op. at 17–20 (6th Cir. Aug. 21, 2026); see *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 534–35 (2022). The claim alleges a denominational preference: that the definition of antisemitism applied to Woodcock’s speech treats criticism of a claimed right of self-determination based on adherence to one faith as discrimination, while treating criticism of claims by other religious groups differently. Am. Compl. ¶¶ 162–67 (DN 36) at 1665–67. “The clearest command of the Establishment Clause” is that government may not “officially prefe[r]” one religious denomination over another, and a denominational preference is subject to strict scrutiny. *Catholic Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm’n*, 605 U.S. 238, 247–48 (2025) (cleaned). Defendants do not attempt to satisfy strict scrutiny.

D. The First Amendment Challenges to University Policies (DN 63, Part VI)

Overbreadth. Defendants make three arguments: that the policies should be judged under the test for regulations of expressive conduct, MJOP at 2223; that the allegations are conclusory, *id.* at 2224; and that the policies serve the University’s interest in preventing harassment, *id.* at 2224–25. None succeeds. The policies regulate speech itself, not conduct, and the Amended Complaint quotes their text, which is where overbreadth analysis begins. *United States v. Williams*, 553 U.S. 285, 293 (2008). The neutrality policies require every faculty member to “always take care to reinforce” that he speaks only as an individual. Am. Compl. ¶ 82 (DN 36) at 1643. The harassment policy adopts a definition of antisemitism that reaches core political speech, such as “[d]rawing comparisons of contemporary Israeli policy to that of the Nazis.” *Id.* ¶¶ 24, 36 at 1621, 1625. An interest in preventing harassment cannot justify either rule, because neither is limited to harassment: one governs how every faculty member describes his own views, and the other reaches political commentary whether or not it harasses anyone. Rules of this breadth, binding an entire faculty or workplace, receive more scrutiny. *United States v. Nat’l Treasury Emps. Union*, 513 U.S. 454, 466–68 (1995); *Pernell*, 181 F.4th at 1161–62. The Sixth Circuit has struck down a university harassment policy on overbreadth grounds before. *Dambrot v. Cent. Mich. Univ.*, 55 F.3d 1177, 1182–84 (6th Cir. 1995). Whether these policies sweep in a substantial amount of protected speech cannot be decided against Woodcock on the pleadings, least of all when the University has invoked the policies against his political speech.

Prior restraint. Defendants treat this claim as a challenge only to rules for the University’s email system. MJOP at 2225–26. It is broader: it also challenges the investigator’s directive to “stop immediately,” which Defendants do not address, and the speech was posted to discussion groups hosted by the AALS. Am. Compl. ¶¶ 54, 152–53 (DN 36) at 1633, 1663. As for the spam policy, it permits mass mailings only with “proper authorization,” *id.* ¶ 83 at 1643, and a rule that conditions speech on officials’ prior approval is a prior restraint that bears “a heavy presumption against its

validity.” *Deja Vu of Nashville, Inc. v. Metro. Gov’t of Nashville & Davidson Cnty.*, 274 F.3d 377, 391 (6th Cir. 2001) (cleaned). The policy fails under either framework. Judged as a restriction on employee speech, this broad advance restriction must be justified by harms that are “real, not merely conjectural,” *Nat’l Treasury Emps. Union*, 513 U.S. at 468, 475 (cleaned), and Defendants identify none. Judged under forum analysis, as Defendants urge, even a nonpublic forum requires “objective, workable standards.” *Minn. Voters All. v. Mansky*, 585 U.S. 1, 21 (2018). The Amended Complaint alleges that the policy has none and has not been enforced against other faculty posting political messages to the same listservs. Am. Compl. ¶¶ 100, 153 (DN 36) at 1648–49, 1663.

Vagueness. Defendants say the challenged terms are “generally well understood by those who want to understand” them. MJOP at 2227–28. The test is whether a policy gives fair notice of what it forbids and constrains those who enforce it. *Dambrot*, 55 F.3d at 1183–84. The Amended Complaint identifies terms that do neither. They require faculty, and those who enforce the policies, to distinguish speech “in a professional or expert capacity” from speech as a “private individual,” to know when a message becomes an undefined “mass mailing,” and to detect antisemitism defined as “a certain perception of Jews.” Am. Compl. ¶¶ 157–58 (DN 36) at 1664–65. The University’s refusal to tell Woodcock which provisions his speech violated proves the point. *Id.* ¶ 79 at 1642.

E. The Due Process Claim (DN 63, Part VII)

Property. Defendants concede that Woodcock has a protected property interest in his tenured position but argue that it does not extend to teaching. MJOP at 2228–29. But a tenured professor’s property interest reaches the terms and conditions of the appointment, not only salary. *Gunasekera*, 551 F.3d at 468–69; *Hulen v. Yates*, 322 F.3d 1229, 1241–44 (10th Cir. 2003). The Amended Complaint alleges that University rules define a faculty position by teaching, research, and service, that the law school sets minimum teaching loads, and that Defendants replaced all three with “100% professional development” indefinitely, impeding his teaching and research and exposing him to

termination for failing to meet “university performance and productivity requirements.” Am. Compl. ¶¶ 4, 107–08, 118–21, 171–75 (DN 36) at 1618, 1652–53, 1656–57, 1667–68. That is the “extensive documentation of the ways in which this suspension affects his career” that sufficed in *Gunasekera*, where a professor lost the right to supervise graduate students. 551 F.3d at 468–69. Defendants’ cases are not to the contrary. *Parate v. Isibor*, 868 F.2d 821, 831–32 (6th Cir. 1989), held only that a nontenured professor had no right to teach a specific class. And *Kaplan v. University of Louisville*, 10 F.4th 569 (6th Cir. 2021), assumed that suspending a tenured professor from “research opportunities, clinical practice, teaching, etc.” deprives him of property, *id.* at 581–82, and upheld paid leave only because the professor’s unauthorized financial commitments threatened the university during a budget crisis and he had not addressed concerns the school had raised with him a month earlier, *id.* at 582–83. Woodcock posed no such hazard and received no warning or chance to respond. And *Kaplan*’s leave led to a two-day hearing, at which he called witnesses, before he was fired. *Id.* at 583. Woodcock’s reassignment leads only to findings; a hearing comes only if Defendants seek to revoke tenure. MJOP at 2230–31.

Process. Defendants rely on *Cunningham v. Blackwell*, 41 F.4th 530 (6th Cir. 2022), but the suspensions there were “customized . . . to the problem at hand”: professors suspected of falsifying billing records were barred only from seeing patients, kept their “other academic, research, and administrative obligations,” and were suspended only after an eight-month review in which they were offered “a chance to respond in writing.” *Id.* at 535, 537. Even then, the court held only that the administrators had not “clearly provided inadequate process.” *Id.* at 536–37. Woodcock, by contrast, was removed from all teaching and from faculty governance at the outset, “pending an investigation,” with no notice or opportunity to respond before or after, and without the showing of immediate harm and consultation with a faculty committee that the University’s own regulations then required. Am. Compl. ¶¶ 4, 62, 65, 108–09, 177 (DN 36) at 1618, 1636–37, 1652–53, 1668;

Capilouto Email, July 18, 2025 (DN 19-3) at 496–97. Pre-deprivation process may be dispensed with only where there is a “special need for very prompt action,” *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 52–53 (1993) (cleaned), and Defendants acted in the summer, without a complaint from anyone on campus, about speech that occurred elsewhere. Nor does the investigation supply that process: its evidence reviews and findings address whether Woodcock violated policy, not whether he should be kept from teaching in the meantime. MJOP at 2230–31.

Liberty. Defendants argue that Woodcock never requested a name-clearing hearing, MJOP at 2232, but he alleges that he asked the President to retract his statement on July 18, 2025, and on September 11, 2025, requested “[a] public statement from the University indicating that it wrongfully suspended Professor Woodcock” and compliance with regulations “which provide for a hearing.” Am. Compl. ¶ 182 (DN 36) at 1669–70. Those requests suffice. A request need only be enough “to alert the University that [the employee] was complaining of a lack of due process in connection with a liberty interest.” *Ludwig v. Bd. of Trs. of Ferris State Univ.*, 123 F.3d 404, 411 (6th Cir. 1997) (contrasting *Rosenstein v. City of Dallas*, 876 F.2d 392, 396 (5th Cir. 1989), where a request for an “appeal” from a termination for something the employee “did not do” sufficed). A demand that the President retract his statement and that the University publicly declare the suspension wrongful asks for exactly what a name-clearing hearing provides: a public opportunity to clear one’s name. *See Gunasekera*, 551 F.3d at 470. And contrary to Defendants’ assertion, MJOP at 2233, the Amended Complaint alleges that the President’s statement was false. Am. Compl. ¶¶ 57, 68, 172 (DN 36) at 1634, 1638, 1667. It also alleges that, though the President did not name Woodcock, “it was not difficult to infer who he was discussing,” and that the stated reasons “seriously impugn his morality,” which is more than a charge of poor performance. *Id.* ¶ 172 at 1667; *see* MJOP at 2231–33.

F. The Race Discrimination Claims (DN 63, Part VIII)

The Amended Complaint does not rest on labels. It alleges that administrators joked about giving Woodcock a “fez,” asked whether he is a “practicing” Muslim, and attributed his views to his Algerian mother; that the University permitted on-campus speech defending military action in Gaza and applied a “both sides” rule only to pro-Palestine events; that Defendants did not act against non-Arab speakers who expressed support for military action; and that Defendants repeatedly characterized Woodcock’s call to stop a genocide as a call for genocide. Am. Compl. ¶¶ 186, 190, 196 (DN 36) at 1670–73. Those allegations make discriminatory intent plausible. At this stage, that is enough. Woodcock need not prove intent or plead a *prima facie* case; he need only allege facts that, accepted as true and with all reasonable inferences drawn in his favor, support a plausible inference of discrimination. *Keys v. Humana, Inc.*, 684 F.3d 605, 608–10 (6th Cir. 2012).

Defendants’ remaining arguments fail on their own terms. Their adverse-action argument fails for the reasons in Parts I.A.2.b and II.B.1. Woodcock’s § 1981 claim is brought through § 1983, as the heading of Count VII and its first substantive paragraph state. Am. Compl. ¶ 185 (DN 36) at 1670. And whether Defendants acted outside the scope of their employment, which bears on the intracorporate-conspiracy doctrine Defendants invoke against the § 1985 allegations, is a question of fact, and the Amended Complaint alleges that the “suspension, banishment, and investigation were not authorized by any University policy or regulation” and that Defendants “have sought to cover up this deficiency.” Am. Compl. ¶ 116 (DN 36) at 1656.

CONCLUSION

Woodcock respectfully asks the Court to enter the revised proposed order (Ex. A) and to deny DN 61 and 63 or grant leave to file a supplemental response to DN 63 by October 16, 2026.

Date: October 5, 2026

Respectfully submitted,

/s/ Rima Kapitan

/s/ Joe F. Childers

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INDEX OF EXHIBITS

Exhibit A: Revised Proposed Order

Exhibit B: Second Supplemental Declaration of Ramsi A. Woodcock

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

Ramsi A. Woodcock,

Plaintiff,

v.

Case No. 5:25-cv-00424-BJB

Eli Capilouto et al.,

Defendants.

ORDER

This matter is before the Court on Plaintiff's Emergency Motion for a Temporary Restraining Order or, in the Alternative, for an Expedited Ruling on His Motion for a Preliminary Injunction and an Order Preserving the Status Quo (DN 65). The Court being sufficiently advised, the motion is GRANTED to the extent set forth below, and IT IS ORDERED as follows (the Court will strike the alternatives it does not adopt):

1. **Persons bound.** This Order binds the President, the Provost, and the General Counsel of the University of Kentucky and the Dean of the University's College of Law, each in his official capacity, together with their officers, agents, servants, employees, and attorneys, and other persons in active concert or participation with them who receive actual notice of this Order. Fed. R. Civ. P. 65(d)(2). It does not bind Secretary McMahon or Attorney General Coleman.

2. **Temporary restraining order.** Until the Court rules on Plaintiff's Motion for a Preliminary Injunction (DN 19), the persons bound by this Order shall (a) halt the remaining stages of Office of Equal Opportunity Investigation No. 20251230, including the Second Evidence Review, the investigative report, and any findings or sanction; (b) end Plaintiff's reassignment by restoring his regular duties, including by placing him on the Spring 2027 teaching schedule with his

normal course load and schedule; and (c) not reimpose the ban on Plaintiff's entry to the College of Law building. No bond is required.

1. **Alternatively, expedited ruling.** The Court will decide DN 19 on its merits by October 9, 2026, on the existing record as supplemented by the parties' filings on DN 65 and the hearing held on October 6, 2026.

2. **Alternatively, order preserving jurisdiction.** Under 28 U.S.C. § 1651(a), until the Court rules on DN 19, the persons bound by this Order shall not conduct the Second Evidence Review in Investigation No. 20251230, issue the investigative report, or issue any findings or sanction arising from the investigation.

3. **Alternatively, production under seal.** Within seven days of this Order, Defendants shall file under seal the materials the investigator made available to Plaintiff in the First Evidence Review in Investigation No. 20251230, subject to a protective order to be entered by the Court.

BENJAMIN BEATON
United States District Judge

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

Ramsi A. Woodcock,

Plaintiff,

v.

Case No. 5:25-cv-00424-BJB

Eli Capilouto et al.,

Defendants.

SECOND SUPPLEMENTAL DECLARATION OF RAMSI A. WOODCOCK

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

A. Course Listings and Staffing

1. This declaration supplements my declarations of December 12, 2025 (DN 19-3), January 2, 2026 (DN 35), and September 29, 2026 (DN 65-1).
2. The International Law Seminar that I normally teach in the spring semester was not offered in Spring 2026. The College of Law's Spring 2026 course list, dated October 17, 2025, does not include the seminar or list me as the instructor for any course. A true and accurate copy of that course list, together with the email circulating it, is attached as Exhibit B.
3. The College of Law's Fall 2026 course list, dated August 21, 2026, listed me as the instructor for Antitrust and for Secured Transactions. Each of those courses was marked with an asterisk, which the course list defines as "Pending." The College of Law's Fall 2026 2L/3L schedule, updated August 19, 2026, likewise listed Antitrust and Secured Transactions with me as the

instructor, each marked with an asterisk. True and accurate copies of the course list and the schedule are attached as Exhibit A.

4. Neither Antitrust nor Secured Transactions was offered in Fall 2026.

5. The College of Law sets its spring course schedule in mid-October of the preceding fall. On October 18, 2024, Beau Steenken, the College of Law's Associate Dean for Academic Affairs, circulated to the faculty an updated list of Spring 2025 course offerings and asked faculty to report any concerns by noon the following Monday. A true and accurate copy of that email is attached as Exhibit C. On October 17, 2025, he circulated to the faculty the draft Spring 2026 course list and block schedules, asked faculty to report any concerns by noon on Monday, October 20, and stated that he planned to distribute the schedule to students early the following week. See Exhibit B.

6. The College of Law is severely understaffed. Many of its courses are taught by adjunct instructors, and it has fewer tenured faculty members than most comparable law schools. Because there are so few tenured faculty members, the loss of any one of them leaves significant gaps in the curriculum.

VERIFICATION

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

Date: October 5, 2026



Ramsi A. Woodcock

Exhibit A

Course List Fall 2026

*Color Key Located at end of document

No.	Title	Cr	Instructor	Days	Begin	End	Room	Cap
	1L Academic Enhancement		Johnstone	M	1300	1350	299	70
	1L Career Development		Steele	R	1300	1350	299	70
920	Administrative Law	3	Blevins	MW	900	1015	299	70
824.001	ADR §1	3	Rouse	TR	1030	1145	189	16
824.002	ADR §2	3	Rouse	TR	1300	1415	189	16
*930	Antitrust	2	Woodcock	M	1700	1845	195	45
851	Business Associations	4	Michael	MTWR	1400	1450	299	70
813	Capital Punishment	3	Monahan/Lewis	MW	1600	1715	297	45
833	Civil Pre-Trial Practice	3	Stanley	TR	1730	1845	210	16
815.001	Civil Procedure §1	3	Dodds	MW	930	1045	295	80
815.002	Civil Procedure §2	3	Douglas	TR	1500	1615	295	80
902	Civil Rights & Restorative Justice	3	Hughes/Zinkle	W	1500	1650	210	5
822	Con Law II	3	Salamanca	MTR	1100	1150	299	70
801.001	Contracts §1	3	Kennedy	MWR	1100	1150	295	80
801.002	Contracts §2	3	Blevins	MW	1400	1515	295	80
810.001	Criminal Law §1	3	Wilson	TR	930	1045	295	80
810.002	Criminal Law §2	3	Boaz	MW	930	1045	291	80
811	Criminal Procedure	3	Wilson	TR	1300	1415	295	70
814	Criminal Trial Process	3	Coleman	MW	1030	1145	195	45
921	Election Law	3	Douglas	TR	1030	1145	195	45
898	Environmental Law	3	Healy	TWR	1400	1450	193	45
890	Evidence	4	Coleman	MTW	1430	1545	297	70
901.001	Externships §1 - Judicial	3	Coffman	W	1500	1550	216	16
901.002	Externships §2 - In House Counsel	3	Krebs	R	1500	1630	216	16
901.003	Externships §3 - Criminal	3	Tracy	R	1500	1630	222	16
901.004	Externships §4 - Govt/Non profit	3	Jones	R	1500	1630	195	16
915	Family Law	3	Atkins	TR	1030	1145	297	55
903	Family Law Practice & Procedure	3	Ewing	TR	1700	1815	189	16
819	Fed Courts & Fed System	3	Salamanca	MTR	1400	1450	195	45
827	Federal Appellate Advocacy & Procedure	3	Wisdom	MW	1730	1845	222	16
809	Federal Criminal Law	3	Schueler	MR	1800	1930	291	80
892	Foreign & International Legal Research	1	Steenken	M	1300	1350	193	16
887	Insurance Law	2	Nicholson	MW	1300	1350	195	45
926	International Business Transactions	3	Michael	MWR	1100	1150	210	24
925	International Law	3	Donovan	MW	1500	1615	291	70
971	Kentucky Innocence Project	2		R	1500	1645	210	6
910	Labor Law	3	Heller	MW	1030	1145	216	24
836	Law & Economics	2	Block	M	1800	1950	193	45

J. David Rosenberg College of Law

Course List Fall 2026

No.	Title	Cr	Instructor	Days	Begin	End	Room	Cap
972	Legal Clinic	3	Hughes	R	1500	1650	193	10
826	Legal Drafting	2	Williams	W	1000	1150	222	16
905	Legal Issues of Gen AI	3	Murray	TR	900	1015	299	70
806.001	Legal Research §1	2	Steenken	T	1100	1150	193	45
806.002	Legal Research §2	2	Steenken	T	1300	1350	299	70
806.003	Legal Research §3	2	Valentin	T	1100	1150	216	24
806.004	Legal Research §4	2	Valentin	T	1400	1450	216	24
806.005	Legal Research §5	2	Brooks	T	1100	1150	222	24
806.006	Legal Research §6	2	Brooks	T	1400	1450	222	24
806.007	Legal Research §7	2	Lowry	T	1100	1150	210	24
806.008	Legal Research §8	2	Lowry	T	1400	1450	210	24
806.001	Legal Writing §1	2	Hoch	F	1030	1145	210	70
806.002	Legal Writing §2	2	Hoch	F	1300	1415	210	70
806.003	Legal Writing §3	2	Albrink	F	1030	1145	216	24
806.004	Legal Writing §4	2	Albrink	F	1300	1415	216	24
806.005	Legal Writing §5	2	Sipes	F	1030	1145	222	24
806.006	Legal Writing §6	2	Sipes	F	1300	1415	222	24
806.007	Legal Writing §7	2	Henke	F	1030	1145	299	24
806.008	Legal Writing §8	2	Murray	F	1300	1415	299	24
821.001	Lit Skills §1	3	Sparks	MW	1800	1915	199	16
821.002	Lit Skills §2	3	Stinnett	MW	800	915	199	16
904	National Security Law	3	Sripinyo	TRF	1300	1350	193	45
825	Negotiations	2	Hays	R	1800	1950	193	16
861	Partnership Tax	2	Brennen	MW	930	1020	195	45
914	Products Liability	3	Davis	WF	1030	1145	193	45
835	Professional Responsibility	3	Sripinyo	TRF	1000	1050	291	70
818	Remedies	3	Price	MW	1400	1515	222	24
*882	Secured Transactions	3	Woodcock	MW	1530	1645	195	45
942	Seminar: Commerical Law	2	Kennedy	M	1400	1550	216	16
952	Seminar: Human Rights	2	Atkins	T	1400	1550	228	16
957	Seminar: Poverty Law	2	Dodds	M	1400	1550	210	16
941	Seminar: Public Health Law	2	Carthens	T	1000	1150	228	16
860	Taxation I	4	Brennen	MTW	1300	1415	297	70
805.001	Torts §1	4	Davis	TWR	1400	1450	291	80
				F	1300	1350	291	80
805.002	Torts §2	4	Healy	TWRF	1100	1150	291	80
876	Trusts & Estates	4	Bray	MWR	900	1015	297	70

* - Pending

Writing Requirement

Experiential Requirement

6 of 9 Requirement

Writing OR Experiential

Professional Responsibility

2L/3L Schedule

Fall 2026

Updated 08/19/2026 (All Course Information Subject to Change)

Start Time	Monday	Tuesday	Wednesday	Thursday	Friday
8:00 – 10:00	Lit Skills §2 (Stinnett) [Rm 199] [8:00 – 9:15] Partnership Tax (Brennen) [Rm 195] [9:30 – 10:20] Trusts and Estates (Bray) [Rm 297] [9:00 – 10:15] Admin Law (Blevins) [Rm 299] [9:00 – 10:15]	Legal Issues of Gen AI (Murray) [Rm 299] [9:00-10:15]	Lit Skills §2 (Stinnett) [Rm 199] [8:00 – 9:15] Partnership Tax (Brennen) [Rm 195] [9:30 – 10:20] Trusts and Estates (Bray) [Rm 297] [9:00 – 10:15] Admin Law (Blevins) [Rm 299] [9:00 – 10:15]	Legal Issues of Gen AI (Murray) [Rm 299] [9:00-10:15] Trusts and Estates (Bray) [Rm 297] [9:00 – 10:15]	
10:00 – 1:00	Criminal Trial Process (Coleman) [Rm 195] [10:30 – 11:45] Labor Law (Heller) [Rm 216] [10:30 – 11:45] International Business Transactions (Michael) [Rm 210] [11:00– 11:50] Con Law II (Salamanca) [Rm 299] [11:00– 11:50]	Sem: Public Health Law (Carthens) [Rm 228] [10:00-11:50] PR (Sripinyo) [Rm 291] [10:00-10:50] ADR §1 (Rouse) [Rm 189] [10:30-11:45] Family Law (Atkins) [Rm 297] [10:30-11:45] Election Law (Douglas) [Rm 195] [10:30-11:45] Con Law II (Salamanca) [Rm 299] [11:00-11:50]	Legal Drafting (Williams) [Rm 222] [10:00 – 11:45] Products Liability (Davis) [Rm 193] [10:30 – 11:45] Criminal Trial Process (Coleman) [Rm 195] [10:30 – 11:45] Labor Law (Heller) [Rm 216] [10:30 – 11:45] International Business Transactions (Michael) [Rm 210] [11:00– 11:50]	PR (Sripinyo) [Rm 291] [10:00-10:50] ADR §1 (Rouse) [Rm 189] [10:30-11:45] Family Law (Atkins) [Rm 297] [10:30-11:45] Election Law (Douglas) [Rm 195] [10:30-11:45] International Business Transactions (Michael) [Rm 210] [11:00– 11:50] Con Law II (Salamanca) [Rm 299] [11:00-11:50]	PR (Sripinyo) [Rm 291] [10:00-10:50] Products Liability (Davis) [Rm 193] [10:30 – 11:45]

2L/3L Schedule

Fall 2026

Updated 08/19/2026 (All Course Information Subject to Change)

Start Time	Monday	Tuesday	Wednesday	Thursday	Friday
1:00 – 2:00	Foreign and International Legal Research (Steenken) [Rm 193] [1:00– 1:50] Insurance Law (Nicholson) [Rm 195] [1:00– 1:50] Tax I (Brennen) [Rm 297] [1:00– 2:15]	ADR §2 (Rouse) [Rm 189] [1:00-2:15] National Security Law (Sripinyo) [Rm 193] [1:00-1:50] Crim Pro (Wilson) [Rm 295] [1:00-2:15] Tax I (Brennen) [Rm 297] [1:00– 2:15]	Insurance Law (Nicholson) [Rm 195] [1:00– 1:50] Tax I (Brennen) [Rm 297] [1:00– 2:15]	ADR §2 (Rouse) [Rm 189] [1:00-2:15] National Security Law (Sripinyo) [Rm 193] [1:00-1:50] Crim Pro (Wilson) [Rm 295] [1:00-2:15]	National Security Law (Sripinyo) [Rm 193] [1:00-1:50]
2:00 – 4:00	Fed Courts & Fed Systems (Salamanca) [Rm 195] [2:00 – 2:50] Sem: Poverty Law (Dodds) [Rm 210] [2:00 – 3:50] Sem: Commercial Law (Kennedy) [Rm 216] [2:00 – 3:50] Remedies (Price) [Rm 222] [2:00 – 3:15] BA (Michael) [Rm 299] [2:00 –2:50] Evidence (Coleman) [Rm 297] [2:30 –3:45] International Law (Donovan) [Rm 291] [3:00-4:15] Sec Transactions (Woodcock)* [Rm 195] [3:30-4:45]	Environmental Law (Healy) [Rm 193] [2:00-2:50] Fed Courts & Fed Systems (Salamanca) [Rm 195] [2:00-2:50] Sem: Human Rights (Atkins) [Rm 228] [2:00-3:50] BA (Michael) [Rm 299] [2:00 –2:50] Evidence (Coleman) [Rm 297] [2:30 –3:45]	Environmental Law (Healy) [Rm 193] [2:00-2:50] Remedies (Price) [Rm 222] [2:00 – 3:15] BA (Michael) [Rm 299] [2:00 –2:50] Evidence (Coleman) [Rm 297] [2:30 –3:45] Sec Transactions (Woodcock)* [Rm 195] [3:30-4:45] Civil Rights & Rest. Just. Clinic (Hughes/Zinkle) [Rm 210] [3:00-4:45] Externship §1 (Coffman) [Rm 216] [3:00-3:50] International Law (Donovan) [Rm 291] [3:00-4:15]	Environmental Law (Healy) [Rm 193] [2:00-2:50] Fed Courts & Fed Systems (Salamanca) [Rm 195] [2:00-2:50] BA (Michael) [Rm 299] [2:00 –2:50] Legal Clinic (Hughes) [Rm 193] [3:00 – 4:50] KIP [Rm 210] [3:00 –4:45] In House Externship §2 (Krebs) [Rm 216] [3:00-4:30] Criminal Externship §3 (Tracy) [Rm 222] [3:00-4:30] Gov't/Non-Profit Externship §4 (Jones) [Rm 195] [3:00-4:30]	

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2L/3L Schedule

Fall 2026

Updated 08/19/2026 (All Course Information Subject to Change)

Start Time	Monday	Tuesday	Wednesday	Thursday	Friday
4:00 – 7:00	Capital Punishment (Monahan & Lewis) [Rm 193] [4:00 – 5:15] Antitrust (Woodcock)* [Rm 195] [5:00-6:45] Federal Appellate Advocacy & Proc (Wisdom) [Rm 222] [5:30 – 6:45] Lit Skills §1 (Sparks) [Rm 199] [6:00 – 7:15] Law & Econ (Block) [Rm 193] [6:00 – 7:50] Federal Criminal Law (Schueler) [Rm 291] [6:00 – 7:30]	Family Law Practice & Procedure (Ewing) [Rm 189] [5:00-6:15] Civil Pre-Trial Practice (Stanley) [Rm 210] [5:30-6:45]	Capital Punishment (Monahan & Lewis) [Rm 193] [4:00 – 5:15] Federal Appellate Advocacy & Proc (Wisdom) [Rm 222] [5:30 – 6:45] Lit Skills §1 (Sparks) [Rm 199] [6:00 – 7:15]	Family Law Practice & Procedure (Ewing) [Rm 189] [5:00-6:15] Civil Pre-Trial Practice (Stanley) [Rm 210] [5:30-6:45] Negotiations (Hays) [Rm 193] [6:00-7:50] Federal Criminal Law (Schueler) [Rm 291] [6:00 – 7:30]	

Exhibit B



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

spring schedule draft

1 message

Steenken, Beau B. <beau.steenken@uky.edu>

Fri, Oct 17, 2025 at 3:13 PM

Reply-To: "Steenken, Beau B." <beau.steenken@uky.edu>

To: LAWFAC@lsv.uky.edu

Hi everyone,

Attached please find the draft course list for the spring, along with draft block schedules. Please find your courses on the attached list and verify that the dates and times work. I plan on distributing the schedule to our students early next week, so please get back to me with any concerns by noon on Monday, 10/20.

Thanks,
Beau

3 attachments**S26 Course List.pdf**

441K

**Spring 2026 1L Schedule.docx**

30K

**Spring 2026 2L, 3L Schedule.docx**

37K

J. David Rosenberg College of Law

Course List Spring 2026

No.	Title	Cr	Instructor	Days	Begin	End	Room	Cap
920	Administrative Law	3	Healy	MTR	1300	1400	291	83
866	Advanced Estate Planning	2	Bagby	R	1500	1700	222	24
824	Alternate Dispute Resolution	3	Rouse	TR	930	1045	210	24
851	Business Associations	4	Michael	MTWR	1100	1200	299	70
902	Business Org Drafting	2	Michael	T	1400	1545	189	28
916	Children and the Law	3	DiLoreto	TW	1730	1845	210	24
817	Civ Pro II §1	3	Carthens	MW	930	1045	291	83
817	Civ Pro II §2	3	Dodds	WF	930	1045	295	80
833	Civil Pre-Trial Practice	3	Stanley	TR	1730	1845	222	24
885	Commercial Debtor-Creditor Relations	3	Kennedy	MW	930	1045	193	45
820	Con Law I §1	3	Shaub	TR	930	1045	291	83
820	Con Law I §2	3	Romero	TR	930	1045	295	80
822	Con Law II	3	Douglas	TR	1400	1515	297	73
823	Conflict of Laws	3	Davis	TRF	1100	1200	195	45
802	Contracts §1	3	TBD	TWR	1100	1200	291	83
802	Contracts §2	3	Moore	TWR	1100	1200	295	80
929	Copyright Law	3	Frye	TWR	1300	1400	210	24
863	Corporate Tax	3	Brennen	MW	1300	1415	189	28
811	Criminal Procedure	3	Friedman	TR	930	1045	299	70
814	Criminal Trial Process	3	Romero	TWR	1300	1400	299	70
	CRRJ Clinic	3	Hughes/Zinkle	W	1500	1700	189	28
911	Education Law	3	Morales	TR	1800	1915	216	24
912	Employment Law	3	Sykes	TR	1730	1845	195	45
895	Equine Law	2	Ingle/Keating	T	1600	1745	193	45
890	Evidence	4	Sripinyo	MTWR	1300	1400	295	80
964	Externships §1	3	Coffman	W	1500	1600	222	24
901	Externships §2	3	TBD	R	1530	1630	189	28
901	Externships §3	3	TBD	R	1530	1630	193	45
901	Externships §4	3	TBD	R	1530	1630	195	45
915	Family Law	3	McClure	W	1800	1915	216	24
				R	830	945	216	24
907	Family Law Practice & Procedure	3	Ewing	TR	1700	1815	189	28
893	Federal Admin & Tax Research	1	Steenken	M	1400	1500	195	45
827	Federal Appellate Advocacy and Procedure	3	Wisdom	MW	1730	1845	222	24
830	Healthcare Organizations	3	Carthens	MW	1300	1415	193	45
919	Immigration Law	3	Boaz	MW	930	1045	195	45
845	Jurisprudence	3	Donovan	TR	930	1045	189	28
971	Kentucky Innocence Project	2	Clem	R	1500	1700	210	24
838	Law and Religion	3	Thro	TR	1530	1645	297	73
972	Legal Clinic	3	Hughes	R	1500	1700	216	24
903	Legal Issues of AI	3	Murray	TR	930	1045	195	45
905	Legal Practice & AI	1	Lowry	W	1100	1200	216	24
816	Legal Research §1	2	Steenken	F	1300	1400	299	70
816	Legal Research §2	2	Steenken	F	1100	1200	299	70
816	Legal Research §3	2	Valentin	F	1300	1400	210	24

J. David Rosenberg College of Law

Course List Spring 2026

No.	Title	Cr	Instructor	Days	Begin	End	Room	Cap
816	Legal Research §4	2	Valentin	F	1100	1200	210	24
816	Legal Research §5	2	Brooks	F	1300	1400	216	24
816	Legal Research §6	2	Brooks	F	1100	1200	216	24
816	Legal Research §7	2	Lowry	F	1300	1400	222	24
816	Legal Research §8	2	Lowry	F	1100	1200	222	24
816	Legal Writing §1	2	Murray	M	1100	1200	297	73
816	Legal Writing §2	2	Murray	M	1300	1400	297	73
816	Legal Writing §3	2	Albrink	M	1100	1200	210	24
816	Legal Writing §4	2	Albrink	M	1300	1400	210	24
816	Legal Writing §5	2	Sipes	M	1100	1200	216	24
816	Legal Writing §6	2	Sipes	M	1300	1400	216	24
816	Legal Writing §7	2	Henke	M	1100	1200	222	24
816	Legal Writing §8	2	Henke	M	1300	1400	222	24
927	Legislation	3	Healy	MTR	1100	1200	193	45
821	Lit Skills §1	3	Stinnett	MW	800	915	199	180
821	Lit Skills §2	3	Sparks	MW	1800	1915	199	180
832	Medical Liability	3	Prather	TR	830	945	222	24
904	Mergers & Acquisitions	3	Kluegel	TRF	1300	1400	195	45
825	The Negotiating Process	2	Hays	R	1800	1945	193	45
934	Patent Law	3	Kumar	TR	930	1045	193	45
881	Payment Systems	2	Block	M	1800	1945	193	45
914	Products Liability	3	Davis	TRF	1400	1500	195	45
835	Professional Responsibility	3	Schueler	MR	1800	1930	295	80
807	Property §1	4	Kumar	TRF	1400	1515	291	83
807	Property §2	4	Bray	MTR	1400	1515	295	80
882	Secured Transactions	3	Kennedy	MW	1400	1515	297	73
875	Securities Regulation	3	Kluegel	TRF	1100	1200	297	73
943	Seminar: Crim Law	2	Wilson	T	1400	1600	222	24
906	Seminar: Crimmigration	2	Boaz	M	1400	1600	216	24
949	Seminar: Law & Literature	2	Dodds	W	1400	1600	210	24
948	Seminar: Law & Policing	2	Friedman	T	1400	1600	216	24
908	Seminar: Presidential & Executive Power	2	Shaub	T	1400	1600	210	24
950	Seminar: TBD	2	Sripinyo	W	1500	1700	216	24
931	State and Local Taxation	2	Moore	TR	1400	1500	193	45
860	Taxation I	4	Brennen	MW	930	1130	189	28
876	Trusts & Estates	4	Bray	MTR	930	1045	297	73
	1L Academic Enhancement		Johnstone	T	1300	1400	297	73
	Bar Prep Tip-Off		Johnstone	WF	1000	1100	199	180
	1L Career Development		Steele	R	1300	1400	297	73
								0
								0
								0

Exhibit C



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

updated spring schedule

1 message

Steenken, Beau B. <beau.steenken@uky.edu>

Fri, Oct 18, 2024 at 4:46 PM

Reply-To: "Steenken, Beau B." <beau.steenken@uky.edu>

To: LAWFAC@lsv.uky.edu

Hi all,

The updated list of spring course offerings is attached. Please take a look at when and where you are scheduled and let me know of any concerns by noon on Monday.

Thanks,
Beau

**S25 Course List v2.xlsx**

18K

EXHIBIT 11

From: cm_ecf@kyed.uscourts.gov
To: cm_d_ecf@kyed.uscourts.gov
Subject: Activity in Case 5:25-cv-00424-BJB Woodcock v. The University of Kentucky et al Order
Date: Wednesday, October 7, 2026 10:46:46 AM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court
Eastern District of Kentucky

Notice of Electronic Filing

The following transaction was entered on 10/7/2026 at 10:45 AM EST and filed on 10/7/2026

Case Name: Woodcock v. The University of Kentucky et al

Case Number: [5:25-cv-00424-BJB](#)

Filer:

Document Number: 73(No document attached)

Docket Text:

TEXT ORDER: Judge Beaton held a remote hearing yesterday regarding the pending motions in this case. For the reasons discussed during the hearing, and with the agreement of all parties, the Court granted Secretary McMahons motion for an extension of time to file a response (DN [66]) and extended the deadline to 11/1/2026. The Court also granted the University of Kentuckys unopposed motion to dismiss (DN [61]) and dismissed the University of Kentucky as a party in this case under Fed. R. Civ. P. 21. The Court will address the pending TRO request in a subsequent order. (Court Reporter: Terri Horton) (TIC: 1/28). Signed by District Judge Benjamin J Beaton on 10/7/2026.(JDS)cc: COR

5:25-cv-00424-BJB Notice has been electronically mailed to:

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5:25-cv-00424-BJB Notice will not be electronically mailed to:

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EXHIBIT 12

No. _____

In the Supreme Court of the United States

FLORIDA BOARD OF GOVERNORS, ET AL.

Petitioners,

v.

LEROY PERNELL, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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Counsel for Petitioners

QUESTION PRESENTED

Whether public university professors have a special status under the First Amendment, such that the speech they express in the course of their official duties, unlike the official-duty speech of all other public employees, is protected by the First Amendment from regulation by their employer, the state.

PARTIES TO THE PROCEEDING

Petitioners are Manny Diaz, Jr., Brian Lamb, Eric Silagy, Timothy M. Cerio, Richard Corcoran, Aubrey Edge, Patricia Frost, Nimna Gabadage, Edward Ellis Haddock, Jr., Kenneth Jones, Darlene Luccio Jordan, Alan Levine, Charles Lydecker, Craig Mateer, Steven Scott, Deanna Michael, William Self, and Kent Stermon, all in their official capacities as members of the Florida Board of Governors of the State University System; Julie Leftheris, in her official capacity as the Inspector General of the Florida Board of Governors of the State University System; and Timothy L. Boaz, Sandra Callahan, Michael Carrere, N. Rogan Donnelly, Michael E. Griffin, Oscar Horton, Lauran Monbarren, Nithin Palyam, Shilen Patel, Fredrick Piccolo, Melissa Seixas, Jenifer Jasinski Schneider, and William Weatherford, all in their official capacities as members of the University of South Florida Board of Trustees. Petitioners were the defendants before the district court and the defendants-appellants in the Court of Appeals.

Respondents are Leroy Pernell, Dana Thompson Dorsey, Sharon Austin, Shelley Park, Jennifer Sandoval, Russell Almond, Marvin Dunn, Johana Dauphin, Adriana Novoa, Samuel Rechek, and the First Amendment Forum at the University of South Florida. Respondents were the plaintiffs before the district court and the plaintiffs-appellees in the Court of Appeals.

STATEMENT OF RELATED PROCEEDINGS

This case is directly related to the following proceedings:

- *Pernell v. Fla. Bd. of Governors of the State Univ. Sys.*, No. 22-13992 (11th Cir. July 7, 2026)
- *Novoa v. Diaz*, No. 22-13994 (11th Cir. July 7, 2026)
- *Pernell v. Fla. Bd. of Governors of the State Univ. Sys.*, No. 23-10616 (11th Cir. Oct. 30, 2023)
- *Pernell v. Lamb*, No. 4:22-cv-304-MW-MAF (N.D. Fla. Nov. 17, 2022)
- *Novoa v. Diaz*, No. 4:22-cv-324-MW-MAF (N.D. Fla. Nov. 17, 2022)

There are no other proceedings in state or federal court, or in this Court, directly related to this case under Supreme Court Rule 14.1(b)(iii).

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PETITION FOR A WRIT OF CERTIORARI

Petitioners respectfully seek a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

OPINIONS BELOW

The Eleventh Circuit's opinion (Pet. App. 1a–85a) is reported at 181 F.4th 1135. The District Court's opinion (Pet. App. 86a–224a) is reported at 641 F. Supp. 3d 1218.

JURISDICTION

The Eleventh Circuit entered judgment on July 7, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The text of the First Amendment to the United States Constitution, Florida Statutes §§ 1000.03 and 1000.05, as well as Florida Board of Governors Regulation 10.005, are reproduced in the appendix beginning at Pet. App. 225a.

INTRODUCTION

“Members of one race . . . are morally superior to members of another race.” This proposition is invidiously discriminatory. So the Florida Legislature enacted a law prohibiting public school teachers and university educators from subjecting students to “instruction” that espouses or otherwise endorses that proposition, along with seven other “concepts” of similar ilk, such as “[a] person’s moral character . . . is necessarily determined by his or her race,” and “[a] person, by virtue of his or her race . . . is inherently racist” FLA. STAT. § 1000.05(4)(a). Even so, the State still permits classroom “discussion” of these ideas “in an objective manner without endorsement of the concepts.” *Id.* § 1000.05(4)(b). And public educators may promote the concepts outside the classroom—in publications, speeches, or other media. But *in* the classroom and other state-sponsored instructional settings, Florida has determined that the teachers it employs should not be teaching the next generation to accept these odious ideas as truth.

In overriding Florida’s sovereign judgment, a divided Eleventh Circuit panel below both deepened an existing circuit split and created a new one. The circuits are sharply divided over whether public university professors have a special status under the First Amendment, such that the speech they express in the course of their official duties, unlike the official-duty speech of all other public employees, is protected by the First Amendment from regulation by their employer, the states. *Compare, e.g., Edwards v. California Univ. of Pennsylvania*, 156 F.3d 488, 491 (3d Cir. 1998) (Alito, J.) (unprotected); *Urofsky v. Gilmore*, 216 F.3d 401, 407–10 (4th Cir. 2000) (en banc)

(unprotected); *Renken v. Gregory*, 541 F.3d 769, 773–75 (7th Cir. 2008) (unprotected), *with Demers v. Austin*, 746 F.3d 402, 412 (9th Cir. 2014) (protected); *Meriwether v. Hartop*, 992 F.3d 492, 504–06 (6th Cir. 2021) (protected); *Heim v. Daniel*, 81 F.4th 212, 223–28 (2d Cir. 2023) (protected).

This conflict only intensified after this Court’s landmark decision in *Garcetti v. Ceballos*, which held that the First Amendment does not protect the speech of public employees made pursuant to their official duties—but reserved the question whether the same rule applies in the public education context for “speech related to scholarship or teaching.” 547 U.S. 410, 421, 425 (2006). The Court has not revisited that question, leaving it to the circuits to sort out over the last 20 years. *See Heim*, 81 F.4th at 225 (noting “the uncertain implications of *Garcetti*’s academic carveout”); *Demers*, 746 F.3d at 406 (noting “the uncertain state of the law in the wake of *Garcetti*”); *Gorum v. Sessoms*, 561 F.3d 179, 186 n.6 (3d Cir. 2009) (noting that *Garcetti*’s effects on speech “related to scholarship or teaching’ are not clear”). The result has been a dizzying array of decisions, with some courts holding that speech by state employees from the classroom lectern is government speech, but others (including the majority below) blowing a university-sized hole in this Court’s government-speech precedent.

But that is not all. In the decision below, the panel majority injected still more uncertainty when, after taking the professors’ side in the existing circuit split over *whether* the First Amendment applies to classroom instruction, the court created a new split over *how* it applies. Rather than rely on this Court’s pre-*Garcetti* precedent for public-employee speech—

as other circuits have—the Eleventh Circuit declared that those cases are largely inapposite in the university setting. Pet. App. 19a–22a. So the court devised a bespoke rule that turns on “the context of the speech; the state’s position as a public employer; and the strong predilection for academic freedom as an adjunct of the free speech rights of the First Amendment.” Pet. App. 37a (quotation marks omitted). This rule is foreign to other circuits, and eviscerates a state’s substantial interest in regulating the instruction that is offered in its own classrooms.

The panel’s decision cannot be squared with this Court’s government-speech precedent, which establishes that the speech of public employees, when made “pursuant to their official duties,” is not protected by the First Amendment at all. *Garcetti*, 547 U.S. at 421. The leading First Amendment case in the area of public higher education is *Rosenberger v. Rector & Visitors of University of Virginia*, 515 U.S. 819 (1995), where this Court made clear that “when the University determines the content of the education it provides, it is the University speaking, and we have permitted the government to regulate the content of what is or is not expressed when it is the speaker.” *Id.* at 833. Then-Judge Alito understood this language to mean what it plainly says: that “a public university professor does not have a First Amendment right to decide what will be taught in the classroom.” *Edwards*, 156 F.3d at 491. Likewise, the government speech cases in which the government provides public funds to private entities or permits them to use public property to communicate the government’s own message lead to the same destination. But the panel majority’s decision joins the circuits marching in the opposite direction.

The question presented is both recurring and exceptionally important. For one, the decision below claimed the mantle of academic freedom—a value this Court has repeatedly celebrated—yet it reasoned that public university professors hold that freedom *against their employer* and thus have (virtually) unfettered, constitutionally protected discretion to decide what is and is not to be taught in the State’s classrooms. That is wrong. Judge Easterbrook, expressly endorsing Judge Lagoa’s *dissent* below, recently opined that “academic freedom belongs to the university[,]” not individual professors, and “[a] university has the right to insist that professors *provide* the sort of education that the school *promises* . . . but can deliver only through agents.” *McDonald v. Trs. of Indiana Univ.*, 186 F.4th 917, 930 (7th Cir. 2026) (Easterbrook, J., concurring). The decision below turns academic freedom on its head and undermines the principle in the name of defending it.

Worse still, the decision below wrests authority over education from the states and transfers it to federal judges. Even the panel majority could not stomach the full logic of its reasoning, so it gerrymandered its ruling to include the gauzy reassurance that states retain power to “exclude speech that veers outside of well-understood parameters.” Pet. App. 38a–39a. Florida, of course, thought it was doing just that—excluding from its public classrooms state-sponsored endorsement of racist concepts. The panel simply disagreed with Florida’s “parameters” and reserved for individual professors—and ultimately itself—the prerogative to decide what is “well-understood.” The result: federal judges, not states, will determine what curricular speech falls inside and outside the academic Overton window.

That result is untenable and in fact contrary to the very principles of free speech and academic freedom that the panel majority purported to vindicate. It is also incompatible with the Nation’s “[h]istory, tradition, and precedent” regarding educational formation. *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 472 (2025). The decision below requires the State’s education system to be scrupulously neutral on foundational principles such as equality and human dignity: “The ideas Florida targets may well be noxious. Or maybe not. Either way, in this context the First Amendment trusts students to figure it out for themselves.” Pet. App. 5a.

The Framers thought otherwise. Far from constitutionally mandated agnosticism, the Framers understood that the very purpose of education was to instill civic virtues and ideals into its citizenry. George Washington explained that “the *assimilation* of the principles, opinions, and manners of our country-men by the common education of a portion of our youth from every quarter well deserves attention.” President George Washington, Eighth Annual Address to Congress (Dec. 7, 1796), <https://perma.cc/EEU7-QHKN> (emphasis added). Benjamin Franklin also framed education as forming individuals: “[t]he idea of what is true merit should also be often presented to youth, explained and impressed on their minds[.]” BENJAMIN FRANKLIN, PROPOSALS RELATING TO THE EDUCATION OF YOUTH IN PENNSYLVANIA 29–30 (Phila., U. Penn. Press 1749).

And most tellingly, an early University of Virginia Board of Visitors—including Thomas Jefferson and James Madison—passed the following resolution:

Whereas it is the duty of this board . . . to pay especial attention to the principles of government which shall be inculcated therein, and to provide that none shall be inculcated which are incompatible with those on which the Constitutions of this state, and of the US. were genuinely based[.]

Meeting Minutes of University of Virginia Board of Visitors, FOUNDERS EARLY ACCESS (Mar. 4–5, 1825), <https://perma.cc/A5N8-GQFL>.

The Eleventh Circuit’s order cannot be reconciled with this history. And given the persistent nature of the issue and the conflicts among the courts that have addressed it, the time is ripe for the clarity and uniformity that only this Court can provide.

The Court should grant the writ.

STATEMENT OF THE CASE

I. The Individual Freedom Act

In 2022, pursuant to its authority to “establish education policy, enact education laws, and appropriate and allocate education resources,” FLA. STAT. § 1000.03(2)(a), the Florida Legislature passed and Governor DeSantis approved the Individual Freedom Act (the “Act”). *See* 2022 Fla. Laws 72. The Act took effect on July 1, 2022. *See id.* § 8.

As relevant here, the Act amended the Florida Education Code to enumerate actions that constitute “[d]iscrimination on the basis of race, color, national origin, [or] sex” and are thus prohibited under Section 1000.05(2). *Id.* § 2. Specifically, the Act prohibits any “training or instruction that espouses, promotes,

advances, inculcates, or compels” students at Florida’s public primary, secondary, and post-secondary schools to believe the following eight concepts:

1. Members of one race, color, national origin, or sex are morally superior to members of another race, color, national origin, or sex.
2. A person, by virtue of his or her race, color, national origin, or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
3. A person’s moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, national origin, or sex.
4. Members of one race, color, national origin, or sex cannot and should not attempt to treat others without respect to race, color, national origin, or sex.
5. A person, by virtue of his or her race, color, national origin, or sex, bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, national origin, or sex.
6. A person, by virtue of his or her race, color, national origin, or sex, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.
7. A person, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because

of actions, in which the person played no part, committed in the past by other members of the same race, color, national origin, or sex.

8. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, national origin, or sex to oppress members of another race, color, national origin, or sex.

FLA. STAT. § 1000.05(4)(a)(1)–(8).

The Act, however, draws a sharp distinction between *indoctrination* and *discussion*. Although the Act prohibits subjecting a student to instruction that advocates these concepts, it makes clear that it does not “prohibit discussion of the concepts . . . as part of a larger course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.” *Id.* § 1005.05(4)(b). Along these same lines, because the Act applies only to “instruction,” *see id.* § 1000.05(4)(a), it does not prevent Florida’s educators from advocating the concepts, or any other personal views they may hold, in publications, speeches, or other activities outside the classroom. Nor does the Act reach speeches or debates by guest speakers or other invitees who, unlike the State’s own instructors in the classroom, do not speak on behalf of the State. *See 10.005, Prohibition of Discrimination in University Training or Instruction*, BD. OF GOVERNORS, STATE UNIV. SYS. OF FLA. (Aug. 26, 2022), <https://perma.cc/W9NF-7DPE> (“Regulation 10.005”) (defining “instruction” as teaching “by a university employee” or person “authorized to provide instruction by the university within a course”).

The Florida Board of Governors has adopted Regulation 10.005 to implement the Act.¹ Under the Regulation, the Board takes enforcement action only against a university that “willfully and knowingly failed to correct a violation of the university regulation.” Regulation 10.005(4)(a).

II. The Proceedings Below

Respondents in these consolidated cases include professors at Florida’s public universities. They challenged the Act as applied to Florida’s public universities on grounds that (among other things) it violates their free speech rights under the First Amendment and their rights under the Fourteenth Amendment Due Process Clause’s vagueness doctrine. They sought preliminary injunctive relief. Petitioners opposed the motions and also moved to dismiss all claims under Rule 12(b)(1) and (6) for lack of standing and failure to state a claim.

The district court granted Respondents’ request for a preliminary injunction.² The court held that at least one Respondent had adequately alleged an injury traceable to the Act’s prohibition on each of the eight enumerated concepts, such that the entire Act was properly before the court. Pet. App. 162a–63a. On the merits, the court applied a balancing test it purported to draw from Eleventh Circuit precedent and concluded that the Act restricts the First Amendment rights of the State’s professors. Pet. App. 171a–75a, 178a–93a. Finally, it concluded that two of the Act’s provisions are unconstitutionally vague,

¹ See Fla. Const. art. IX, § 7.

² The court had jurisdiction under 28 U.S.C. § 1331.

including the Act’s exception allowing “objective” classroom discussion of the eight enumerated concepts—which, the court determined, “commands the entire statute” and thus “renders the [Act] as a whole unconstitutionally vague.” Pet. App. 210a. The court thus entered a preliminary injunction barring any further enforcement of the Act or of the Board’s regulation implementing it. Pet. App. 221a–24a.

A divided panel of the Eleventh Circuit affirmed. After summarily agreeing with the district court that at least one Respondent had standing, the panel majority framed the inquiry as “whether the law is constitutional as it applies to one group of people (college professors) in one context (college instruction).” Pet. App. 10a. In answering that question, the panel majority first reviewed this Court’s public-employee speech cases—*Pickering v. Board of Education*, 391 U.S. 563 (1968); *Connick v. Myers*, 461 U.S. 138 (1983); and *Garcetti*—and concluded that “the rationale underlying [those] cases does not apply with equal force to curricular speech by university professors.” Pet. App. 19a. That rationale, the panel majority said repeatedly, is limited to the “managerial concerns” of office administrators: “An interest in banning disfavored viewpoints is not in line with the workplace management concerns that give the government extra leeway in the employee speech cases.” Pet. App. 20a–21a. And “the university professors here,” the majority asserted, are not “civil servants . . . administering government programs.” Pet. App. 21a.

The panel majority further distinguished this Court’s public-employee speech cases on grounds that the Act’s speech restriction was imposed by “the

Florida legislature and the Governor . . . who are not the professors' employers and who exercise no direct supervision or control over their employment"; the Act imposes "a wide-ranging, ex ante restriction" on speech rather than an ex post penalty for "a single employee who had already spoken"; and the Act renders academic freedom a "nullity." Pet. App. 21a–22a. The panel majority then rejected wholesale the applicability of this Court's government-speech cases. Pet. App. 25a–34a.

Having cast aside this Court's public-employee speech and government-speech strands of First Amendment precedent, the panel majority determined that the Act triggers First Amendment scrutiny and devised its own First Amendment standard for university classroom speech. The majority took as its "starting point" the "baseline balancing test" from this Court's public-employee speech cases, whereby "government interests" are weighed against "a government employee's First Amendment rights." Pet. App. 36a. Then it announced its own standard to guide the analysis: Restrictions on the curricular speech of public university professors "must be reasonable and related to legitimate pedagogical concerns." Pet. App. 37a. In applying that test, the court relied on "three general factors" pulled from circuit precedent: "the context of the speech; the state's position as a public employer; and the strong predilection for academic freedom as an adjunct of the free speech rights of the First Amendment." Pet. App. 37a (quotation marks omitted).

The panel majority determined that all three factors weigh against the Act. Starting with "context," the panel majority reasoned that restrictions on

speech are “‘especially’ dangerous in the classroom.” Pet. App. 38a. Next, it considered “the State’s interests as an employer” and concluded that the Act, by barring faculty from endorsing certain racist views in the classroom, does not further “ordinary workplace management concerns, much less a legitimate pedagogical interest.” Pet. App. 40a. Finally, it determined that the “strong predilection for academic freedom” in First Amendment caselaw compelled rejection of the Act, especially given the Act’s “lack of clear definitions.” Pet. App. 42a, 45a. Finding that “the State’s interests are insufficient to support the Act’s restrictions,” the court held that “[t]he Act violates the First Amendment’s guarantee of freedom of speech.” Pet. App. 47a–48a.

The majority was quick to reassure the State that the professors’ constitutional right to teach what they want to teach rather than what their employer, the State, wants them to teach is not absolute. “[U]niversities, and even sometimes state governments,” may “make ordinary curriculum decisions (like which majors or courses to offer), or otherwise ensure competent academic instruction” and “exclude speech that veers outside of well-understood parameters,” such as a professor’s “personal tangents irrelevant to the subject matter, conspiracy theories, and the like.” Pet. App. 16a, 38a–39a. But, in the panel majority’s judgment, the curricular speech prohibited by the Act did not fit into that box. The panel majority also distinguished public universities from state governments, asserting that “a *state*’s authority to control curriculum” is on different footing from “a *university*’s authority to control the curriculum.” Pet. App. 42a n.14. “[I]t is the university’s view of the curriculum that is privileged, not the legislature’s.” Pet. App. 26a. That distinction

was also the panel majority’s basis for distinguishing then-Judge Alito’s decision in *Edwards*, which squarely held, as noted above, that the First Amendment does *not* protect a public university professor’s classroom speech. Pet. App. 26a–27a n.10.

Judge Lagoa dissented, explaining that “[a] public university’s classroom is not an open forum” and that the First Amendment, though it “protects all viewpoints in the public square,” “does not compel all viewpoints to be worthy of state-sponsored endorsement.” Pet. App. 54a (quotation marks omitted). She rejected the notion that academic freedom is an individual right held by public university professors. Pet. App. 61a–65a.

Judge Lagoa also rejected the panel majority’s distinction between “restrictions on one professor’s speech” and restrictions of “general application,” because what matters is simply a state’s interest in classroom instruction. Pet. App. 75a. She noted that a state’s interests are “substantial” in this context, because “a professor’s endorsement of a particular viewpoint carries weight that can distort genuine academic exchange” and even “carry a coercive effect” given that “the professor maintains authority over the students’ grades.” Pet. App. 77a–78a (cleaned up).

As for the “supposed distinction” between the curricular authority of public universities and of their sponsoring state governments, Judge Lagoa explained that Florida law and circuit precedent “make clear that Florida’s public universities speak and act subject to the State’s control and administration.” Pet. App. 81a, 83a. Quoting Petitioners’ briefing, she noted that public university professors “teach ‘the State’s curriculum, in the State’s classrooms, on the

State’s time, in return for a State paycheck.” Pet. App. 83a.

In closing, Judge Lagoa criticized the panel majority for “endors[ing] its own form of viewpoint discrimination” by appointing itself arbiter of whether a “professor’s viewpoint is within the range of permissible views[.]” Pet. App. 83a–84a. “At bottom, the majority acknowledges that some speech may permissibly be excluded in Florida’s classrooms, but it removes that decision from the elected representatives of the State of Florida and vests it instead in the judiciary.” Pet. App. 85a n.11. The panel majority’s “judge-made test” is “unworkable,” Judge Lagoa maintained, and “reduces the First Amendment to a reflection of judicial preference, regardless of the State’s interests in its classroom instruction.” Pet. App. 53a.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Both Deepens and Creates Splits of Authority over First Amendment Protection for Curricular Speech at Public Universities.

The Eleventh Circuit’s decision both deepens and creates splits of authority on the question presented. First, it *deepens* an existing circuit split over whether restrictions on the speech of public university professors expressed in the course of their official teaching duties trigger First Amendment scrutiny. Second, assuming that the First Amendment applies, uniquely, to official-duty speech of academic employees, the decision below *creates* a circuit split on the legal standard for analyzing First Amendment claims of such speech. The Eleventh Circuit expressly rejected the *Pickering-Connick* balancing test used by other

circuits that have applied First Amendment scrutiny, opting instead for its own ad hoc balancing test that all but guarantees that states will lose.

A. The Decision Below Deepens a Circuit Split over Whether the First Amendment Applies.

The circuits are sharply divided over whether the First Amendment offers any protection for speech by public university professors in the course of their official teaching duties. The Third, Fourth, and Seventh Circuits have all held that such speech receives no First Amendment protection, though later decisions in the Fourth and Seventh Circuits reveal significant confusion over the state of the law post-*Garcetti*. On the other hand, the Eleventh Circuit now joins the Second, Fifth, Sixth, and Ninth in holding that public university professors, unlike all other public employees, have special First Amendment rights. This entitles them, so the reasoning goes, to indoctrinate their students in whatever “germane” views they please, no matter how noxious those views are to the state’s legislators and the people they represent, or how antithetical those views are to the state’s foundational educational interest in forming its students to become virtuous and upright citizens. Pet. App. 39a.

Third Circuit. Start with the Third Circuit’s decision in *Edwards*, authored by then-Judge Alito. There, a public university restricted a professor’s choice of classroom materials and then suspended him after learning that he was advancing his religious beliefs in class and using an unapproved syllabus. 156 F.3d at 489–90. Relying on this Court’s “jurisprudence concerning the state’s ability to say what it wishes when it is the speaker,” the court rejected the

professor’s First Amendment claim, unambiguously holding that “a public university professor does not have a First Amendment right to decide what will be taught in the classroom.” *Id.* at 491 (citing *Rosenberger*, 515 U.S. at 833–34).

Moreover, contrary to the Eleventh Circuit’s claim that *Edwards* distinguished the university from the state, the Third Circuit relied on this Court’s *government-speech* precedent (which, recall, the Eleventh Circuit cast aside) and reasoned that the *state* was the speaker. *Id.* (explaining that its holding “is consistent with the Supreme Court’s jurisprudence concerning *the state’s* ability to say what it wishes when it is the speaker” (emphasis added; citing *Rosenberger*, 515 U.S. at 833–34)). The Third Circuit also rejected the professor’s argument that the principle of academic freedom somehow changed the analysis, noting that it is “a university’s freedom.” *Id.* at 492 & n.2. Accordingly, the decision below not only clashes with *Edwards* on the threshold First Amendment question—it also collides with the Third Circuit’s reliance on government-speech caselaw, its equating of the university and the state, and its understanding of academic freedom as an institutional right.

Fourth Circuit. Next up is the Fourth Circuit’s *en banc* decision in *Urofsky v. Gilmore*, 216 F.3d 401 (4th Cir. 2000), which involved a Virginia statute restricting state employees from accessing sexually explicit material on state computers. Public university professors challenged the law on First Amendment grounds, arguing that it unconstitutionally restricted “access to sexually explicit materials for work-related purposes,” including for “teaching and research.” *Id.* at 405–06, 409 n.9.

Because the speech at issue was “speech of state employees in their capacity as employees,” the challenged statute “d[id] not infringe the First Amendment.” *Id.* at 409. The court explained that “speech by public employees undertaken in the course of their job duties will frequently involve matters of vital concern to the public, without giving those employees a First Amendment right to dictate to the state how they will do their jobs.” *Id.* at 407. After all, “in order to pursue its legitimate goals effectively, the state must retain the ability to control the manner in which its employees discharge their duties and to direct its employees to undertake the responsibilities of their positions in a specified way.” *Id.* at 409.

Nor did the professors’ invocation of academic freedom make a difference—after a comprehensive survey of the history and precedents concerning that principle, the court held that insofar as it is a right at all, it is a right that “inheres in the University, not in individual professors.” *Id.* at 410; *see also id.* at 414 (observing that “the [Supreme] Court has never recognized that professors possess a First Amendment right of academic freedom to determine for themselves the content of their courses and scholarship”).

Here, too, the decision below breaks from another circuit not only on the threshold First Amendment issue, but on two subsidiary issues as well—whether a state legislature may enact generally applicable *ex ante* restrictions on the speech of public university professors, and whether the principle of academic freedom exalts a professor’s First Amendment rights above all other public employees.

Over a decade later, the Fourth Circuit confronted the issue again, this time post-*Garcetti*. *See*

Adams v. Trs. of the Univ. of N.C. Wilmington, 640 F.3d 550 (4th Cir. 2011). In *Adams*, a professor alleged that the university denied his application for promotion based on his extracurricular political and religious writings and expressions. The court acknowledged that “whether the *Garcetti* analysis applies in the academic context of a public university” is an open question. *Id.* at 561. And despite suggesting that *Garcetti* should not apply in this context, the court ultimately applied *Garcetti* anyway and held that the professor’s speech was not made “pursuant to his official duties as intended by *Garcetti*” because it was “unrelated” to his *official* teaching and scholarship duties. *Id.* at 563–64 (cleaned up); *see also id.* at 562 (“*Garcetti* would not apply in the academic context of a public university *as represented by the facts of this case.*” (emphasis added)); *id.* at 564 (same). Had the professor’s expression been made pursuant to his official teaching duties, the Fourth Circuit’s binding *en banc* decision in *Urofsky*, which itself established a *Garcetti*-like rule, would have compelled the court to reject the First Amendment claim.

Two recent Fourth Circuit decisions, however, underscore the post-*Garcetti* confusion. In one, a panel misinterpreted *Adams* (and ignored *Urofsky*) and announced that *Garcetti*’s “official duties” test “does not extend to speech by public university faculty members, acting in their official capacity, that is ‘related to scholarship or teaching.’” *Porter v. Bd. of Trs. of N.C. State Univ.*, 72 F.4th 573, 582 (4th Cir. 2023). In the other, a different panel applied *Pickering-Connick* to a public university professor’s free speech claim, without even citing *Garcetti* or attempting to square its analysis with *Adams* or *Urofsky*. *See*

Kashdan v. George Mason Univ., 70 F.4th 694, 702–03 (4th Cir. 2023).

Seventh Circuit. The Seventh Circuit’s decision in *Renken v. Gregory*, 541 F.3d 769 (7th Cir. 2008)—decided post-*Garcetti*—held that the First Amendment does not protect a public university professor’s speech related to his official teaching duties. There, a university terminated a professor’s grant and reduced his pay after he criticized the school’s proposed use of grant funds. The court evaluated the professor’s First Amendment claim under *Garcetti* and concluded that the grant, as well the professor’s speech related to it, “were a means to fulfill his employment requirements, namely *teaching and research*.” *Id.* at 774 (emphasis added). So, under *Garcetti*, the professor’s speech was “pursuant to his official duties as a University professor” and therefore “not protected by the First Amendment.” *Id.* at 775.

Like the Fourth Circuit, though, the Seventh Circuit has not been faithful to its precedent. In *Kilborn v. Amiridis*, the court declined to “extend” *Garcetti* to speech that fell within a professor’s “teaching responsibilities.” 131 F.4th 550, 557–58 (7th Cir. 2025). The court purported to distinguish *Renken* on the claim that the speech there “did not involve scholarship or teaching,” *id.* at 558, but that is plainly wrong—the *Renken* court emphasized repeatedly that the speech had everything to do with the professor’s responsibilities for teaching and scholarship. *See* 541 F.3d at 773 (stressing that the grant “aided in the fulfillment of his teaching responsibilities”); *id.* at 774 (“*Renken* was speaking as a faculty employee, and not as a private citizen, because administering the grant . . . fell within the teaching and service duties that he was

employed to perform.”); *id.* (“his efforts related to the grant, including his complaints, were a means to fulfill his employment requirements, namely teaching and research”).

More recently, Judge Easterbrook expressly endorsed Judge Lagoa’s dissent below and reaffirmed his long-held view that the First Amendment does *not* give public university professors the right to determine “what shall be taught” in public classrooms. *McDonald*, 186 F.4th at 930 (Easterbrook, J., concurring). To the contrary, the state itself is the speaker in this setting and thus “has a right to convey its own message” and require its teachers to “present the course of instruction it specifies.” *Id.* Citing *Garcetti*, Judge Easterbrook explained that public university “[p]rofessors’ speech in class has not been regulated; it has been hired.” *Id.*

Judge Easterbrook also emphasized that “academic freedom belongs to the university,” not to professors. *Id.* This means that questions over what may be taught (and how) are for a “state university to answer, rather than for judges and juries to prescribe in the name of the First Amendment.” *Id.* at 931.

Second, Fifth, Sixth, and Ninth Circuits.

Four other circuits (five, counting the decision below) have either held or assumed that the First Amendment protects the official-duty speech of university educators. *See Heim*, 81 F.4th at 226 (the First Amendment protects speech “involving scholarship and teaching by professors at public universities”); *Buchanan v. Alexander*, 919 F.3d 847, 852–53 (5th Cir. 2019) (assuming that the First Amendment protects classroom speech by a public university professor, without citing *Garcetti*); *Meriwether*, 992 F.3d at 505

(“professors at public universities retain First Amendment protections at least when engaged in core academic functions, such as teaching and scholarship”); *Demers*, 746 F.3d at 412 (“We conclude that *Garcetti* does not—indeed, consistent with the First Amendment, cannot—apply to teaching and academic writing that are performed ‘pursuant to the official duties’ of a teacher and professor.”).

B. The Decision Below Creates a Circuit Split over How the First Amendment Applies.

Even as the Eleventh Circuit joined four others in holding that *Garcetti* does not apply to a professor’s curricular speech, it diverged from those courts in its choice of constitutional standard. This divide is more than just a detail—it is likely to yield different results in similar cases.

Every other circuit that has applied the First Amendment in this context has turned to this Court’s pre-*Garcetti* employee-speech cases—*Pickering* and *Connick*. See *Heim*, 81 F.4th at 228–34 (applying the *Pickering-Connick* balancing test); *Buchanan*, 919 F.3d at 853 (same); *Meriwether*, 992 F.3d at 507–12 (same); *Demers*, 746 F.3d at 412 (same). Under that framework, courts first consider whether the public employee’s speech addressed “a matter of public concern.” *Connick*, 461 U.S. at 146. If so, then courts balance the employee’s interest “in commenting upon matters of public concern” against “the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.” *Pickering*, 391 U.S. at 568.

The decision below expressly rejected that framework. *See* Pet. App. 19a–22a. In its place, the court cobbled together language from its prior cases and fashioned a bespoke balancing test unknown to any other circuit: State regulation of public university professors’ curricular speech “must be reasonable and related to legitimate pedagogical concerns,” considering “the context of the speech[,] the state’s position as a public employer[,] and the strong predilection for academic freedom as an adjunct of the free speech rights of the First Amendment.” Pet. App. 37a (cleaned up).

This difference matters. To see why, consider the Second Circuit’s decision in *Heim*, 81 F.4th 212. There, a public university refused to promote an adjunct professor based on his support of Keynesian economics, explaining (among other things) that he was not qualified “to teach and train students” given his commitment to that school of thought. *Id.* at 222–23. As noted, the court rejected *Garcetti* because the speech at issue “relate[d] to scholarship or teaching” and then balanced each side’s interests under *Pickering-Connick*. *Id.* at 226–28. Even so, the court determined that the university’s interests outweighed the professor’s, so it held that there was no First Amendment violation. *Id.* at 232–34. The court reasoned that the First Amendment “*must* operate differently” in this setting because public universities’ ordinary faculty employment decisions require “content-based judgments that are normally anathema to the First Amendment.” *Id.* at 232–33 (cleaned up). It further explained that such content-based judgments are “permissible academic reasons for declining to hire or promote a candidate,” and that “[e]valuations of the quality of academic work” is not the responsibility of judges. *Id.* (quotation marks omitted).

Now plug those same facts into the Eleventh Circuit’s new test. The first factor is context, and although *Heim* involved a hiring decision, the case ultimately turned, at least in large part, on how the professor would “teach and train” students in the classroom. *Id.* And the majority’s decision below emphasized that “suppressing” ideas is “especially dangerous in the classroom context.” Pet. App. 38a (quotation marks omitted); see *Heim*, 81 F.4th at 222 (stating that the hiring decision was “soaked in hostility to Keynesianism”). The next factor—the state’s interests as an employer—would not have supported the university, because it was narrowly defined by the court below as confined to the “managerial concerns” of university administrators. Moreover, the university’s interest in promoting a particular school of thought would have, according to the panel majority, “run headlong into bedrock First Amendment principles” against suppressing disfavored viewpoints. Pet. App. 42a. The majority below did not share the Second Circuit’s commonsense appreciation that content- and viewpoint-based employment decisions are at times *necessary* in the academic context. Finally, the university’s conduct in *Heim* would have transgressed the panel majority’s understanding of academic freedom below because the university’s actions were not based on any “discrete misconduct” by the professor but on the school’s disapproval of his scholarly viewpoint. Pet. App. 44a.³

³ To be sure, *Heim* involved regulation by a public university alone, while this case involves regulation by public universities at the direction of the State. According to both *Heim* and the decision below, that difference may matter, though neither

So *Heim* would almost surely come out differently under the Eleventh Circuit’s test. As the law now stands, then, the First Amendment *permits* ex post adverse employment action against a professor based on the content of his speech (*Heim*) but *prohibits* ex ante restrictions on that same speech (decision below). It is very hard to see how both could be true.

II. The Decision Below Conflicts with this Court’s Precedent.

The decision below flouts this Court’s precedent. To repeat: This Court made clear in its leading government-speech case in the area of public education that “[w]hen the University determines the content of the education it provides, it is the University speaking, and we have permitted the government to regulate the content of what is or is not expressed when it is the speaker.” *Rosenberger*, 515 U.S. at 833. Nearly a decade before *Garcetti*, then-Judge Alito correctly read this language to mean that “a public university professor does not have a First Amendment right to decide what will be taught in the classroom.” *Edwards*, 156 F.3d at 491.

So too here. The Court’s government-speech precedent compels reversal of the decision below even before one gets to the seminal *Garcetti* decision. And although the *Garcetti* Court reserved the question whether its holding governs with full force in the context of classroom instruction—a question that was not before it—the decision’s reasoning is squarely

decision explains why or how much. 81 F.4th at 234; Pet. App. 26a–27a. As discussed below, the notion that the state cannot control the curriculum of its public universities is patently untenable. See *infra* Part II.A.

applicable, and squarely contrary to the panel’s decision below. Finally, even if the Act were subject to First Amendment scrutiny under *Pickering-Connick*, the State’s interests here far outweigh the interests on the other side.

A. The Speech at Issue Is Government Speech and Thus Unprotected by the First Amendment.

Under this Court’s precedent, in-class instruction by state-employed educators is *the government’s own* speech, and the First Amendment gives federal judges no authority to control it. As this Court explained unequivocally in *Rosenberger*, because the state is speaking when it “determines the content of the education it provides,” it may “regulate the content of what is or is not expressed,” including by imposing “viewpoint-based restrictions.” 515 U.S. at 833–34. The Court confirmed this point in *Board of Regents of University of Wisconsin System v. Southworth*, stating that “speech by an instructor or a professor in the academic context” implicates the “principles applicable to government speech.” 529 U.S. 217, 235 (2000).

Here, the State of Florida is regulating “what is or is not expressed” in “the education it provides.” *Rosenberger*, 515 U.S. at 833. It is thus regulating its own speech when it restricts “speech by an instructor or a professor in the academic context.” *Southworth*, 529 U.S. at 235. And when the “government speaks, it is not barred by the Free Speech Clause from determining the content of what it says.” *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 207 (2015).

The court below dispensed with *Rosenberger* on two grounds. First, it emphasized that *Rosenberger* discussed “a university’s decision” to exercise control over classroom speech, rather than a state legislature’s, and concluded that a university’s curricular authority is purportedly on different constitutional footing from “a state legislature’s mandate.” Pet. App. 26a.

That distinction inverts the State’s organization chart. For one thing, as Judge Lagoa explained in dissent, Florida law, not to mention common sense, demolishes any suggestion that the authority of the State’s universities is somehow legally superior to the Florida Legislature’s. See Pet. App. 81a–83a. For another, the idea that “[u]niversities, as subordinate organs of the State, have First Amendment rights against” or above “the State or its voters” is antithetical to any proper understanding of state sovereignty. *Coal. to Def. Affirmative Action v. Granholm*, 473 F.3d 237, 247 (6th Cir. 2006) (Sutton, J., for the panel). Moreover, *Rosenberger* itself equated public university speech with government speech, see 515 U.S. at 833, and this Court has elsewhere recognized that the state is the “speaker” when it “attempts to direct the content of speech at public educational institutions[.]” *Univ. of Pennsylvania v. EEOC*, 493 U.S. 182, 198 n.6 (1990); cf. *Waugh v. Bd. of Trs. of Univ. of Miss.*, 237 U.S. 589, 596 (1915) (“It is to be remembered that the University was established by the state, and is under the control of the state[.]”); see also *Edwards*, 156 F.3d at 491 (Alito, J.). Against this authority, the decision below fails to muster a single citation in support of the fictional line it draws. See Pet. App. 26a, 42a n.14.

Second, the decision below insisted that *Rosenberger* is beside the point because its holding concerned “the government’s ability to impose speech limitations on student groups.” Pet. App. 27a. True enough. But the reasoning this Court employs in reaching a holding is just as binding—lower courts can’t divorce a result from its rationale. And in saying that the university went too far in regulating student speech, *Rosenberger* also made clear that “the University’s own speech . . . is controlled by different principles.” 515 U.S. at 833–34. The court below was not at liberty to zero-in on *Rosenberger*’s facts and disregard its reasoning. It instead should have faithfully applied that reasoning here. *Cf. Edwards*, 156 F.3d at 491–92 (Alito, J.) (relying on *Rosenberger*).

This Court’s precedent concerning speech of private parties funded by the government or occurring on government property reinforces the above analysis. The Court has consistently “refused to hold that the Government unconstitutionally discriminates on the basis of viewpoint when it chooses to fund a program” to the exclusion of other viewpoints. *Walker*, 576 U.S. at 208 (cleaned up). This refusal stems from the Court’s recognition “that when the government appropriates public funds to promote a particular policy of its own it is entitled to say what it wishes.” *Rosenberger*, 515 U.S. at 833.

Similarly, the Court has made clear that the government may “express its views when it receives assistance from private sources for the purpose of delivering a government-controlled message.” *Pleasant Grove City v. Summum*, 555 U.S. 460, 468 (2009). *Pleasant Grove* held that “even when ‘accepting a privately donated monument and placing it on city

property,” the government “had ‘engaged in expressive conduct’” and was thus entitled to control the content, including the viewpoint, of its message. *Walker*, 576 U.S. at 209 (quoting *Pleasant Grove*, 555 U.S. at 476 (cleaned up)). The Court applied these principles again in *Walker*, holding “that license plate designs proposed by private groups also amounted to government speech” and thus were not subject to First Amendment scrutiny. See *Shurtleff v. City of Bos.*, 596 U.S. 243, 252 (2022) (describing *Walker*).

These cases render the decision below completely untenable. For if the speech of private individuals proposing license plate slogans is government speech, then surely the classroom speech of state-employed educators at state universities is too. Indeed, the State of Florida “appropriates public funds” to support public education at the State’s universities, and it is thus “entitled to say what it wishes” and to specify the “viewpoint” that is taught in the education that it provides. *Rosenberger*, 515 U.S. at 833.

B. The Speech of University Professors Is Made Pursuant to Their Official Duties and Thus Unprotected by the First Amendment under *Garcetti*.

The panel’s departure from this Court’s precedent is thus clear before one even gets to *Garcetti*. But *Garcetti* is the clincher. In *Garcetti*, again, this Court explained that when “public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes.” 547 U.S. at 421–22. And “[r]estricting speech that owes its existence to a public employee’s professional responsibilities does not infringe any liberties the employee might have enjoyed as a private citizen.”

Id. So a public employer may punish or otherwise regulate an employee’s official-duty speech, and “the employee has no First Amendment cause of action.” *Id.* at 418. Unless university professors occupy a First Amendment pedestal unique in public employment, their classroom speech clearly falls within that rule because such speech is the quintessential example of speech made “pursuant to their official duties.” *Id.* at 421–22.

Although *Garcetti* left the question open, the court below erred in exempting public university professors from the same rule that applies to every other government employee. Indeed, this is “an easier case . . . than *Garcetti*” itself because there, “speech was not what the employee was being paid to create.” *Mayer v. Monroe Cnty. Cmty. Sch. Corp.*, 474 F.3d 477, 479 (7th Cir. 2007) (Easterbrook, J.). What is more, to hold that the First Amendment protects a public university professor’s official “speech related to scholarship or teaching,” *Garcetti*, 547 U.S. at 425, is irreconcilable with this Court’s recognition that “the government” may “regulate the content of what is or is not expressed when it is the speaker,” *Rosenberger*, 515 U.S. at 833. Simply put, a plurality of circuits, including now the Eleventh, has placed this Court’s government- and public-employee speech precedents in direct conflict.

C. Even if the Act Were Subject to First Amendment Scrutiny, the State’s Interests Here Outweigh Any Burden on Professors’ Speech.

Even if the panel majority were justified in sweeping all this Court’s government-speech cases to the side, it still should have upheld the Act. For the

majority should have evaluated, and upheld, the Act under the *Pickering-Connick* framework.

As the Ninth Circuit has held, educational statutes that, among other things, prohibit teaching classes that “[p]romote resentment toward a race or class of people” or “[a]dvocate ethnic solidarity instead of the treatment of pupils as individuals” are “reasonably related to the state’s legitimate pedagogical interest in reducing racism.” *Arce v. Douglas*, 793 F.3d 968, 973, 985 (9th Cir. 2015) (cleaned up). After all, “[o]ur Constitution is color-blind, and neither knows nor tolerates classes among citizens.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Univ.*, 600 U.S. 181, 230 (2023) (quoting *Plessy v. Ferguson*, 163 U.S. 537, 559 (1896) (Harlan, J., dissenting)).

The State of Florida thus has an obvious and overriding interest in preventing its own employees from using public classrooms to promote a contrary view—that is, in preventing *government* employees from spurning “the Constitution’s guarantee of equal protection” against *government-sponsored* invidious discrimination by using their authority and influence to indoctrinate their students in the belief that they are “simply components of a racial, religious, sexual or national class.” *Miller v. Johnson*, 515 U.S. 900, 911 (1995) (cleaned up).

The panel majority below downplayed this interest, insisting, remarkably, that “[a] professor who espouses a particular idea does not stand in the same shoes as one who ridicules a student, threatens a student, or targets a student.” Pet. App. 40a. But a professor is not merely “espous[ing] a particular idea,” *id.*, when he instructs students of one race, for

example, that they are morally inferior to students of a different race, that they are “inherently racist,” that they are morally obliged to “feel guilt” for the sins of their ancestors, and that they “should be discriminated against” on account of their race. FLA. STAT. § 1000.05(4)(a)(1)–(8). Such odious racist speech is on par with the Eleventh Circuit’s hypothetical professor who “ridicules” or “targets” a student; at the very least, the State could reasonably conclude as much. And the statements are all the more troubling given the authoritative standing professors typically enjoy in the classroom. *See* Pet. App. 78a (Lagoa, J., dissenting).

Respondent Professors’ interests, by contrast, are comparatively insignificant. They are free to discuss the discriminatory concepts in class, objectively without endorsement. They can introduce the concepts to students, assign readings on the concepts, and even subject the concepts to the crucible of the Socratic method. What they really claim is an *additional* interest in affirmatively *endorsing* the concepts and advocating them as truth to Florida’s public university students. But that marginal *personal* interest—as well as any students’ claimed *personal* interest in hearing such endorsements—is far outweighed by the State’s interests in stamping out race discrimination in its public-university classrooms.

Florida’s system of public education is committed to forming upright, virtuous citizens, not discriminatory malcontents with ahistorical and immoral axes to grind. That goal is consistent with the traditional function of higher education—to instill in students good character and civic responsibility. No principle in American law—including the First Amendment—

requires the State's institutions of higher learning to be hotbeds of the type of moral relativism imposed by the court below.

III. The Question Presented Is Exceptionally Important and Likely to Recur.

The stakes in this case are high: whether states and their public universities have the authority to determine what type of educational experience to provide. The decision below dealt a decisive blow to that authority, and ironically, it did so through repeated incantations of “academic freedom”—a concept it described as “imprecise,” “murky,” and “defined with only the haziest of lines,” Pet. App. 4a, 12a, 24a, and yet weaponized to annihilate the State's ability to supervise what is espoused by the professors it hires to teach the curriculum it offers in the classrooms it pays for.

In doing so, the Eleventh Circuit got academic freedom precisely backwards. “[A]cademic freedom belongs to the university.” *McDonald*, 186 F.4th at 930 (Easterbrook, J., concurring); accord *Urofsky*, 216 F.3d at 410; *Johnson-Kurek v. Abu-Absi*, 423 F.3d 590, 593 (6th Cir. 2005). It is a university's freedom “to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.” *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J., concurring). Moreover, the *institutional* right of academic freedom is best understood as one commanding *judicial* deference to the university's academic decisions. See *Regents of the Univ. of Mich. v. Ewing*, 474 U.S. 214, 226 (1985) (noting the *Court's* “reluctance to trench on the prerogatives of state and local educational institutions”). It does not empower individual

professors to operate as universities unto themselves, at liberty to indoctrinate college students in whatever views they please, no matter how contrary to the university's curricular viewpoint or how noxious to the People of Florida. Were it otherwise, states and their public universities would be "powerless" to "provide students with a particular kind of educational experience," making it harder for students to get what they, and the state's taxpayers, are paying for. *McDonald*, 186 F.4th at 931 (Easterbrook, J., concurring). And more than that, public universities would be constitutionally hamstrung in making hiring, tenure, and other basic employment decisions, which necessarily turn on content-based evaluations of the quality of teaching and scholarship. See Kermit Roosevelt III, *Not as Bad as You Think: Why Garcetti v. Ceballos Makes Sense*, 14 U. PA. J. CONST. L. 631, 657–58 (2012).

But the troubling implications of the majority's decision below do not end there. Under the panel's reasoning, for example, a state could *not* prohibit a public university professor from claiming that the Holocaust was a hoax, that the Nazis were the good guys, or that Jim Crow laws were justified because white people are "morally superior" to black people. If the decision below is right, then the State of Florida is utterly powerless—in fact, prohibited by *the Constitution*—from doing anything to stop its own employees from promoting such noxious views in its classrooms.

The majority below would likely resist these abhorrent implications, pointing to its dictum that a state can still prohibit the inculcation of views that "veer[] outside of well-understood parameters." Pet. App. 38a–39a. But that ipse dixit only deepens the

problem. For the upshot of this unprincipled and amorphous escape-hatch is that it empowers unelected judges to decide whether a “professor’s viewpoint is within the range of permissible views[.]” Pet. App. 84a. It thus ushers in a new form of “viewpoint discrimination under exceptions created, interpreted, and enforced by the judiciary.” Pet. App. 48a. Or in this Court’s words, the decision below “would commit . . . federal courts to a new, permanent, and intrusive role” in managing a public university curriculum that is contrary to “sound principles of federalism.” *Garcetti*, 547 U.S. at 423. Not only do the First Amendment and “academic freedom” not justify that result, they cannot tolerate it. *Cf. Morrison v. Olson*, 487 U.S. 654, 712 (1988) (Scalia, J., dissenting) (“Evidently, the governing standard is to be what might be called the unfettered wisdom of a majority of this Court, revealed to an obedient people on a case-by-case basis.”).

IV. This Case Is an Ideal Vehicle for Resolving the Question Presented.

This case presents an ideal vehicle for answering the question presented. The issue often arises in a fact-intensive context where parties may dispute whether speech was expressed pursuant to official duties, whether speech motivated an adverse action, and a host of other subjects. Not so here. The question presented comes to the Court as a pure issue of law, without any factual disputes that could affect the analysis.

Moreover, further percolation is unnecessary. Lower courts have long been grappling, inconsistently, with the question, and nearly all have weighed in. The Court should settle the dispute here and now.

CONCLUSION

The Court should grant the petition for certiorari.

Respectfully submitted,

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EXHIBIT 13

Governing Regulation III — The President

A. Appointment and Evaluation of the President

The Board — in consultation with students, faculty, staff, alumni and leaders throughout the Commonwealth and the nation — shall appoint a President.¹ The Board shall set the President's compensation and appropriate terms and conditions of employment including performance expectations. The Board shall annually evaluate the President.

B. Authority of the President

The University is a complex institution, making it necessary for the Board to delegate administrative authority for day-to-day operations to the President. The President will further delegate some administrative authority to subordinates.

The President is the chief executive officer of the University and has full authority and responsibility over its administration. It is the duty of the President to make recommendations relating to the general policies of the institution. It is the duty of the President directly — or through the President's delegates — to supervise and administer all phases of the University and to perform all other functions necessary for the successful operation of the institution.

By virtue of the Board's delegation, the President has the authority to: (1) appoint a President's cabinet and all employees subordinate to the President's cabinet; (2) take all measures necessary to comply with state and federal law as well as the requirements of all accrediting bodies; (3) promulgate and implement *Administrative Regulations*; (4) consult with the Student Government Association, Faculty Senate and Staff Senate on matters affecting the University; (5) appoint committees and work groups to provide recommendations to the President; (6) develop a proposed institutional budget for approval by the Board; (7) determine the University's position on matters pending before governmental bodies and agencies; (8) speak for — or designate someone to speak for — the University in all external and internal communications; (9) authorize the commencement of litigation and settlement of litigation as well as any appeal or effort to seek discretionary review; and (10) take any other action necessary and proper to implement the Board's policies.

The President has the authority to interpret the *Governing Regulations* and *Administrative Regulations*. The President's interpretation is binding on all members of the University community, unless otherwise prescribed by Board.

The President does not have the authority to suspend rules concerning admissions or the number of credits and quality points required for graduation.

C. Vacancy or Disability of the President

In case of a vacancy of the President or disability of the President, the Provost shall exercise the functions of the President until the Board of Trustees takes further action.

¹ [KRS § 164.220\(1\)](#).