UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT LEXINGTON

Electronically filed

RAMSI A. WOODCOCK,

Plaintiff

v.

ELI CAPILOUTO, *et al.*,

Defendants

Civil Action No. 5:25-cv-00424-BJB

ATTORNEY GENERAL RUSSELL COLEMAN'S REPLY IN SUPPORT OF HIS MOTION TO DISMISS

The Plaintiff equates using as guidance the IHRA definition of antisemitism with the regulation of speech, arguing that SJR 55 also regulates speech. But the Plaintiff fundamentally misunderstands the function of the IHRA definition and SJR 55. Neither the definition nor the resolution mandates any investigations, let alone investigations specifically in response to the Plaintiff's critique of the State of Israel. Accordingly, enjoining SJR 55 would not redress the Plaintiff's injury. Further, SJR 55 does not violate the Plaintiff's First Amendment rights. The Attorney General's motion to dismiss should be granted.

ARGUMENT

From the outset, the Plaintiff mischaracterizes SJR 55 as "direct[ing] the State's universities to police their faculty's speech using a viewpoint-laden

definition." Doc. 78, PageID.2614. But the Plaintiff fails to identify any provision of SJR 55 directing universities to police speech. Instead, he repeatedly points to SJR 55's instruction to use the IHRA definition as guidance. But the IHRA definition itself does not regulate speech. *See* Doc. 67, PageID.2418, 2422.

The Plaintiff fails to show that SJR 55 caused him any injury. Further, he fails to show that SJR 55 violates his constitutional rights. And so, the Plaintiff fails to demonstrate he has standing to challenge the constitutionality of SJR 55. Further, his claims fail on the merits, and therefore fail to state a claim challenging SJR 55 on which relief can be granted. The Attorney General's motion to dismiss should be granted.

I. The Plaintiff lacks standing to challenge SJR 55.

A party invoking federal jurisdiction must establish (1) he has suffered an injury in fact (2) that is fairly traceable to the challenged action of the Defendant (3) and is likely to be redressed by his requested relief. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). The Plaintiff fails to allege sufficient facts establishing he has standing to challenge the constitutionality of SJR 55. Doc. 67, PageID.2417–18. The Plaintiff's alleged injury—the University of Kentucky's investigation of his conduct and reassignment of his duties—is not an injury caused by SJR 55 itself. SJR 55 does not require the University to investigate the Plaintiff's criticisms of the State of Israel, nor does it require the University to implement any specific punishments in response. Indeed, it sets forth no explicit policies or procedures for the University to

implement in evaluating the Plaintiff's allegedly antisemitic conduct, but merely directs the University to "adopt policies."[1] SJR 55 § 1.

The Plaintiff quotes *Grow Michigan, LLC v. LT Lender, LLC*, 50 F.4th 587, 592–93 (6th Cir. 2022), stating, "Any harm flowing from the defendant's conduct, even indirectly, is said to be 'fairly traceable.'" Doc. 78, PageID.2615. But the Plaintiff omits the earlier traceability prerequisite: "As it is generally understood, traceability requires that a plaintiff's claimed injury flow from the defendant's conduct *rather than the plaintiff's own actions or the actions of a third party*." *Grow Michigan*, 50 F.4th at 592 (emphasis added). The plaintiff in *Grow Michigan* alleged that the defendants made material misrepresentations in acquiring loans that ultimately led to the plaintiff's debtor defaulting on its loan. *Id.* That is easily distinguishable from the challenged conduct here: the General Assembly instructed public postsecondary institutions to adopt policies to combat antisemitism using the IHRA definition. The University adopted such a policy and, under its own policy and in its own discretion, decided to investigate the Plaintiff's conduct. But nothing in SJR 55 itself specifically required such an investigation or directed the Plaintiff's removal from the classroom. To the extent the University's investigation or the Plaintiff's removal from the classroom qualify as an injury at all, they flow from "the plaintiff's own actions or the actions of a third party," not SJR 55.

[1] SJR 55 details certain requirements for these policies, such as advising students of their rights and collecting data about reports of antisemitism, but nowhere does SJR 55 designate certain speech as antisemitic or regulate speech more generally.

The Plaintiff points to the University's general counsel's reference to SJR 55 and the Attorney General's statements that "[i]n compliance with SJR 55, UK adopted IHRA's definition of antisemitism" and that "under the direction of [the IHRA] guidelines, the University of Kentucky temporarily suspended the teaching duties of law professor Ramsi Woodcock," Doc. 78, PageID.2616, but those statements are not the smoking gun the Plaintiff seems to believe they are. Despite the Plaintiff's assertion that "[t]he Attorney General . . . [told] the public that SJR 55 directed the University's action against Woodcock," *id.*, that is patently false. Rather, the Attorney General merely observed that the University adhered to SJR 55 by adopting its own policy, which use as guidance the IHRA definition. It is the University's evaluation of the Plaintiff's alleged conduct against its policy that led to his investigation and reassignment—not SJR 55.

SJR 55's direction that universities are to use the IHRA definition as guidance is still not helpful to the Plaintiff's case. The IHRA definition does not, as discussed, regulate speech. *See* Doc. 67, PageID.2422–23. It does not designate certain categories of speech as antisemitic, but provides a consistent, globally accepted framework for evaluating *potentially* antisemitic conduct. In listing its examples, the IHRA explains: "Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere *could*, *taking into account the overall context*, include . . ."[2] The statement in IHRA's guidance that conduct could

[2] International Holocaust Remembrance Alliance, *available at* https://holocaustremembrance.com/resources/working-definition-antisemitism (last visited Nov. 2, 2026) (emphasis added).

potentially be antisemitic—when evaluated in light of all the facts and the overall context—is not a statement that condemns an entire category of speech, let alone one that demands a specific form of redress in response to such speech. If the University believes an investigation is necessary, it may undertake such an investigation. Neither SJR 55 nor the IHRA definition mandate an investigation—or any punishment—in response to any particular speech critical of the State of Israel, despite the Plaintiff's assertions.

For that reason, the Plaintiff also fails to establish that his requested relief would redress his alleged injury. Because neither SJR 55 nor the IHRA definition mandate the University's investigation of the Plaintiff's conduct, enjoining the law would not stop the University's investigation or any other steps the University decides to take under its own policy. The Plaintiff cites *Larson v. Valente*, 456 U.S. 228, 243–44 n.15 (1982), arguing that "the possibility the State might reach the same result 'on some ground other than' the rule 'does not deprive this Court of jurisdiction.'" Doc. 78, PageID.2617 (quoting *Larson*, 456 U.S. at 242). But *Larson* concerned a church's exemption from registration and reporting requirements under Minnesota's Charitable Solicitation Act, specifically, whether declaring the state's fifty per cent rule unconstitutional would redress the plaintiff church's injury. The Supreme Court explained that "[s]ince that rule was the sole basis for the State's attempt to compel registration that gave rise to the present suit, a discrete injury of which appellees now complain will indeed be completely redressed by a favorable decision of this Court." *Larson*, 456 U.S. at 242–43. The footnote the Plaintiff cites

addresses the dissent's apparent assumption "that in order to establish redressability, appellees must show that they are *certain*, ultimately, to receive a religious-organization exemption from the registration and reporting requirements of the Act—in other words, that there is no other means by which the State can compel appellees to register and report under the Act." *Id.* at 243 n.15.

But that is not the Attorney General's argument here. The Attorney General does not argue that an investigation and reassignment of duties may still be implemented under some other provision of SJR 55, or that the University would still be compelled to investigate and reassign the Plaintiff under SJR 55. Rather, SJR 55 does not, at all, require any specific action in response to allegedly antisemitic speech or conduct. Because SJR 55 has no such requirements, enjoining the statute would not prevent the University from continuing its investigation of the Plaintiff's conduct. The Plaintiff argues that "[a] declaration that SJR 55 is unconstitutional would remove the legal mandate that the University's own officials cite as the reason they apply the IHRA definition to Woodcock," Doc. 78, PageID.2617, but as discussed, not even the IHRA definition itself directs the University to take any certain steps in response to the Plaintiff's speech. SJR 55 merely directs universities to adopt policies to combat antisemitism. If the University, in its discretion and in implementing its own policies, believes disciplinary action is appropriate, it may proceed accordingly. The General Assembly has not mandated universities to respond one way or another.

The Plaintiff argues that "[a] statutory command is the clearest example of a law's 'determinative or coercive effect' on a third party," *id.*, but nowhere does SJR 55

or the IHRA definition to which it refers command the University to respond to critiques of the State of Israel in a certain way. The statements of the University's general counsel and the Attorney General to which the Plaintiff cites do not say that the Plaintiff would not be investigated absent SJR 55, contrary to the Plaintiff's characterization. *Id.* The Plaintiff is being investigated for alleged violations of the University's policy; he is not being investigated for violating SJR 55 or the IHRA definition itself. And so, enjoining the resolution would not automatically halt the University's investigation of violations of its policy.

SJR 55 does not regulate speech. It merely ensures the Commonwealth's public universities are prepared to address the recent rise of antisemitism on college campuses. That is undoubtedly an important objective, and it is in line with Title VI's requirement that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d. And so, SJR 55 is important for all students and universities in the Commonwealth. But that has no bearing on the fact that the University's investigation is being done pursuant to its own discretion to enforce its policies, not because SJR 55 tells the University it must do so.

The Plaintiff fails to show that SJR 55 has caused his alleged injury or that his requested relief would redress it.[3] His claims challenging the constitutionality of SJR 55 are nonjusticiable and should be dismissed.

[3] The Plaintiff claims that "any question whether a judgment against the Attorney General alone would bind the University will be resolved by the amendment Woodcock intends to seek, which would

II. SJR 55 does not violate the First Amendment.

A. Free Speech

The Plaintiff argues that SJR 55 does not "'merely' ask universities to adopt policies" (quoting Doc. 67), and then immediately says that SJR 55 "commands the governing board of every public postsecondary institution to 'adopt policies to combat antisemitism' that 'use as guidance' the IHRA definition" and report any investigations of antisemitism to the Council on Postsecondary Education. Doc. 78, PageID.2619. The Plaintiff argues that the IHRA definition "reaches speech" because "[i]ts examples treat as *potentially antisemitic*[4] 'denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor,' '[a]pplying double standards' to Israel, and '[d]rawing comparisons of contemporary Israeli policy to that of the Nazis.'" *Id.* (emphasis added). But guidance providing examples that "*could, taking into account the overall context*," be antisemitic is not a regulation of speech. *See* Doc. 67, PageID.2422, 2427–28.

The Plaintiff claims "[a] university policy that uses those examples to identify antisemitism, and a law that requires every public university to adopt such a policy

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assert Count X against the University Officials, who apply SJR 55's mandate to Woodcock." Doc. 78, PageID.2618; *see also id.* at PageID.2625. But such an amendment would not cure the jurisdictional deficiency here. The issue is not that "officials who applied the challenged law [are] 'nonparties who would not be bound by the judgment,'" *id.* (citation omitted), but that, because SJR 55 contains no mandate that causes the Plaintiff's injury, then enjoining SJR 55 would have no effect on the University's investigation. Whether the University officials are named in Count X or not has no bearing on whether enjoining SJR 55 would redress the Plaintiff's injury. Accordingly, such an amendment would be unnecessary, futile, and unhelpful to the Plaintiff's case.

[4] Indeed, the Plaintiff admits that the IHRA definition and SJR 55 do not regulate speech. The IHRA definition only provides widely accepted guidance concerning what may be "potentially antisemitic" and equips universities to ensure equal treatment of students of all backgrounds on Kentucky campuses.

and to measure itself by the investigations it opens,[5] regulates political speech," Doc. 78, PageID.2619, but fails to explain how guidance to combat antisemitism regulates speech. And the Plaintiff's argument that "[i]t makes no difference that SJR 55 operates through the universities rather than through a criminal prohibition" misses the point. The Attorney General's argument is not that SJR 55 regulates speech only through universities, and thus is constitutional, but that SJR 55 does not regulate speech, full stop. The Plaintiff repeatedly describes SJR 55 as "[a] law that directs every public university to classify speech by a viewpoint-laden definition" but fails to identify any language in SJR 55 that does so. *Id.* at 2620.

Concerning SJR 55's instruction that "institutions shall adhere to the First Amendment," SJR 55 § 1, the Plaintiff argues that "[i]f that were the law, no speech code could ever be challenged so long as it recited the Constitution," citing *Dambrot v. Central Michigan University*, 55 F.3d 1177, 1183 (6th Cir. 1995). Doc. 78, PageID.2620. But SJR 55 is not a speech code. And the Court's discussion in *Dambrot* specifically concerned the *university's* argument that it enforced its policy with respect for First Amendment rights, noting "there is nothing to ensure the University will not violate First Amendment rights even if that is not their intention." *Dambrot*, 55 F.3d at 1183. That is easily distinguishable from a law that directs universities to comply with the First Amendment. SJR 55 provides explicit instruction to comply

[5] Nowhere does SJR 55 require public postsecondary institutions to measure themselves by the number of investigations they open. SJR 55 does not provide a quota of investigations that institutions must meet or otherwise encourage investigations in response to proscribed conduct or speech. Requiring the collection of data when investigations arise and making that data public does not mandate how investigations must be conducted or that any investigations must be conducted at all. SJR §§ 1(4), 2.

with the First Amendment—it is the university's duty to comply with the law. If the Plaintiff feels the University has failed to do so, then that is an issue with the University's implementation of its policy, not with SJR 55 itself.

Next, the Plaintiff argues a developed record is required to determine the constitutionality of SJR 55. Doc. 78, PageID.2621. But discovery is wholly unnecessary to determine the facial constitutionality of SJR 55, which is limited in scope and merely directs universities to adopt policies to combat antisemitism. The Plaintiff argues that *Moody v. NetChoice, LLC*, 603 U.S. 707, 725–26 (2024), requires a developed record to determine SJR 55's scope, and that "[t]he Attorney General cannot short-circuit that inquiry by declaring that SJR 55 has no unconstitutional applications because it 'does not regulate speech.'" Doc. 78, PageID.2621 (citation omitted). But the only thing SJR 55 requires is that universities adopt policies. SJR 55 § 1. *Moody* does not require discovery before the constitutionality of any statute can be determined. SJR 55 does not regulate the Plaintiff. While SJR 55 requires university antisemitism policies to include certain requirements, nowhere does the resolution define certain speech as antisemitic or require any investigations in response. All this is evident on the face of the statute alone. *See* Doc. 67, PageID.2421. The plain language of SJR 55 does not regulate any individual or his speech. Even with respect to an as-applied challenge by the Plaintiff, he has still not shown that SJR 55 directed the University's disciplinary actions or that SJR 55 violated his constitutional rights in any way.

The Plaintiff next argues, remarkably, that the IHRA "examples single out one side of a political debate" because "support for Zionism and the State of Israel is never treated as evidence of bigotry toward anyone." Doc. 78, PageID.2621–22. SJR 55's direction to use the IHRA definition as guidance functions to address a specific, identified problem: the rise of antisemitism on college campuses. Doc. 67, PageID.2412, 2420–21. So, it makes sense why the IHRA definition specifically addresses tropes that have been used to discriminate against Jewish people in the past, as SJR 55 found it to be useful guidance to ensure state universities comply with antidiscrimination law. But SJR 55's reference to the IHRA definition does not somehow bless discriminatory speech or conduct directed at other racial, ethnic, religious, or cultural groups, even as it rightly condemns antisemitism. And the Plaintiff's argument that "the examples leave to the enforcing official the judgment of which criticism [against Israel] is 'similar' [to that of another country] and which applies a 'double standard,'" Doc. 78, PageID.2622, is equally unpersuasive because, as discussed, neither SJR 55 nor the IHRA definition is self-executing, and neither requires any particular enforcement.

Therefore, SJR 55 cannot be unconstitutionally vague or "an unrestricted delegation of power, which in practice leaves the definition of its terms to law enforcement officers." *See* Doc. 78, PageID.2622 (quoting *Leonardson v. City of Lansing*, 896 F.2d 190, 196 (6th Cir. 1990)); Doc. 67, PageID.2425–26. The Plaintiff argues that, because under the IHRA guidelines universities should evaluate alleged antisemitic conduct in context, SJR 55 allows the "delegation [that] *Leonardson*

condemns." Doc. 78, PageID.2622. But *Leonardson* concerned a city ordinance that allowed the mayor, based on the chief of police's recommendation, to establish a police line to prevent or respond to public events. *Leonardson*, 896 F.2d at 191–92. The Court found that section of the ordinance "unconstitutionally vague because it fail[ed] to provide a clear standard to guide the discretion of the mayor, who is charged with administering the scheme." *Id.* at 198. There, the mayor could establish a police line "based merely upon his belief, and that of the chief of police, that a public disturbance 'will occur'" without any "meaningful and explicit standard." *Id.*

But SJR 55 only requires universities to adopt certain policies. It does not prescribe the exact contours of those policies, nor does it direct universities to take certain disciplinary steps or flag any particular conduct as inherently antisemitic. That is all left up to the universities. Instead, the resolution points to a widely accepted definition of antisemitism as guidance, which definition expressly states that identifying any particular incident of antisemitism requires "taking into account the overall context" of the situation. Guidance of this sort provides the sort of clear standard to guide the universities' discretion and enforcement of their antisemitism policies that was missing in *Leonardson*. And the Plaintiff's repeated insistence that he believes the IHRA definition contains allegedly vague terms is unpersuasive because SJR 55 merely directs universities to use the definition as guidance—it does not define prohibited conduct, declare certain speech to be inherently antisemitic, or require punishment on those grounds. Doc. 67, PageID.2426. SJR 55 does not regulate an individual's conduct or speech, but directs universities to adopt policies

to protect students. There is no prohibited conduct to decipher, and so there is no issue concerning whether "a 'person of ordinary intelligence [has] a reasonable opportunity to know what is prohibited.'" *Norton v. Ashcroft*, 298 F.3d 547, 553 (6th Cir. 2002) (citation omitted). SJR 55 is not unconstitutionally vague.[6]

Finally, the General Assembly has the authority to protect students in the Commonwealth via SJR 55. *See* Doc. 67, PageID.2419–21. The Plaintiff claims he "does not challenge the General Assembly's authority to protect students from harassment and discrimination" because SJR 55 is "a directive to classify political speech as antisemitism by reference to a viewpoint-based definition." Doc. 78, PageID.2623. But, as discussed, SJR 55 is not "a directive to classify political speech as antisemitism" and only functions to protect the rights of students. The Plaintiff argues that "[h]arassment, threats, and discrimination directed at Jewish students are already prohibited by Title VI and the Kentucky Civil Rights Act," *id.*, but existing legal protection does not mean the General Assembly is forbidden from speaking to the moment and addressing an identified rise in antisemitism on college campuses across the nation. SJR 55 does not violate any constitutional right or "add[ ] . . . classification of protected speech." *Id.* It is reasonable and rationally related to its legitimate public purpose in ensuring universities comply with Title VI and the

[6] The Plaintiff also makes an interesting argument concerning the IHRA definition's discussion of the Jewish people's right to self-determination and asserts that "Israel's Basic Law declares that the right to national self-determination in the State of Israel is 'unique to the Jewish people,'" and thus, "a speaker who argues that everyone living in Israel should share equally in self-determination denies 'the Jewish people their right to self-determination'" and "[o]pposition to discrimination then becomes evidence of antisemitism." Doc. 78, PageID.2622–23. But this stretch again ignores the fact that neither SJR 55 nor the IHRA definition declares all criticism of the State of Israel or the Jewish right to self-determination to be antisemitic. Instead, the IHRA definition provides examples of conduct that could potentially be antisemitic "taking into account the overall context." Context matters.

Kentucky Civil Rights Act regardless of a student's background. SJR 55 is a constitutional exercise of the General Assembly's legislative power.

B. Establishment Clause

The Plaintiff argues that "[t]he IHRA definition, which SJR 55 requires every public university to use as guidance, treats as antisemitic the denial of a right of self-determination grounded in adherence to one faith, while affording no such protection to the claims of any other religious group," and that it therefore grants a preference to the Jewish faith in violation of the Establishment Clause. Doc. 78, PageID.2623. But, as discussed in the Attorney General's motion to dismiss, SJR 55 addresses a specific evil the General Assembly has identified on American college campuses and advances religious freedom for all students. It does not create a preference for or confer a benefit on adherents of a particular faith. Doc. 67, PageID.2427–29. Seeking to protect a group that is experiencing high rates of discrimination ensures antidiscrimination laws are followed; it does not prefer one religion over another. By the Plaintiff's logic, the General Assembly could never address a particular evil done to a particular religious group simply because the targeted group is religious. That itself would be an injustice. Protection for all is not a preference for one.

Because the plain language of SJR 55 contains no religious preference, but rather advances religious freedom across the Commonwealth,[7] it is not subject to strict scrutiny and the Plaintiff's claim under the Establishment Clause fails. And the Plaintiff's assertion that "[w]hether the Commonwealth can show that a

[7] And, as previously discussed, SJR 55 explicitly provides that the First Amendment is to be followed.

preference for one faith's claim of self-determination is closely fitted to a compelling interest, when the interest in protecting students from harassment is already served by laws that prefer no faith, is a question the Commonwealth must answer with evidence" is unhelpful to the Plaintiff's case for two reasons. Doc. 78, PageID.2624. First, SJR 55 does not mention, let alone prefer, "one faith's claim of self-determination." Second, though antidiscrimination laws exist, the General Assembly obviously had concern about whether those laws would be enforced to protect *all* students, and it passed SJR 55 to address that reasonable concern. Simply because an evil disproportionately affects students of a certain religion does not mean the General Assembly is forbidden from addressing it. Instead, the Constitution explicitly provides religious freedom for all.

* * *

The Plaintiff has not established standing to challenge SJR 55's constitutionality, and he fails to identify any constitutional violation in SJR 55. Kentucky students, no matter their beliefs or backgrounds, deserve to feel safe and supported on campus. SJR 55 advances that critical goal and advances the religious freedom for *all* students.

CONCLUSION

The Attorney General's motion to dismiss should be granted.

Respectfully submitted,

Russell Coleman
ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I certify that on November 6, 2026, the above document was filed with the CM/ECF filing system, which electronically served a copy to all counsel of record.

/s/ Abigail G. Vicars
Counsel for Attorney General Russell Coleman