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 STATUS REPORT

Woodcock is prepared to proceed with the evidentiary hearing on November 19, 2026 and opposes any continuance of the hearing. Whatever the University decides about spring teaching, findings issued on the investigator's report would injure Woodcock irreparably on their own. Woodcock therefore asks that the hearing go forward and that, whatever the hearing date, the Court order that no findings, charges, or other disciplinary step issue until the Court rules on Woodcock's preliminary injunction motions.

Findings would cause irreparable harm. The pending motions ask the Court to bar the President's letter of findings and any charges that follow the letter. DN 19 at 181; DN 97 at 3385, 3388. Under the procedure that the investigator set out, the President's letter will determine whether Woodcock "is responsible or not responsible" for the allegations and "will include any sanction." DN 19-15 at 1571. The investigator's letter names one possible sanction—"termination of a tenured appointment." *Id.* A movant is entitled to preliminary relief against harm that is "likely, not remediable at final judgment, and immediate." *Fischer v. Thomas*, 78 F.4th 864, 868 (6th Cir. 2023). Findings meet each requirement. The Court earlier observed that the investigation's conclusion "would seem to relieve rather than exacerbate the allegedly adverse actions." DN 87. Findings

against Woodcock would do the opposite, moving the matter from an investigatory to a disciplinary phase. Even if findings might clear Woodcock—a possibility made remote by the President's public condemnation of Woodcock's views, DN 19-3 at 496—that possibility would not cure the First Amendment harm, because an eventual exoneration would not restore the speech that the investigation has already chilled. *See Speech First, Inc. v. Schlissel*, 939 F.3d 756, 765 (6th Cir. 2019); DN 34 at 1597 n.28.

The President's review is itself part of the investigation, which has not ended. The investigator's report closed only "the fact-gathering stage of the investigation." DN 19-15 at 1570. The President now has before him the investigator's 137-page report, including its appendix, and more than 500 items of evidence, many of them several pages long, concerning Woodcock's speech. The Supreme Court recognized that compelling a professor to account for "his past expressions and associations is a measure of governmental interference in these matters." *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957) (plurality opinion).

A finding would also chill Woodcock's speech going forward. Woodcock seeks to write and speak about Israel and Palestine continually and, because of the investigation, has done so less than before. DN 65-1 ¶ 15 at 2344. A finding of responsibility, issued by the University's chief executive with termination as the stated possible sanction, would declare that speech on these subjects violates University policy, so that each later statement would risk a second violation. That is the "choice between self-censorship and uncertain sanctions" from which the Sixth Circuit protected the candidates in *Fischer v. Thomas*, 52 F.4th 303, 313 (6th Cir. 2022), by barring a state commission from "initiating formal proceedings" against the candidates pending appeal. Unlike the former candidates in the later *Fischer* appeal, whose risk of chill was not immediate, 78 F.4th at 868, Woodcock faces the same choice every time Woodcock speaks.

No remedy after final judgment would repair these injuries. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion). Rescinding a finding later would not restore the speech that the finding deterred in the meantime. The Sixth Circuit has accordingly rejected the argument that "monetary damages and reinstatement subsequent to a trial on the merits would provide an adequate remedy" for retaliation. *Newsom v. Norris*, 888 F.2d 371, 378 (6th Cir. 1989). Damages may be unavailable in any event, because the University Defendants invoke sovereign and qualified immunity. DN 63 at 2196, 2207. "The purpose of a preliminary injunction 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) (quoting *Canal Auth. of Fla. v. Callaway*, 489 F.2d 567, 576 (5th Cir. 1974)).

A finding would also chill others and brand Woodcock. "[T]he formal investigative process . . . itself is chilling even if it does not result in a finding of responsibility or criminality." *Schlissel*, 939 F.3d at 765; *see* DN 86 at 3284 n.8. A finding chills more, because every member of the faculty would read the University's official verdict as a statement of what the University will punish. Colleagues and students already fear speaking about Palestine or supporting Woodcock publicly. DN 19-9 at 1250; DN 19-11 at 1258; DN 19-12 at 1262. Like a government demand that injures "not just when [it] is enforced, but when it is made and for as long as it remains outstanding," *First Choice Women's Res. Ctrs., Inc. v. Davenport*, 146 S. Ct. 1114, 1125 (2026), a finding would chill for as long as the finding stands. A finding would also inflict the "reputational harm" that *Schlissel* recognized, observing that "[n]obody would choose to be considered biased." 939 F.3d at 765. The President, who has already publicly called Woodcock's views "repugnant," DN 19-3 at 496, would make that label official. Woodcock disputes the investigator's report, but the investigator "will not serve as the decision-maker." DN 19-15 at 1570. Only the President's verdict would carry the

University's judgment of responsibility and the disciplinary power that stands behind that judgment. The Second Circuit held that a college president had "conveyed a chilling threat of discipline" against a professor, yet declined to enjoin discipline because "[n]o disciplinary proceeding or other investigation of Professor Levin is pending." *Levin v. Harleston*, 966 F.2d 85, 89–90 (2d Cir. 1992). Here the investigation is pending. The President's decision is the next step.

The Court should bar findings until the Court rules, whatever the hearing date. The Court has denied a temporary restraining order, DN 86, and has declined under the All Writs Act to bar findings until the Court rules, DN 87. Woodcock renews the request for that protection because circumstances have changed since those rulings. The investigator has since delivered the report. The University Defendants have proposed postponing the hearing until the President decides how to proceed. Any postponement past the date on which findings could issue would allow the injury that the motions seek to prevent to occur before the Court decides whether to prevent the injury. *See* DN 89 at 3306; DN 93 at 3351. An order barring findings until the Court rules would not burden the University Defendants, who have said that they need time to review the investigator's report. Such an order would give the University Defendants the time they desire, while ensuring that the Court, not the calendar, decides whether findings may issue before the Court rules. Woodcock therefore asks the Court to grant now the first form of relief requested in his supplemental motion for a preliminary injunction, DN 97 at 3388, relief that also falls within Woodcock's original motion, DN 97 at 3385, and that rests in the alternative on the First Amended Complaint, *id.*, by ordering that no Defendant will issue findings, bring charges, or take any other disciplinary step based on the investigator's report until the Court rules on Woodcock's request for preliminary injunctive relief, and that the University Defendants will not rely on any postponement of the hearing, or on any event during a postponement, to argue abstention, ripeness, mootness, or delay by Woodcock. Woodcock also asks

the Court to rule on his pending request for notice to the Court before any findings issue. DN 97 at 3389.

No decision about the spring assignment would moot the dispute. The University Defendants have suggested that the University may assign Woodcock to teach in the spring. The law school has recorded Woodcock on "Administrative Leave" through May 31, 2027. DN 84-38 at 3058. Spring classes begin on January 11, 2027. DN 94 at 3365. Even a restoration of Woodcock to teaching would be voluntary cessation, which moots a claim only where there is "no reasonable expectation that the alleged violation will recur." *Schlissel*, 939 F.3d at 767 (quoting *Cnty. of Los Angeles v. Davis*, 440 U.S. 625, 631 (1979)). Where "the discretion to effect the change lies with one agency or individual," "significantly more than the bare solicitude itself is necessary to show that the voluntary cessation moots the claim." *Id.* at 768. The University's General Counsel maintains that "[t]he Dean has absolute authority to determine the assignments of a faculty member." DN 19-4 at 1066. The Dean has tied any spring assignment to the disciplinary process, writing that he would "wait until the President decides next steps before making any decisions about next semester." DN 96 at 3378. A University policy issued in fall 2025, after the reassignment, also permits the University to "place a non-student employee on administrative leave during the pendency of a grievance process." DN 42-1 at 2087. Only an injunction would ensure that the reassignment does not return.

Discovery. Woodcock's counsel is reviewing the November 16 production and reserves the right to offer the reassignment documents that the University Defendants expect to produce on November 18, the day before the hearing.

The written policies that Woodcock seeks remain necessary. The Court asked whether "this investigation or reassignment" is "vindictive, disproportionately burdensome, or otherwise out of the ordinary." DN 86 at 3287. The University Defendants answer that the University reassigned Woodcock "[a]s it routinely does." DN 63 at 2200. The reassignment letter invoked "protocols and

past practices for investigations of this nature." DN 19-3 at 493. Yet the University's November 13 open records response reported that the Office of Equal Opportunity has "no responsive records" of written procedures for an investigation by an outside firm or for reassigning a faculty member pending an investigation. Ex. 1 at 2–3. That Office's training materials direct investigators to a "Bias Incident Investigation SOP" that the University did not produce. Ex. 2 at 2. The response also answered only for the Office of Equal Opportunity, although Woodcock asked for the procedures of four other offices. Ex. 1 at 2–3. An open records answer cannot stand in for a response under Rule 34. Woodcock asks the Court to order under Rule 26(d)(1) that the University Defendants respond under Rule 34(b)(2) to the first and third categories described at DN 96 at 3381, stating which offices were searched and whether any responsive document is withheld, with a privilege log, and identifying the "protocols and past practices" that the reassignment letter invoked. Woodcock reserves the second category.

Date: November 17, 2026

Respectfully submitted,

/s/ Rima Kapitan

/s/ Joe F. Childers

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EXHIBIT LIST

Ex. 1 — Letter from William E. Thro, Official Records Custodian, to Ramsi Woodcock (Nov. 13, 2026)

Ex. 2 — Office of Equal Opportunity Training Materials (Excerpts) (produced Nov. 13, 2026)