UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT LEXINGTON
CASE NO. 5:25-cv-00424-BJB

RAMSI A. WOODCOCK PLAINTIFF

v.

ELI CAPILOUTO, *et al.* DEFENDANTS

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**REPLY IN SUPPORT OF MOTION FOR JUDGMENT ON THE PLEADINGS**

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The University of Kentucky Officials—President Eli Capilouto, Provost Robert DiPaola, General Counsel William Thro, Former Dean of the College of Law James Duff in his personal capacity, and Current Dean of the College of Law Gregory Van Tatenhove—file this Reply in Support of their Motion for Judgment on the Pleadings.[1]

## INTRODUCTION

This case presents a conflict between two competing visions of individual academic freedom for a public university professor.

On the one hand, Woodcock believes individual academic freedom is absolute. If a professor wants to go to an academic conference at university expense and seize the conference stage to air his *personal political* views, the University may not stop him.[2] The fact those views are irrelevant to the conference's theme or the

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[1] Woodcock responded to the Motion for Judgment on the Pleadings on October 5 (DE 70). He then filed a motion for Leave to file a Supplemental Response on October 17. Assuming the Court allows Woodcock to do so, the University's Reply Brief is due on October 30.

[2] Woodcock admits that he aired his personal political views. See EEOC Charge of Discrimination, attached as Ex 1.

presentation's subject matter is of no consequence. In Woodcock's view, a professor can urge the audience to vote for a particular candidate before starting a presentation. If a professor wants to use his academic affiliation as a means of positing his *personal political* views to professional list servs, the institution may not question his actions. The fact those posts are irrelevant to the purpose of the list serv or the particular discussion does not matter. In Woodcock's logic, he can use his status as a University of Kentucky faculty member to promote his political views. If a professor wants to use his university email to urge his colleagues to support his *personal political* cause, university administrators may not interfere. To him, faculty have an absolute right to use the institution's IT infrastructure and computers for their personal use.[3] Indeed, in Woodcock's view, it is unconstitutional for the University to even investigate whether his behavior violates federal law or university policy.

On the other hand, constitutional reality is far more nuanced than Woodcock's absolutist view, and it is far from certain that his conduct is constitutionally protected. The constitutional analysis turns on four issues: (1) the existence of an academic freedom exception to *Garcetti*; (2) if an exception exists, its application to Woodcock's expression; (3) whether his expression amounts to harassment and (4) if within an academic freedom exception to *Garcetti* and not amounting to harassment, a balancing of interests. To complete this constitutional analysis, it is necessary for the University to complete its investigation.

[3] Woodcock threatened litigation over the University's directive to return a university owned laptop computer. *See* Aug. 29, 2025 Letter from The Getty Law Group, attached as Ex. 2.

First, as *Garcetti v. Ceballos* makes clear, when a public university faculty member speaks as a university employee, his speech is not constitutionally protected.[4] Indeed, there is no constitutional protection when employees "make statements pursuant to their official duties."[5] 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."[6] 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."[7]

While the U.S. Supreme Court has not recognized an academic freedom exception to *Gacretti*, some federal courts of appeal have recognized a narrow exception.[8] Others have rejected such an exception.[9] In the near future, the Supreme Court may well decide whether such an exception exists and, if so, the exact parameters.[10]

Of course, until the Supreme Court decides, this Court is bound by *Meriwether v. Hartop,* where the Sixth Circuit created a narrow academic freedom exception to

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

5 *Id.* at 421.

6 *Id.* at 425.

7 *Id.*

8 *See Pernell v. Florida Board of Governors of the State University*, 181 F.4th 1135 (11th Cir. 2026), *pet. for cert docketed sub. nom Diaz v. Pernell*, No. 26-475 (U.S. Oct. 8, 2026); *Heim v. Daniel*, 81 F. 4th 212, 223-28 (2nd Cir. 2023); *Merriwether v. Hartop*, 992 F.3d 492, 504-06 (6th Circ. 2021); *Deemers v. Austin*, 746 F.3d 402, 412 (9th Cir. 2014)

9 *See Reken v. Gregory*, 541 F.3d 768. 773-75 (7th Cir. 2008); *Urofsky v. Gilmore,* 216 F.3d 401, 407-10 (4th Cir. 2000); *Edwards v. California Univ, of Pennsylvania*, 156 F.3d 491 (3rd Cir. 1998) (Alito, J.,).

10 See Petition for Writ of Certiorari, *Diaz v. Pernell*, No. 26- 475, (U.S. Oct. 8, 2026).

*Garcetti* for "core academic functions."[11] But the Sixth Circuit's academic freedom exception does not extend to every responsibility of the faculty member's job.[12] Nor does it extend to a faculty member's complaints about employment practices.[13] It 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."[14] Whether it applies to Woodcock's actions is depends on a careful assessment of exactly what Woodcock did. That is why the University must investigate, and his claims are not ripe until that investigatory process is completed.

Second, regardless of whether an academic freedom exception to *Garcetti* applies, expression that amounts to harassment, as defined by the Supreme Court, is not constitutionally protected.[15] More importantly, under those circumstances, the University has a duty to investigate that conduct or risk potential liability under federal civil rights laws.[16] This duty is further illustrated by the Department of Justice's recent settlement with the University of North Carolina.[17]

Third, even if Woodcock's expressive conduct somehow falls within the confines

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11 *Meriwether*, 992 F.3d at 506.

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

13 *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").

14 *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").

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

16 *Id.* at 646-47 (holding a school may be liable for being deliberately indifferent to known acts of harassment that occurred by an individual under its control).

17 *See* U.S. Dep't of Just., Press Release, *Justice Department Announces Settlement Ending Antisemitism and Race Discrimination at UNC (Oct. 19, 2026)*, https://www.justice.gov/opa/pr/justice-department-announces-settlement-ending-antisemitism-and-race-discrimination-unc, (Oct. 19, 2026); Agreement between the United States of America and the University of North Carolina at Chapel Hill ¶ 9, attached as Ex. 3.

of *Merriwether*, it is still 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."[18] This balancing is extraordinarily fact intensive.[19] That also is why the University must investigate to ensure it complies with its obligation under federal law.

## I. Because the allegations about Woodcock may violate Title VI, the University had a duty to investigate.

Woodcock's Amended Complaint, and indeed his entire theory of the case, overlooks a fundamental point: the University had a legal obligation to investigate allegations of conduct that could constitute unlawful harassment. Federal law "unquestionably encompasses a duty not to permit harassment."[20] As the Supreme Court has made clear, a university receiving federal funds may not act with deliberate indifference to known discrimination.[21]

Put differently, once a federally funded institution receives notice that an individual *may* have engaged in discriminatory misconduct, it cannot simply ignore the allegation or assume the conduct is constitutionally protected.[22] In the context of a professor's misconduct affecting students, a university may likewise be liable where

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

19 *Id.* at 569.

20 *Wamer v. Univ. of Toledo,* 27 F.4th 461, 466 (6th Cir. 2022) (citation modified).

21 *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 291 (1998). *See Fitzgerald v. Barnstable Sch. Comm.,* 555 U.S. 246, 268-59 (2009) (stating Title IX and Title VI are interpreted in the same manner); *Johns v. Paintsville Indep. Bd. of Educ.*, 823 F. Supp. 3d 691, 705 n. 4 (E.D. Ky. 2026) ("Courts analyze Title VI and Title IX claims under the same standards, so the Court may cite to cases that employ either standard.").

22 *See Doe on behalf of Doe #2 v. Metro. Gov't of Nashville & Davidson Cnty., Tenn.*, 35 F.4th 459, 465-66 (6th Cir. 2022) (explaining the standard in peer-on-peer harassment).

the misconduct is not adequately addressed and a student has an "objectively reasonable fear of further harassment [that] caused the plaintiff to take specific reasonable actions to avoid harassment."[23]

Whether harassment is peer-to-peer or teacher-to-student, doing nothing in response to known harassment will be considered deliberate indifference.[24] Accordingly, the University had a federally mandated duty to act when complaints regarding Woodcock's conduct were brought to its attention. Indeed, Kentucky law recognizes that contracts with public universities incorporate existing law, and public institutions may rely upon and act in accordance with those legal obligations.[25]

Once the University received allegations of Woodcock's antisemitic conduct,[26] it was obligated to assess the nature of the conduct, the context in which it occurred, and whether it implicated the University's obligations under federal civil-rights laws. Faced with competing legal duties, the University began an investigation to gather the facts necessary to make what courts have described as a "difficult" determination.[27] As the University often does,[28] it reassigned Woodcock to other duties, an approach approved by the Sixth Circuit.[29]

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23 *Wamer,* 27 F.4th at 471.

24 *Id.* at 471-72 (holding plaintiff stated a plausible claim be asserting the university prematurely closed its investigation after three weeks without taking any measures against her harasser).

25 *See Kamineni v. Univ. of Kentucky,* __ S.W.3rd ___, No. 2026-SC-0170-I, 2026 WL 2516060, *2-3 (Ky. Aug. 20, 2026).

26 *See* Am. Compl. (DE 36) ¶ 55 (alleging he had a meeting with the Vice Provost where she explained the university had received reports that he talked about genocide).

27 *See Josephson v. Ganzel,* 115 F.4th 771, 790 (6th Cir. 2024).

28 *Woodcock v. Univ. of Kentucky*, 820 F. Supp. 3d 555, 571 (E.D. Ky.), *rev'd and remanded,*188 F.4th 969 (6th Cir. 2026).

29 *See Cunningham v. Blackwell,* 41 F.4th 530, 536–39 (6th Cir. 2022).

The investigation may conclude Woodcock's actions were as a private citizen, do not amount to harassment, and the balancing favors his conduct. If so, then the University may not discipline him. Alternatively, the investigation may conclude Woodcock actions were as a public employee *or* constituted harassment *or* the balancing favors the University. If so, then the University may discipline him.

But determining whether Woodcock spoke as an employee, [30] whether his expression amounts to harassment, [31] and whether the balancing favors Woodcock requires the gathering and evaluation of relevant facts.[32] The University is not free to ignore complaints alleging discriminatory conduct simply because the accused professor claims his actions are constitutionally protected.

## II. Woodcock has no right to teach or the right to teach a particular class.

Woodcock believes that he has an absolute right to teach. Indeed, it appears that Woodcock thinks he can pick the classes he teaches and the times at which they meet. Woodcock is simply wrong.

As the Sixth Circuit made clear, there is no right to teach.[33] 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. Indeed, there are many tenured professors at the University whose duties are 100% research or 100% clinical. Moreover, when there are allegations of misconduct, the Sixth Circuit

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30 *Garcetti*, 547 U.S. at 417.

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

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

33 *Parate v. Isibor*, 868 F.2d 821, 832 (6th Cir. 1989); *see also Kaplan v. Univ. of Louisville,* 10 F.4th 569 581, 586 (6th Cir. 2021) (Observing similarities between *Kaplan* and *Parate*).

has permitted reassignment of faculty members during investigations.[34]

Woodcock claims that *Gunasekera v. Irwin* gives him the right to teach.[35] But *Gunaserka* is easily distinguishable. That case dealt with allegations that the professor *lost both pay* and the benefit of having a reduced teaching load.[36] Woodcock, by contrast, alleges no comparable deprivation. He remains a tenured faculty member, continues to receive his salary and benefits, and retains his faculty appointment. Thus, unlike the plaintiff in *Gunasekera*, Woodcock has not alleged the loss of any economic benefit or employment status traditionally recognized as a protected property interest.

To be sure, Woodcock has a protected property interest in his tenured faculty position itself.[37] But the existence of a property interest in continued employment does not transform every aspect of a faculty member's job duties into a constitutionally protected entitlement. The University retains discretion over the assignment of faculty responsibilities, including determining what courses a professor teaches, the extent of his teaching responsibilities, and whether administrative or other duties will be assigned in lieu of classroom instruction.

Because the University retains discretion over the nature and scope of Woodcock's assignments, he cannot establish a legitimate claim of entitlement to any particular teaching assignment. A benefit is not a protected property interest where

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34 *Id.* at 581, 583–84.

35 *See* DE 70 at Page ID 2471-72 (citing *Gunasekera v. Irwin*, 551 F.3d 461, 469-69 (6th Cir. 2009)).

36 *Gunasekera*, 551 F.3d at 468.

37 *Board of Regents v. Roth*, 408 U.S. 564, 576–77 (1972); *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972).

government officials possess discretion to grant, deny, or modify it.[38] Accordingly, even accepting Woodcock's allegations as true, he has failed to plausibly allege a constitutionally protected property interest in teaching specific courses or in teaching at all. His reassignment away from classroom instruction, without any loss of tenure, salary, or benefits does not implicate procedural due process protections.

### III. Woodcock has not experienced an adverse action.

In the First Amendment retaliation context, an adverse act is "one that would deter the average employee from speaking."[39] In other words, the University must have taken action the "would deter a person of ordinary firmness from continuing to engage in that conduct."[40] This objective standard exists to ensure that only actions of constitutional significance give rise to liability and to prevent federal courts from becoming arbiters of every workplace grievance involving protected speech.[41]

As alleged by Woodcock, the University reassigned him to non-teaching duties while maintaining his full salary, benefits, tenure status, and faculty rank pending the completion of its investigation into his conduct.[42] He remains a tenured full professor. Indeed, the only thing that has changed is he has been reassigned to non-teaching duties. As the Sixth Circuit has observed, "a suspension with pay and full benefits pending a timely investigation into suspected wrongdoing is not an adverse

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38 *Town of Castle Rock, Colorado v. Gonzales*, 545 U.S. 748, 756 (2005) ("Our cases recognize that a benefit is not a protected entitlement if government officials may grant or deny it in their discretion."). *See also Richardson v. Twp. of Brady*, 218 F.3d 508, 517 (6th Cir. 2000) ("[Plaintiff] can have no legitimate claim of entitlement to a discretionary decision.").

39 *Blick v. Ann Arbor Pub. Sch. Dist.*, 105 F.4th 868, 878 (6th Cir. 2024).

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

41 *Id.* at 397-98.

42 The new Dean of the law school, after consulting the Faculty Executive Committee, allowed Woodcock to return to the building.

employment action."[43] The same principle applies here. Indeed, as this Court observed, it is curious why he would want to terminate the very investigation that could exonerate him, considering that he contends that he is being wrongly accused. Prematurely terminating the investigation would leave doubts (among students, colleagues, future employers, and the public) rather than ameliorate them as the plaintiff suggests."[44]

In response, Woodcock contends that the investigation itself constitutes the adverse action.[45] He further identifies "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" as adverse acts.[46] He primarily relies on *Josephson,*[47] *Fischer v. Thomas*,[48] and *Speech First, Inc. v. Schlissel* to support his claims.[49]

But none of those authorities support his position on the facts presented here. First, *Josephson* is vastly different than what has occurred here. In *Josephson*, the defendants chose not to renew the plaintiff's contract, tracked his behavior, instructed him to tell students when he deviated from orthodoxy, and asked him to resign.[50] Woodcock cannot make similar allegations here.

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43 *See Kuhn v. Washtenaw Cnty.*, 709 F.3d 612, 626 (6th Cir. 2013) (explaining adverse acts in the Title VII context).

44 *Woodcock v. Univ. of Kentucky*, 820 F. Supp. 3d at 578.

45 *See* DE 70 at Page ID 2457.

46 *Id.* at Page ID 2466.

47 *Id. See also* DE 75-1 at Page ID 2584.

48 DE 70 at Page ID 2456 (citing *Fischer v. Thomas*, 52 F.4th 303, 310, 313 (6th Cir. 2022).

49 *Id.* at Page ID 2453 (citing *Speech First, Inc. v. Schlissel,* 939 F.3d 756, 765 (6th Cir. 2019)). *See also* DE 75-1 at Page ID 2585 (citing same).

50 *See Josephson*, 115 F.4th at 787-88.

Similarly, *Fischer* is inapplicable. *Fischer* held that the First Amendment prohibited Kentucky from preventing judicial candidates from advertising themselves as "conservative" or "Republican" or accepting the endorsements they had received.[51] Kentucky's prohibition forced the candidates to choose between self-censorship and uncertain sanctions.[52] Woodcock has not faced any such choice. He is still speaking.[53] And the University does not seek to punish his future speech. It is investigating reports brought to senior officials about possible violations of Title VI.

*Schlissel* also does not help Woodcock., *Schlissel* analyzed whether an advocacy organization could challenge a university policy on behalf of its members—it did not analyze a University's investigation of federal anti-discrimination law.[54] As such, it dealt with whether a university policy had the potential to chill student speech that could occur in the future.[55] As *Garcetti* makes clear, however, the regulation of faculty speech are analyzed differently from regulations affecting student speech.[56] The Sixth Circuit has also made clear that universities must investigate certain reports of

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51 *Fischer*, 52 F.4th at 313.

52 *Id.*

53 *See* Ramsi Woodcock, Antizionist Scholar of Law & Economics, RAMSI WOODCOCK, https://ramsiwoodcock.net/ (last visited Oct. 16, 2026). See also Ramsi Woodcock, UK Law Is Ignoring Faculty, Risking Its Accreditation, Courier J. (Apr. 13, 2026), https://www.courier-journal.com/story/opinion/contributors/2026/04/13/uk-law-school-dean-judge-greg-van-tatenhove-accreditation-faculty-objection-andy-barr/89550365007/ (last visited Oct. 16, 2026); See Ramsi Woodcock (@RamsiWoodcock), X (formerly Twitter), https://perma.cc/3QX2-R36D, (last visited Oct. 16, 2026).

54 *Schlissel*, 939 F.3d at 763.

55 *Id.* at 765.

56 *Garcetti*, 547 U.S. at 417. *See also Pernell,* 181 F.4th at 1160 (explaining that a university may regulate classroom speech that "veers outside of well-understood parameters—personal tangents irrelevant to the subject matter, conspiracy theories, and the like").

faculty misconduct or risk potential liability.[57] Consequently, *Schlissel* does not fit the facts of this case.

Nor may Woodcock rely on statements made by President Capilouto to establish liability against the remaining University officials. Section 1983 liability is personal, and a plaintiff must demonstrate that each defendant, through his or her own actions, violated the Constitution.[58] Even still, the President was free to make a statement that disavowed Woodcock's petition for the destruction of a nation and affirmed the University's commitment to follow federal law.

Woodcock cannot use the alleged fourteen-month delay to establish an adverse action. His Amended Complaint makes no allegation related to the length of his reassignment, and while he has filed many things to the record, he has not filed a supplemental complaint under Fed. R. Civ. P. 15(d).[59] Thus, the delay in the investigation is not before the Court.

Finally, reassignment away from teaching during an investigation is not an adverse action.[60] The consequences of adopting Woodcock's theory further illustrate its flaws. When a university receives allegations that potentially implicate Title VI, Title IX, or other federal statutes, it must investigate and take reasonable interim

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57 *Wamer,* 27 F.4th at 471-72 (holding plaintiff stated a plausible claim be asserting the university prematurely closed its investigation after three weeks without taking any measures against her harasser).

58 *Blick*, 105 F.4th at 876; *Josephson*, 115 F.4th at 787 (explaining a plaintiff must provide evidence each defeendant acted on his own to violate the plaintiff's first amendment right).

59 *See Blick*, 105 F.4th at 876 (stating the post-complaint acts of continued suspension and refusing to renew plaintiff's contract were not before the court).

60 *See Cunningham,* 41 F.4th at 536–39 (holding university administrators did not violate the plaintiffs' due process rights when reassigning them to non-clinical roles).

measures to protect students and maintain compliance with federal law.[61]

If a university's decision to temporarily separate a faculty member from students during such an investigation automatically constituted a First Amendment retaliation claim, institutions would be placed in an untenable position: either risk liability under federal anti-discrimination laws by failing to act, or risk constitutional litigation by taking reasonable interim measures while an investigation proceeds. The Constitution does not require such a result.

## IV. Woodcock has not plausibly alleged a prior restraint.

In addition to his retaliation claim, Woodcock alleges that the University's "spam policy" is a prior restraint, and that the August 22, 2025 Notice of Investigation that told him to stop conduct that might violate university policy is a prior restraint.[62] While a state may not enact a policy that restricts public speech, a state employer has "far greater freedom to restrict speech when they wear their employer (rather than their regulator) hats."[63] Certainly, the University can impose content neutral regulations as to how its employees use its Information Technology infrastructure.

Woodcock's allegations appear to advance two distinct prior-restraint theories, both of which fail. First, his allegations concerning the "spam policy" appear to relate to *future* speech. To the extent he seeks monetary damages, that claim fails because he has not alleged that the spam policy prohibited any speech he sought to convey.[64] Nor does he allege that he curtailed or refrained from any intended speech because

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61 *See Kamineni*, __ S.W.3rd ___, 2026 WL 2516060, at *2-3.
62 Am. Compl. ¶ 152. *See also* DE 63-1 at Page ID 2238.
63 *Blick*, 105 F.4th at 877 (internal quotation and citation omitted).
64 *Id.* at 879.

of the policy. To the contrary, Woodcock has continued speaking publicly about Palestine and the University's administration, demonstrating that the policy did not chill his speech.

To the extent he seeks injunctive relief against the "spam policy," his claim also fails. Based on the allegations in the Amended Complaint, Woodcock appears to advance a facial challenge to the policy. Yet he does not identify any message he was prohibited from sending, nor does he allege what category of speech or content the policy purportedly barred. Instead, he merely alleges that faculty members who violate the policy may be subject to discipline.[65]

That is insufficient to sustain a facial challenge. To make a facial challenge, Woodcock must show that the alleged prior restraint has "a substantial number of unconstitutional applications as compared to its plainly legitimate sweep."[66] The Amended Complaint does not identify a single application of the policy that prohibited protected speech, much less a substantial number of them.

The University did not create this policy to suppress any viewpoint. It adopted the policy to promote the effective and efficient use of the information technology infrastructure it provides to approximately 39,000 students and 35,000 employees.[67] Such operational objectives are plainly legitimate and unrelated to the suppression of protected expression. This, coupled with the fact that the University's internal email system is a nonpublic forum, further demonstrates that Woodcock has failed to

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65 Am. Compl. ¶ 154.

66 *Blick*, 105 F.4th at 879 (internal quotation and citation omitted).

67 *See* Administrative Regulation 10:1, at 1, Ex. 4.

plausibly allege that the spam policy constitutes an unlawful prior restraint.[68] Accordingly, his prior restraint based on the spam policy fails to plausibly state a claim for relief.

To the extent Woodcock contends that the University Officials imposed a prior restraint by instructing him to refrain from violating University policy, his claim fails because he has not identified any speech he sought to convey that was prohibited.[69] Nor has he alleged any injury resulting from an inability to speak.[70]

To the contrary, Woodcock has continued to speak publicly and prolifically about Palestine. A quick glance at his website (https://ramsiwoodcock.net/) or his X account (@ramsiwoodcock) shows he has continued to advocate his idea that: "The destruction of Israel is a global moral imperative of our age" even as recently as the day before his supplemental response to this motion.




68 *See Perry Educ. Ass'n v. Perry Local Educators' Ass'n,* 460 U.S. 37, 47 (1983). *See also Faculty Rights Coalition v. Shahrokhi,* 204 F. App'x. 416, 419 (5th Cir. 2006).

69 *Blick*, 105 F.4th at 879.

70 *Id.* at 880.

He further alleges no facts suggesting that he has been prevented from expressing his views, continuing his research concerning Palestine, or maintaining a website or social media accounts containing those views. Accordingly, he has failed to plausibly allege that the University Officials imposed an unlawful prior restraint on his speech.

**V. The University's policies are not overbroad.**

Woodcock asserts the Ethical Principles, Institutional Statements, spam, and antisemitism policies are unconstitutionally overbroad because they regulate speech concerning "when and how a professor must disclaim the University, what a professor's private statements may contain, which political arguments count as antisemitism, and how many colleagues a professor may address at once."[71]

Woodcock alleges that the Ethical Principles and Institutional Statements policies are overbroad because they require an employee to make a clear disclaimer when speaking on his or her own behalf rather than on behalf of the University.[72] He alleges the spam policy is overbroad by regulating how university resources may be used to send out "unsolicited mass mailings and spam."[73] He argues that the *Blau* test does not apply because these policies purportedly "regulate speech itself."[74]

The policies at issue regulate conduct, not speech, meaning *Blau* applies. Woodcock cannot transform a policy regulating conduct into one regulating speech

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71 DE 75-1 at Page ID 2593.
72 *See* Am. Compl. ¶¶ 81-82 (DE 36 at Page ID 1643).
73 *Id.* ¶ 83 (citation modified).
74 DE 75-1 at Page ID 2594.

merely by labeling the prohibited conduct as speech.[75] So, the Court must first determine whether the policies regulate expressive conduct to invoke First Amendment protections.[76] If they do, the Court must then determine whether the policies are "related to the suppression of free expression."[77]

Here, the policies do not regulate *what* a university employee may say; rather, they regulate only *how* the employee may present those views. As even Woodcock acknowledges, the policies are designed to ensure that an employee's personal views are not attributed to the University, do not appear to the public to carry the University's imprimatur, and regulates the use of university resources.[78] The policies do not prohibit employees from expressing political, social, religious, or other viewpoints. Instead, the policies require employees who speak in their personal capacities to make clear that their views are their own and not those of the University. Because the policies concern the manner in which employees identify themselves and use institutional resources, rather than the substance of what they may say, they regulate conduct rather than speech. Accordingly, *Blau* applies.

Even if the policies regulated speech, they would still be constitutionally permissible. The Supreme Court has long held that a public employer may regulate

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75 *See United States v. O'Brien,* 391 U.S. 367, 376, (1968) ("We cannot accept the view that an apparently limitless variety of conduct can be labeled 'speech' whenever the person engaging in the conduct intends thereby to express an idea.").

76 *Texas v. Johnson*, 491 U.S. 397, 403 (U.S. 1989).

77 *Id*.

78 *See* Am. Compl. ¶ 81 (alleging the policy compels the speaker to indicate they are not speaking for the University when speaking as a citizen and the views expressed are their own and not representative of the university); *id.* at ¶ 82 (asserting the university prohibits the use of its resources when the speaker speaks as a citizen).

employee speech when the employee speaks pursuant to his or her official duties.[79] The Supreme Court has also recognized that, in the educational context, schools possess greater authority to ensure that "the views of the individual speaker are not erroneously attributed to the school."[80] And the government clearly may regulate how its internal mail systems are used.[81]

The challenged policies advance precisely those interests. The University has adopted policies to help employees understand that certain restrictions apply when they speak at University-sponsored events or programs.[82] By contrast, when employees speak on their own behalf, they remain free to express their views so long as they make clear that those views are their own and not those of the University. That is not overbroad. Rather, the policies reflect the Supreme Court's own rulings on the distinction between private speech and speech made pursuant to official duties.[83] Thus, the policies are constitutionally permissible.

## VI. An ordinary person would understand the conduct prohibited by the University's policies.

Woodcock also argues that the Ethical Principles, Institutional Statements, spam, and antisemitism policies are unconstitutionally vague. A policy is

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79 *Garcetti*, 547 U.S. at 421.

80 *See Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 271 (1988).

81 *Am. Freedom Def. Initiative v. Suburban Mobility Auth. for Reg'l Transportation*, 978 F.3d 481, 491 (6th Cir. 2020) (explaining an internal mail system is a non-public forum that gives the government greater freedom to restrict speech).

82 *See Garcetti v. Ceballos*, 547 U.S. at 422 ("Restricting 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. It simply reflects the exercise of employer control over what the employer itself has commissioned or created").

83 *See Garcetti*, 547 U.S. at 422 (comparing the speech in *Garcetti* to the speech in *Pickering*).

impermissibly vague if it fails to provide fair notice of the conduct it prohibits.[84] But the standard for vagueness depends on the context.[85]

"Even where First Amendment values are at stake, employment standards are not void for vagueness as long as ordinary persons using ordinary common sense would be notified that certain conduct will put them at risk of discipline."[86] The vagueness doctrine is also not "designed to convert into a constitutional dilemma the practical difficulties in drawing school policies," and educational institutions need not be "held to the utmost specificity in drafting" their policies.[87]

Here, Woodcock was on notice that he could not present his personal views as those of the University without a disclaimer clarifying that the views were his own. Likewise, he was on notice that he could not use University resources to promote his personal views in a manner that would lead others to believe those views represented the University's official position. Nor was he unaware that perceived harassment could cause university action.

Consider Woodcock's own circumstances in the absence of such policies. If he made a public declaration that the University believes all nations should "make war on Israel" and that Israel should cease to exist as a nation,[88] and that statement was construed as the University's official position, the University could be accused of violating federal law. The University's policies are designed to prevent exactly that

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84 *See Vill. of Hoffman Ests. v. Flipside, Hoffman Ests., Inc.,* 455 U.S. 489, 498 (1982).

85 *Kutchinski as next friend to H.K. v. Freeland Cmty. Sch. Dist.,* 69 F.4th 350, 360 (6th Cir. 2023).

86 *Meriweather*, 992 F.3d at 518.

87 *Kutchinski,* 69 F.4th at 362.

88 *See* Ramsi Woodcock, *Petititon for Military Action Against Isreal.* https://antizionist.net/petition-for-military-action-against-israel/ (last visited Oct. 22, 2026).

scenario. Woodcock should have known from the policies that statements made by an employee must comply with this policy.[89]

The same is true of the spam policy. Would an ordinary person using common sense in 2025 understand what "spam" or a "unsolicited mass mailing" means? Surely so. No reasonable person would believe that sending "two emails" constitutes spam.[90] In the digital age, the term "spam" has a readily understood meaning that University employees can reasonably be expected to comprehend.[91] The prohibited conduct is further narrowed by the requirement that the mailing be "unsolicited." For example, if 100 people expressed interest to Woodcock in his latest antitrust seminar, would an email sent to those individuals violate the policy? No. Because those recipients requested the information, the message would not constitute an unsolicited mass mailing. Again, there is nothing vague about the policy; Woodcock simply believes it should not apply to him.

Even if an employee were uncertain whether a proposed communication approached the threshold of a mass mailing, the employee could seek guidance from UK Public Relations and Marketing regarding the applicable limits.[92] Accordingly, Woodcock has not plausibly pled allegations of a vague policy.

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89 *Kutchinski*, 69 F.4th at 360 (explaining "a plaintiff who engages in some conduct that is clearly proscribed cannot complain of the vagueness of the law as applied to the conduct of others").

90 *See* Am. Compl. ¶ 157.

91 *See Spam*, Merriam Webster Dictionary (Oct. 26, 2026) (defining spam "as unsolicited usually commercial messages (such as emails, text messages, or Internet postings) sent to a large number of recipients or posted in a large number of places").

92 *See Village of Hoffman Estates*, 455 U.S. at 498 (explaining the ability for a regulated entity to clarify the meaning of the regulation by its own inquiry allows for a greater tolerance of vagueness under the Constitution).

## VII. Woodcock has not plausibly alleged the University Official violated the Establishment Clause.

Woodcock alleges that all Defendants violated the Establishment Clause by adopting the IHRA definition of antisemitism.[93] As to the University Officials, however, Woodcock has sued the wrong defendants. Even in his Amended Complaint, he acknowledges that the University was required by the General Assembly to adopt the IHRA definition of antisemitism.[94] Moreover, none of the University Officials he's sued are responsible for adopting University policy. That authority rests with the Board.[95] Thus, to the extent Woodcock seeks damages against the University Officials based on the adoption of the IHRA definition, those claims should be dismissed because he alleges no facts showing that any of the officials he has sued personally adopted the challenged policy.[96]

In any event, Woodcock's Establishment Clause claim fails for a more fundamental reason. The adoption of the IHRA definition served the secular purpose of implementing and facilitating compliance with Title VI.[97] Woodcock contends that the University Officials' reliance on the Sixth Circuit's post-*Kennedy* analysis in *Gordon v. City of Hamtramck, Michigan* is misplaced.[98] But the Sixth Circuit explained that the secular purpose requirement for a governmental policy to pass

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93 Am. Compl. ¶ 162.

94 *Id.* ¶ 210.

95 KRS § 164.131(1)(a).

96 *See Pollard v. City of Columbus, Ohio,* 780 F.3d 395, 402 (6th Cir. 2015) ("An individualized analysis must still be done to ensure that a defendant's liability is assessed based on his own individual conduct and not the conduct of others.");

97 *See e.g. McClanahan v. Trump, No. 3:25-CV-05025-MDH,* 2025 WL 1643500, at *6 (W.D. Mo. June 9, 2025).

98 *See* DE 75-1 at Page ID 2592.

scrutiny under the Establishment Clause "springs from older jurisprudential soil" than *Lemon* and may still be good law.[99]

Courts will "generally defer to the government's stated purpose, unless the plaintiff can demonstrate that it is a sham masking a predominating religious objective."[100] For the University, the purpose is clear. The IHRA's definition was adopted into policy to comply with both federal and state directives. Complying with the law is not a "sham" to promote any religion. Rather, it is necessary for the University to remain in compliance and not risk the loss of funds or being exposed to various lawsuits.

Even under *Larson*, the University's compliance with federal and state directives would not show it violated the principle of denominational neutrality. In his Response, Woodcock baldly states, "there is no tradition of endorsing a religious group's right to form a government or of punishing criticism of that claim."[101] Assuming that is true, the University did not take any action to endorse a religion or punish criticism of that religion. The University was simply complying with the directives of state and federal authorities. Thus, no matter how Woodcock frames his theory, there is no allegation that makes it plausible the University Officials' acts established a religion.

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99 *Gordon v. City of Hamtramck, Michigan*, 188 F.4th 950, 964-65 (6th Cir. 2026).
100 *Id.* at 965.
101 DE 75-1 at Page ID 2593.

## VIII. Qualified immunity bars Woodcock's claim for damages as they involve unsettled questions of law or conflict with established Sixth Circuit precedent.

Even if the Court were to conclude that Woodcock possesses a protected interest in teaching, qualified immunity would still bar any claim for damages against the University Officials. Woodcock first argues that qualified immunity cannot be resolved on the pleadings and instead must await summary judgment.[102] But the Sixth Circuit has made clear that courts have "a duty to address qualified immunity when it is properly raised prior to discovery."[103] The University Officials have properly raised that defense here.

Woodcock defines the relevant rights at a high level of generality, asserting a right to be free from punishment for protected speech and a property interest in teaching.[104] But qualified-immunity analysis requires a more particularized inquiry tied to the specific facts of the case.[105] The question is whether the University Officials had "fair and clear warning"[106] that they could not place Woodcock on paid administrative leave and temporarily reassign his duties while investigating allegations of misconduct that potentially exposed the University to liability under Title VI. No such warning existed, especially when Sixth Circuit caselaw – even for this very University – upheld it.

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102 *See* DE 75-1 at Page ID 2582.
103 *Myers v. City of Centerville, Ohio*, 41 F.4th 746, 758 (6th Cir. 2022).
104 DE 75-1 at Page ID 2582-83.
105 *King v. Harwood*, 852 F.3d 568, 582 (6th Cir. 2017).
106 *Dyda v. Michigan Sec'y of State*, 184 F.4th 460, 471 (6th Cir. 2026).

There is no Sixth Circuit case that prohibits university officials from reassigning an employee away from his teaching duties with pay while investigating misconduct. *Blick* highlights the unestablished nature of this claim. *Blick* acknowledges that the Sixth Circuit, in the context of Title VII, has long "held that an employer does not take a materially adverse action when it temporarily suspends an employee with full pay while 'timely' investigating the employee's potential misconduct."[107] The Sixth Circuit acknowledged this *may* no longer be good law after the Supreme Court's decision in *Muldrow*; however, that question was left for another day.[108] Accordingly, there was no case law clearly prohibiting what the University Officials did here, and qualified immunity bars Woodcock's claims for damages.[109]

This is especially true when the Sixth Circuit has held there is no right to teach specific classes,[110] and that reassigning a professor *at this University* while an investigation is pending does not violate a professor's rights.[111] Given that precedent, no reasonable university official would have understood that placing a professor on paid administrative leave and temporarily removing teaching responsibilities during a Title VI investigation violated clearly established law.

The same conclusion follows with respect to Woodcock's First Amendment claim. Even assuming Woodcock engaged in protected speech and suffered an adverse action, there is no clearly established law prohibiting university officials from

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107 *Blick*, 105 F.4th at 885.
108 *Id.* at 886.
109 *See* Section VIII below.
110 *Parate*, 868 F.2d at 832.
111 *Cunningham*, 41 F.4th at 536–39.

investigating reports that a professor engaged in potentially harassing conduct, let alone an investigation required by Title VI, and, during that investigation, reassigning that professor with pay. Indeed, *Pickering* itself recognizes that a public employer may respond to employee speech in appropriate circumstances.[112] Therefore, qualified immunity independently requires dismissal of Woodcock's damages claims against the University Officials.

## CONCLUSION

For these reasons, the Court should grant the University Officials' Motion for Judgment on the Pleadings.

Respectfully submitted,

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[112] *Pickering*, 391 U.S. 568.

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 30, 2026 the foregoing document was electronically filed using the Court's CM/ECF system, which will send notification of such filing to all parties registered to receive electronic filings and via electronic mail to the below listed.

*/s/ Bryan H. Beauman*
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