

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

**KEVIN N. BASS,
Plaintiff,**

v.

**TEXAS TECH UNIVERSITY HEALTH
SCIENCES CENTER, et al.,
Defendants.**

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Civil Action No. 5:25-cv-00244-H-BV

SECOND AMENDED COMPLAINT

Use of Generative Artificial Intelligence. Plaintiff used generative artificial intelligence as a research and drafting aid in preparing this complaint. All factual allegations have been independently verified. Plaintiff takes full responsibility for the content.

I. INTRODUCTION

1. On November 3, 2023, Plaintiff — a third-year medical student — posted a philosophical reflection on mortality to his personal social media account. The post stated, verbatim: "Each and every one of us is going to be dead someday very, very soon... why most people put so much stock into what other people think about them is completely beyond me. These other people, too, are going to be dead very, very soon." The post named no person, referenced no institution, and threatened no violence. Within 24 hours, TTUHSC imposed emergency removal, a campus-wide ban, and a criminal trespass warning. A BOLO flyer bearing Plaintiff's photograph was distributed to hospital personnel and clinical affiliates with instructions to summon Security immediately if he was seen on the premises and, in a "life-or-death situation," to call 911.

2. Thirty-eight days later, a fourteen-hour disciplinary hearing was conducted by Darren Gibson, an outside attorney retained under eight consecutive contracts authorizing \$393,000 in cumulative compensation. He admitted only a redacted version of Plaintiff's neuropsychological evaluation — removing the accommodation recommendations, the evaluator's opinions on the professionalism complaints, and the evaluator's favorable characterizations of Plaintiff — while barring Plaintiff's neuropsychologist from testifying. He banned contemporaneous objections and permitted zero defense witnesses against ten institutional witnesses. The Board found Plaintiff "incapable of remediating." A campus administrator then broadcast Plaintiff's removal to the student body and directed recipients to his social media.

3. Plaintiff does not seek reinstatement. This case is about the stigma Defendants created and continue to publish, the constitutional violations that produced it, and the structurally

compromised process that denied Plaintiff any meaningful opportunity to be heard. Plaintiff seeks damages under Section 504 of the Rehabilitation Act, prospective relief under Title II of the ADA, and damages under 42 U.S.C. Section 1983 for violations of the First and Fourteenth Amendments.

II. JURISDICTION AND VENUE

4. This Court has federal-question jurisdiction under 28 U.S.C. Sections 1331 and 1343. Declaratory and injunctive relief are authorized by 28 U.S.C. Sections 2201-02.

5. Venue is proper under 28 U.S.C. Section 1391(b) because a substantial part of the events occurred in this Division and at least one defendant resides here.

6. Pursuant to *Ex parte Young*, 209 U.S. 123 (1908), Plaintiff seeks prospective relief against official-capacity defendants only to remedy violations that are ongoing, not completed: (a) TTUHSC's continuing publication, through its Registrar in response to third-party verification inquiries, of stigmatizing exclusion characterizations; and (b) Defendants' continuing refusal to provide any name-clearing hearing notwithstanding their publication of false, stigmatizing accusations in connection with the termination of a government benefit. The denial of a name-clearing hearing is not a past event with lingering effects; it is a present and continuing withholding of process that due process presently requires, and each verification response is a new publication. Each official-capacity defendant is named only to the extent that defendant has a specific connection to implementing the prospective relief requested. This action seeks no relief sought in Plaintiff's pending state suit (Cause No. DC-2025-CV-1817, on appeal), which seeks only prospective enforcement of the record-inspection and correction procedure required by Tex. Gov't Code Section 559.004 and TTUHSC OP 77.13; that suit asserts no federal claims, seeks no damages, and does not seek the name-clearing hearing sought here. The two proceedings are not parallel.

III. SOVEREIGN IMMUNITY AND REMEDIAL FRAMEWORK

7. Plaintiff does not seek Section 1983 money damages against TTUHSC or against any defendant in official capacity. TTUHSC receives federal financial assistance and is a Title II public entity and a Section 504 program. By accepting federal funds, TTUHSC waived Eleventh Amendment immunity to suit under Section 504. See 42 U.S.C. Section 2000d-7(a)(1).

8. Consistent with *Cummings v. Premier Rehab Keller, P.L.L.C.*, 142 S. Ct. 1562 (2022), Plaintiff does not seek punitive or emotional-distress damages under Title II or Section 504. Plaintiff does not ask this Court to enforce TTUHSC's education-record amendment procedure (HSC OP 77.13) or Texas Government Code Section 559.004. Any reference to education-record inspection is pleaded solely to explain timing and continuing publication.

IV. STATUTE OF LIMITATIONS

9. The principal events occurred between November 2023 and January 2024, with continuing effects thereafter. Texas's two-year personal-injury limitations period applies. This action is timely. To the extent any described conduct predates the limitations period, it is pleaded as background and context — including motive, notice, and intent — not as an independent basis for damages.

10. Plaintiff's criminal trespass warning remained in effect through approximately November 4, 2024, and was enforced as late as September 24, 2024. TTUHSC continues to publish enrollment status and exclusion characterizations through its Registrar's office. Defendant Trotter was identified by name and role in Plaintiff's December 11, 2025 pleading but was inadvertently omitted from the caption and defendant list. Plaintiff's claims against Trotter arise from the same events. On information and belief, Trotter received actual or constructive notice of this action within the Rule 4(m) period through coordinated defense representation, knew or should have known that the action would have been brought against him but for the omission, and will not be prejudiced. Plaintiff pleads relation-back under Fed. R. Civ. P. 15(c)(1) (C).

V. PARTIES

11. Plaintiff Kevin N. Bass is an adult resident of Lubbock County, Texas.

12. Defendant TTUHSC is a public university, an arm of the State of Texas, and a recipient of federal financial assistance.

13. Defendant Amanda McSween is TTUHSC's Registrar and Managing Director of Enrollment Services. She controls student education records, transcript issuance, and enrollment verifications. She is sued in individual capacity for Section 1983 damages and in official capacity for prospective relief related to ongoing publication of status communications.

14. Defendant Lauren Cobbs, M.D., is Associate Dean for Student Affairs, School of Medicine. She coordinated the professionalism complaint process and investigation that led to Plaintiff's hearing. She is sued in individual and official capacities.

15. Defendant Simon Williams, Ph.D., is Senior Associate Dean for Academic Affairs, School of Medicine. He signed the emergency removal order, participated in speech surveillance of Plaintiff beginning in 2020, and drafted the SPPCC appeal response for the Dean on the same day Plaintiff prevailed in that appeal. He is sued in individual and official capacities.

16. Defendants Tamara Mancini, M.Ed. (Director of Student Disability Services), Mia Myers (Associate Managing Director, Student Financial Aid), and John/Jane Doe (ADA Title II Coordinator) are sued in their official capacities only for prospective Title II relief. Mancini controls the exclusive mechanism for disability accommodations at TTUHSC. Myers administers financial obligations imposed on Plaintiff after dismissal. Doe is responsible for Title II compliance.

17. Defendants Lori Rice-Spearman, Ph.D. (President of TTUHSC) and Darrin D'Agostino, D.O. (Provost) are sued in their official capacities for prospective relief. Rice-Spearman holds enforcement authority delegated from the Board of Regents. D'Agostino is the final appellate authority for student conduct matters.

18. Defendant David Trotter, Ph.D., served as Student Conduct Administrator for Plaintiff's disciplinary matter from the initial complaint process through the consolidated hearing, including collecting complaint materials, coordinating with evaluators, issuing the consolidation notice, and negotiating hearing procedures. He is sued in individual capacity.

19. Defendant Darren G. Gibson is an attorney who served as outside Hearing Officer for Plaintiff's December 11, 2023 proceeding. He exercised delegated authority to control the hearing's format, admit or exclude evidence, and impose procedural constraints. He is sued in individual capacity.

20. Defendant Jennifer Wilson, M.D., is Vice Dean for Medical Education at TTUHSC's Covenant Branch Campus. Defendant Rachel Forbes, MBA, is Assistant Vice Dean for Student Affairs at the Covenant Branch Campus. Both are sued in individual capacity.

21. Defendants Does 2-10 are presently unidentified persons who participated in the disciplinary proceedings or publication of exclusion and stigmatizing communications described below. Plaintiff will seek their identities through discovery.

VI. FACTUAL ALLEGATIONS

A. Plaintiff's Background and Disability

22. Plaintiff enrolled at TTUHSC School of Medicine and progressed through the preclinical curriculum without disciplinary incident. He had no disciplinary history of any kind from middle school through a prior doctoral program before entering TTUHSC's clinical curriculum. Plaintiff performed competently in clinical rotations, with supervising physicians assessing his clinical skills as meeting expectations. He maintained an active public voice on health policy through social media, with approximately 84,000 followers, and published on public health policy in Newsweek and other outlets, including a January 30, 2023 Newsweek opinion essay on national COVID-19 policy.

23. Plaintiff has a neurodevelopmental disability with associated anxiety, formally confirmed by a neuropsychological evaluation on December 6, 2023. The disability substantially limits major life activities, including communicating, processing information, concentrating, and interacting with others, with the limitations most acute under conditions of high cognitive load — prolonged, multi-party, adversarial proceedings being a paradigm example. See 42 U.S.C. § 12102(1)(A), (2)(A). The December 6, 2023 evaluation documented deficits in social communication and pragmatic language, processing speed, and executive functioning, together with a generalized anxiety disorder; observed that for individuals with this condition miscommunication "is prominent in situations of escalated conflict"; and recommended accommodations specific to "legal and formal civil hearings" — that Plaintiff "should have appropriate representation and should not be permitted to represent himself" because "it is best to have counsel represent them and not simply be advised," together with frequent breaks and extended or waived documentation deadlines — as well as provision of verbal information in written format. Plaintiff's competent performance in clinical rotations is consistent with, not contrary to, these limitations: an impairment need substantially limit only one major life activity to qualify, 42 U.S.C. § 12102(4)(C), and the definition of disability is construed broadly in favor of coverage, *id.* § 12102(4)(A). The setting in which Plaintiff's limitations were disabling — a fourteen-hour adversarial proceeding — is exactly the setting in which TTUHSC placed his career at stake.

24. As early as August 2020, TTUHSC administrators documented concerns about Plaintiff's psychological state and directed him to counseling. In May through October 2023,

TTUHSC personnel assessed Plaintiff as having characteristics consistent with a neurodevelopmental condition. TTUHSC's own Mid-Rotation Faculty Assessment documented that Plaintiff "may struggle to overcome difficulties relating socially to patients and members of the medical team" and that "multiple preceptors have remarked on his awkwardness." Plaintiff's professionalism coach assessed him in her private notes as possibly on the autism spectrum, noted his distractibility, and later testified at the hearing that Plaintiff was "probably on the spectrum of autism" and lacked "political intelligence surrounding the way that [his] behaviors and words impact other people" — but did not inform Plaintiff of this assessment or refer him to a specialist. That testimony — given by TTUHSC's own witness, under oath, at the proceeding where every disability-specific accommodation was refused — describes a functional limitation, not merely a label: an impaired perception of how one's communication is received. TTUHSC made no referral to a specialist, no accommodation inquiry, and no interactive process determination despite these clinical assessments — instead incorporating the observations into the professionalism record later used to justify dismissal.

25. Plaintiff had a pre-existing ADHD diagnosis known to TTUHSC. The source of that knowledge is Defendants' own document: the Student Conduct Board's determination letter refers to Plaintiff's "pre-existing ADHD diagnosis," establishing that TTUHSC knew of a qualifying disability before December 2023. If the diagnosis was "pre-existing" as the institution's own findings state, TTUHSC possessed that knowledge throughout the period in which it evaluated, counseled, and disciplined Plaintiff. It never initiated any interactive process or accommodation determination for this disability, made no accommodation inquiry, and issued no determination.

B. Speech Surveillance (2020-2023)

26. Beginning in August 2020, after Plaintiff's social media posts generated external attention, TTUHSC administrators initiated surveillance of Plaintiff's social media activity. Dean Berk flagged Plaintiff's constitutionally protected Twitter posts as a potential disciplinary issue. Multiple deans and the General Counsel mobilized in response; administrators directed Plaintiff to see a counselor, characterizing his protected speech as a psychological concern. Plaintiff complied. He was not informed of the institutional coordination behind the referral. In September 2020, Defendant Williams characterized Plaintiff's social media activity as "misbehavior" and wrote that the institution could learn from the experience of addressing it.

27. Defendant Cobbs acknowledged Plaintiff's right to free speech but used professionalism standards as an alternative basis for institutional action against his protected speech. In March 2023 — eight months before the tweet — Plaintiff's PhD advisor reported that TTUHSC administration had repeatedly directed him not to speak favorably about Plaintiff. A GSBS administrator compiled a multi-page dossier on Plaintiff, retroactively assembling social media screenshots, complaint letters, academic records, Plaintiff's Newsweek article, and false third-party characterizations of Plaintiff into a single document spanning 2020 through 2023.

28. In 2023, during Plaintiff's OB/GYN clerkship, Dr. Noelle Zavala told Plaintiff during a mid-rotation feedback meeting to "get off social media." The directive was issued in the context of questioning whether Plaintiff belonged in medicine, communicating that Plaintiff's constitutionally protected speech was a basis for institutional concern about his fitness.

29. Dean Berk initiated the surveillance in 2020. In May 2023, after receiving a student complaint about Plaintiff's social media activity, Berk requested a copy of the institution's honor code, received it, and asked administrators which clinical rotation Plaintiff was currently assigned to. Berk died approximately four days later. The officials he set in motion continued — Williams, Cobbs, Forbes, Islam, Morales, and Trotter each separately documented awareness of and objections to Plaintiff's protected speech and were involved in the process that led to his removal. On September 29, 2023 — five weeks before the tweet — Defendant Wilson requested Plaintiff's suspension or dismissal. Plaintiff repeatedly offered to de-escalate his social media activity and sought reassurances that doing so would resolve the institutional concerns. No official provided such reassurance.

30. At their first meeting, Plaintiff's assigned professionalism coach, Dr. Cheryl Erwin, told Plaintiff that she would "always take Texas Tech's side" and spent the meeting describing what TTUHSC and Dean Berk had done for her personally. In her private notes, Erwin documented that Plaintiff's social media activity was constitutionally protected but characterized his exercise of those rights as evidence of psychological pathology. She described his views on public health policy as "conspiracy theories" and conditioned continued enrollment on speech modification: her coaching document — created August 10, 2023, and last saved the day of the dismissal hearing — stated the "overarching goal" as "to find a path for K to stay in med school" and the "outcome" as "moderating his behavior, especially his communications with others." Her notes, reviewed by Plaintiff during FERPA inspection, recorded that Plaintiff "seems to be taking his First Amendment rights to make an idiot of himself quite seriously" — "He has a right to do that. He does not have a right to disrupt the learning environment" — attributed his public speech to "intellectual narcissism," and likened his case to the federal indictment of former President Trump over false 2020-election claims. Erwin recorded these assessments of the content of Plaintiff's views without substantively discussing those views with him: the one time he raised them, she cut the discussion off within seconds. Erwin repeatedly told Plaintiff she was not communicating with administrators about his case, but FERPA records later revealed extensive communications with institutional officials about the very matters she denied. Erwin told Plaintiff that successful remediation consisted of accepting the process with a good attitude — not correcting any identified conduct. Erwin promised Plaintiff confidentiality and presented a confidentiality form, but testified against him at the dismissal hearing, and the Board cited her testimony as "particularly relevant." In that testimony, Erwin warned Plaintiff that pursuing legal action against his medical school would make the situation much more difficult for him, for many reasons.

C. The Tweet and Institutional Response (November 2023)

31. On November 3, 2023, Plaintiff posted a philosophical reflection on mortality to his personal social media account. The post stated, verbatim: "Each and every one of us is going to be dead someday very, very soon... why most people put so much stock into what other people think about them is completely beyond me. These other people, too, are going to be dead very, very soon." The post named no person, referenced no institution, identified no plan, weapon, or target, and threatened no violence. It discussed why people care about others' opinions in light of mortality.

32. Within approximately 24 hours, Defendant Williams signed an emergency removal order. Williams had written nine months earlier that Plaintiff's speech was "obviously protected"

but that the institution needed to discuss an appropriate response. On November 5, 2023, in a recorded meeting, Williams told Plaintiff he "never sensed threat or danger," characterized the post as "free speech," and described the institutional response as "pretty extreme." When asked why no one spoke with Plaintiff before removing him, Williams responded: "That's just not the way the process works." On November 16, 2023, TTUHSC's General Counsel stated that the removal was "prompted by the Social Media post."

33. TTUHSC issued a criminal trespass warning barring Plaintiff from campus. A BOLO flyer bearing Plaintiff's photograph was distributed to hospital personnel at TTUHSC and to non-TTUHSC clinical affiliates, including University Medical Center, with instructions to summon Security immediately if Plaintiff was seen and, in a "life-or-death situation," to call 911. Defendant Forbes emailed more than thirty campus personnel and gatekeepers directing them not to allow Plaintiff into the Covenant Branch office or badge him into any hospital. No hearing had yet occurred. Plaintiff was required to call the police for each pickup and dropoff of his three-year-old child at the campus daycare, a requirement that continued for approximately two weeks. The campus ban specifically denied Plaintiff's requests to meet prospective defense witnesses on campus; the officer communicating those denials attributed the decision to TTUHSC's lawyers.

34. TTUHSC convened its Threat Assessment Team. No mental health professional provided input into the threat determination; the assessment was led by TTUHSC's Chief Information Officer and Vice President for Information Technology. The Team did not view the post in its original context and consulted no one who knew Plaintiff personally. By the Board's own account, the Team assessed the post "in the context of Dr. Bass's ongoing professionalism concerns" — building the asserted independent professionalism ground into the threat determination itself. Dkt. No. 27-8 at 10. On the Interim Suspension Questionnaire completed November 3-4, 2023, Defendant Williams answered "No" to Question 5 — whether the matter involved "criminal felony charges related to weapons, drugs, aggravated assault, and/or terroristic threats." TTUHSC's own Threat Assessment Questionnaire classified Plaintiff's grievance-filing as "retaliatory harm," identifying his exercise of internal complaint processes as the basis for the threat determination. Asked whether "some credible evidence" existed — the form's examples being injuries, witness statements, or video surveillance — the questionnaire identified only "the comments of assessors in clinical clerkships, complaints about the behavior of Dr. Bass and the post on X." Dkt. No. 32-2 at 102. On November 10, 2023, the Associate Provost for Student Affairs denied Plaintiff's written challenge to the interim suspension in a determination reciting as a ground "erratic behavior and threats against another student" — an assertion of student-directed threats that the post, which named no person, and the questionnaire's own answers did not support. Dkt. No. 32-2 at 110. TTUHSC's mandatory threat assessment protocol required no criminal trespass warning absent physical or credible evidence of threat. No such evidence existed, but TTUHSC imposed both a security hold and criminal trespass warning. TTUHSC's own Counseling Director wrote on December 8, 2023 — in a letter transmitted to the Student Conduct Board Chair three days before the hearing — that Plaintiff was "not a danger to anyone," warned of "confirmation bias" in the institutional response, and later concluded that testifying at the hearing would be futile given the appearance of a predetermined outcome. Eight separate officials or witnesses stated that Plaintiff was not a threat.

D. Disability Accommodation Request and Denial

35. On December 6, 2023, Plaintiff underwent a neuropsychological evaluation confirming a neurodevelopmental disability — Autism Spectrum Disorder, with ADHD and generalized anxiety disorder — documenting deficits in social communication and pragmatic language, processing speed, and executive functioning, and recommending accommodations specific to legal and formal civil hearings: representation by counsel rather than mere advising, frequent breaks, and extended or waived documentation deadlines, together with provision of verbal information in written format.

36. On December 8, 2023 — three days before the hearing — Plaintiff gave notice and sought hearing-related accommodations through three separate channels, submitting a formal accommodation request to Student Disability Services (SDS), the office TTUHSC itself designates as the exclusive mechanism for disability accommodations, and notifying TTUHSC officials including the Student Conduct Board Chair and TTUHSC's General Counsel. At 2:19 PM, Plaintiff submitted his application to SDS, which TTUHSC's own systems recorded as received at DisabilityServices@ttuhsc.edu that afternoon. Plaintiff and his counsel also telephoned SDS that day regarding the request and the impending hearing. And at approximately 2:37 PM, Plaintiff's counsel emailed Student Conduct Board Chair Dr. Felix Morales, copying the Office of General Counsel, disclosing Plaintiff's diagnoses of Autism Spectrum Disorder, ADHD, and generalized anxiety disorder, stating that "this impacts our hearing on Monday," and advising that counsel would forward the evaluation and the evaluator's list of necessary accommodations and that Plaintiff had been advised to request accommodation through SDS. Dkt. No. 32-2 at 14. Plaintiff's SDS application identified the disabilities and described the resulting limitations in its own words — "difficulty with information processing, interpersonal interactions, nonverbal social cues" — and requested accommodation specifically for the December 11 hearing. The accommodations sought for the hearing were specific — reasonable breaks; written copies of key information where feasible; and limited attorney-assisted questioning as a communication support, to cue and clarify — communicated through counsel in connection with the December 8 notice and renewed to the Hearing Officer at the hearing. See Dkt. No. 27 at 4.

37. TTUHSC's own accommodation policy, HSC OP 77.14 (Sept. 11, 2023), requires a student to register with SDS and file documentation; instructs students to "allow up to two weeks to process a complete file"; contemplates an intake meeting; and designates a written Letter of Accommodation from SDS as "[t]he university-approved mechanism for establishing reasonable accommodation." Dkt. No. 27-4 at 2-3. Between December 8 (Friday afternoon) and December 11 (Monday morning hearing), one partial business day existed. TTUHSC controlled the hearing date and chose not to postpone — creating a timeline under which compliance with its own accommodation policy was structurally impossible. TTUHSC knew how to accommodate proactively when it wished to: on July 24, 2023, TTUHSC emailed students, including Plaintiff, soliciting accommodations in advance of clinical skills examinations ("please send me any accommodations you have directly so those can be kept in mind for scheduling"). The institution operated a working, proactive accommodation-solicitation system for routine examinations but never extended it to the career-determining hearing — despite formal notice of Plaintiff's disability three days earlier.

38. Defendant Mancini's office issued no Letter of Accommodation before the hearing. Plaintiff received no written determination granting, denying, or proposing alternatives for

hearing-related accommodations — not a denial, but silence. OP 77.14 provides that "[n]o requirement exists that accommodation be made prior to completion of the approved university process," Dkt. No. 27-4 at 3, and TTUHSC's position is that SDS is the only office authorized to grant accommodations. Together, for any time-sensitive proceeding, these rules convert SDS silence into authorization to proceed with no accommodations at all: the policy guarantees denial whenever the hearing precedes SDS processing — and TTUHSC controlled both the processing and the hearing date.

39. The Board's official determination later claimed that Plaintiff's disability was not disclosed until the morning of the hearing. This is false. Plaintiff's counsel formally notified TTUHSC three days before the hearing — in a written notice sent to the same Board Chair under whose signature the determination issued. Dkt. No. 32-2 at 14.

E. The Consolidated Hearing (December 11, 2023)

40. Before the hearing, the institution's only offer was permanent withdrawal without possibility of re-enrollment; Plaintiff chose the hearing instead. Defendant Trotter sent a consolidation notice merging multiple outstanding matters into a single Consolidated Hearing; the notice promised the consolidation was "[t]o ensure that you are afforded maximum due process." Dkt. No. 27-1 at 2; Dkt. No. 27-8 at 6. Trotter told Plaintiff that grievances would be heard first because that structure provided the most protection, writing on October 25, 2023 that "grievances will be resolved per policy" before conduct matters. Plaintiff accepted the hearing over voluntary withdrawal in reliance on that representation. The promised structure was abandoned without notice before the hearing.

41. The hearing was conducted by Defendant Gibson, an outside attorney retained by the Texas Tech University System — TTUHSC's parent system — under consecutive contracts since 2020. Gibson's contract requires him to "represent Agency" — the System — and to "endeavor to keep Agency fully informed about all material matters." The contract in force on December 11, 2023 made Gibson simultaneously a hearing officer — for "live hearings required by Title IX and/or the University" and "for employment and academic grievance hearings to cover the Title IX, Non-Title IX discrimination, ADA/504, and other hearing officer work" — and the System's retained counsel for employment-law and higher-education matters, including internal investigations of sexual harassment and discrimination. The contract's enumeration of hearing-officer work does not name student-conduct or professionalism proceedings — although the same Attorney General-approved template names that work expressly when it is intended, as another university system's contract with the same attorney shows.

42. Gibson admitted only a redacted version of Plaintiff's neuropsychological evaluation. He removed the accommodation recommendations, the evaluator's opinions on the professionalism complaints, and the evaluator's characterization of Plaintiff as "a sensitive and gentle individual," her finding that high-functioning ASD "is not found to be indicative of increased chances toward criminal activity or violence," and her finding that "Dr. Bass does not have any comorbid conditions along with ASD that would present concern for violence." The excised material thus included both the evaluator's recommendation that Plaintiff "should have appropriate representation and should not be permitted to represent himself" — the precise accommodation Gibson simultaneously denied by barring counsel from questioning — and the evaluator's no-violence findings, which bore directly on the threat characterization at issue in the

proceeding. Gibson barred Plaintiff's neuropsychologist from testifying, stating the university lacked time to identify a rebuttal witness. That same morning, Gibson added Dr. Erwin as a university witness — to testify about the very evaluation he had just redacted — even though the university had no advance notice of Erwin's testimony either. Gibson applied opposite standards to identical same-day requests, in each instance favoring the institution and suppressing disability evidence. The asymmetry extended past the hearing itself: Gibson granted the university five days to respond in writing to the redacted evaluation — with the panel to issue its written decision within ten days and the option to reconvene to consider that response — while the evaluator herself remained barred from ever being heard. Gibson also banned contemporaneous objections during the proceeding.

43. The accommodation request was raised on the record at the hearing's outset. Plaintiff's counsel stated that the diagnosis and a request for accommodation under the Americans with Disabilities Act and Section 504, based on the evaluator's recommendations, had been provided the previous week, and asked whether the request had been denied. Gibson responded that he had not seen it, while identifying an email he had received the preceding Friday evening. Counsel explained that among the accommodations requested was that he be permitted to act as Plaintiff's representative rather than merely as an advisor — the accommodation the evaluator had recommended. Gibson stated that he did not think it appropriate for the Board to review the details of the request or the medical issues, and declined to place them before the panel. He then recessed for a fifteen-minute break to confer with Plaintiff's counsel, and invited TTUHSC's General Counsel to join that conference. General Counsel accepted, stating on the record that the institution's process is normally to go through its Student Disability Services office, "and we have a professional in that office who makes these decisions." Gibson ended the discussion, directing that it not be conducted in front of the panel, and paused the recording. What was said during the recess was therefore not recorded.

43A. After the recess, Gibson announced his rulings on the record. He acknowledged that he had received the evaluation that morning and had reviewed it, describing it as "quite lengthy." He then granted four accommodations: water, snacks, additional breaks, and a support person — logistical comforts available to any hearing participant, requiring no disability-specific modification. Every substantive accommodation responsive to Plaintiff's documented disability — attorney-assisted questioning as a communication aid and written-format delivery of key information — was denied. The mid-hearing break demonstrates that accommodation was administratively feasible even during the proceeding; the selective grant of only generic comforts, while every disability-specific support was refused, reflects a deliberate choice, not an administrative impossibility.

44. Gibson declared at the hearing's outset that "my decisions are final" and promised that any exception "shall be applied equally both parties." The hearing record shows otherwise: published hearing materials set time allocations of approximately thirty minutes per witness, Dkt. No. 27-5 at 3, yet a single institutional witness's examination ran approximately eighty minutes — after which Gibson limited Plaintiff's side to approximately twenty more minutes for all remaining questioning — while time limits and relevance rulings were enforced against Plaintiff.

45. TTUHSC's General Counsel — who had received Plaintiff's accommodation notification three days earlier — attended the hearing as the institution's advisor while Plaintiff's attorney was barred from questioning witnesses directly, including as the limited communication

aid Plaintiff had requested. The hearing officer's stated rationale for the bar — preventing an adversarial, courtroom-style proceeding and hostile cross-examination by attorneys — addressed a form of participation Plaintiff had not requested; the request was for real-time cueing and clarification support. The bar was categorical: the Student Handbook provides that advisors "are not permitted to speak or to participate directly or indirectly in any Student Conduct Board Hearing" — so the communication support Plaintiff requested required a modification of that rule, and none was made. Gibson permitted zero defense witnesses while ten institutional witnesses testified, including three added the morning of the hearing without advance notice to Plaintiff. The zero-to-ten asymmetry resulted in part from the campus ban, which prevented Plaintiff from meeting prospective witnesses. Defendant Trotter had briefed Plaintiff on every professionalism complaint and had the most comprehensive knowledge of the underlying matters. TTUHSC's General Counsel barred Trotter from testifying.

46. Gibson remained in the deliberation room during the Board's deliberations and, on information and belief, authored the Board's determination letter, which was issued under the Board Chair's signature. Board of Regents policy permits only voting members and a designated "Resource Person" — a trained University staff member — to be present during deliberations; Gibson was retained outside counsel, not a staff member. Defendant Trotter offered to participate in deliberations and was forbidden as well — excluded from both testifying and deliberating while the institution's outside contractor wrote the outcome.

47. No one searched Plaintiff's person or backpack upon entry to the hearing. No security was present during the fourteen-hour proceeding or during breaks. A Board member characterized Plaintiff's exercise of the grievance process as inconsistent with accepting feedback, treating protected petitioning activity as evidence of deficiency. The Board's written determination did the same: its finding on the November 3 post counted Plaintiff's grievances as context for the post's perceived dangerousness, observing that "at the time, he had filed five of his six grievances against various individuals at the medical school in an attempt to defend himself." Dkt. No. 27-8 at 10. The denial of accommodations produced the harm the neuropsychological evaluation predicted: by the final hours, Plaintiff was unable to follow the majority of proceedings and could not formulate adequate cross-examination. Advance written questions from counsel could not address these limitations, which operate in real time — during live testimony, questioning, and multi-party exchange — which is why Plaintiff requested real-time cueing and clarification support instead. The Student Conduct Board unanimously voted for "Non-Academic Dismissal" — a term the Board's own determination letter uses three times, establishing this as a disciplinary sanction, not an academic judgment. The Board found Plaintiff "incapable of remediating" — relying on testimony from the same officials who had recognized his disability for months without initiating accommodation. Its findings likewise credited each of the six "below expectations" evaluations while omitting the exculpatory explanations Plaintiff offered on the record — among them that the lateness cited in one Pediatrics evaluation occurred while his young daughter was acutely ill, an explanation put to the evaluator at the hearing itself and nowhere mentioned in the findings. The findings also credited one evaluator's hearing testimony as "additional support" for her evaluation because it "provid[ed] additional detail about concerns of nurses" — nurses who did not testify and whom Plaintiff had no opportunity to question. Dkt. No. 27-8 at 11. The evaluation before the institution had reached the opposite expert conclusion: that "a remediation plan does not appear to have been formally documented," that progress was foreseeable with intervention, and that "[o]utright suspension or dismissal from

his medical track without being provided with proper intervention specific to an individual with ASD, to gain insight and remediate such difficulties, is strongly discouraged." The Counseling Director's December 8 letter to the Board Chair pointed the same way: it described Plaintiff as committed to learning from what had happened, expressed hope that he would be allowed to continue his medical education at TTUHSC, and suggested a change of training site as an alternative. TTUHSC's own witness testified at the hearing that a prior comparable student case had been resolved privately between administrators and the student, with a favorable outcome — and identified public speech as the factor that distinguished Plaintiff's case from that private resolution.

F. The Complaint Pipeline and Process Defects

48. The three-complaint threshold required to trigger formal proceedings was reached through double-counting and undisclosed evaluations. Two of the three triggering complaints originated from a single set of observations by one faculty member, who forwarded concerns to a second evaluator who filed a separate complaint based on the same information. The substance of these complaints was withheld from Plaintiff throughout the period he was expected to remediate them; the stated reason for withholding was fear of retaliation, though no evaluator articulated any specific basis for that fear. The hearing notice listed the professionalism-evaluation referrals only by clerkship name and date, with no description of the conduct at issue. Plaintiff had no opportunity to respond to or remediate conduct he was never told about.

49. Plaintiff asked more than twenty physician colleagues to identify the specific conduct he was supposed to remediate. None could.

50. A sexual misconduct allegation was presented against Plaintiff in a June 2023 meeting with Williams and Nunez. When Defendant Forbes identified the source as Dr. Zavala, Plaintiff contacted Zavala, who denied the event occurred and expressed disbelief that anyone would fabricate such a claim. Defendant Trotter later confirmed that Zavala had recanted the allegation before the SPPCC proceedings. Despite the recantation, the allegation was included in Plaintiff's disciplinary record and used in proceedings against him.

51. At the original SPPCC hearing, two witnesses testified in closed-door session for more than an hour — testimony from which Plaintiff was excluded. Despite this, no specific professionalism incident was identified. Defendant Trotter independently confirmed both the absence of specifics and Zavala's disavowal of the sexual misconduct allegation after reviewing the recordings. Zavala had reported unprofessional behavior through internal channels but gave Plaintiff a satisfactory professionalism rating in her formal evaluations. Plaintiff appealed and prevailed — the appeals panel cited lack of specificity. Yet internal records indicate the appeals panel believed a serious incident had occurred, though no such incident was ever disclosed to Plaintiff during the appeal or at any other point.

52. Defendants Forbes and Cobbs personally drafted and edited the adverse SPPCC letter used against Plaintiff in the proceedings.

53. Plaintiff won his first internal appeal on approximately September 7, 2023. On the same day, Defendant Williams circulated a draft appeal decision to the Dean. The appeal outcome included a stipulation that any single future professionalism report would trigger

automatic re-referral to SPPCC — converting Plaintiff's appeal victory into a trigger for future proceedings. Within eleven days of the appeal victory, two new adverse evaluations appeared containing a specificity absent from every prior complaint. The institution then stripped Plaintiff's right to informal complaint resolution, ensuring subsequent complaints bypassed the administrator who could have resolved them and proceeded directly to a formal board.

54. On August 14, 2023, Defendant Forbes falsely alleged that Plaintiff had physically threatened her during a meeting. Plaintiff's badge access was revoked and he was barred from the Office of Student Affairs. The charges were later dropped without explanation or apology. Forbes subsequently admitted she did not feel physically threatened by Plaintiff.

55. Five of seven adverse professionalism evaluations presented at the hearing came from Pediatrics, where Defendants Wilson and Forbes had administrative control. Plaintiff's professionalism scores tracked evaluator arrangements rather than clinical functioning: approximately 75% in OB-GYN, rising to approximately 95% in Psychiatry — a rotation whose evaluators sat outside the complaint pipeline — then falling sharply in Pediatrics, where Wilson was coordinating with the evaluators. One evaluator received her evaluation form on August 28 but did not complete it until September 18 — the same day Defendant Wilson filed a separate misconduct report against Plaintiff. Plaintiff encountered Wilson and an evaluator in conversation; upon seeing him, Wilson spent approximately fifteen minutes offering unsolicited explanations for why she had been discussing Plaintiff. The evaluator then told Plaintiff she would be writing negative evaluations. During a recorded meeting, Wilson acknowledged that Defendant Trotter had already been informed about Plaintiff's conduct matters before Wilson raised them with Plaintiff.

56. Plaintiff filed seven formal grievances against TTUHSC personnel between September and November 2023 under SOM OP 40.05, TTUHSC's learner-mistreatment grievance procedure. The grievances alleged mistreatment of Plaintiff as a learner, retaliatory and coordinated evaluation practices, and violations of TTUHSC's own published procedures — the institutional-accountability subject matter the grievance policy exists to address. Defendants cited those grievances as context justifying the emergency removal, which itself prevented the pending grievance hearings from occurring. The sole grievance resolved in Plaintiff's favor was against a non-faculty staff member; all six grievances against faculty and administrators were denied. In at least one investigation, the investigator characterized Plaintiff's grievance itself as a policy violation. See Dkt. No. 27-8 at 13 n.6. No investigator contacted Plaintiff in any of the seven proceedings. Across these proceedings, evaluators coordinated with Defendant Wilson, departments investigated their own personnel, evaluators who communicated with each other filed overlapping complaints, and Plaintiff — the complainant — was not interviewed in any of his own grievance investigations, though as many as five other individuals were interviewed per investigation.

57. Defendant Trotter requested and received a favorable Family Medicine performance report, but it was not presented to the Board. The suppressed report included testimony that no one had witnessed Plaintiff falling asleep during the rotation — directly contradicting an adverse evaluation the Board did receive. Plaintiff did not learn of this suppressed testimony until his FERPA inspection two years later. When a grievance investigator sought to obtain underlying clerkship evaluations, Defendant Cobbs, together with another administrator, Dr. Conser, shut down the request; the written reply to the investigator, reviewed by Plaintiff during FERPA

inspection, reads: "Just spoke with Dr. Cobbs and unfortunately can't provide the other clerkship evaluations from inpatient." When the same investigator indicated he intended to interview Plaintiff, another administrator redirected him; the interview never occurred. Defendant Wilson overrode Plaintiff's passing numerical grade in Pediatrics to impose a Fail, citing "significant concerns for Kevin's mental health" as the rationale. Wilson completed this grade override after the criminal trespass warning — having herself used Plaintiff's disclosed mental health condition as a factor in interpreting his protected speech as threatening. At the hearing, Wilson agreed that professionalism can be improved and confirmed that Plaintiff ceased — and never repeated — the specific conduct she had counseled him about, directly contradicting the Board's finding that Plaintiff was "incapable of remediating."

G. Dismissal and Appeal

58. The Dean upheld the Board's recommendation for dismissal. Plaintiff's appeal was denied on January 11, 2024, by the Provost's designee, whose review was confined by the Student Handbook to two grounds — "[w]hether a procedural deviation occurred that substantially affected the outcome of the case" and whether there was "new information sufficient to alter the findings" — and whose denial letter closed: "As outlined in the TTUHSC Student Handbook, this decision is final." Dkt. No. 27-11 at 2-3.

H. Post-Dismissal Stigmatization

59. Within days of the non-public Board determination on approximately December 27, 2023 — before the outcome was widely known — an external individual publicly announced it, stating "we did it." On information and belief, the Board's decision was known only to senior administrators at that time. The individual who received the leak had been publishing daily defamatory and harassing content about Plaintiff for approximately one year. On January 7, 2024, Forbes sent a mass email to two full medical-student class distribution lists — Plaintiff's class and the graduating class — stating that the class was "one student lighter than last week, and I hope we can all breathe a sigh of relief," directing recipients to "just check his Twitter," and announcing Defendant Wilson's promotion to a newly created administrative position. Forbes subsequently attempted to recall that email.

60. The criminal trespass warning was enforced for nearly one year after the precipitating event.

61. Plaintiff applied to transfer to St. James and St. Matthew's medical schools. Both rejected his applications after learning of TTUHSC's characterization of his status. St. Matthew's conditioned review of Plaintiff's transfer application on, among other documents, "A dean's letter"; when Plaintiff requested one, TTUHSC's Registrar — Defendant McSween — responded in writing: "We do not/will not have a Dean's letter for you." Dkt. No. 32-2 at 27, 35. TTUHSC continues to publish Plaintiff's enrollment status and exclusion characterizations through the Registrar's office in response to verification inquiries. Plaintiff carries a permanent negative signal in every credentialing inquiry, background check, and professional interaction — demonstrably worse off than if he had never attended medical school. Internal information about Plaintiff's dismissal has been disseminated online through hundreds of posts on public forums, perpetuating the stigmatizing characterizations beyond the institution's direct publications.

I. Retaliatory Debt Collection

62. TTUHSC characterized Plaintiff's expulsion as a "withdrawal," generating a debt obligation of \$24,366.56. TTUHSC referred the debt to a collection agency in spring 2024; after Plaintiff disputed the debt, that agency never contacted him again, and the account sat dormant — no contact, no collection activity — for approximately seventeen months. Then, within weeks after Plaintiff filed public information requests under the Texas Public Information Act, TTUHSC issued a Final Account Statement stating a balance of \$30,458.20, placed the debt with a second collection agency, and set a new collection deadline. The revival followed more than a year of silence and closely followed Plaintiff's exercise of his right to request public records.

J. Ongoing Harms

63. Defendant McSween controls the verification processes through which these characterizations continue to reach third parties. Each verification response is a new publication of the exclusion characterizations. Official transcript requests are fulfilled through TTUHSC's transcript vendor, Parchment; on October 16, 2025, TTUHSC issued an official transcript bearing the dismissal notation, and at least one medical school declined to offer Plaintiff an interview after receiving a transcript reflecting it. Plaintiff has repeatedly requested the record of each request for and disclosure of his education records that 34 C.F.R. Section 99.32(a) requires TTUHSC to maintain with those records; TTUHSC has never produced it, has declined to confirm whether it exists, and has asserted in writing that "there is no requirement to maintain a disclosure log unless and until such log is needed to document disclosures" — a position contrary to the regulation's text. The identity and recipients of TTUHSC's third-party disclosures accordingly remain within Defendants' exclusive knowledge. Since April 2026, TTUHSC has declined to make the outstanding portions of Plaintiff's education records available for inspection and has taken the position that Plaintiff's records requests must proceed through the discovery process — in litigation TTUHSC simultaneously seeks to dismiss before any discovery occurs. In March 2026, TTUHSC's litigation counsel further directed Plaintiff in writing to route "any communications concerning your records requests" through counsel alone and "not [to] contact TTUHSC employees directly" — placing the office that administers records access, headed by Defendant McSween, behind the same counsel who seeks dismissal of this action. Plaintiff formally requested a name-clearing hearing on October 19, 2025; TTUHSC did not respond, has offered no name-clearing hearing despite publishing stigmatizing characterizations in connection with the termination of a government benefit, and its refusal continues to the present.

64. TTUHSC's own professionalism coach concluded at her first session — before any coaching had occurred — that she was not confident the issues could be remediated. She then documented that coaching "may be utterly ineffective if the mental health issues are not resolved" — yet neither referred Plaintiff to disability services nor modified the intervention, instead treating the predictable failure of a process she had herself flagged as insufficient as evidence of Plaintiff's deficiency.

VII. CLAIMS FOR RELIEF

**COUNT 1: VIOLATION OF SECTION 504 OF THE REHABILITATION ACT —
FAILURE TO ACCOMMODATE AND DISABILITY DISCRIMINATION (Against
Defendant TTUHSC)**

65. Plaintiff incorporates all preceding paragraphs.

66. TTUHSC receives federal financial assistance.

67. Plaintiff is a qualified individual with a disability within the meaning of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. As alleged in paragraph 23, his neurodevelopmental disability substantially limits major life activities including communicating, processing information, concentrating, and interacting with others. He was otherwise qualified for the medical program: he performed competently in clinical rotations, with supervising physicians assessing his clinical skills as meeting expectations.

68. This Count proceeds primarily on a failure-to-accommodate theory. A failure-to-accommodate claim requires that (1) the plaintiff is a qualified individual with a disability; (2) the disability and its consequential limitations were known to the covered entity; and (3) the entity failed to make reasonable accommodations for those known limitations. Sole causation is not an element of a failure-to-accommodate claim. *Harmon v. Collier*, 158 F.4th 595, 608 (5th Cir. 2025).

69. Knowledge. TTUHSC knew of Plaintiff's disability and its consequential limitations through: (a) the December 8, 2023 application to SDS, which identified the disabilities ("Autism Spectrum Disorder (formerly Asperger's)" primary; "ADHD and GAD" secondary), described the resulting limitations in the application's own words ("difficulty with information processing, interpersonal interactions, nonverbal social cues, understanding assignments, objectives, goals, expectations"), identified the neuropsychological evaluation by name, and requested accommodation "in particular concerning a student conduct hearing scheduled for Dec. 11 at 8am" — all per Defendants' own exhibit, Dkt. No. 27-3 (refiled at Dkt. No. 47); (b) the simultaneous notification to the Student Conduct Board Chair and TTUHSC's General Counsel, who then personally attended the hearing as the institution's advisor; (c) the submission of the evaluation to the hearing officer, who acknowledged on the record that he had received and reviewed it that morning, and who read it closely enough to redact its accommodation recommendations; (d) months of TTUHSC's own personnel documenting characteristics of a neurodevelopmental condition, including its professionalism coach's assessment that Plaintiff was "probably on the spectrum of autism"; and (e) the on-record colloquy at the hearing itself, at which counsel raised the pending request, the hearing officer recessed to confer about it, and TTUHSC's General Counsel — invited into that conference — stated that the institution's process is to route such requests through SDS, "and we have a professional in that office who makes these decisions." TTUHSC thus identified SDS, on the record, as the office that decides accommodation requests — the office to which Plaintiff had applied three days earlier. The hearing officer nonetheless decided the request himself. Unlike the plaintiff in *Pickett v. Texas Tech University Health Sciences Center*, 37 F.4th 1013, 1032-33 (5th Cir. 2022), who never told the university's ADA office anything, Plaintiff submitted his request to precisely the office TTUHSC designates for that purpose — and copied the institution's chief legal officer and the chair of the tribunal that would decide his fate.

70. Failure to accommodate. TTUHSC failed to make any reasonable accommodation for those known limitations: SDS issued no determination at all — silence, not process; TTUHSC chose to proceed with the hearing on the date it alone controlled, making compliance with its own accommodation policy structurally impossible; and at the hearing, every disability-specific

accommodation requested — attorney-assisted questioning as a real-time communication aid and written-format delivery — was denied, while only generic comforts (water, snacks, breaks, a support person) were granted. The requested accommodations were reasonable on their face: modest procedural supports of the same kind TTUHSC proactively solicited from students for routine clinical examinations, requiring no fundamental alteration of the proceeding. The advance submission of written questions was not the requested accommodation and did not address Plaintiff's real-time processing limitations, as the final hours of the hearing demonstrated. An entity that responds to a specific, documented accommodation request with silence followed by wholesale denial has failed to engage in the interactive process and failed to accommodate. *Cutrer v. Board of Supervisors of Louisiana State University*, 429 F.3d 108, 112-13 (5th Cir. 2005).

71. In the alternative, TTUHSC's conduct constitutes disability discrimination: Plaintiff was denied meaningful access to the disciplinary proceeding — the program benefit at issue — by reason of TTUHSC's refusal to accommodate his disability. A plaintiff may establish discrimination "by reason of" disability by showing a failure to make reasonable accommodations. *Valentine v. Collier*, 993 F.3d 270, 290 (5th Cir. 2021).

72. Intentional discrimination. TTUHSC acted with actual notice that the requested accommodations were necessary for Plaintiff's meaningful participation, and it consciously refused them: (a) the December 8 submission and the evaluation it identified — which was placed before the hearing officer — stated that in "legal and formal civil hearings" Plaintiff "should have appropriate representation and should not be permitted to represent himself"; (b) TTUHSC's General Counsel received that notice and then attended the very hearing at which the supports were denied; (c) Gibson read the evaluation's accommodation recommendations and excised them; (d) Gibson convened a mid-hearing accommodations break — demonstrating that accommodation was feasible and under active consideration — and then granted only generic comforts while denying every disability-specific support; (e) the Board received the disability documentation, considered it, and consciously rejected accommodation, characterizing it as "retroactive leniency"; and (f) Plaintiff's January 4, 2024 written appeal requested, among other relief, ASD-specialist support and implementation of the evaluator's recommended accommodations, and the designated appellate authority rejected it on January 11, 2024 in a denial that recites the Handbook's two permitted review grounds and nowhere mentions the accommodation request or Plaintiff's disability. Dkt. No. 27-11 at 2-3. This is not deliberate indifference by inattention; it is a considered refusal, with the predicted harm — Plaintiff's inability to follow the proceedings or formulate cross-examination by the final hours — occurring exactly as the evaluation warned. Where accommodation is required and the entity simply denies it, the entity is liable. *Bennett-Nelson v. Louisiana Board of Regents*, 431 F.3d 448, 455 (5th Cir. 2005). The Fifth Circuit has held, in a prior case against TTUHSC, that academic deference does not apply when a student's dismissal involves disability discrimination. *Pickett*, 37 F.4th at 1030-31.

73. As a direct and proximate result, Plaintiff suffered economic losses including lost educational investment, lost financial aid, credentialing costs, and lost professional opportunities. Plaintiff seeks compensatory economic damages and nominal damages.

COUNT 2: VIOLATION OF TITLE II OF THE AMERICANS WITH DISABILITIES ACT (Against Official-Capacity Defendants for Prospective Relief)

74. Plaintiff incorporates all preceding paragraphs.

75. TTUHSC is a public entity subject to Title II. Plaintiff seeks prospective relief only, tied to the ongoing violations alleged in paragraphs 6, 63, and 84-86: (a) Title II-compliant accommodations in the name-clearing hearing that due process presently requires (Count 4); (b) effective-communication measures in TTUHSC processes that continue to affect Plaintiff, including the verification and records channels through which TTUHSC presently communicates about him; and (c) limits on new threat-imputing communications absent disability-appropriate process.

76. Each official-capacity defendant is named only to the extent that defendant controls or directs the operational channels necessary to implement this limited relief.

COUNT 3: PROCEDURAL DUE PROCESS — FOURTEENTH AMENDMENT (42 U.S.C. Section 1983) (Against Cobbs, Williams, Trotter, Gibson, Does 2-10 in Individual Capacities)

77. Plaintiff incorporates all preceding paragraphs.

78. Plaintiff had a protected liberty interest in continued enrollment at a public medical school. As described in paragraph 47, the Board's own determination letter establishes this was a disciplinary, not academic, sanction. Where a public institution imposes serious disciplinary exclusion, due process requires notice of the charges with reasonable specificity and a meaningful opportunity to be heard — including "the opportunity to present ... his own defense against the charges and to produce either oral testimony or written affidavits of witnesses in his behalf." *Dixon v. Alabama State Board of Education*, 294 F.2d 150, 158-59 (5th Cir. 1961); *Goss v. Lopez*, 419 U.S. 565, 579 (1975). The academic-deference standard of *Board of Curators v. Horowitz*, 435 U.S. 78 (1978), is inapplicable to disciplinary proceedings.

79. Defendants deprived Plaintiff of that interest without constitutionally adequate process. The hearing that determined Plaintiff's dismissal was conducted by a hearing officer contractually required to represent the prosecuting institution's parent System, who excluded exculpatory evidence, barred Plaintiff's expert witness while admitting a same-day institutional witness on the identical subject, banned contemporaneous objections, enforced time limits asymmetrically against the published equal-time rule, and presided over a proceeding in which zero defense witnesses were heard against ten institutional witnesses — a categorical denial of the right to produce witnesses that *Dixon* guarantees, engineered in part by the campus ban that blocked Plaintiff from meeting prospective witnesses. The imbalance was pre-set in the hearing packet itself, which recorded that "SOM Administration has identified 15 potential witnesses it may call, while Dr. Bass has not identified any additional witnesses." Dkt. No. 27-5 at 2. The Board itself then called the evaluation reviewers as witnesses, adding two — Drs. Vo and Thomas — whom the SOM Administration's own list had omitted. Dkt. No. 27-8 at 7 n.4. That officer then remained in the deliberation room and authored the decision itself. Defendant Cobbs participated in the complaint process at every stage, joined in blocking an investigator from obtaining evaluations, and developed a documented strategy to use professionalism standards as a basis for action against Plaintiff's protected speech. Defendants failed to provide notice with reasonable specificity of the conduct Plaintiff was expected to remediate; Forbes confirmed in writing that no specifics would be given, and the internal appeals panel independently confirmed

the lack of specificity. Defendants imposed a yearlong criminal trespass warning without any pre-deprivation or prompt post-deprivation hearing.

80. The right to notice and a meaningful hearing — including the opportunity to present defense witnesses — before serious disciplinary exclusion from public education was clearly established. *Dixon*, 294 F.2d at 158-59; *Goss v. Lopez*, 419 U.S. 565 (1975). The right to an impartial decision-maker in a disciplinary proceeding was clearly established. *Withrow v. Larkin*, 421 U.S. 35, 46-47 (1975). A decision-maker structure in which the institution's contracted representative — bound to "represent" the System and to endeavor to keep it "fully informed" — controls the evidence, sits in deliberations, and writes the decision is not the impartial tribunal *Withrow* requires, and no reasonable official could believe otherwise. TTUHSC officials received formal legal training from General Counsel confirming that student speech was protected and that the institution could not act on it. TTUHSC had prior notice that its disciplinary procedures exposed individual officials to personal liability: in *Stewart v. TTUHSC*, No. 5:23-cv-00007-H (N.D. Tex. 2025), before the same presiding judge, TTUHSC settled a student's constitutional claims, and its President signed a release in her individual capacity that expressly covered due process claims.

81. Defendant Williams predetermined the process by drafting the Dean's appeal response on the same day Plaintiff prevailed in a prior internal proceeding. Defendant Trotter abandoned the negotiated hearing structure without notice and altered the procedural framework to Plaintiff's detriment.

82. These defendants acted under color of state law.

COUNT 4: STIGMA-PLUS — FOURTEENTH AMENDMENT (42 U.S.C. Section 1983) (Against Forbes, McSween, Does 2-10 in Individual Capacities; McSween, Cobbs, Williams, Rice-Spearman, D'Agostino in Official Capacities for Prospective Relief)

83. Plaintiff incorporates all preceding paragraphs.

84. Defendants published materially false and stigmatizing statements of fact about Plaintiff in connection with the termination of a government benefit. The BOLO flyer, dated November 4, 2023 and bearing Plaintiff's photograph, asserted as fact that Plaintiff "has made threatening posts on social media," directed recipients — including personnel at non-TTUHSC clinical affiliates — to call Security immediately if Plaintiff was seen, and instructed that "[i]f the situation is a life-or-death situation, call 911." That factual assertion was false, and Defendants' own contemporaneous records show they knew it: the same official who signed the removal answered "No," on the November 3-4 questionnaire, to whether the matter involved terroristic threats, and stated on a recording that he "never sensed threat or danger"; the Counseling Director wrote that Plaintiff was "not a danger to anyone"; Forbes admitted she did not feel physically threatened; Williams's own November 6, 2023 grievance-review memorandum, reviewed by Plaintiff during FERPA inspection, recorded — two days after he signed the emergency removal — that the campus-access block imposed after Forbes's August 2023 allegation "was removed when it was determined that the threat level was not as severe as first perceived"; Wilson testified that she "did not interpret it as a threat" and characterized faculty concerns as "fear of retaliation," not fear of physical harm; eight separate officials or witnesses stated Plaintiff was not a threat; and the Board's own determination letter never found

Plaintiff actually posed a safety threat, using only hedged language — "disruptive and reasonably perceived as a potential threat." A separate Texas Tech Police Department "Criminal Trespass BOLO" bearing Plaintiff's photograph, produced by TTUS in response to a public information request on March 27, 2026, asserted that Plaintiff's removal resulted from "threatening contact with students / staff," that Plaintiff "as of 11/04/23 is no longer enrolled in the program" — five weeks before the hearing that had not yet occurred and more than two months before the dismissal's stated effective date — and that Plaintiff "no longer has any legitimate business on TTU property." The Board's determination letter also asserted, falsely, that Plaintiff's disability was not disclosed until the morning of the hearing. These are concrete false factual assertions by state actors of wrongdoing and dangerousness — not opinions. TTUHSC's own records, reviewed by Plaintiff during in-person FERPA inspection, include a report to Defendant Williams that the flyer was circulating at University Medical Center: a UMC employee unknown to Plaintiff had texted a photograph of a poster stating that anyone who saw Plaintiff at UMC should contact security immediately, relaying secondhand safety rumors while disclaiming any direct concerns. No corrective communication to any recipient has been located among the approximately 1,600 documents TTUHSC has made available for inspection.

85. These publications were made in connection with Plaintiff's dismissal from TTUHSC, constituting the "plus" element of the stigma-plus test. See also paragraph 59 (January 7, 2024 class-wide email).

86. TTUHSC continues to publish Plaintiff's status through Defendant McSween's office in response to verification inquiries — each response a new publication — and has refused to provide any name-clearing hearing — including by non-response to Plaintiff's formal October 19, 2025 request — a refusal that continues to the present. This ongoing publication and ongoing withholding of constitutionally required process constitute a present and continuing violation, not the residual effect of a past one. The December 11 proceeding was not a name-clearing opportunity: Plaintiff's review of the hearing recording found no reference at any point in the fourteen-hour proceeding to the BOLO, the trespass warning, or the exclusion communications — the dangerousness accusations have never been the subject of any hearing. Plaintiff seeks a name-clearing hearing limited to the dangerousness stigma, with Title II-compliant accommodations, and a neutral corrective clarification to third-party recipients of the stigmatizing communications — recipients TTUS's own public-information production of March 27, 2026 identifies by name. Each official-capacity defendant named in this Count has a specific connection to the operational channels necessary to convene and implement a constitutionally adequate name-clearing hearing.

87. It was clearly established at the time of the events alleged that when state actors publicly disseminate materially false and stigmatizing accusations in connection with a status change, due process requires a meaningful opportunity to clear one's name. *Hughes v. City of Garland*, 204 F.3d 223, 226-28 (5th Cir. 2000); *Bledsoe v. City of Horn Lake*, 449 F.3d 650, 653-55 (5th Cir. 2006).

COUNT 5: FIRST AMENDMENT RETALIATION (42 U.S.C. Section 1983) (Against Cobbs, Williams, Wilson, Forbes, Does 2-10 in Individual Capacities)

88. Plaintiff incorporates all preceding paragraphs.

89. Plaintiff engaged in constitutionally protected speech and petitioning on matters of public concern: (a) public commentary on national public-health policy to approximately 84,000 followers, including a January 30, 2023 Newsweek opinion essay on COVID-19 policy; (b) the November 3, 2023 post quoted verbatim in paragraph 31 — a philosophical reflection on mortality that named no person, identified no target, and threatened no violence, and that TTUHSC's own Senior Associate Dean contemporaneously characterized as "free speech" presenting no "threat or danger"; and (c) seven formal learner-mistreatment grievances under SOM OP 40.05 alleging institutional mistreatment, coordinated retaliatory evaluation practices, and violations of TTUHSC's published procedures. This speech was not "reasonably understood" as threatening, harassing, or intimidating: on its face the quoted post contains no threat, and the officials who acted on it stated in recorded and written contemporaneous communications that it was not one.

89A. Officials identified Plaintiff's speech as protected while planning action against it. On February 1, 2023 — nine months before the emergency removal — Defendant Williams, the Senior Associate Dean who later signed that removal, wrote that Plaintiff's speech "is obviously protected speech . . . we need to discuss an appropriate response." Dean Berk wrote the same day that the matter presented the "same free speech issues" the institution had encountered before and that "I think we should discuss with legal." On September 2, 2023 — sixty-three days before the removal — Williams wrote to Plaintiff directly: "We have no problems with your tweets. You are free to post whatever you want." On November 5, 2023, two days after the post and one day after the removal, Williams stated on a recording that "free speech is free speech," that the institutional response had been "pretty extreme," and that Plaintiff's grievances "very quickly turn into a burgeoning sense of people feeling threatened" — linking protected petitioning to the threat framing itself. On or about August 22, 2023, Plaintiff's assigned professionalism coach recorded in her contemporaneous notes that she had spoken with Defendant Cobbs, and that Cobbs "agreed that there are concurrent legal issues embedded in the case including the right of Kevin to say anything that he wishes to say (free speech)"; the same notes state: "It is not a dispute that he has a right to say whatever he wishes. However, as a matter of professionalism, he does not have a right to disrupt the learning environment." The acknowledgment of the right and the professionalism framing appear in the same breath — and "professionalism" is the rubric under which Plaintiff was thereafter evaluated, charged, and dismissed. These communications are recorded in TTUHSC's own files, produced to Plaintiff under FERPA. Taken together they plead a course of conduct: the institution recognized the speech as protected, said so in writing to its own lawyers and to Plaintiff, and proceeded against him anyway.

90. Defendants took adverse action against Plaintiff: emergency removal, campus ban, criminal trespass warning, BOLO distribution, disciplinary hearing, and dismissal.

91. There is a causal connection between Plaintiff's protected speech and Defendants' adverse actions. TTUHSC administrators surveilled Plaintiff's social media activity beginning in 2020, documented his speech as protected, used professionalism standards as an alternative basis for action against that protected speech, compiled a multi-year dossier of his posts, and triggered emergency removal within 24 hours of a social media post that TTUHSC's own General Counsel conceded prompted the action. A second written admission is contemporaneous: in a December 5, 2023 email to a grievance respondent, reviewed by Plaintiff during FERPA inspection, investigator J. Edward Bates wrote that Plaintiff "has been removed from all TTUHSC and

affiliated clinical sites under criminal trespass," that "[t]his is due to recent posts on social media," and that "[t]here is no threat to you specifically" — and instructed the recipient: "Please do not forward this email." Plaintiff had no disciplinary history before his speech became an institutional concern. Defendant Wilson requested Plaintiff's suspension or dismissal five weeks before the November 3 post. The pressure had already chilled Plaintiff's speech before that post: he locked his social media accounts in June 2023 and told the institution he had done so; said on a recorded September 2023 call with Defendant Wilson that he intended to become much quieter; and wrote to his professionalism coach on October 19, 2023 that his posts were being read against accreditation standards and saved for future use against him. Dkt. No. 33-1 at 64-65. But for Plaintiff's protected speech, the adverse actions would not have occurred.

92. Defendants cannot show they would have dismissed Plaintiff absent his protected speech, because the asserted independent grounds were themselves speech-driven: the pre-tweet disciplinary pipeline described above was built on and around Plaintiff's protected speech and petitioning; the threat assessment classified his grievance-filing as "retaliatory harm"; and the post cited as the trigger was, by Defendants' own contemporaneous admissions, not a threat. Under *Mt. Healthy City School District Board of Education v. Doyle*, 429 U.S. 274, 287 (1977), once retaliatory motivation is shown, the burden falls on the officials to demonstrate that they would have taken the same actions even without the retaliatory motive. See *Hartman v. Moore*, 547 U.S. 250, 260 (2006). Defendants cannot carry that burden, because the asserted independent grounds are themselves alleged to be products of the same retaliation — and the November 3 post was itself one of the four charges the Board found violated. The institution's own threat-assessment reviewer testified that a prior, similar student matter had been handled privately between administrators and the student, was resolved in the student's favor, and became known to no one, including the student body — while Plaintiff's matter was escalated into the public domain. Dkt. No. 33-1 at 87. The differentiating variable was Plaintiff's public speech. Defendants' asserted safety rationale is further undercut by their response to Plaintiff's own offers: between September 19, 2023 and January 4, 2024, Plaintiff offered voluntary restrictions four times — a leave of absence six weeks before the post, a written post-removal commitment extending his professionalism obligations to social media, recorded assurances to Cobbs and Trotter that he would accept restrictions to continue his education, and an appeal requesting transfer to another campus with a leave of absence and disability support — and Defendants ignored or rejected each one while proceeding to hearing and dismissal. Dkt. No. 33-1 at 70-71.

93. The right to be free from retaliation for constitutionally protected speech on matters of public concern is clearly established. *Keenan v. Tejada*, 290 F.3d 252, 258 (5th Cir. 2002); *Pickering v. Board of Education*, 391 U.S. 563 (1968). No reasonable official could have believed that the quoted post — which the officials themselves contemporaneously recognized as non-threatening protected speech — stripped Plaintiff's public-health commentary and grievances of protection. Defendants' own Student Handbook said as much: it recognizes "freedom of speech and expression as a fundamental right," provides that in any conflict its free-expression provisions "shall control" over any other Handbook provision, and directs that "[a]ctions involving freedom of expression are covered in Parts VII and VIII of this Handbook" — not the misconduct provisions under which the post was charged. Dkt. No. 32-2 at 115, 122.

COUNT 6: RETALIATION AND INTERFERENCE UNDER THE ADA AND SECTION 504 (Against TTUHSC for Section 504 Damages; Official-Capacity Defendants for Title II Prospective Relief)

94. Plaintiff incorporates all preceding paragraphs.

95. Plaintiff engaged in protected activity under 42 U.S.C. Section 12203 and Section 504 by requesting disability accommodation on December 8, 2023.

96. Three days later — an interval supporting an inference of causation by temporal proximity alone — the hearing officer excluded Plaintiff's accommodation documentation from the evidence, redacted the evaluation's accommodation recommendations specifically, and barred the evaluator from testifying. Defendants' own exhibit records the double standard in a single paragraph: the evaluator's opinions regarding the professionalism complaints were redacted "because Dr. Wierzchowski had not been identified as a witness who could be questioned," while the hearing officer "granted the SOM Administration's request to add Dr. Erwin as a witness" — a same-day request, granted although Erwin likewise had not been previously identified — "as she had worked with Dr. Bass in his professionalism education program." Dkt. No. 27-8 at 7. The expert's opinions on professionalism were thus excised on an identification rationale that applied equally to the institution's own late-added professionalism witness, whose testimony was admitted. The hearing officer stated both rationales on the record: the evaluator was excluded because the university had not had time to identify a rebuttal witness, and the coach was added, in the same ruling sequence, so that the university could respond to the new diagnosis information. The ruling barred the author of the disability evidence while admitting a witness for the express purpose of responding to it. The hearing officer proceeded with the hearing despite the structural impossibility of completing the accommodation process. The Board's determination then rejected the accommodation request as "retroactive leniency." The adverse actions were directed at the very subject matter of the protected activity: the request itself was treated as an aggravating circumstance rather than processed.

97. After Plaintiff filed a state lawsuit — protected activity under the ADA — Defendant Cobbs directed Plaintiff's professionalism coach to cease all contact with Plaintiff, terminating his only support relationship during the critical pre-hearing period. The coach's own notes, dated November 29, 2023, recorded that she considered "a legal action against my employer a direct disregard of and abandonment of our friendship." TTUHSC then revived a \$24,366.56 debt — itself generated by recharacterizing Plaintiff's expulsion as a voluntary withdrawal — that had sat dormant for approximately seventeen months after the first collection agency, faced with Plaintiff's dispute, went silent: within weeks after Plaintiff filed public information requests seeking the records of his own disciplinary and disability proceedings, TTUHSC issued a Final Account Statement stating a balance of \$30,458.20 — more than \$6,000 above the original debt, consisting largely of the first agency's 2024 collection fees, restated without explanation when Plaintiff asked — placed the account with a second collection agency, and set a new collection deadline. The requests were made in furtherance of asserting Plaintiff's rights under federal disability law; the escalation constitutes retaliatory interference with the exercise of protected rights.

97A. The same course of conduct constitutes interference under 42 U.S.C. Section 12203(b), which makes it unlawful to "coerce, intimidate, threaten, or interfere with" an individual "in the

exercise or enjoyment of" any right the ADA grants or protects. TTUHSC, through its officials and agents: (a) hampered the accommodation process itself — the hearing officer excised the accommodation recommendations from the evidence, decided a request that TTUHSC's own General Counsel identified on the record as one for Student Disability Services to decide, and proceeded before the designated process could complete (paragraphs 69, 96); (b) through Plaintiff's assigned professionalism coach, warned Plaintiff at his own dismissal hearing that pursuing legal action against his medical school would make the situation much more difficult for him (paragraph 30) — the culmination of a pattern the coach herself described in her hearing testimony: when Plaintiff told her he needed a lawyer, she counseled him that litigation against the institution was not a good strategy, that constant fighting would not be best for him, and that he should step back, while describing herself as a neutral; in coaching sessions she also told Plaintiff, in substance, that the institution had hundreds of lawyers and greater credibility than he did; (c) terminated Plaintiff's only institutional support relationship upon learning he had filed suit (paragraph 97); and (d) revived collection of a long-dormant \$24,366.56 debt — issuing a Final Account Statement stating a balance of \$30,458.20 and placing the account with a second collection agency — within weeks of the records requests Plaintiff made in furtherance of asserting his disability rights (paragraph 97). Each act was directed at the exercise of a protected right — requesting accommodation, invoking legal process, obtaining the records needed to assert those rights — and each would deter a person of ordinary firmness from exercising them.

COUNT 7: DUE PROCESS — HEARING OFFICER MISCONDUCT (42 U.S.C. Section 1983) (Against Gibson in Individual Capacity)

98. Plaintiff incorporates all preceding paragraphs.

99. Defendant Gibson exercised procedural authority delegated by the Student Conduct Board Chair. Under *West v. Atkins*, 487 U.S. 42 (1988), a private party who exercises authority delegated by the state acts under color of state law for purposes of Section 1983.

100. Through the conduct described in paragraphs 41 through 47, Gibson denied Plaintiff constitutionally adequate process at every stage of the hearing he controlled.

101. Gibson is not entitled to quasi-judicial immunity because the hallmarks of a judicial proceeding were absent: Gibson eliminated the right to object, banned direct cross-examination by counsel, exercised unchecked procedural discretion without appellate review, and held eight consecutive contracts with the prosecuting institution's parent System authorizing \$393,000 in cumulative compensation — the antithesis of judicial independence. See *Cleavinger v. Saxner*, 474 U.S. 193, 206 (1985). Public records of the Office of the Attorney General further show that Gibson's practice consists of representing Texas university systems — under approved contracts with seven systems whose scopes include defending and investigating discrimination and retaliation claims against them — a continuing book of business dependent on the goodwill of the same institutional clients whose proceeding he adjudicated.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

(a) Enter a declaratory judgment that Defendants' ongoing conduct described in paragraphs 6, 63, and 84-86 — the continuing publication of stigmatizing exclusion characterizations and the

continuing refusal of a name-clearing hearing with Title II-compliant accommodations — violates Title II of the ADA and the Fourteenth Amendment;

(b) Award Plaintiff economic damages, including lost educational investment, lost financial aid, credentialing costs, and lost professional opportunities;

(c) Award Plaintiff nominal damages where appropriate;

(d) Order prospective injunctive relief, including: (i) a constitutionally adequate name-clearing hearing limited to the dangerousness stigma; (ii) interim limits on new threat-imputing communications; (iii) a neutral corrective clarification to third-party recipients of stigmatizing communications;

(e) Award costs of court under 28 U.S.C. Section 1920;

(f) Award reasonable attorney's fees if counsel appears under 42 U.S.C. Section 1988;

(g) Award post-judgment interest under 28 U.S.C. Section 1961; and

(h) Grant such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

IX. VERIFICATION

I, Kevin N. Bass, declare under penalty of perjury under the laws of the United States of America that the factual statements in the foregoing complaint are true and correct to the best of my knowledge, information, and belief.

Executed on July 28, 2026.

/s/ Kevin N. Bass

Kevin N. Bass

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