

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MOLLY KELLY,

Plaintiff,

v.

PENNSYLVANIA STATE
UNIVERSITY EXTENSION
SCHOOL; NEELI BENDAPUDI, *in
her official capacity as President of
Pennsylvania State University, and*
*JEFFREY HYDE, in his official
capacity as Associate Dean and
Director of Penn State Extension.*

Defendants.

Civil Action No. 4:26-CV-284

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

INTRODUCTION

1. This case presents a stark choice: whether public university faculty retain the freedom of mind that is the lifeblood of American education, or whether state institutions may condition career advancement on ideological fealty to government-approved viewpoints on diversity, equity, and inclusion.

2. Plaintiff Dr. Molly Kelly is an accomplished Enology Extension Educator at the Pennsylvania State University. Her

professional record is exemplary—she has secured significant grant funding, developed innovative educational programs, and made substantial contributions to Pennsylvania’s wine industry. Yet Penn State denied her promotion to Extension Educator Level 5—twice—not because of any deficiency in her professional performance, but because she failed to demonstrate sufficient ideological commitment to the University’s prescribed DEI orthodoxy.

3. The University’s Promotion Dossier Review Committee was explicit about its reasons. In 2024, the Committee criticized Dr. Kelly for showing “no evidence of efforts to reach underserved audiences” and for providing only “minimum diversity training hours” with “nothing specific to show growth in this area.” See the March 20, 2024, Non-Promotion Letter, a true and correct copy of which is attached hereto as “Exhibit A.”

4. In 2025, the Committee went further, “question[ing] how doing site visits and providing technical expertise to LGBTQ and Greek Orthodox-owned businesses is receiving diversity training,” and concluding that “[a]n effort to learn was not interpreted by the committee.” The Committee’s verdict: Dr. Kelly had merely “checked

the box.” See the March 24, 2025 Non-Promotion Letter, a true and correct copy of which is attached hereto as “Exhibit B.”

5. These words expose the constitutional violation at the heart of Penn State’s promotion system. The University was not neutrally assessing Dr. Kelly’s professional competence. It was policing her thoughts—demanding not just participation in DEI activities, but evidence of genuine ideological conversion. The Committee rejected her documented outreach to LGBTQ and Greek Orthodox-owned businesses because it did not conform to the Committee’s narrow, unstated conception of “diversity.” The Committee demanded she describe “what she learned” from DEI training—a requirement to profess belief, not merely to report attendance.

6. The First Amendment forbids this. “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” W. Va. State Bd. of Educ. v. Barnette, 319 U.S. 624, 642 (1943). Penn State has done exactly what Barnette forbids: it has prescribed orthodoxy on matters of

diversity and social policy, and it has penalized Dr. Kelly for refusing to confess her faith therein.

7. Dr. Kelly brings this action to vindicate her constitutional rights and to restore the freedom of thought that must prevail in America's public universities.

PARTIES

8. Plaintiff Dr. Molly Kelly is a citizen of the United States and a resident of Lycoming County, Pennsylvania. She is employed as an Enology Extension Educator at Penn State Extension, University Park, where she serves as a member and co-team leader of the Grape and Wine Team.

9. Defendant Pennsylvania State University is a public land-grant research university established by the Commonwealth of Pennsylvania. Penn State is an instrumentality of the State of Pennsylvania and acts under color of state law. Penn State Extension is an educational organization within Pennsylvania State University that provides research-based educational programs throughout Pennsylvania.

10. Defendant Neeli Bendapudi is the President of Pennsylvania State University. She is sued in her official capacity. As President, she has authority over and responsibility for the policies, practices, and procedures challenged in this Complaint.

11. Defendant Dr. Jeffrey Hyde is the Associate Dean and Director of Penn State Extension. He is sued in his official capacity. As Associate Dean and Director, he has authority over and responsibility for the promotion policies and decisions challenged in this Complaint.

JURISDICTION AND VENUE

12. This action arises under the First and Fourteenth Amendments to the United States Constitution and is brought pursuant to 42 U.S.C. §§ 1981 and 1983. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1333 (civil rights).

13. Venue is proper in this district under 28 U.S.C. § 1331(b) because Defendants reside in this judicial district, a substantial part of the events giving rise to Plaintiff's claims occurred in this judicial district, and Penn State's principal place of

business is University Park, Pennsylvania, which is located within this judicial district.

14. This Court has authority to grant declaratory relief under 28 U.S.C. §§ 2201-2202 and injunctive relief under Rule 65 of the Federal Rules of Civil Procedure.

FACTUAL ALLEGATIONS

A. Dr. Kelly's Distinguished Career

15. Dr. Molly Kelly has served as an Enology Extension Educator at Penn State Extension, University Park, since February 1, 2018. She holds a bachelor's degree from Indiana University of Pennsylvania, a master's degree from the University of Texas, and a Ph.D. from Virginia Tech.

16. As a member and co-team leader of the Grape and Wine Team, Dr. Kelly has statewide responsibilities for educational programming and research related to Pennsylvania's viticulture and enology industry.

17. Dr. Kelly's professional accomplishments are substantial. She has secured significant grant funding, including a multi-year USDA grant. She has conducted substantial research and

published multiple peer-reviewed articles. She has developed educational programs that have meaningfully advanced Pennsylvania's wine industry.

18. Dr. Kelly currently holds the rank of Extension Educator Level 4 (Advanced Professional). She became eligible for promotion to Extension Educator Level 5 (Senior Professional) on February 1, 2023.

B. Penn State's DEI-Infused Promotion System

19. Penn State Extension's promotion system is governed by criteria set forth in the "Promotion Criteria Grid." These criteria establish mandatory competency areas that candidates must satisfy to advance in rank. See Penn State Extension Promotion Criteria Grid, a true and correct copy of which is attached hereto as "Exhibit C."

20. Among these mandatory competencies is "Community, Civil Rights, and Diversity Excellence." This is not an optional consideration; it is a gatekeeping requirement for promotion. See Exhibit C.

21. The DEI requirements escalate with each rank. At the lowest levels, educators must show effort to accomplish Penn State's civil rights goals . At intermediate levels, educators must show "evidence of some outreach to under-represented audiences" and later "evidence of program impact with underrepresented audiences." For promotion to Level 5—the rank Dr. Kelly sought—the requirement becomes "robust evidence of program impact with underrepresented audiences." See Exhibit C.

22. Critically, the promotion criteria also require candidates to provide written reflections on their DEI-related professional development, including descriptions of "what they learned" from diversity training and evidence of "growth" in this area. See Exhibit C.

23. These criteria are vague and subjective. Terms like "robust evidence," "demonstrate self-awareness," "see other points of view," and "culturally sensitive" have no objective definition. They vest the Promotion Dossier Review Committee with standardless discretion to evaluate—and penalize—faculty based on the Committee's assessment of their ideological beliefs. See Exhibit C.

C. Dr. Kelly's First Application for Promotion (2023-2024)

24. In November 2023, Dr. Kelly applied for promotion to Extension Educator Level 5. She submitted a complete promotion dossier in accordance with Penn State's procedures. See Dr. Kelly's First Promotion Dossier (2023-2024), a true and correct copy of which is attached hereto as "Exhibit D."

25. On March 20, 2024, Andy Hirneisen sent a letter on behalf of the Promotion Dossier Review Committee to Dr. Katherine Cason, Acting Extension Director, which recommended against Dr. Kelly's promotion and provided several considerations for the Committee's recommendation. See Exhibit A.

26. Dr. Kelly was notified of this decision via email from her Assistant Director of Programs, Elise Gurgevich. The non-promotion letter was attached to this email.

27. The Committee's letter stated that Dr. Kelly's dossier showed "some evidence of meeting the requirements for a Level 5 Extension Educator, but the committee believes that additional work needs to be completed for this rank." See Exhibit A.

28. In a section labeled “Civil Rights and Diversity,” the Committee identified the following deficiencies:

- a. The Committee stated there was “no evidence of efforts to reach underserved audiences.”
- b. The Committee stated that “[m]inimum diversity training hours were noted, but nothing specific to show growth in this area.”
- c. The Committee recommended that “[f]or the next dossier submission, Molly should be more descriptive in this section and/or show efforts to apply learnings in the field.”
- d. The Committee also criticized Dr. Kelly for using the “old affirmative action and non-discrimination statement.”

See Exhibit A.

29. The Committee’s critique reveals its true concern: not whether Dr. Kelly had participated in professional development, but whether she had demonstrated sufficient ideological “growth” and

could articulate the ideologically correct “learnings.” This is thought-policing, not professional evaluation. See Exhibit A.

D. Dr. Kelly’s Second Application for Promotion (2024-2025)

30. In November 2024, Dr. Kelly revised her dossier in an effort to address the Committee’s prior feedback and applied again for promotion to Extension Educator Level 5. See Dr. Kelly’s 2024-2025 Revised Promotion Dossier, a true and correct copy of which is attached hereto as “Exhibit E.”

31. On March 24, 2025, Andy Hirneisen, on behalf of the Promotion Dossier Review Committee, sent a letter to Dr. Jeffrey Hyde, Director of Penn State Extension, again recommending Dr. Kelly’s promotion and provided several considerations for the Committee’s recommendation which were substantively similar to the Committees’ prior reasons for rejecting her promotion. See Exhibit B.

32. Dr. Kelly was notified of this decision via email from her Assistant Director of Programs, Elise Gurgevich, on May 15, 2025.

33. The Committee's letter stated that Dr. Kelly's dossier showed "some evidence of meeting the requirements for a Senior Professional Extension Educator Level 5, but the committee believes that the information provided in the dossier was insufficient in painting a full picture of Molly's work and ability." See Exhibit B.

34. In a section labeled "Demographics of Audience," the Committee acknowledged "[g]ood information from the needs assessment to capture demographic information and efforts to recruit outside the majority demographic." See Exhibit B.

35. However, in a section labeled "Educator Activity Report," the Committee delivered its most revealing critique. The Committee stated it "questioned how doing site visits and providing technical expertise to LGBTQ and Greek Orthodox-owned businesses is receiving diversity training." See Exhibit B.

36. The Committee explained that "[a]n effort to learn was not interpreted by the committee by reading this section." The Committee recommended that Dr. Kelly "consider expanding and explaining such activities and/or seek other development activities."

The Committee concluded: “The perception is that this ‘checked the box.’” See Exhibit B.

37. This critique is the smoking gun of viewpoint discrimination. Dr. Kelly had documented her outreach to businesses owned by members of LGBTQ and Greek Orthodox communities—communities that are by any objective measure “diverse.” But the Committee rejected this outreach because it did not conform to the Committee’s narrow, ideologically preferred conception of what “diversity” means and which groups count as sufficiently “diverse.”

38. Moreover, the Committees’ demand that Dr. Kelly demonstrate “an effort to learn” and its dismissal of her work as merely “check[ing] the box” reveals that the University was evaluating the sincerity of her beliefs—demanding a confession of genuine ideological conversion, not merely participation in professional development activities. See Exhibit B.

E. Injury to Dr. Kelly

39. As a direct result of Defendants’ unconstitutional actions, Dr. Kelly has suffered and continues to suffer concrete injuries, including:

- a. Lost wages and benefits associated with promotion to Extension Educator Level 5 for approximately two years;
- b. Humiliation and reputational harm among colleagues and other extension professionals;
- c. Emotional distress arising from being penalized for her constitutionally protected exercise of conscience;
- d. Chilling of her speech and academic inquiry, as she now faces pressure to conform her professional activities and expression to the University's ideological demands or risk further adverse employment actions.

CLAIMS FOR RELIEF

Count One

Defendants' committed viewpoint discrimination by refusing to recognize Dr. Kelly's outreach to underrepresented communities who were not within Defendant's preferred demographic in violation of Dr. Kelly's First and Fourteenth Amendment Right to Free Speech

40. Plaintiff incorporates the preceding paragraphs by reference.
41. The First Amendment, applicable to the states through the Fourteenth Amendment, prohibits government from

discriminating against speech based on viewpoint. Viewpoint discrimination is an “egregious form of content discrimination” and a particularly “blatant” violation of the First Amendment. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995). Laws and policies that discriminate between viewpoints are presumptively unconstitutional. *Id.* at 828.

42. “The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.” *Id.* at 829. Viewpoint discrimination occurs when the government “targets not subject matter, but particular views taken by speakers on a subject.” *Id.*

43. The “vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.” *Keyishian v. Board of Regents*, 385 U.S. 589, 603 (1967). “Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us.” *Id.* at 603. Policies that impose ideological litmus tests on faculty cast an unconstitutional “pall of orthodoxy over the classroom.” *Id.* at 603.

44. Under the framework established in *Pickering v. Board of Education*, 391 U.S. 563 (1968), and its progeny, when a public employee’s speech touches on a matter of public concern, courts must balance the employee’s interest in speaking freely against the government’s interest as an employer in workplace efficiency. Critically, this balance cannot be resolved in the government’s favor when the government’s asserted interest is in suppressing disfavored viewpoints rather than in preventing actual workplace disruption.

45. Dr. Kelly’s professional activities and her expression regarding diversity are matters of profound public concern. The meaning, implementation, and proper scope of DEI policies in public universities are among the most debated topics in contemporary American life. Dr. Kelly’s approach to diversity—including her outreach to LGBTQ and Greek Orthodox-owned businesses—reflects a particular viewpoint on what “diversity” means and how it should be practiced.

46. Defendants penalized Dr. Kelly for expressing this viewpoint. The Committee did not merely find that she had failed to conduct outreach; it rejected her documented outreach because it did

not conform to the Committee’s preferred ideology. The Committee’s statement that it “questioned how doing site visits and providing technical expertise to LGBTQ and Greek Orthodox-owned businesses is receiving diversity training” reveals that the Committee was applying a narrow, ideologically specific definition of “diversity” that excludes these communities. See Exhibit C. See also Exhibit B.

47. By conditioning Dr. Kelly’s promotion on adherence to the University’s preferred viewpoint regarding which audiences are sufficiently “diverse,” Defendants have engaged in viewpoint discrimination. The government may not favor one perspective on a matter of public concern while disfavoring another.

48. Defendants cannot satisfy the Pickering balance. There is no evidence that Dr. Kelly’s approach to her work caused any disruption to the University’s operations. To the contrary, she performed her duties competently and effectively. The University’s sole interest is in enforcing ideological conformity—an interest that cannot justify infringing upon First Amendment rights.

49. Defendants’ actions cannot satisfy any level of First Amendment scrutiny. They are not narrowly tailored to serve a

compelling governmental interest, nor are they reasonably related to any legitimate governmental interest. The State can pursue diversity goals through means that do not require faculty to embrace government-prescribed viewpoints on which communities are worthy of outreach.

50. Defendants' promotion criteria required Dr. Kelly not merely to attend DEI training, but to provide written descriptions of "what she learned" from that training and to demonstrate "growth" in DEI-related areas. This requirement is not viewpoint-neutral documentation of professional development; it is a demand for ideological affirmation. See Exhibit C; See also Exhibit B.

51. The difference between documenting participation (which might be permissible) and describing "what was learned" (which is not) is constitutionally critical. The former asks whether the employee attended training. The latter demands that the employee articulate substantive beliefs—to profess that she has absorbed and internalized particular ideological content.

52. The Committee's feedback makes the viewpoint-discriminatory nature of this requirement unmistakable. In 2024,

the Committee criticized Dr. Kelly because her dossier contained “nothing specific to show growth in this area” and recommended she “be more descriptive in this section and/or show efforts to apply learnings in the field.” In 2025, the Committee stated that “[a]n effort to learn was not interpreted by the committee” and dismissed her outreach as merely having “checked the box.” See Exhibit C; see also Exhibit B.

53. These statements reveal that the Committee was not evaluating whether Dr. Kelly had participated in professional development. It was evaluating whether she had demonstrated the “right” ideological transformation—whether her words evidenced genuine belief in the University’s preferred perspective on diversity. The Committee rejected Dr. Kelly’s expression because it did not convey the viewpoint the Committee demanded.

54. By their actions, Defendants, acting under color of state law, have deprived Dr. Kelly of her rights to free speech and academic freedom in violation of the First and Fourteenth Amendments to the United States Constitution, causing her irreparable harm.

55. Accordingly, Plaintiff is entitled to relief under 42 U.S.C. § 1983, including damages, nominal damages, declaratory relief, preliminary and permanent injunctive relief, and attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

COUNT TWO

Defendant's compelled speech requirement that Ms. Kelly articulate her understanding and acceptance of Defendant's preferred ideological policies as a prerequisite to receive the benefit of promotion is a violation of Ms. Kelly's First and Fourteenth Amendment Rights to Free Speech

56. Plaintiff incorporates the preceding paragraphs by reference.

57. The First Amendment's protection of speech encompasses not only the right to speak freely, but also "the right to refrain from speaking at all." Wooley v. Maynard, 430 U.S. 705, 714 (1977). The government "may not compel affirmation of a belief with which the speaker disagrees." Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos., 515 U.S. 557, 573 (1995).

58. The foundational case on compelled speech is West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943). There, the Supreme Court struck down a policy requiring public

school students to salute the flag and recite the Pledge of Allegiance. The Court declared that the government may not “prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” Id. at 642.

59. In Wooley v. Maynard, the Court extended this principle, holding that New Hampshire could not compel a citizen to display the state motto “Live Free or Die” on his license plate. 430 U.S. at 717. The Court reasoned that the First Amendment protects “the right of individuals to hold a point of view different from the majority and to refuse to foster . . . an idea they find morally objectionable.” Id. at 715.

60. The prohibition against compelled speech applies with full force in the public employment context. In Janus v. AFSCME, Council 31, 138 S. Ct. 2448 (2018), the Supreme Court held that requiring non-union public employees to pay agency fees to a union violated the First Amendment because it compelled them to subsidize the union’s political and ideological speech. Id. at 2464. If compelling an employee to subsidize speech is unconstitutional,

compelling an employee to personally author and express that speech is an even more direct violation.

61. The Supreme Court has further clarified that the government cannot circumvent the compelled speech doctrine by labeling requirements as “professional speech.” In *National Institute of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361 (2018), the Court struck down a California law requiring pro-life crisis pregnancy centers to post notices about state-sponsored abortions. The Court rejected the idea that “professional speech” is a separate category entitled to lesser protection and held that compelled disclosures must be “purely factual and uncontroversial” to avoid strict scrutiny. *Id.* at 2372.

62. Most recently, in *303 Creative LLC v. Elenis*, 143 S. Ct. 2298 (2023), the Supreme Court reaffirmed that the First Amendment protects the right to choose the content of one’s own message. The Court held that Colorado could not compel a website designer to create websites celebrating same-sex marriages because doing so would force her to create speech that violated her beliefs. *Id.*

at 2312. The principle is clear: the government cannot “compel[] an individual to create speech she does not believe.” Id. at 2318.

63. Defendants’ promotion requirements violate these principles in multiple respects:

- a. The requirement to describe “what she learned” from DEI training compels Dr. Kelly to author a substantive statement of belief. This is not a neutral request to document attendance; it is a demand that she articulate the ideologically “correct” lessons—that she demonstrate genuine ideological “growth.”
- b. The Committee’s rejection of Dr. Kelly’s outreach to LGBTQ and Greek Orthodox-owned businesses—and its demand that she “seek other development activities”—compels her to engage in expressive conduct that aligns with the University’s preferred conception of diversity.
- c. The Committee’s critique that Dr. Kelly merely “checked the box” reveals that documentary evidence of participation is insufficient. The University demands

evidence of genuine belief—a “confession of faith” in the University’s DEI ideology.

See Exhibit C; see also Exhibit B.

64. By conditioning Dr. Kelly’s promotion on her articulation of approved ideological content, Defendants have compelled her to “confess by word or act [her] faith” in the University’s DEI orthodoxy. Barnette, 319 U.S. at 642. Her promotion dossier has been transformed into a “mobile billboard” for the government’s ideological message. Wooley, 430 U.S. at 715. The requirement to describe “what she learned” from DEI training is not “purely factual and uncontroversial.” NIFLA, 138 S. Ct. at 2372. DEI is among the most contested subjects in contemporary American discourse. The requirement compels Dr. Kelly to take a substantive position on a matter of intense public debate as a condition of employment advancement.

65. Defendants’ compelled speech requirements cannot satisfy strict scrutiny. They are not narrowly tailored to serve a compelling governmental interest. The State may have an interest in ensuring faculty participate in professional development, but it has

no legitimate interest in compelling faculty to profess particular beliefs about what they learned from that development. A certificate of attendance would serve any legitimate interest; a demanded confession of ideological conversion serves only to enforce orthodoxy.

66. By their actions, Defendants, acting under color of state law, have deprived Dr. Kelly of her right to be free from compelled speech in violation of the First and Fourteenth Amendments to the United States Constitution, causing her irreparable harm.

67. Accordingly, Plaintiff is entitled to relief under 42 U.S.C. § 1983, including damages, nominal damages, declaratory relief, preliminary and permanent injunctive relief, and attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

COUNT THREE

Defendant's unconstitutional condition that Ms. Kelly articulate her understanding and acceptance of Defendant's preferred ideological policies as a prerequisite to receive the benefit of promotion is a violation of Ms. Kelly's First and Fourteenth Amendment Rights to Free Speech

68. Plaintiff incorporates the preceding paragraphs by reference.

69. The unconstitutional conditions doctrine prevents the government from "[denying] a benefit to a person on a basis that infringes his constitutionally protected . . . freedom of speech even if he has no entitlement to that benefit." *Perry v. Sindermann*, 408 U.S. 593, 597 (1972). The government may not "produce a result which [it] could not command directly." *Speiser v. Randall*, 357 U.S. 513, 526 (1958).

70. Defendants conditioned a government benefit—promotion to Extension Educator Level 5 and associated increased wages, benefits, and professional standing—on Dr. Kelly's surrender of her First Amendment rights by requiring her to express specific viewpoints on DEI issues. See Exhibit C; see also Exhibit B.

71. Defendants' Promotion Criteria Grid shows that DEI requirements escalate with each rank, with Level 5 requiring "robust evidence of program impact with underrepresented audiences" and the ability to design programs that are "culturally sensitive and relevant." These requirements condition career advancement on expression of government-preferred viewpoints. See Exhibit A.

72. Defendants imposed a penalty—denial of promotion—on Dr. Kelly for exercising her First Amendment right not to express the University's preferred DEI viewpoints and for expressing her own approach to diversity.

73. The DEI ideological requirements are not reasonably related to Dr. Kelly's professional qualifications as an enology educator, as evidenced by her substantial accomplishments in her field, including securing \$798,703 in grant funding, developing innovative programs, generating \$41,430 in revenue, and providing extensive industry support. See Exhibit B.

74. By their actions, Defendants, acting under color of state law, have violated Dr. Kelly's clearly established constitutional rights by imposing unconstitutional conditions on her promotion in violation of the First and Fourteenth Amendments.

75. Accordingly, Plaintiff is entitled to relief under 42 U.S.C. § 1983, including damages, nominal damages, declaratory relief, preliminary and permanent injunctive relief, and attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Molly Kelly respectfully requests that this Court:

1. Issue a preliminary and permanent injunction enjoining Defendants from conditioning promotion or other employment benefits on ideological conformity with DEI requirements, including but not limited to requirements that faculty demonstrate outreach to ideologically preferred audiences or articulate particular beliefs about diversity training;
2. Declare that Defendants' actions in denying Dr. Kelly's promotion based on DEI criteria violated her rights under the First and Fourteenth Amendments to the United States Constitution;
3. Declare that Penn State's promotion criteria, insofar as they require faculty to express ideological commitment to DEI principles or to describe "what they learned" from diversity training, are unconstitutional on their face and as applied;
4. Order Defendants to reconsider Dr. Kelly's promotion application under constitutionally sound, viewpoint-neutral criteria;

5. Award Plaintiff compensatory damages for lost wages, benefits, and other compensation resulting from the denial of promotion;
6. Award Plaintiff damages for emotional distress and reputational harm;
7. Award Plaintiff nominal damages for Defendants' violations of her constitutional rights;
8. Award Plaintiff her reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable law;
9. Submit all issues triable by jury to a trial by jury; and
10. Grant such other and further relief as the Court deems just and proper.

JURY DEMAND

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

Dated: February 3, 2026

Respectfully submitted,

/s/ Robert Cowburn

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** Pro hac vice admission forthcoming*

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