

STATE OF NORTH CAROLINA
COUNTY OF WAKE

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2022 DEC 16 P 3: 31

David Phillips, Ph.D.,

WAKE CO. CAS. No. _____

Plaintiff,

BY _____

vs.

VERIFIED COMPLAINT

(Jury Trial Demanded)

North Carolina Department of Public Instruction; David Stegall, in his official capacity as former Deputy Superintendent and Chief Academy Officer for the North Carolina Department of Public Instruction; Sneha Shah Coltrane, in her official capacity as Director of the Division of Advanced Learning and Gifted Education at the North Carolina Department of Public Instruction; Thomas Winton, in his official capacity as former Coordinator of the North Carolina Governor’s School for the North Carolina Department of Public Instruction; and Rodney K. Allen, in his official capacity as Coordinator of the North Carolina Governor’s School and Site Director for the North Carolina Governor’s School West Campus for the North Carolina Department of Public Instruction,

Defendants.

Introduction

The Governor’s School is a crown jewel of North Carolina’s public education system. As a residential summer program for the state’s gifted and talented rising high-school seniors, it is supposed to be a place where elite students “learn to

examine and articulate their opinions,” are encouraged to “listen to the perspectives of others,” and “become aware of a wide range of differing viewpoints and thinking.”¹ It is billed as a learning environment that helps students “explore and ask questions” and develop “their own perspectives with new insights.”² A person’s race, sex, religion, or other protected characteristics should be utterly irrelevant in an academic environment committed to these values. And that’s exactly how Defendants present the Governor’s School to the public.

But the reality is far different. Contrary to its published claims, under Defendants’ leadership and control, the Governor’s School embraces an ideology, sometimes called “critical race theory” or “critical theory,” that views everyone and everything through the lens of characteristics like race, sex, and religion, labelling people as perpetual oppressors or perpetual victims based on group membership alone.

Plaintiff David Phillips, Ph.D., is a well-respected English professor. For many years, he spent his summers teaching at the Governor’s School. Dr. Phillips encouraged his students to think for themselves, and he notified the administration of the hostility that he and students with “privileged” characteristics or the “wrong” points of view experienced. And the students loved him. He was a “wonderful teacher” who “created a welcoming and engaging environment” and whose students “clearly relish[ed]” his classes.³

But the hostility toward Dr. Phillips only increased, and, ultimately, Defendants sacrificed Dr. Phillips on the altar of their radical ideology. In June

¹ North Carolina Governor’s School, Family Overview, <https://www.dpi.nc.gov/documents/advancedlearning/gs-family-overview-0/download?attachment>.

² *Id.*

³ These quotes are from Dr. Phillips’s performance reviews, which are attached hereto as Exhibit A.

2021, Dr. Phillips gave three optional seminars, versions of which he'd given in prior years. They discussed (1) a social psychology critique of some concepts from critical theory; (2) understanding speech through the lens of speech-act theory; and (3) the increasing ideological bias and lack of viewpoint diversity in higher education.

At the conclusion of each lecture, members of the audience—including staff members—reacted with open hostility to the ideas and viewpoints discussed. And they attacked whiteness, maleness, heterosexuality, and Christianity—none of which should have been relevant—in their comments and questions. Despite the hostility, Dr. Phillips stayed long after the published end time for each lecture to respond calmly to each question, and he even offered to meet with students and staff members later for further discussion.

The day after Dr. Phillips's third optional seminar, which, ironically, discussed the importance of viewpoint diversity in higher education, Defendants fired Dr. Phillips without warning or explanation. Later, Dr. Phillips learned that a few staff members had complained about the content of the optional seminars. But instead of investigating these complaints, determining if any policies were violated, or addressing any concerns with Dr. Phillips—indeed without even giving Dr. Phillips an opportunity to hear the complaints and respond—Defendants took their own stand against viewpoint diversity by firing Dr. Phillips because they disagreed with his views.

There is no lawful explanation for Dr. Phillips's treatment. By firing him, Defendants trampled on his constitutional right to free speech, retaliated against him for refusing to adopt Defendants' radical ideology, and discriminated against him because of his race, sex, and religion.

Jurisdiction and Venue

1. This civil-rights action brings claims under the Constitution and laws of North Carolina.

2. This Court has original jurisdiction to hear these claims and award the requested relief under N.C. Const. art. IV, sec. 12(3).

3. Venue is proper in this Court under N.C. Gen. Stat. § 1-82 because, upon information and belief, some or all of the defendants reside within Wake County.

Plaintiff

4. Plaintiff David Phillips, Ph.D., is a citizen and resident of Guilford County, North Carolina.

5. Dr. Phillips taught at the North Carolina Governor's School West Campus every summer from 2013 until his dismissal in June 2021, with the exception of 2020, as there was no Governor's School in 2020 because of the COVID-19 pandemic.

6. Upon information and belief, all key decisions regarding Dr. Phillips's employment were made in Wake County.

Defendants

7. Defendant North Carolina Department of Public Instruction (DPI) is a North Carolina state agency with its principal office in Wake County, North Carolina.

8. The North Carolina Governor's School is a program that is owned, operated, and managed by DPI.

9. At all times relevant to this Complaint, Defendant David Stegall was employed by DPI as Deputy Superintendent and Chief Academy Officer, with his principal office in Wake County, North Carolina.

10. In that position, Dr. Stegall oversaw the Division of Advanced Learning and Gifted Education, which included the Governor's School.

11. As Deputy Superintendent, Dr. Stegall oversaw all aspects of the Governor's School, including the official curriculum, the student selection process, and the hiring and firing of faculty and staff members.

12. As Deputy Superintendent, Dr. Stegall oversaw all changes to the Governor's School curriculum and operations from year to year.

13. As Deputy Superintendent, Dr. Stegall took no action on the complaints made by Dr. Phillips concerning the Governor's School's increasing embrace of critical theory or the hostility experienced by him and by others—including students—based on their conservative views and protected characteristics.

14. Instead, he continued to ramp up the curricular embrace of critical theory within the content of the Areas II and III curricula, the hiring of staff motivated to push these ideologies, and the provision of optional educational opportunities.

15. Dr. Stegall approved the decision to terminate Dr. Phillips's employment during the 2021 Governor's School session.

16. Defendant Sneha Shah Coltrane is employed by DPI as the Director of the Division of Advanced Learning and Gifted Education, with her principal office in Wake County, North Carolina.

17. The Governor's School is one of the programs administered by DPI's Division of Advanced Learning and Gifted Education.

18. As Director, Ms. Shah Coltrane is responsible for all aspects of the Governor's School, including the official curriculum, the student selection process, and the hiring and firing of faculty and staff members.

19. As Director, Ms. Shah Coltrane is responsible for making changes to the Governor's School curriculum or operations as necessary and appropriate from year to year.

20. As Director, Ms. Shah Coltrane and her predecessors took no action on the complaints made by Dr. Phillips concerning the Governor's School's increasing embrace of critical theory or the hostility experienced by him and by others—including students—based on their conservative views and protected characteristics.

21. Instead, they continued to ramp up the curricular embrace of critical theory within the content of the Areas II and III curricula, the hiring of staff motivated to push these ideologies, and the provision of optional educational opportunities.

22. As Director, Ms. Shah Coltrane made or approved the decision to terminate Dr. Phillips's employment during the 2021 Governor's School session and not to re-hire him for the 2022 Governor's School session.

23. As Director, Ms. Shah Coltrane has the authority to reinstate Dr. Phillips to his position as a Governor's School faculty member and to direct that he not face retaliation or discrimination for his views, protected speech, and protected characteristics.

24. Defendant Rodney Allen is currently employed by DPI as Coordinator for the North Carolina Governor's School, with his principal office in Wake County, North Carolina.

25. Until his retirement after the 2021 Governor's School session, Defendant Thomas Winton was employed by DPI as Coordinator for the North

Carolina Governor's School, with his principal office in Wake County, North Carolina.

26. As Coordinator, Mr. Winton was, and Mr. Allen is, responsible for planning and coordinating a cohesive Governor's School program across the two Governor's School campuses.

27. As Coordinator, Mr. Winton was, and Mr. Allen is, heavily involved in planning the curriculum, overseeing the student selection process, and the hiring and firing of staff and faculty members.

28. As Coordinator, Mr. Winton was, and Mr. Allen is, responsible for making or recommending changes to the Governor's School curriculum as necessary and appropriate from year to year.

29. Neither Mr. Winton nor Mr. Allen took action on the complaints made by Dr. Phillips concerning the Governor's School's increasing embrace of critical theory or the hostility experienced by him and by others—including students—based on their conservative views and protected characteristics.

30. Instead, they continued to ramp up the curricular embrace of critical theory within the content of the Areas II and III curricula, the hiring of staff motivated to push these ideologies, and the provision of optional educational opportunities.

31. As Coordinator, Mr. Winton made or approved the decision to terminate Dr. Phillips's employment during the 2021 Governor's School session.

32. As Coordinator, Mr. Allen has the authority to reinstate Dr. Phillips to his position as a Governor's School faculty member and to direct that he not face retaliation or discrimination for his conservative views and protected characteristics.

33. Mr. Allen also serves as Site Director for the West Campus of the Governor's School, and he has served in that role for at least the past eight years.

34. As Site Director, he provides day-to-day management and supervision of the Governor's School West Campus.

35. As Site Director, he is heavily involved in planning the curriculum, overseeing the student selection process, and hiring and firing staff and faculty members.

36. As Site Director, when questions arise about the official curriculum, he has day-to-day authority to make decisions and to resolve disputes as to what will be taught at the Governor's School West campus.

37. As Site Director, Mr. Allen received numerous complaints over the years from Dr. Phillips concerning the Governor's School's increasing embrace of critical theory and the hostility experienced by him and by others—including students—based on their conservative views and protected characteristics.

38. Despite receiving these complaints for many years, Mr. Allen failed to stop the discrimination against and harassment of Dr. Phillips and others for their conservative views and protected characteristics.

39. Instead, he continued to ramp up the curricular embrace of critical theory within the content of the Areas II and III curricula, the hiring of staff motivated to push these ideologies, and the provision of optional educational opportunities at the Governor's School West campus.

40. As Site Director, Mr. Allen bore primarily responsibility for handling any concerns with Dr. Phillips's employment.

41. As Site Director, Mr. Allen made the recommendation to terminate Dr. Phillips's employment, which Dr. Stegall, Ms. Shah Coltrane, and Mr. Winton approved and adopted.

Factual Background

Dr. Phillips

42. Dr. David Phillips was born in Panama.

43. Dr. Phillips's father was in the Army and, throughout his childhood, Dr. Phillips and his family lived at a variety of military installations across the country.

44. Dr. Phillips and his family moved to North Carolina when Dr. Phillips was in junior high school and settled there permanently when his father retired from the Army in 1994.

45. In 1995, as a rising high-school senior, Dr. Phillips attended the North Carolina Governor's School.

46. The Governor's School was a formative experience for Dr. Phillips, and he has been a supporter and champion of the Governor's School ever since.

47. As a student, Dr. Phillips found the Governor's School to be a place where he was challenged with new ideas, different ways of thinking, and diverse viewpoints.

48. The spirit of free and open academic inquiry inspired Dr. Phillips to sharpen his own thinking and to think more critically about the issues of the day.

49. A key reason Dr. Phillips decided to become a teacher was so that he could help the next generation of students learn how to test new ideas, wrestle with hard questions, and think for themselves, as the Governor's School claims to do.

50. Following high school, Dr. Phillips attended Hampden-Sydney College, graduating in 2000 with a B.A. in Political Science.

51. In 2004, Dr. Phillips received an M.A. in Comparative Literature from the University of North Carolina.

52. In 2012, Dr. Phillips received a Ph.D. in Comparative Literature from the University of North Carolina.

53. Since 2008, Dr. Phillips has been a full-time English instructor at a variety of colleges and universities in North Carolina.

54. Wherever he's taught, Dr. Phillips has been successful.

The Governor's School

55. In 1963, the State of North Carolina established the Governor's School as the nation's first state-sponsored summer enrichment program for gifted and talented students.

56. Since its founding, part of the Governor's School's mission has been to help students learn to engage with new ideas and different points of view, to sharpen their own thinking, and to emerge with the tools to form more astute and discerning opinions and insights.

57. The Governor's School has two campuses—East and West—and students are assigned to a specific campus randomly.

58. The Governor's School curriculum is divided into three content areas known as Area I, Area II, and Area III.

59. Area I consists of five academic and five artistic disciplines: English, Spanish, Mathematics, Natural Sciences, Social Sciences, Art, Choral Music, Instrumental Music, Dance, and Theater.

60. Students are chosen to attend Governor's School primarily in one of the ten Area I disciplines.

61. Students spend approximately 70% of their academic instruction time in their Area I discipline.

62. Area II focuses on philosophical subjects, such as philosophy of mind and epistemology. Its goal is to provide students "with a set of intellectual tools with

which they may consider their academic and artistic endeavors, as well as their personal ideas, in a more thoughtful light.”⁴

63. All students attend Area II classes, and students spend approximately 15% of their instructional time in Area II.

64. Area III, often called “Self and Society,” focuses on helping students learn to engage with contemporary issues and to hear and examine the perspectives of other people. It is intended to expose students to “a wide range of differing viewpoints” so they can “explore their own perspectives with new insights.”⁵

65. All students attend Area III classes, and students spend approximately 15% of their instructional time in Area III.

66. In his position as Deputy Superintendent, Dr. Stegall oversaw and bore responsibility for the content of the Areas I, II, and III curricula.

67. In her position as Director of Advanced Learning and Gifted Education, Ms. Shah Coltrane bears overall responsibility for the content of the Areas I, II, and III curricula.

68. As Coordinator of the Governor’s School, Mr. Winton had substantial input into the content of the Areas I, II, and III curricula, including ensuring that there is consistency in these curricula across the Governor’s Schools two campuses.

69. In his current position as Coordinator of the Governor’s School, Mr. Allen has substantial input into the content of the Areas I, II, and III curricula, including ensuring that there is consistency in these curricula across the Governor’s Schools two campuses.

⁴ North Carolina Dep’t of Public Instruction, Area II and Area III Overview, <https://www.dpi.nc.gov/students-families/enhanced-opportunities/governors-school-north-carolina/overview/area-ii-and-area-iii>.

⁵ North Carolina Governor’s School, Family Overview, <https://www.dpi.nc.gov/media/15670/download?attachment>.

70. In his position as Site Director for the Governor’s School West campus, Mr. Allen has substantial input over the content of the Areas I, II, and III curricula, and, as questions arise about the content of the curricula, he makes day-to-day decisions concerning what will be taught at the Governor’s School West campus.

71. The Governor’s School is a fully immersive residential program with classes six days per week and optional activities every day of the week.

72. The Governor’s School is designed and intended for “college-ready” students only.

73. The academic instruction provided at the Governor’s School is at the college level.

74. The Governor’s School is intended to provide a college-like experience with many of the freedoms associated with college life.

75. One of the college-like freedoms accorded students is the “freedom of choice between numerous and diverse intellectual and social experiences.”⁶

76. The intellectual experiences available to students include daily optional seminars.

77. Faculty and staff members give optional seminars on a wide variety of topics.

78. One purpose of the optional seminars is to expose students to a wide variety of different topics and views.

79. Faculty and staff members are encouraged—but not required—to participate by giving optional seminars on topics and ideas about which they are passionate.

⁶ North Carolina Governor’s School, Student Handbook, <https://www.dpi.nc.gov/governors-school-west-student-handbook/download?attachment>.

80. The Governor's School does not direct faculty or staff members to give optional seminars on particular topics.

81. The Governor's School does not maintain a predetermined list of topics on which it wants faculty members to present optional seminars.

82. The Governor's School does not maintain policies setting forth the topics for optional seminars.

83. The topics for optional seminars are left to the discretion of faculty members who come up with and present them.

84. The topics for optional seminars are determined by faculty and staff members submitting forms to the Site Director of their campus for topics on which they would like to teach.

85. The form asks only for a brief description of the seminar and the presenter's audio-visual needs—just the bare information needed to place the seminar on the schedule and arrange for logistics.

86. The form does not ask for submission in advance of a presenter's powerpoint, presentation materials, handouts, specific lecture content, lecture text, or a detailed outline of the lecture.

87. The Site Director does not review a presenter's powerpoint, presentation materials, handouts, specific lecture content, lecture text, or a detailed outline of the lecture before placing an optional seminar on the official schedule.

88. Faculty and staff members have the freedom to determine the topics on which they will give optional seminars.

89. Even after an optional seminar is placed on the schedule, faculty and staff members have the freedom to determine the specific content of their optional seminars.

90. Upon information and belief, Mr. Allen, in his role as Site Director at the Governor's School West campus, has never declined to place an optional seminar on the official schedule for which a form was submitted.

91. Optional seminars are given in the late afternoon and evening.

92. Attendance at optional seminars is entirely optional for students. They may attend or not attend as they desire.

93. Staff members occasionally attend other staff members' optional seminars, but this is also entirely optional.

94. The Governor's School hosts more than 100 optional seminars per year.

Dr. Phillips's Employment and Performance Reviews

95. Beginning with the 2013 session, Dr. Phillips served as a faculty member at the Governor's School West campus.

96. Dr. Phillips served as a faculty member at every Governor's School session between 2013 and his termination in June 2021.

97. From 2013 through 2017, Dr. Phillips served as an Area I instructor in English.

98. From 2018 through 2021, Dr. Phillips served as the lead Area I instructor in English.

99. In 2016, 2017, and 2021, Dr. Phillips served as an Area III instructor as well.

100. In addition to his regular teaching duties, Dr. Phillips gave optional seminars during the Governor's School sessions.

101. Every year except 2021, DPI created a written performance review of Dr. Phillips at the conclusion of the Governor's School session.

102. True and correct copies of the performance reviews for 2013, 2014, 2015, 2016, 2017, 2018, and 2019 are attached hereto as Exhibit A.

103. The 2013 performance review was completed by Lucy Milner, a former DPI employee and Governor's School Site Director, who has since retired.

104. Beginning in 2014, Mr. Allen signed each of Dr. Phillips's performance reviews.

105. In signing those performance reviews, Ms. Milner and Mr. Allen were acting as agents of DPI.

106. At all times from their creation to the present, copies of the performance reviews have been in the possession of DPI.

107. They include laudatory statements, such as:

- a. Dr. Phillips is "a fine English teacher";
- b. Dr. Phillips is "a wonderful teacher";
- c. Dr. Phillips "created a welcoming and engaging environment in his classroom and his student[s] clearly relish the class";
- d. Dr. Phillips demonstrated a "clear commitment" to "helping students explore their personal beliefs and opinions about significant social ideas and concepts in a safe and respectful environment";
- e. Dr. Phillips's class is "an open and engaging classroom" where "students were engaged and clearly enjoying the class"; and
- f. Students "benefit greatly from [Dr. Phillips's] work."

108. There are no negative comments in any of Dr. Phillips's performance reviews from the Governor's School.

109. Dr. Phillips was not given a performance review for the 2021 session.

110. Before his termination, Dr. Phillips received no employee discipline from DPI or anyone acting on its behalf.

111. On multiple occasions, Mr. Allen informed the Governor’s School faculty that, barring serious misconduct, faculty members would be automatically invited back the following summer.

112. Each year, before soliciting faculty applications from the general public, DPI inquired of the previous year’s faculty members whether they intended to return.

113. Returning faculty members were not required to submit a new application.

114. Thus, barring unusual circumstances, faculty members had a reasonable expectation of continued employment by DPI from year to year.

Governor’s School’s Adoption of Radical Ideology

115. Over the past several years, the Governor’s School, under Defendants’ leadership and control, has increasingly embraced concepts sometimes known as “critical theory” or “critical race theory” that view everyone and everything through the lens of characteristics like race, sex, gender identity, sexual orientation, and religion.

116. Based on these characteristics alone, certain people are labelled as inherently “privileged” in certain contexts, while others are labelled as inherently “oppressed.”

117. “Privileged” characteristics include being white, male, cisgender, heterosexual, and/or Christian.

118. Over time, Dr. Phillips saw this radical ideology infuse everything at the Governor’s School from the formal curriculum—particularly in Areas II and III—to the selection of students to the treatment of students and faculty on campus.

119. As to the formal curriculum, Dr. Phillips became aware of students being taught, among other things:

- a. Racism is defined as anything that perpetuates an unequal distribution of privileges, resources, and power between white people and people of color.
- b. Racism can only be committed by white people.
- c. Any questioning of critical theory or its concepts by a white person is an expression of “white fragility,” which functions to perpetuate racism.
- d. Any unequal outcomes are presumptively assumed to be the result of systemic racism.
- e. People with certain characteristics, such as being white, male, cisgender, heterosexual, and/or Christian, are privileged by virtue of these characteristics alone.
- f. People with certain characteristics, such as being a person of color, female, transgender, homosexual, and/or non-Christian, are oppressed by virtue of these characteristics alone.
- g. A person who is white, heterosexual, able-bodied, male, cisgender, financially stable, and Christian is inherently a “Prince of Privilege.”
- h. Students with “privileged” characteristics are encouraged to recognize and confess their privilege to their peers and teachers.
- i. Gender is not binary but rather exists on a spectrum and is based on a person’s felt identity.

120. Some of the curricular materials adopting concepts from critical theory were included in the North Carolina Lieutenant Governor’s F.A.C.T.S. Task Force report of August 24, 2021, which is available at

https://drive.google.com/file/d/1jcjBYrzp7BRI2EjY_APD6K0i9zyhfvr4/view.

121. These concepts were often treated as truths to be adopted and affirmed, rather than as ideas to be examined and evaluated.

122. As Deputy Superintendent, Dr. Stegall bore responsibility for these curricular choices.

123. As Director of Advanced Learning and Gifted Education, Ms. Shah Coltrane bore responsibility for these curricular choices.

124. As Coordinator, Mr. Winton had substantial input in the content of the Governor's School curriculum and could have taken action to remove these and similar items from the curriculum.

125. Both as Coordinator of the Governor's School and as Site Director for the Governor's School West campus, Mr. Allen had substantial input in the content of the Governor's School curriculum and could have taken action to remove these and similar items from the curriculum.

126. Instead, he chose to use the Governor's School curriculum, and he knowingly and intentionally allowed faculty under his control to use the Governor's School curriculum, to promote and indoctrinate students in these racist and similar concepts.

127. In addition to the formal curriculum, Defendants infused many administration-led optional events with concepts from critical theory. And Defendants were aware of and permitted staff members to infuse staff-led optional educational events with those same concepts. The examples that appear below include both staff-initiated optional seminars and events that were put on by the administration itself, such as the LGBTQ weekly dinner.

128. For example, optional events included:

- a. Weekly events designed solely for people of color;
- b. Weekly events designed solely for members of the LGBTQ+ community and "strong allies";
- c. A three-part seminar on how society's gender construction leads to violence and how to "stay sexy and not get murdered";
- d. A seminar on how to avoid cultural appropriation;
- e. A seminar on marginalized genders in STEM;

- f. A seminar on drag culture;
- g. A seminar on how “female-identifying” performance artists deal with gender and the body;
- h. A seminar on how “toxic masculinity and feminist fans collide” in women’s sports;
- i. An introduction to Marxist theory;
- j. A seminar examining “heteronormativity, othering, and prescribed gender roles” in *The Bachelor* television show;
- k. A seminar exploring “hegemonic masculinity” in presidential campaigns and the role of campaign spouses;
- l. A seminar purporting to debunk myths about atheism as “one of the more misunderstood and maligned identities one can claim”;
- m. A seminar examining heteronormativity in Disney movies; and
- n. A seminar entitled, “*Dear White People ... Get Out*” on cultural appropriation.

129. Dr. Phillips also observed the infiltration of critical theory into the student selection process for the Governor’s School, which is highly competitive.

130. From 2015 to 2021, Dr. Phillips served as a faculty reader of applications to the Governor’s School.

131. In that role, he discussed numerous applications with multiple other faculty reviewers.

132. In his role as Coordinator, Mr. Winton attended meetings on student selection, determined who would serve as faculty readers, set selection policies, and had decision-making authority over student selection.

133. As Coordinator, Mr. Allen now attends these meetings, determines who serves as faculty readers, sets selection policies, and has decision-making authority over student selection.

134. As Director, Ms. Shah Coltrane is responsible for all policies and procedures regarding student selection.

135. As Deputy Superintendent, Dr. Stegall oversaw and was responsible for all policies and procedures regarding student selection.

136. During student selection meetings, other faculty reviewers expressly favored applicants because of the applicant's race, sex, sexual orientation, and/or gender identity despite those applicants not having the level of academic records normally required for admission.

137. Because admission is a zero-sum game with more applicants than admission spots, this necessarily resulted in bias against students with better academic records but characteristics that the faculty reviewers deemed "privileged," such as being white, male, cisgender, and/or heterosexual.

138. The reviewers also expressed bias against overtly Christian students and students expressing conservative viewpoints.

139. For example, a faculty reviewer dismissed a white male applicant as "sheltered" because he wrote an application essay critical of the Black Lives Matter movement.

140. Similarly, a faculty reviewer scoffed at an application essay by an overtly Christian, pro-life applicant because she cited a statistic about the prevalence of elective abortion that the faculty reviewer did not believe to be true.

141. Dr. Phillips heard her scoffing about the applicant and pointed out that the applicant's statistic was accurate.

142. Dr. Phillips is aware of similar scoffing about applicants who wrote essays critical of "political correctness" and progressive bias in the media.

143. On the flip side, a faculty reviewer called an applicant's essay her "entry ticket," not because it was well-written, but because it was critical of Fox News.

144. As Coordinator, Mr. Winton was present for many of these discussions and failed to address and prohibit the obvious and inappropriate bias expressed by many of the faculty reviewers in their selection of students.

145. Instead, he approved admissions decisions and denials based on protected characteristics and ideological viewpoints rather than academic qualifications.

146. Beginning in 2015, Dr. Phillips began to hear from students with “privileged” characteristics about being discriminated against, harassed, and silenced.

147. When these students tried to speak up in other classes, they were shut down and told their perspectives were unwelcome. The people shutting them down often expressly or implicitly referenced their race, sex, gender identity, sexual orientation, and/or religion.

148. In addition, students with conservative views, particularly conservative Christian views, told Dr. Phillips that when they expressed their views in class, they were often dismissed by instructors.

149. Then, with the approval of the instructors, other students would pile on in chastising the student for his or her views. And the student would face social ostracization simply for expressing a conservative view.

150. Dr. Phillips received these kinds of complaints every year from 2015 on, and the frequency increased with each passing year.

151. In addition, Dr. Phillips often heard colleagues dismiss a person’s perspective because the person was “just a cis straight white guy” or a “white male” or “an old white dude.”

152. Many of these comments were made in Mr. Allen’s presence, but he took no action to correct or address the obvious bias expressed by the Governor’s School.

153. Other examples of complaints Dr. Phillips received included:
- a. A student complained to Dr. Phillips that every time she expressed a Christian point of view in class, she was immediately told her views were bigoted, whereas irreligious students were permitted to share without experiencing hostility;
 - b. Multiple faculty members referred to a white male student as a “bro,” which Dr. Phillips understood to be a derogatory term for white males, and quizzed him on whether the student had said anything “problematic” in Dr. Phillips’s class because the student had expressed conservative views in their classes, and they deemed conservative views “problematic”;
 - c. A white cisgender heterosexual male student complained to Dr. Phillips that when he attended a weekly LGBTQ lunch to try to better understand that community, he was told he was unwelcome because it was an LGBTQ-only space;
 - d. Multiple students told Dr. Phillips that they hated attending Area II classes because any comments that questioned critical theory and/or progressive ideology were immediately dismissed;
 - e. In response to an informal in-class poll, Dr. Phillips’s Area II students unanimously agreed that the Governor’s School was more concerned with ideological indoctrination than with education;
 - f. A white student complained to Dr. Phillips that he was involuntarily transferred from one Area III class to another in retaliation for questioning in a discussion about systemic racism in incarceration whether there were disparities in rates of criminal behavior, and the school administrator responsible for moving him told Dr. Phillips the student’s viewpoint was “problematic”;
 - g. A white female cisgender heterosexual Christian student complained to Dr. Phillips that she was made to feel that she had nothing meaningful to contribute to the Area III curriculum because of her protected characteristics;
 - h. Within days of arriving at the Governor’s School in 2021, a white male student complained to Dr. Phillips that it was clear to him that he could not speak openly because his conservative views were unwelcome.

154. Students with “privileged” characteristics and/or conservative views were also told their views were categorically wrong and unwelcome in the Governor’s School community.

Defendants’ Refusal to Act on Dr. Phillips’s and Students’ Complaints about its
Radical Racist Ideology

155. Dr. Phillips frequently raised concerns with Mr. Allen as Site Director and Mr. Winton as Coordinator regarding the Governor’s School’s increasing adoption of radical ideology and its mistreatment of students and faculty members with conservative viewpoints and “privileged” characteristics.

156. In these conversations, Dr. Phillips often expressly told Mr. Allen and Mr. Winton that he was raising concerns not merely as a Governor’s School faculty member, but also as a North Carolina parent with children who would one day be eligible to apply for admission to the Governor’s School, as well as a taxpayer whose tax dollars supported the program.

157. In 2015, Dr. Phillips spoke at a faculty meeting in Mr. Allen’s presence about the hostility reported to him by conservative students, the increasing adoption of radical ideology by the Governor’s School, and his own qualms about expressing his views at the Governor’s School because of the lack of tolerance for views that departed from the prevailing ideological orthodoxy.

158. Dr. Phillips was not required as part of his job to raise these concerns at a faculty meeting or in any other context.

159. In 2017, Dr. Phillips spoke to Mr. Allen about these same concerns.

160. This conversation was not part of Dr. Phillips’s day-to-day responsibilities as a Governor’s School instructor and was not required as part of his job.

161. Mr. Allen failed to take any meaningful action to address the concerns.

162. For example, he did not alter the Area II or Area III curriculum to avoid indoctrinating students in radical ideology, nor did he stop the ongoing discrimination and harassment based on race, sex, religion and viewpoint.

163. Instead, Mr. Allen continued to ramp up the embrace of critical theory in the Area II and III curricula from year to year, which fostered and encouraged an environment where mistreating students with “privileged” characteristics and unwelcome views was practiced and accepted.

164. Nor did Mr. Allen take any action to ensure that faculty members would fairly and appropriately treat students with conservative viewpoints and “privileged” characteristics, such as counseling faculty members about whom there had been complaints or conducting training sessions focused on these issues or even making it known to the broader faculty and staff population that there was a problem with how these students were being treated.

165. At the end of the 2017 session, because the issue was getting worse and not better despite his verbal complaints, Dr. Phillips wrote the following:

I know from both personal experience and many discussions with faculty, staff, and students that socio-political conservatives and moderates, devout orthodox Christians, and “cis straight white guys” who don’t subscribe to identity politics often feel unwelcome—marginalized and disenfranchised. GSW often, sadly, represents a hostile climate, and they often face pressure to either ideologically conform or to remain silent from their fellow students as well as, in some cases, faculty and staff.

166. This statement was submitted to Mr. Allen and either was or should have been passed along to the Coordinator, Director, and Deputy Superintendent.

167. Submitting this statement was not part of Dr. Phillips’s day-to-day responsibilities as a Governor’s School instructor and was not required as part of his job.

168. Separately, Dr. Phillips e-mailed Mr. Allen at the end of the session about these same issues.

169. No action was taken by the Defendants based on the written statement or Dr. Phillips's complaints to Mr. Allen.

170. Instead, they continued to increase the Governor's School's embrace of critical theory, which empowered and increased the kind of mistreatment of which Dr. Phillips had complained.

171. In 2018, following further reports of hostility from students, Dr. Phillips again discussed with both Mr. Allen and Mr. Winton the discrimination and hostility experienced by students and faculty members who were white, male, cisgender, heterosexual, and/or Christian, or who expressed conservative points of view.

172. At the end of the 2018 session, in light of Defendants' continued inaction, Dr. Phillips submitted a second written statement in which he wrote:

GSW is characterized by—as I've heard several students and some faculty/staff put it—a very “one-sided” approach to and view of things. There is, unfortunately, a lack of real viewpoint diversity on campus as well as strong anti-conservative bias and even discrimination against socially and/or politically conservative students and conservative views. It's the perennial elephant in the room. This has been the case as long as I've been teaching here, since 2013. It was the case when I was a student here in 1995. And I've heard from other, older alumni that it was the case as far back as the early- to mid- 1980s. Every summer, I hear from multiple students and faculty members who—almost always in hushed tones—express discomfort with the ideological “orthodoxy” that prevails on campus. Nor is this discomfort confined to individuals who feel personally marginalized or silenced: it's not at all uncommon for people to say, “I'm pretty liberal, and it bothers *me*.” The unofficial motto of GS has long been, “Question everything.” But there's an implied footnote qualifying “everything.”

The general culture of GSW is characterized by a preoccupation with intersectionality, identity politics, “white supremacy” and “patriarchy.” These concepts not only pervade the curricula of certain areas—

including Areas II and III—they also dominate many of the events on campus, including optional seminars. (And these preoccupations manifest in more than academic/intellectual ways: they manifest as well in a generally subtle, but identifiable bias against males in general and “cis straight white guys” more specifically—at least, those who are seen as “conforming to traditional gender roles and stereotypes.” Every time a colleague approaches me to ask about a mutual student who has been deemed “problematic,” the student in question has always been a white male—usually one who has expressed views not in keeping with liberal/progressive ideology.)

The best defense that most of my colleagues are able to imagine for students who express even mainstream conservative views is that “maybe they’ve just been sheltered,” or “maybe they just haven’t been educated on these things”—as though ignorance is the only possible reasonable explanation for why a student wouldn’t subscribe to a very narrow range of “acceptable” views/arguments on particular issues (e.g., issues of race, or sex/sexuality/gender). Faculty members routinely speak of times when conservative views are expressed as “teachable moments” or “opportunities to educate” these students—invariably in what have become orthodox progressive views.

At the beginning of the third week, I held a seminar titled “The Leaning Tower: Bias, Viewpoint Diversity, and the State of the American College Campus in 2018.” There were approximately seventy students in attendance. During the Q&A/Discussion session after my presentation, a student asked me if I thought that a lack of viewpoint diversity was an issue at GSW, citing specifically the speaker series and optional seminars as well as Area II and III classes. Rather than answer myself, I asked him what he thought. About *half* of the audience *immediately* said, in unison, “Yes!” Roughly twenty-five students approached in the days immediately following the seminar to thank me for speaking up and out on this issue. Most of them confided that they feel silenced and marginalized on campus due to their conservative beliefs (one girl had tears in her eyes). I had parents on Parents Day thank me for doing the seminar. I even received handwritten notes and thank you cards from grateful students.

I’ve heard a great deal anecdotal evidence over the years—especially this summer—of students being “shut down,” “shouted down,” “called out,” “mobbed,” etc. by not only their peers, but in some cases by faculty/staff as well.

173. In this written statement, Dr. Phillips also raised concerns about a growing “surveillance/snitch culture” on campus in which students were incentivized by Mr. Allen to complain any time they were exposed to views they did not agree with, and Mr. Allen would defer to the feelings of the offended party instead of even-handedly investigating the situation.

174. Dr. Phillips also suggested in the written statement and in communications directly to Mr. Allen that the Governor’s School survey students to determine how free they felt in expressing their views on campus so the Governor’s School would have empirical data on the intellectual climate and could assess progress toward a more comfortable campus for all students.

175. Dr. Phillips submitted this written statement to Mr. Allen, who did or should have passed it along to the Coordinator, Director, and Deputy Superintendent.

176. Submitting this statement was not part of Dr. Phillips’s day-to-day responsibilities as a Governor’s School instructor and was not required as part of his job.

177. Nothing was done by the Defendants in response to the concerns that Dr. Phillips raised in 2018.

178. Instead, Defendants continued to increase the Governor’s School’s embrace of critical theory, which empowered and increased the kind of mistreatment of which Dr. Phillips had complained.

179. In 2019, based on further reports of hostility experienced by students with “privileged” characteristics and/or conservative viewpoints, Dr. Phillips again advised Mr. Allen of the continued hostility.

180. That same summer, Dr. Phillips again asked Mr. Allen to conduct a campus expression survey to get a handle on the scope of the problem.

181. Mr. Allen took no action in response to this conversation and declined to conduct a campus expression survey and took no other action.

182. That same year, Area III coordinator Kim Jones harassed Dr. Phillips and another English instructor, Chase Cullers, about the alleged lack of racial diversity in their author list.

183. Dr. Phillips spoke with Mr. Cullers about responding to this situation, and Dr. Phillips explained to Ms. Jones that the reading list was selected based on the instructors' curricular goals without reference to the authors' race.

184. Mr. Cullers brought the issue to Mr. Allen, but he did not take action to stop and prevent the harassment.

185. In 2020, the Governor's School was cancelled because of the COVID-19 pandemic.

186. In June 2020, the Governor's School issued a statement responding to the killings of Ahmaud Aubrey, George Floyd, and Breonna Taylor.

187. After Dr. Phillips read the statement, he spoke with Mr. Winton about it by telephone.

188. Dr. Phillips told Mr. Winton that he agreed with much of the statement.

189. Dr. Phillips noted that these tragic killings should unite the Governor's School community and the broader community in horror, sorrow, outrage, and a desire to end racism and violence.

190. Dr. Phillips cautioned, however, that some passages of the statement adopted and echoed concepts from critical theory.

191. He expressed concern that instead of uniting the community to oppose the mistreatment of black Americans, the statement was tainted by its adoption of racially divisive ideologies as the only acceptable way to think about racial injustice, which would simply perpetuate the hostility directed at students and faculty

members with “privileged” characteristics and opposing views and would violate the Governor’s School’s stated mission and values of being a place where students learn to develop their own thinking through exposure to a wide range of perspectives, viewpoints, and opinions.

192. And he expressed concern that the commitment to increasing diversity really meant just racial diversity, which would likely mean favoring some races and discriminating against others.

193. Mr. Winton dismissed Dr. Phillips’s concerns and took no action in response to them.

The 2021 Governor’s School Session

194. Dr. Phillips returned as Lead English instructor and Area III instructor for the 2021 Governor’s School session.

195. Before the session began, there was an orientation for faculty led by Mr. Allen.

196. At the orientation, instructors gave brief descriptions of their curricula for the session.

197. Following Dr. Phillips’s description of his English curriculum, a teaching assistant remarked, “A lot of dudes.”

198. This was a hostile and negative comment on the gender of the authors that Dr. Phillips’s class would be reading.

199. This was the only hostile or negative comment made by a colleague about any of the curricula presented.

200. Dr. Phillips initially tried to avoid confrontation by simply saying “yes” and moving on.

201. But it was clear from the awkward silence that more explanation was expected.

202. So Dr. Phillips explained that he selected the texts for his class based on issues and topics he wanted the students to analyze and that he did not think the immutable characteristics of the authors were relevant to the selection process.

203. Dr. Phillips further noted that the most intellectually rigorous texts he was assigning—i.e., the texts at the pinnacle of the class—were primarily authored by women, but, again, he did not select the texts with the authors' gender in mind.

204. Mr. Allen was present for this interaction and took no action to defend Dr. Phillips or prohibit the inappropriate focus on gender.

205. Instead, he allowed a teaching assistant to express hostility to Dr. Phillips for the alleged lack of sex-based diversity in the authors selected for his reading list.

206. Afterwards, several teachers sought out Dr. Phillips to privately express their sympathy for the hostility he experienced and to express support for his position.

207. On information and belief, these teachers did not express support for Dr. Phillips publicly for fear they would be retaliated against.

208. Once the session began, Dr. Phillips again received a report of hostility and mistreatment of a student based on their "privileged" characteristics and/or conservative viewpoints.

209. Shortly after the session began, Dr. Phillips discussed with Mr. Allen two items he wanted to use in his teaching materials.

210. First, Dr. Phillips showed Mr. Allen a passage from Philip Roth's novel *The Human Stain* that contained racially oriented language.

211. Philip Roth was a highly decorated, critically acclaimed American novelist.

212. Roth's books are regularly taught in English curricula at the high-school and college levels.

213. *The Human Stain*, published in 2000, was a critically acclaimed novel that won several awards, including the New York Times Editor's Choice award, the Koret Jewish Book Award, the Chicago Tribune Editor's Pick award, the National Jewish Book Award, and the PEN/Faulkner Award for Fiction.

214. Dr. Phillips wanted to use a particular passage from *The Human Stain* in his Area III class because it explores the ways that individual identity can be subsumed to and constrained by a group identity, and how this can be imposed not only by outside groups, but by the ingroup as well.

215. The construction of identity is a common topic in Area III curricula, and Dr. Phillips believed this passage would provide good fodder for an insightful and interesting class discussion.

216. Dr. Phillips used the passage in 2016 and 2017 in front of the then-Area III coordinator without incident.

217. But in light of the growing adoption of critical theory, Dr. Phillips was concerned that if a student complained about the passage, the administration would not back him up.

218. So Dr. Phillips showed the passage to Mr. Allen and solicited his feedback.

219. Dr. Phillips did not need Mr. Allen's advance permission.

220. But, as Dr. Phillips explained to Mr. Allen, Dr. Phillips wanted to protect himself in the event a student complained about the passage.

221. Mr. Allen expressed two concerns about the passage.

222. For one, Mr. Allen expressed concern that the passage discusses black identity (the protagonist is a black man who spends much of his life passing as Jewish) but was written by a Jewish author.

223. Mr. Allen said the passage would be less problematic if written by a black author.

224. For another, Mr. Allen expressed concern that Dr. Phillips is white.

225. Mr. Allen said that teaching the passage would be less problematic if Dr. Phillips were black.

226. And Mr. Allen said the combination of the two—Jewish author and white teacher—was particularly problematic.

227. While Mr. Allen did not expressly prohibit Dr. Phillips from using the passage, it was clear to Dr. Phillips that Mr. Allen would prefer that he not use it.

228. So Dr. Phillips told Mr. Allen that, based on the conversation, he would not use the passage.

229. Second, Dr. Phillips asked Mr. Allen about a video he planned to use in his optional seminar, *What We Talk About When We Talk About Meaning: An Introduction to Speech-Act Theory*.

230. The video was of Dr. Greg Patton, a tenured business communications professor at the University of Southern California, lecturing on the use of “filler” words in various languages, like “um” in English.

231. In the video, Dr. Patton uses a Mandarin filler word.

232. After using the filler words, some of Dr. Patton’s students complained to the administration at USC that the filler word sounded like an American racial slur, although the filler word and the slur are phonetically and linguistically different.

233. Dr. Patton was temporarily suspended at USC because of the complaints.

234. Dr. Phillips intended to present the video in his optional seminar on Speech-Act Theory as a prime example of how the locutionary meaning of an utterance (the dictionary definition), its illocutionary force (the speaker’s intended effect), and its perlocutionary effect (the real effect on the audience) can diverge with disastrous results.

235. Mr. Allen said he did not have a problem with the use of the video as long as Dr. Phillips did not congratulate Dr. Patton for uttering the Mandarin term, which, of course, Dr. Phillips would never do.

236. Following an internal investigation, USC cleared Dr. Patton of any wrongdoing and reinstated him to his tenured position, which he holds to this day.

237. Again, Dr. Phillips did not need Mr. Allen's approval to use the video, as the Governor's School did not pre-approve the specific content of optional seminars.

238. But Dr. Phillips wanted to make sure Mr. Allen would defend him if someone complained about the video.

239. Based on the conversation, Dr. Phillips understood that Mr. Allen was OK with him using the video and would defend his use of it, so Dr. Phillips decided to use the video.

240. During this conversation with Mr. Allen, Dr. Phillips again raised the issue of the ongoing hostility experienced by white, cisgender, heterosexual, male, and/or conservative students and faculty at the Governor's School and the Governor's School's increasing indoctrination of students with radical ideology.

241. Dr. Phillips appreciated that there was not time for a more fulsome discussion of that topic at that point and thus asked that they speak about it again later in the session, and Mr. Allen agreed.

242. Dr. Phillips was fired before that next conversation could occur.

243. On June 22, 2021, Dr. Phillips gave an optional seminar entitled *The "Wisdom" of Misoponos: "Safetyism" and the Three Great Untruths*.

244. The seminar was based on *The Coddling of the American Mind* by Greg Lukianoff and Jonathan Haidt.

245. The seminar was an updated version of a seminar Dr. Phillips had given in 2019 without incident.

246. The seminar critiqued several concepts from critical theory, including:
- a. The notion that certain characteristics—like race and gender—render a person inherently privileged or oppressed;
 - b. Identity politics, which is the organization of political mobilization around personal characteristics like race, gender, and religion;
 - c. The concept of microaggressions, which is the idea that people from “oppressed” backgrounds are harmed by brief and commonplace unintentional verbal, behavioral, or environmental indignities, and that it is the role of those in authority to protect people from microaggressions and punish those who commit them;
 - d. The notion that being exposed to ideas that a person finds disagreeable is harmful and should be avoided; and
 - e. “Call-out culture” that incentivizes the public shaming and silencing of anyone who expresses a viewpoint those in power deem disagreeable.

247. Dr. Phillips concluded the lecture portion of the seminar by suggesting that students consider and evaluate Lukianoff and Haidt’s advice to embrace antifragility, master their feelings, and recognize that, in the words of Aleksandr Solzhenitsyn, “the line separating good and evil passes not through states, nor between classes, nor between political parties either—but right through every human heart—and through all human hearts.”

248. Dr. Phillips took questions after the lecture portion of the seminar.

249. A few students responded with open hostility to the content of the lecture and the viewpoints expressed therein, asking questions and making comments that referenced whiteness, maleness, heteronormativity, and Christianity.

250. Many of these comments and questions parroted concepts from critical theory, such as the notions that the organizing principles of the United States are

“white supremacy” and/or “the patriarchy,” that attacking “privileged” groups is the only way to advance civil rights, and that American political and social systems are designed exclusively to serve the interests of heterosexual white males—and the students expressed grave offense at any questioning of these concepts.

251. Despite the hostility, Dr. Phillips stayed long after the lecture portion had ended, engaged with each student who had a question, and responded calmly to each question.

252. Dr. Phillips even invited anyone who wanted to talk further to set up a time to meet later in the session.

253. On June 25, 2021, Dr. Phillips gave an optional seminar entitled *What We Talk About When We Talk About Meaning: A Brief Introduction to Speech-Act Theory (And How and Why It Matters)*.

254. The published description of that seminar was: “Learn about the three aspects of utterances—locutionary meaning, illocutionary force, and perlocutionary effect—and how the failure to appreciate them leads to misunderstanding... and worse.”

255. In the seminar, Dr. Phillips showed the Greg Patton video.

256. Dr. Phillips introduced two broad ways of approaching the meaning of an utterance: what he called the Systems-Dominant Model and what he called the Receiver-Dominant model.

257. In the Systems-Dominant Model, the speaker and hearer have mutual responsibilities to try to avoid misunderstanding.

258. The speaker has a responsibility to consider foreseeable potential perlocutionary effects, and the hearer has a responsibility to consider the locutionary meaning and illocutionary force (i.e., the dictionary definition, the context, and speaker’s likely intent).

259. Using the example of the Patton video, Dr. Phillips contended that either party could have avoided misunderstanding by acting more responsibly: Dr. Patton could have given more consideration to the auditory similarity between the Mandarin filler word and an American slur and its likely effect on black students, and the hearers could have given more consideration to the locutionary meaning of the Mandarin word and Dr. Patton's intent in teaching how filler words are used in different languages.

260. Dr. Phillips advocated for the mutual responsibility of speaker and hearer to avoid these kinds of misunderstandings.

261. Dr. Phillips contrasted the Systems-Dominant model with the Receiver-Dominant model, which places all responsibility on the speaker to avoid any utterance that could have a potentially offensive or harmful effect on the audience.

262. Dr. Phillips contended that the Receiver-Dominant model places an impossible burden on the speaker because perlocutionary effects can be idiosyncratic or otherwise outside of the speaker's ability to anticipate.

263. And it censors potentially valuable speech by forcing the speaker to avoid saying anything that *might* be offensive to someone in the audience.

264. Dr. Phillips took questions after the lecture portion of the seminar.

265. A few staff members responded to the lecture with open hostility to the content of the lecture and the viewpoints expressed therein, asking questions and making comments that referenced whiteness.

266. Nearly the entirety of the Q&A period was consumed by staff members angrily questioning Dr. Phillips about using the Patton video.

267. While staff members are welcome to attend optional seminars, it is all but unheard of for staff members to dominate the Q&A time, much less to spend the Q&A time criticizing the faculty presenter.

268. The staff members essentially accused Dr. Phillips of racism for using the Patton video, utterly ignoring the point Dr. Phillips was trying to make about understanding the speaker's intent and the dictionary definition of the word used.

269. And they made it clear in their comments that they believed the content of Dr. Phillips's lecture was worthy of censure.

270. Despite the hostility, Dr. Phillips again stayed long after the lecture portion had ended, again engaged with each person who had a question, and again responded calmly to each question.

271. Dr. Phillips again invited anyone—including staff members—who wanted to talk further to set up a time to meet later in the session.

272. Afterwards and away from the public eye, two students complimented Dr. Phillips on the session, one of whom was a Mandarin speaker.

273. On Monday, June 28, 2021, Dr. Phillips gave an optional seminar titled *The Leaning Tower: Ideological Bias, Viewpoint Diversity, and Higher Education in the U.S.*

274. This was a seminar he had given three times before and had discussed extensively with Mr. Allen.

275. Dr. Phillips regularly received compliments from students for the content of this seminar, including from students who identified themselves as progressives and told Dr. Phillips that they appreciated the perspectives offered in his seminar although they did not agree with many of the views he expressed.

276. The seminar discussed the lack of ideological diversity and substantial anti-conservative bias in higher education.

277. The seminar critiqued the progressive "monoculture" in higher education on the grounds that a "monoculture" necessarily presents a biased perspective, inhibits the projects of truth-seeking and knowledge-building by

allowing people to engage in unchallenged groupthink, and results in a loss of social and moral capital that negatively affects the reputation of the academy.

278. Dr. Phillips noted that part of the current “monoculture” in higher education requires the uncritical affirmation of certain ideas.

279. Many of those ideas are derived from critical theory, such as the division of people into “privileged” and “oppressed” categories based on immutable characteristics alone.

280. And the seminar discussed several overtly racist incidents perpetrated against white students and faculty members in higher education, based on their failure to conform to the orthodoxy of critical theory, including:

- a. The cancellation of Bret Weinstein, a white biology professor at Evergreen State University, for his opposition to a “Day of Absence” in which white people were encouraged to stay away from campus;
- b. The protests against Rebecca Tuvel, a self-described liberal feminist philosopher, for publishing an article drawing comparisons between transracialism and transgenderism, which ultimately resulted in the academic journal that published and peer-reviewed the paper issuing a public apology;
- c. The mistreatment of Lindsey Shepard, a teaching assistant who showed a clip of Professor Jordan Peterson objecting to laws requiring the use of gender-neutral pronouns, and was harshly criticized for her “white woman tears” because she cried when she was censured for showing the clip without immediately condemning Peterson’s argument;
- d. The groundswell calling for the removal of Professor Camille Paglia, a white transgender lesbian, from a professorship at the University of the Arts and replacement with a “queer person of color,” after Professor Paglia questioned the empirical evidence behind certain claims of the “Me Too” movement.

281. When the lecture portion concluded, Dr. Phillips took questions from the audience for more than an hour.

282. In fact, he voluntarily stayed after all of his seminars that summer to address student questions, remaining for more than an hour after the first seminar and approximately half an hour after the second.

283. Some of the same staff members and students who responded with hostility to the prior lectures did the same in response to this lecture, expressing hostility to the content of the lecture and the viewpoints expressed therein, and asking questions and making comments that referenced whiteness, maleness, heteronormativity, and Christianity, and generally expressing that they found the viewpoints expressed in the seminar unacceptable.

284. One of the staff members opened his comments with, “You’ve already told us you don’t believe in diversity,” referencing the “a lot of dudes” interaction during faculty orientation. *See supra* ¶¶ 197–204.

285. This was wildly inaccurate, as Dr. Phillips had just spent the entire lecture explaining the value of diversity, particularly diversity of viewpoints and perspectives.

286. It was also inappropriate and unprofessional for the staff members to monopolize students’ question time with a squabble about an interaction at faculty orientation.

287. Nonetheless, Dr. Phillips took the time to respond to the comment and re-explain his method for selecting texts for his English classes.

288. For another example, one student responded to the lecture by stating that she shouldn’t have to be taught by people who don’t believe in human rights or human beings, essentially contending that people who do not subscribe to progressive orthodoxy—including Dr. Phillips—necessarily don’t believe in human rights or human beings.

289. Dr. Phillips again calmly engaged with the student, explaining that he thought she was making unfair assumptions about the beliefs of conservative

faculty members, and that there is value in being taught by people with whom you do not agree on all things.

290. Dr. Phillips noted that he had frequently been taught by professors with whom he disagreed on many things, and that he had often learned a lot from them.

291. Another student commented that Dr. Phillips's examples of students and faculty members being cancelled for deviating from critical theory orthodoxy were simply examples of racists getting their due.

292. Dr. Phillips responded that it was fine for her to have that view, and that he hoped she could see the perspectives of people who disagreed with that view so they could engage in fruitful dialogue.

293. He also stated there was a good conversation to be had about whether the response to those incidents was appropriate, even if one thought what the student or faculty member in question did was wrong.

294. He brought up the example of Professor Weinstein and noted that he was effectively chased off campus by a violent mob, and there's a conversation to have about that response, even if you disagree with Professor Weinstein.

295. A staff member commented that the only viewpoints Dr. Phillips wanted to protect were the viewpoints of white men.

296. Dr. Phillips calmly responded that he wanted to protect all viewpoints, and he further disagreed that only white men hold conservative viewpoints.

297. He also stated that he distinguishes between a person's identity and the person's viewpoint, and he noted that people with the same racial and sexual identity often have widely different viewpoints.

298. He reiterated that the thesis of his lecture was that viewpoint diversity is important, regardless of the immutable characteristics of the people who hold those viewpoints.

299. Another student commented that as an LGBTQ person, he should not have to have a professor who opposed homosexuality because that professor would be denying his truth and his humanity.

300. In response, Dr. Phillips and the student discussed the potential distinction between denying a person's "truth" and denying their humanity.

301. Dr. Phillips noted that as a Christian, he believes that his identity derives from his creation in God's image, but he does not view anyone who denies that "truth" as denying his humanity.

302. The student dismissed Dr. Phillips's analogy and his ability to understand the situation because the student claimed that Christians are never discriminated against.

303. Despite the hostility from these and other comments and questions, Dr. Phillips again stayed long after the lecture portion had ended, again engaged with each student who had a question, and again responded calmly to each question.

304. Dr. Phillips again invited anyone who wanted to talk further to set up a time to meet later in the session.

305. Based on the hostility he was experiencing at the optional seminars and the continued reports from students about hostility based on "privileged" characteristics and conservative viewpoints, Dr. Phillips went by Mr. Allen's office several times the next morning (June 29) in an attempt to have a more fulsome discussion about the hostility of the Governor's School environment.

306. Mr. Allen was not available that morning, and Dr. Phillips was fired before the meeting could occur.

307. The afternoon of June 29, 2021, less than 24 hours after the *Leaning Tower* optional seminar, Dr. Phillips received a text message from Tom Winton asking for him to meet in the early afternoon.

308. The meeting was attended by Mr. Winton; Bethany Phillis, the Dean of Students; Bob Davis, the Area I coordinator; and Dr. Phillips.

309. Before this meeting, Dr. Phillips had never been disciplined or censured for allegedly violating any of the Governor's School's policies.

310. Before this meeting, Dr. Phillips had never been notified of any complaints concerning his teaching, his Area I or III curricula, his optional seminars, or any other activities performed at the Governor's School.

311. At no time did Dr. Phillips violate any of the Governor's School's policies.

312. At the meeting, Mr. Winton told Dr. Phillips that his employment was terminated effective immediately, and that he should gather his things and vacate the campus immediately.

313. Dr. Phillips asked why he was being fired.

314. Mr. Winton said he was not "at liberty" to discuss the reasons.

315. Dr. Phillips asked if there was anyone who could give him some understanding of why he was being fired.

316. Mr. Winton said there was no appeal or other recourse from the decision.

317. He also said that he would put Dr. Phillips in touch with someone who could tell him more once things were more "settled."

318. But he never did put Dr. Phillips in touch with anyone who could explain why Dr. Phillips was fired.

319. The refusal to tell a long-time, well-respected employee why he was being abruptly fired evidences that Defendants had an improper motive for firing Dr. Phillips.

320. The sequence of events—coming on the heels of an optional seminar at which staff members made their disagreement with and hostility to Dr. Phillips's

views clear—shows that the Defendants terminated Dr. Phillips because of the views he expressed.

321. Dr. Phillips later learned that one or more staff members complained to Mr. Allen about the content of Dr. Phillips's optional seminars.

322. As Site Director, Mr. Allen bore primary responsibility for handling such a complaint, investigating it, determining the facts, and taking any action to address it.

323. In accordance with North Carolina law, DPI maintains policies, procedures, and regular practices for handling complaints alleging discrimination, harassment, and/or other allegations of employee misconduct.

324. Those policies, procedures, and practices require DPI to conduct a prompt, thorough, and fair investigation before taking disciplinary action.

325. Upon information and belief, those policies, procedures, and practices require, at a bare minimum:

- a. giving the employee accused of misconduct fair notice of the allegations and an opportunity to respond to them;
- b. interviewing witnesses likely to have information about the events alleged;
- c. keeping records of the interviews conducted and other investigatory steps taken; and
- d. obtaining and reviewing documentary evidence of the alleged events that is reasonably available.

326. Here, neither Mr. Allen nor Mr. Winton nor Ms. Shah Coltrane nor Dr. Stegall nor any other DPI official followed these policies, procedures, and/or regular practices in investigating any complaints against Dr. Phillips and did not conduct a thorough or fair investigation.

327. Neither Mr. Allen nor Mr. Winton nor Ms. Shah Coltrane nor Dr. Stegall nor any other DPI official gave Dr. Phillips notice of any complaints against him, nor did they give him any opportunity to respond to any such complaints.

328. Neither Mr. Allen nor Mr. Winton nor Ms. Shah Coltrane nor Dr. Stegall nor any other DPI official asked to review or did review Dr. Phillips's powerpoints, handouts, or lecture notes to determine what had transpired at his optional seminars.

329. Further, upon information and belief, Mr. Allen, Mr. Winton, Ms. Shah Coltrane, Dr. Stegall, and other DPI officials failed to:

- a. develop a professional investigatory plan, as would be common and appropriate for investigating allegations of misconduct;
- b. obtain any written statements from anyone complaining about Dr. Phillips;
- c. interview any students and/or staff members concerning the optional seminars;
- d. interview any non-complaining students or staff members concerning the optional seminars;
- e. make or keep notes, summaries, or similar records of any interviews conducted;
- f. seek or review any documentary or physical evidence of what transpired at the optional seminars; or
- g. contemporaneously prepare any memoranda, notes, summaries, or any investigatory reports documenting the findings of any investigation.

330. In light of these failures, any investigation conducted by Mr. Allen, Mr. Winton, Ms. Shah Coltrane, Dr. Stegall, or any other DPI officials was a sham designed to create a pretext for terminating Dr. Phillips.

331. Instead of conducting a serious investigation into any complaints about the optional seminars, Ms. Shah Coltrane, Mr. Allen, Mr. Winton, Dr. Stegall, and DPI officials used the complaints as an excuse to get rid of a faculty member who expressed views that did not comport with Defendants' ideology.

332. In essence, Mr. Allen, Mr. Winton, Ms. Shah Coltrane, Dr. Stegall, and DPI officials terminated a well-respected faculty member with no investigation simply because he expressed views on a variety of important public issues with which they disagreed.

333. Mr. Allen recommended the decision to terminate Dr. Phillips's employment.

334. Mr. Winton made or approved the decision to terminate Dr. Phillips's employment.

335. Ms. Shah Coltrane made or approved the decision to terminate Dr. Phillips's employment.

336. Dr. Stegall approved the decision to terminate Dr. Phillips's employment.

337. It is extremely rare for the Governor's School to dismiss a faculty member mid-session.

338. On information and belief, other than Dr. Phillips, the Governor's School has never dismissed a lead instructor mid-session.

Dr. Phillips's Public Records Request

339. On October 13, 2021, Dr. Phillips sent Mr. Winton a request for records under the North Carolina Public Records laws, requesting the following:

- a. A notice outlining the reason(s) for my dismissal from employment with the Department and/or the Governor's School, which I was informed of on June 29, 2021. (N.C. Public Schools Benefits & Employment Policy Manual § 14.5.2)

- b. A complete copy of my personnel file concerning my employment with the Department and/or the Governor's School. This should include but not be limited to all records, including e-mails, text messages, and/or other electronic records, concerning my termination. This should further include all records from all periods of my employment with the Governor's School and should not be limited to this past summer. This should also include but not be limited to all evaluations of my performance. (N.C.G.S. § 126-24; State Human Resources Manual Personnel Records Policy; N.C.G.S. § 115C-321)
- c. A complete copy of all records concerning my employment with the Department / the Governor's School that are open to public inspection pursuant to N.C.G.S. § 126-23, § 115C-320, and/or any other public inspection law or policy. Again, this should include all records open to public inspection from all periods of my employment with the Governor's School and should not be limited to this past summer.

340. On October 25, 2021, Ms. Shah Coltrane responded to the public records request with three documents: (a) a 2021 returning employee application, (b) a 2021 employment information sheet, and (c) a June 29, 2021, e-mail to staff regarding Dr. Phillips's termination. These documents, and Ms. Shah Coltrane's cover e-mail, are attached hereto as Exhibit B.

341. In the cover e-mail, Ms. Shah Coltrane stated, "These documents are the ones that are in your employment file. We do have other similar documents of these from other years. We do not keep extensive files on temporary employees."

342. She further stated that the June 29, 2021, e-mail was "the only communication we have regarding your temporary employment with our agency regarding the change of your employment status with NCDPI this past summer."

343. In terms of the reason for Dr. Phillips's termination, she stated, "As was shared with you in the conversation with Mr[.] Winton on June 29, 2021, NCDPI determined to go in a different direction with the Governor's School program this past summer."

344. This continued refusal to provide a reason for Dr. Phillips's termination is further evidence that Defendants terminated Dr. Phillips for an improper reason.

345. Because Ms. Shah Coltrane's response ignored Dr. Phillips's clear request for documents from his entire period of employment with DPI, Dr. Phillips followed up with an e-mail asking for the documents from prior years.

346. On November 10, 2021, Ms. Shah Coltrane responded, "The only other files we have are literally the same ones that I sent you from a few previous years. I have nothing else."

347. On November 11, 2021, Dr. Phillips responded, asking for the third time for "*all* records from *all* periods of my employment with the Governor's School--not only from this past summer."

348. On November 22, 2021, Ms. Shah Coltrane sent Dr. Phillips the documents attached as Exhibit C.

349. These documents were not "literally the same ones that [Ms. Shah Coltrane] sent [Dr. Phillips] from a few previous years," but rather included a variety of employment forms not previously provided.

350. The November 22, 2021, e-mail from Ms. Shah Coltrane further stated, "There are no other files related to your temporary employment with us."

351. The statement that "There are no other files related to your temporary employment with us" was false.

352. In fact, DPI had other files related to Dr. Phillips's employment.

353. For example, DPI had performance reviews for Dr. Phillips.

354. But DPI did not provide those performance reviews to Dr. Phillips in response to his records request.

355. At no time did DPI provide any objections to Dr. Phillips's records request.

356. At no time did DPI contend that any of the records requested by Dr. Phillips were confidential.

357. At no time did DPI contend that any of the records requested by Dr. Phillips were otherwise not subject to disclosure to him.

358. To date, DPI and Ms. Shah Coltrane have not provided all records responsive to Dr. Phillips's records request, including the records relevant to Dr. Phillips's termination.

359. Instead, DPI and Ms. Shah Coltrane continue to refuse to provide the records that would explain the circumstances and the real reason for Dr. Phillips's termination.

Failure to Hire Dr. Phillips for 2022 Session

360. Unlike in previous years, the Governor's School did not solicit whether Dr. Phillips wanted to return for the 2022 Governor's School session.

361. Nor did the Governor's School provide Dr. Phillips with a returning faculty member application form.

362. Nonetheless, Dr. Phillips submitted an application that was available on the Governor's School's website.

363. On June 3, 2022, Ms. Shah Coltrane sent Dr. Phillips an e-mail rejecting his application.

364. On information and belief, Mr. Allen made or recommended the decision not to return Dr. Phillips to the Governor's School in 2022.

365. On information and belief, Ms. Shah Coltrane made or approved the decision not to return Dr. Phillips to the Governor's School in 2022.

Legal Claims

Count I – North Carolina Constitution, Free Speech

366. Plaintiff realleges and reasserts the allegations of paragraphs 1 through 365 of this Complaint.

367. The North Carolina Constitution provides that “[f]reedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained. . . .” N.C. Const. art. I, § 14.

368. The North Carolina Constitution’s Free Speech and Free Press Clause protects Dr. Phillips’s ability to speak; to create, publish, and distribute speech; to associate with others for expressive purposes; and to associate with messages of Dr. Phillips’s choosing.

369. The North Carolina Constitution’s Free Speech and Free Press Clause also protects Dr. Phillips’s right to maintain political affiliations, hold and express political opinions, and associate with political messages of his choosing.

370. The North Carolina Constitution’s Free Speech and Free Press Clause also prohibits the government from conditioning a benefit on the relinquishment of any constitutional right.

371. And the North Carolina Constitution’s Free Speech and Free Press Clause protects Dr. Phillips from government censorship of the core academic functions of teaching and scholarship.

372. In addition to providing a valuable service to his community, Dr. Phillips received monetary compensation and other valuable benefits from his services as a Governor’s School faculty member.

373. Developing and delivering optional seminars fall within the core academic functions of teaching and scholarship.

374. When speaking to Mr. Allen, Mr. Winton, and other DPI officials about his concerns with Defendants' embrace of critical theory and treatment of conservative students, Dr. Phillips was speaking as a private citizen, as it was not his job duty to determine the Governor's School's overall curriculum, to set curricular policies, or to manage how other faculty ran their classrooms.

375. Indeed, Dr. Phillips often expressly reminded them that he was raising concerns as a North Carolina parent with children who would one day be eligible to apply to the Governor's School and as a taxpayer whose tax dollar supported the program.

376. In the optional seminars and the Q&A sessions that followed and at various other times during the Governor's School sessions, Dr. Phillips expressed his personal opinions and affiliations.

377. In the optional seminars and the Q&A sessions that followed and to Mr. Allen and at various other times during the Governor's School sessions, Dr. Phillips expressed opinions on a variety of matters of public concern, such as:

- a. The value of ideological and viewpoint diversity in higher education;
- b. The dangers of an ideological "monoculture" in higher education;
- c. The handling of a variety of high-profile cases in which higher-education faculty, students, and staff members were "cancelled" for their ideological beliefs;
- d. The validity of various concepts from critical theory and/or critical race theory and their application in education;
- e. The use of critical theory and/or critical race theory to indoctrinate rather than educate students;
- f. The culture in higher education—sometimes known as "cancel culture" or "call-out culture"—of silencing and punishing speech that causes offense, rather than also considering the actual

definition and meaning of the words used and the speaker's intent;

- g. The division of people into "privileged" and "oppressed" categories based on immutable characteristics;
- h. The role of "safetyism" in education, whereby it is seen as the mission of educators to ensure that students are not confronted with ideas or viewpoints that they might find objectionable or offensive;
- i. The admission of students based on immutable characteristics rather than academic merit;
- j. The silencing of dissent when students express views that do not align with the predominant progressive ideology of higher education;
- k. The ideological "monoculture" of the Governor's School;
- l. The lack of tolerance and welcome at Governor's School for students and staff members holding conservative viewpoints;
- m. The lack of tolerance and welcome at Governor's School for students and staff members holding traditional Christian beliefs; and
- n. The lack of tolerance and welcome at Governor's School for students and staff members with characteristics the Governor's School saw as "privileged."

378. Dr. Phillips's interests as a citizen commenting on matters of public concern and his interests as a faculty member engaging in teaching and scholarship are significant in light of:

- a. the robust tradition of academic freedom in post-secondary education;
- b. the selection of students for the Governor's School who are "college-ready" and the intentional creation of an environment with college-like intellectual freedoms;
- c. the core philosophical and ideological convictions at the heart of Dr. Phillips's speech;

- d. the particular experience that teachers like Dr. Phillips have in expressing opinions about educational policy; and
- e. the importance of exposing students to a wide variety of views, including those with which they may disagree.

379. These concerns outweigh any interest Defendants might have in the efficient provision of services, which are minimal here given that:

- a. the seminars were optional, so any students who did not want to hear Dr. Phillips were free to leave, or to not attend at all, without any consequence to the student whatsoever;
- b. versions of the same seminars were given in years past without disruption;
- c. the optional seminars had no effect on Dr. Phillips's ability to provide high-quality teaching services in the Governor's School's formal Area I and III curricula; and
- d. many of Dr. Phillips's comments about the Governor's School's curriculum and policies were expressed privately to DPI officials such that they could not cause any meaningful disruption.

380. Defendants had no legitimate interest in retaliating against Dr. Phillips based on his opinions or affiliations.

381. Dr. Phillips's speech on matters of public concern never prevented Defendants from efficiently providing services to the public.

382. Defendants' retaliatory and unconstitutional actions taken against Dr. Phillips, including but not limited to its termination of his employment and failure to hire him for the 2022 Governor's School session, would deter a person of ordinary firmness from exercising his right to free speech in the future.

383. Defendants took these retaliatory and unconstitutional actions against Dr. Phillips at least in part because of the views he had expressed on matters of public concern.

384. Defendants took these retaliatory and unconstitutional actions against Dr. Phillips at least in part because of his political opinions or affiliations

385. Defendants discriminated against Dr. Phillips based on his viewpoints, as other faculty members were permitted to express their views in optional seminars without censure or dismissal.

386. Defendants discriminated against Dr. Phillips based on his viewpoints, as Defendants exercised no meaningful control over the views other faculty members expressed in optional seminars but dismissed Dr. Phillips for expressing his viewpoints.

387. The decisions taken by Defendants via the final policymaker and based on Department policy were the moving force of the violation of Dr. Phillips's rights.

388. Defendants' retaliatory and unconstitutional actions taken against Dr. Phillips violate his clearly established rights of the freedom of speech and the freedom of association as guaranteed by the North Carolina Constitution.

389. There is no adequate remedy in state law for free speech retaliation and/or viewpoint discrimination other than a direct claim under the North Carolina Constitution.

Count II – North Carolina Constitution, Race Discrimination

390. Plaintiff realleges and reasserts the allegations of paragraphs 1 through 365 of this Complaint.

391. Article I, Section 19 of the North Carolina Constitution provides that “[n]o person shall be denied the equal protection of the laws” and that no person shall be “subjected to discrimination by the State because of race, color, religion, or national origin.” N.C. Const. art. I, § 19.

392. Dr. Phillips was employed by DPI as a Governor's School faculty member at every Governor's School session from 2013 until his termination in June 2021.

393. Dr. Phillips is white.

394. Dr. Phillips suffered an adverse employment action when DPI terminated his employment.

395. Dr. Phillips suffered another adverse employment action when DPI refused to hire him for the 2022 Governor's School session.

396. Dr. Phillips suffered a further adverse employment action by being subject to a hostile work environment that was (a) unwelcome, (b) based on his race, (c) severe or pervasive enough to alter the terms and conditions of employment, and (d) attributable to Defendants because of their official actions and failure to address the hostility when brought to their attention by Dr. Phillips and others.

397. Dr. Phillips was meeting DPI's legitimate expectations, as evidenced by his performance reviews.

398. The circumstances of Dr. Phillips's termination and the rejection of his application for the 2022 Governor's School, including the racially charged atmosphere and comments directed at him before his termination, give rise to an inference of race discrimination.

399. Dr. Phillips's race was a motivating factor and but-for cause of the adverse employment actions alleged.

400. Dr. Phillips has suffered damages, including loss of income, emotional distress, pain, suffering, and reputational harm, as a result of Defendants' discriminatory actions.

401. There is no adequate remedy in state law for the race discrimination to which Dr. Phillips was subjected except a direct claim under the North Carolina Constitution.

Count III – North Carolina Constitution, Religious Discrimination

402. Plaintiff realleges and reasserts the allegations of paragraphs 1 through 365 of this Complaint.

403. Article I, Section 19 of the North Carolina Constitution provides that “[n]o person shall be denied the equal protection of the laws” and that no person shall be “subjected to discrimination by the State because of race, color, religion, or national origin.” N.C. Const. art. I, § 19.

404. Dr. Phillips was employed by DPI as a Governor’s School faculty member at every Governor’s School session from 2013 until his termination in June 2021.

405. Dr. Phillips is an evangelical Christian.

406. Dr. Phillips made his religious identity known to his colleagues and administrators at DPI, including Mr. Allen.

407. Dr. Phillips suffered an adverse employment action when DPI terminated his employment.

408. Dr. Phillips suffered another adverse employment action when DPI refused to hire him for the 2022 Governor’s School session.

409. Dr. Phillips suffered a further adverse employment action by being subject to a hostile work environment that was (a) unwelcome, (b) based on his religion, (c) severe or pervasive enough to alter the terms and conditions of employment, and (d) attributable to Defendants because of their official actions and failure to address the hostility when brought to their attention by Dr. Phillips and others.

410. Dr. Phillips was meeting DPI’s legitimate expectations, as evidenced by his performance reviews.

411. The circumstances of Dr. Phillips's termination and the rejection of his application for the 2022 Governor's School, including the hostile atmosphere and comments directed at his religious identity before his termination, give rise to an inference of religious discrimination.

412. Dr. Phillips's religion was a motivating factor and but-for cause of the adverse employment actions alleged.

413. Dr. Phillips has suffered damages, including loss of income, emotional distress, pain, suffering, and reputational harm, as a result of Defendants' discriminatory actions.

414. There is no adequate remedy in state law for the religious discrimination to which Dr. Phillips was subjected except a direct claim under the North Carolina Constitution.

Count IV – North Carolina Constitution, Discrimination Based on Multiple Characteristics

415. Plaintiff realleges and reasserts the allegations of paragraphs 1 through 365 of this Complaint.

416. Article I, Section 19 of the North Carolina Constitution provides that “[n]o person shall be denied the equal protection of the laws” and that no person shall be “subjected to discrimination by the State because of race, color, religion, or national origin.” N.C. Const. art. I, § 19.

417. Dr. Phillips was employed by DPI as a Governor's School faculty member at every Governor's School session from 2013 until his termination in June 2021.

418. Dr. Phillips is a white male evangelical Christian.

419. Dr. Phillips suffered an adverse employment action when DPI terminated his employment.

420. Dr. Phillips suffered another adverse employment action when DPI refused to hire him for the 2022 Governor's School session.

421. Dr. Phillips suffered a further adverse employment action by being subject to a hostile work environment that was (a) unwelcome, (b) based on his combination of protected characteristics, (c) severe or pervasive enough to alter the terms and conditions of employment, and (d) attributable to Defendants because of their official actions and failure to address the hostility when brought to their attention by Dr. Phillips and others.

422. Dr. Phillips was meeting DPI's legitimate expectations, as evidenced by his performance reviews.

423. The circumstances of Dr. Phillips's termination and the rejection of his application for the 2022 Governor's School, including the hostility and comments directed at him before his termination, give rise to an inference of discrimination based on the combination of his protected characteristics.

424. Dr. Phillips's combination of protected characteristics—his race, sex, and religion—was a motivating factor and but-for cause of the adverse employment actions alleged.

425. Dr. Phillips has suffered damages, including loss of income, emotional distress, pain, suffering, and reputational harm, as a result of Defendants' discriminatory actions.

426. There is no adequate remedy in state law for the religious discrimination to which Dr. Phillips was subjected except a direct claim under the North Carolina Constitution.

Count V – North Carolina Constitution, Fruits of Their Labor Clause

427. Plaintiff realleges and reasserts the allegations of paragraphs 1 through 365 of this Complaint.

428. The North Carolina Constitution provides that “all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are ... the enjoyment of the fruits of their own labor.” N.C. Const. art. I, § 1.

429. The Fruits of Their Labor Clause protects public employees from arbitrary and capricious interference with their employment.

430. Competent teachers have a right under the Fruits of Their Labor Clause to earn a living as teachers in the North Carolina public school and/or higher education system regardless of their political, ideological, or philosophical opinions or affiliations.

431. The Fruits of Their Labor Clause prohibits Defendants from making adverse employment decisions about teachers because they are politically, ideologically, and/or philosophically conservative.

432. The termination of Dr. Phillips’s employment was arbitrary and capricious in at least the following respects:

- a. Defendants failed to follow their own formal policies and/or regular procedures in investigating complaints about Dr. Phillips’s alleged actions and/or statements;
- b. Defendants failed to properly and thoroughly investigate any complaints about Dr. Phillips before terminating his employment;
- c. Defendants failed to give Dr. Phillips the opportunity to respond to any complaints about his alleged actions or statements before terminating his employment; and
- d. Defendants based their decision to terminate Dr. Phillips in whole or in part on his ideological opinions, which is an arbitrary and capricious basis for terminating a teacher’s employment;
- e. Defendants based their decision to terminate Dr. Phillips in whole or in part on his complaints about the lack of ideological /

viewpoint diversity, which is an arbitrary and capricious basis for terminating a teacher's employment.

433. Defendants' termination of Dr. Phillips's employment violated the Fruits of Their Labor Clause.

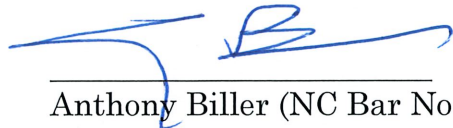
434. There is no adequate remedy in state law for the arbitrary and capricious actions to which Dr. Phillips was subjected except a direct claim under the North Carolina Constitution.

Prayer for Relief

WHEREFORE, Dr. Phillips respectfully requests that the Court:

- a. Order Defendants to reinstate Dr. Phillips to his position as Lead English Instructor and Area III Instructor at Governor's School West;
- b. Award Dr. Phillips back pay, front pay, compensatory damages, nominal damages, damages for pain, suffering, emotional distress, reputational harm, and such other damages to which he may be entitled;
- c. Enjoin Defendants from further violating Dr. Phillips's constitutional rights;
- d. Award Dr. Phillips his reasonable attorneys' fees and costs; and
- e. Award Dr. Phillips such other legal and equitable relief that the Court deems just and proper.

Respectfully submitted this 16th day of December, 2022.



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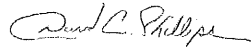
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Declaration Under Penalty of Perjury

I, David Phillips, a citizen of the United States and a resident of the State of North Carolina, hereby declare under penalty of perjury that I have read the foregoing and that the foregoing is true and correct to the best of my knowledge.

Executed this 15 day of December, 2022, at Greensboro, North Carolina.



David Phillips, Ph.D.