

PETITION FOR UNIVERSITY REVIEW AND CONSTITUTIONAL REMEDY

TO: Office of the Provost; Office of General Counsel; Office of Ethics and Compliance

FROM: David Wayne Blackman II, J.D. Candidate

DATE: January 28, 2026

RE: Structural Constitutional Infirmity of Mandatory REPL Curriculum, Viewpoint Discrimination, and Professional Prejudice

I. EXECUTIVE SUMMARY

This petition demands an immediate University-level audit of the *Race and the Equal Protection of the Law* (REPL) course and the concurrent administrative suppression of student speech. Evidence demonstrates that Penn State Dickinson Law has established a "**Closed Loop**" of state-enforced orthodoxy: The Dean broadcasts the ideology (Exhibit D), the Curriculum compels students to advocate for it (Exhibit C), and Administrators censor legal dissent (Exhibit F). This system violates the First Amendment, contradicts the *Student Handbook*, and creates substantial liability for the University.

II. FORMAL NOTICE OF WITHDRAWAL FOR CAUSE & STANDING

- **Immediate Withdrawal:** Effective immediately, I am withdrawing from the Spring 2026 component (0.5 credits) of the REPL course (LWREQ 930).
- **Statement of Standing:** This withdrawal is a direct result of the University's failure to provide a Constitutionally sound curriculum. This action constitutes a principled refusal to engage in **Compelled Speech**.
- **No Waiver of Rights:** My withdrawal establishes a concrete injury of **Constructive Exclusion** from a mandatory program based on the exercise of First Amendment rights. Furthermore, under *Uzuegbunam v. Preczewski* (2021), this withdrawal does not moot my standing to seek redress for the **past constitutional injury** suffered during the Fall 2025 semester. (Exhibit C)

III. REGULATORY INFIDELITY: THE TRIPLE-REDUNDANCY

The Law School's enforcement of REPL as a 1L requirement is an arbitrary administrative act that exceeds ABA requirements and explicitly contradicts University governance documents. Under the legal principle established in cases such as **Kashmiri v. Regents of the University of California (2005)**, the University's Student Handbook and Course Catalog create a binding implied contract. The University cannot unilaterally alter material terms of enrollment, specifically the 'Upper-Level' designation of this requirement, after I have matriculated and relied upon those terms.

- **Orientation Completion (Exhibit A):** The "at the start" requirement of **ABA Standard 303(c)** was satisfied on **August 19, 2025**, via required orientation modules including "Being Inclusive & Professional Amid Differing Viewpoints".
- **Handbook Redundancy (Exhibit B):** The *Unified Student Academic Handbook* (Page 15, Section 1.c.iv) explicitly lists the course satisfying **ABA Standard 303(c)** as an **Upper-Level Required Course**, separate from the 1L curriculum.
- **Arbitrary Burden: Pretextual Enforcement & Chronological Impossibility:**
 - **Evidence of Pretext & Ideological Origin (Exhibit G):** The Administration's claim that this mandate is a neutral compliance requirement for ABA Standard 303(c) is contradicted by its own public admissions. As detailed in **Exhibit G** (University News Release, Nov 2024), the Law School explicitly states that the REPL course "**began in fall 2020**"—nearly two years before the ABA adopted Standard 303(c)—specifically in response to "**the murder of George Floyd**" and a faculty resolution to adopt an "**antiracist approach**."
 - A policy created in 2020 for ideological purposes cannot be a necessary response to a 2022 regulation. Exhibit G further confirms the course's intent is to "**cultivate antiracist lawyers**" and "transform" students' worldviews, rather than teach neutral legal competency. By retroactively applying a federal compliance label to a pre-existing political mandate, the Administration is engaging in regulatory pretext to enforce an unconstitutional condition.

IV. FIRST AMENDMENT AND UNIVERSITY POLICY VIOLATIONS: VIEWPOINT DISCRIMINATION

The evidence establishes a pattern of **Disparate Treatment, Viewpoint Discrimination, and Administrative Overreach:**

1. **The "Opened Door" (Exhibit D):** On January 26, 2026, Dean Conway utilized the school-wide listserv to broadcast a message regarding specific social and legal controversies (e.g., DHS/ICE operations), explicitly inviting students to "join me in this daily endeavor" of constitutional defense. Under *Rosenberger v. Rector* (1995), once the

State uses a forum to initiate a political discussion, it cannot suppress opposing viewpoints on that same subject.

2. **Administrative Prior Restraint (Exhibit F):** On January 27, 2026, my respectful legal rebuttal citing *Graham v. Connor* (directly addressing the constitutional topics raised by the Dean) was "**rejected by a moderator**" within 28 minutes.
 - **Targeted Audience Suppression:** The rejection notification explicitly lists "**PSDL Students**" as the blocked recipient group, while the message was permitted to be delivered to Faculty and Administrators. This "line-item veto" proves the censorship was not based on neutral content rules (e.g., "improper formatting" or "spam"), which would have triggered a universal rejection.
 - **Paternalistic Intent:** By allowing the faculty to read the dissent but blocking the Student Body, the Administration engaged in **Paternalistic Suppression**—an unconstitutional attempt to "insulate" students from viewpoints the State deems "harmful," while acknowledging those same viewpoints are legitimate enough for faculty consumption.
 - **Administrator vs. Faculty:** The rejection was issued by **Kalene Faircloth, M.Ed.** (Senior Associate Director), confirming this was **Administrative Censorship** by a State Actor, not an exercise of academic freedom.
 - **Arbitrary Suppression:** The "Moderator comments" field was left blank.
3. **Compelled Advocacy & Ideological Prerequisite (Exhibits C & C-1):**
 - Concurrently, the REPL course mandates that students "influence and advocate for change," effectively codifying the Dean's viewpoint into a graded requirement. Furthermore, the mandatory *Systems Design* instruction slides (Exhibit C-1) explicitly define the "First Element" of the course's methodology as a requirement to "**Acknowledge the reality of systemic racism, subordination, and oppression.**"
 - By conditioning the assignment on the student's "acknowledgment" of a contested political theory as "reality," the Administration has created an unconstitutional **loyalty oath**. Under *West Virginia v. Barnette* (1943) and *Henderson v. School District of Springfield* (2024), the state cannot condition a benefit (a grade) on the affirmation of a specific ideological belief (systemic racism) or compel students to pledge allegiance to a specific political agenda.
4. **Admitted Ideological Orthodoxy (Exhibit G):**
 - The Constitutional violation is further confirmed by the University's own public admissions regarding the course's purpose. In **Exhibit G**, the Administration explicitly states that the REPL course aims to "**transform how students see their place and role**" and is designed to "**cultivate antiracist lawyers**" rather than neutrally competent practitioners.
 - By defining the educational objective as the "cultivation" of a specific political identity ("antiracist") and the "transformation" of the student's personal worldview, the Administration violates the core holding of *West Virginia v. Barnette*: that the State has no power to "prescribe what shall be orthodox" in

matters of opinion. The University has admitted that this course is not a neutral study of the law, but a state-sponsored engine for ideological conversion.

5. **Violation of Policy AD56:** The Administration is engaging in **Selective Enforcement of Penn State Policy AD56** ("Use of Group Communication Tools"). The policy is being used to protect the Dean's political broadcasting (Exhibit D) while simultaneously being used to silence germane student legal analysis (Exhibit E).
6. **Possible Violation of Policy AD92:** "Dean Conway's Email (Exhibit D) adopts a specific, contested political stance regarding active federal law enforcement operations. By prematurely assigning blame to federal agents before any official investigation has concluded, the Dean has utilized University resources to endorse a private political viewpoint, violating the principle of institutional neutrality required by Policy AD92."

V. THE DISCLOSURE AND TRANSPARENCY CLAUSE

To cure the "Viewpoint Monopoly" and the "Closed Loop" of secrecy, the University must implement the following:

- **Public Acknowledgment:** The University must issue a formal notification to the student body acknowledging the listserv censorship event of January 27, 2026.
- **Whistleblower "Safe Harbor" Assurance:** The *Student Academic Handbook* and **Policy AD40** explicitly forbid the "unauthorized recording, distribution, or use" of course materials.
 - **The Conflict:** The Administration utilizes this policy to insulate unconstitutional curricula from public and legal scrutiny. By defining the sharing of assignment prompts (such as Exhibit C) as a violation, the University effectively issues a standing "Gag Order" on student whistleblowers.
 - **The Demand:** I formally request written assurance that **no Honor Code or disciplinary sanctions** will be initiated against any student for sharing course materials with University oversight bodies, legal counsel, or the Department of Education for the purpose of reporting Constitutional violations.
- **Policy Audit Disclosure:** The findings of the Provost's audit regarding the **Handbook redundancy** must be made available to the student body to ensure informed enrollment decisions.
- **Notice of Intent:** Should the University fail to provide formal notification to the student body—including acknowledgment of the listserv suppression—within the timeframe provided, I reserve the right to disseminate this report and all evidence through external channels including outdoor tabling in accordance with **Penn State Policy AD51**.

VI. REQUESTED ADMINISTRATIVE ACTIONS & EXPEDITED TRIGGERS

COPY B (PETITIONER)

I formally request the following actions to remedy the structural and constitutional infirmities identified:

1. **Immediate Conversion to Elective:** The University must immediately suspend the mandatory status of LWREQ 930 for the Spring 2026 semester, converting it to an elective consistent with the *Student Handbook* (Page 15).
2. **Universal Opt-Out & Financial Remedy:** The University must offer **all** 1L students the immediate option to withdraw from the Spring 2026 component of the course without penalty.
 - **Prorated Refund:** Students who elect to withdraw must be issued a **prorated tuition refund** for the 0.5 credit hour, as charging tuition for a redundant mandate constitutes **Unjust Enrichment**.
3. **Issuance of Formal Non-Sanction Assurance:** I request a written letter from the Office of the Provost by **February 4, 2026**, confirming that no institutional, academic, or professional sanctions will be initiated against me due to my withdrawal for cause.
4. **Preservation of Records:** A formal directive to the Law School to preserve **ALL** electronic records, including email logs and moderator comments, regarding any and all rejected responses to Dean Conway's January 26th message, as well as **ALL** course materials for the REPL class, including communications from all staff regarding the fundamental course curriculum, from the 2020-2021 school year until now.
5. **Cure of Injury:** That the University distributes my originally rejected email to the listserv to restore viewpoint neutrality.
 - *Condition:* The email must include a neutral header stating: *"The following response was originally submitted on January 27, 2026, but was not distributed at that time. It is being shared now to ensure viewpoint diversity."*
6. **ACCELERATED TERMINATION OF REVIEW PERIOD:** The 45-day review period shall be **immediately terminated for cause** should any of the following occur:
 - **The REPL course meets on February 27, 2026**, while still under a mandatory status.
 - **My withdrawal is rejected or delayed past seven (7) calendar days** from receipt.
 - **I am administratively sanctioned** due to my withdrawal.

EXHIBIT LIST

- **Exhibit A: JD Fall 2025 Orientation Schedule.** Proves the "at the start" ABA requirement was met on Aug 19, 2025, rendering the 1L course redundant.
- **Exhibit B: Handbook Page 15 (Excerpt).** Section 1(c)(iv) confirms that the course satisfying ABA Standard 303(c) is an **Upper-Level Required Course**, creating a contractual conflict with the 1L mandate.
- **Exhibit C: Fall 2025 Assignment Prompt.** Explicitly states the requirement to **"influence and advocate for change,"** constituting Compelled Speech under *Barnette*.
 - **Exhibit C-1: Intro to Systems Design Slides (Page 3).** Explicitly mandates that students must **"Acknowledge the reality of systemic racism"** as the foundational "Element One" of the course. This proves the course requires a confession of belief, violating the prohibition on prescriptive orthodoxy.
- **Exhibit D: Dean Conway's School-Wide Email (Jan 26, 2026).** Proves the Administration initiated the political discussion, establishing the "nexus" for the student's rebuttal and proving disparate treatment.
- **Exhibit E: Response Email from David Blackman (Jan 27, 2026).** A response to the forum discussion created by Dean Conway's Email, and protected speech under *Rosenberger*, which overrides and makes moot Penn State Policy AD56 due to the senior administrator for the law school opening the door.
- **Exhibit F: Listserv Rejection Log.** Confirms the student rebuttal was **"rejected by a moderator"** (Kalene Faircloth, Senior Associate Director). The absence of moderator comments indicates Arbitrary Prior Restraint. Note: This rejection was manual, and done approximately 26 minutes after submission, proving it was not an automatic filter or email policy.
- **Exhibit G: University News Release (Nov 14, 2024).** Explicitly admits the REPL course was established in **Fall 2020** in response to political events, unrelated to ABA Standard 303(c). Confirms the course goal is to "cultivate antiracist lawyers" rather than satisfy neutral accreditation standards.

SWORN STATEMENT

I, David Wayne Blackman II, hereby verify that the facts set forth in this Petition are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of the Penn State Dickinson Law Honor Code and applicable University policies regarding student conduct.

SIGNATURE: _____

DATE: _____

COPY B (PETITIONER)

PROOF OF SERVICE / ADMINISTRATIVE RECEIPT

TO: Office of the Provost / Office of General Counsel / Office of Ethics and Compliance

DATE OF SERVICE: January 28, 2026

The undersigned office hereby acknowledges receipt of the **Petition for University Review and Constitutional Remedy**, the **Formal Notice of Withdrawal for Cause**, and **Exhibits A-G**.

Receipt Acknowledgment:

Received By (Name/Title): _____

Signature: _____

Date and Time: _____