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*Application for admission forthcoming

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

Julea Ward,
Plaintiff,

vs.

The Members of the Board of Control of
Eastern Michigan University—**Roy Wilbanks,**
Floyd Clack, Gary D. Hawks, Philip A.
Incarnati, Mohamed Okdie, Francine

Case No.
Judge

**VERIFIED COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF AND DAMAGES**

DEMAND FOR JURY TRIAL

Parker, Thomas W. Sidlik, and James F. Stapleton—all in their individual and official capacities; **Dr. Susan Martin**, in her individual and official capacities as President of Eastern Michigan University; **Dr. Vernon Polite**, in his individual and official capacities as Dean of the College of Education at Eastern Michigan University; **Dr. Irene Ametrano**, in her individual and official capacities as Professor of Counseling at Eastern Michigan University; **Dr. Perry Francis**, in his individual and official capacities as Associate Professor of Counseling at Eastern Michigan University; **Dr. Gary Marx**, in his individual and official capacities as Assistant Professor of Educational Leadership at Eastern Michigan University; **Paula Stanifer**, in her individual and official capacities as Student Member of the Formal Review Committee; **Dr. Yvonne Callaway**, in her individual and official capacities as Professor of Counseling at Eastern Michigan University; **Dr. Suzanne Dugger**, in her individual and official capacities as Professor of Counseling at Eastern Michigan University,
Defendants.

Comes now Plaintiff, by and through counsel, and avers the following:

I. INTRODUCTION

1. This is a civil rights action seeking injunctive (preliminary and permanent), declaratory, and monetary relief, including attorney's fees and costs, to vindicate and safeguard the fundamental constitutional rights of Plaintiff Julea Ward under the First and Fourteenth Amendments of the United States Constitution.

2. Ms. Ward enrolled in Eastern Michigan University's ("EMU") graduate School Counseling Program in May 2006 to obtain the necessary education to be a licensed counselor in Michigan. She has worked diligently over the past two-plus years to complete the requirements

of the degree, while at the same time being employed as a full time teacher at a public school. She currently has a 3.91 GPA.

3. Despite being near the end of her degree program—Ms. Ward has only four requirements to fulfill to satisfy the requirements of graduation—Defendants dismissed Ms. Ward from their Graduate School Counseling Program solely because her religious beliefs and expression regarding homosexual behavior contradicted the views of the EMU counseling department. Ms. Ward is a Christian who derives her fundamental beliefs and moral values from the Bible. Based on Biblical teachings, Ms. Ward believes that God ordained sexual relationships between men and women, not between persons of the same sex. As such, Ms. Ward believes that homosexual conduct is immoral sexual behavior. Ms. Ward also believes, based on her sincere religious beliefs, that individuals are capable of refraining from engaging in homosexual conduct.

4. The EMU counseling department requires students to affirm or validate homosexual conduct (specifically, homosexual sex) within the context of a counseling relationship, and prohibits students from advising clients that they can refrain from homosexual conduct.

5. Ms. Ward's and EMU's contrary views came to a head when Ms. Ward enrolled for the Counseling Practicum course in January 2009. During Practicum, counseling students, like Ms. Ward, counsel clients under the supervision of EMU faculty. The third client assigned to Ms. Ward was seeking counseling regarding a homosexual relationship. Because EMU's requirement that Ms. Ward affirm and validate this client's homosexual conduct would require Ms. Ward to violate her religious beliefs and express a viewpoint that she disagreed with, Ms. Ward called Defendant Callaway, her supervisor, and asked whether she should see the client

and refer if necessary, or refer the client to a different counselor prior to the initial appointment.

Defendant Callaway advised Ms. Ward to have the client referred to a different counselor.

6. Shortly thereafter, Defendant Callaway initiated disciplinary proceedings against Ms. Ward. At an informal review meeting—the first stage of the disciplinary process—Defendant Callaway and Defendant Dugger told Ms. Ward that the only way she could stay in the program is if she agreed to undergo a “remediation” program in which she would “see the error of her ways” and change her “belief system” as it relates to counseling about homosexual conduct to be consistent with EMU’s views on that matter. If Ms. Ward did not agree to undergo such reprogramming of her beliefs, her “options” were to voluntarily leave the program or ask for a formal review hearing that would likely result in her expulsion from the program. Ms. Ward was unwilling to change her fundamental religious beliefs and views regarding homosexual behavior, or to violate those beliefs by affirming and validating homosexual conduct within a counseling relationship, and so requested a formal review hearing. The formal review committee dismissed Ms. Ward from the program on March 12, 2009. Ms. Ward appealed this decision to Defendant Polite, Dean of the College of Education, who upheld the dismissal on March 26, 2009.

7. Ms. Ward was taught during courses she took from EMU’s counseling department that referring clients is an accepted practice within the counseling profession, including, but not limited to, those circumstances where there is a clash between a counselor’s values and a client’s values/goals. In fact, Defendant Ametrano, who chaired the formal review committee that ousted Ms. Ward from the program, assigned a book in a course Ms. Ward was required to take that stated that referrals are appropriate where value conflicts arise. This book expressly states that referrals may be appropriate where a counselor who has strong convictions that homosexual

behavior is immoral is asked by a client to provide assistance with his or her homosexual behavior/relationship.

8. Although Defendant Callaway advised Ms. Ward to refer the client seeking advice regarding his homosexual behavior and relationship to a different counselor, Defendants then punished Ms. Ward, by dismissing her from the program, for expressing her religious beliefs and view that homosexual conduct is immoral (even though those beliefs were never expressed to the client in question), being unwilling to change her beliefs and views, and being unwilling to violate her beliefs by affirming homosexual conduct within the context of a counseling relationship.

9. Defendants' actions described above, and below, violate Ms. Ward's constitutional rights to free speech, free exercise of religion, freedom from retaliation for exercising First Amendment rights, equal protection of the laws, due process, and freedom from establishment of religion.

10. Ms. Ward is suffering immediate and irreparable harm as a result of her dismissal from EMU's School Counseling Program. Her dismissal results in a loss of time and experience as a counselor, in that she is now delayed in obtaining her counseling degree and entering the profession. Ms. Ward was on track to graduate in May 2010, but that is impossible now in light of Defendants' dismissal of her from the program. Whether this court orders that she be reinstated at EMU, or Ms. Ward transfers to another school, Ms. Ward has and continues to lose invaluable time and experience as a counselor. These injuries are not capable of being remedied through monetary damages, and thus constitute irreparable harm. In addition, Ms. Ward's First Amendment rights to express her religious views in the marketplace of ideas on campus and to receive information as part of her educational program are being violated every day that EMU's

unlawful dismissal is in force. Accordingly, in addition to seeking a permanent injunction, declaratory relief, and damages, Ms. Ward also seeks a preliminary injunction requiring the Defendants to immediately reinstate her in the School Counseling Program.

II. JURISDICTION AND VENUE

11. This action arises under the United States Constitution, particularly the First and Fourteenth Amendments; and under federal law, particularly 28 U.S.C. § 2201, 42 U.S.C. §§ 1983 and 1988.

12. This Court is vested with original jurisdiction over these federal claims by operation of 28 U.S.C. §§ 1331 and 1343.

13. This Court is vested with authority to grant the requested declaratory judgment by operation of 28 U.S.C. §§ 2201 and 2202, and pursuant to Rule 57 of the Federal Rules of Civil Procedure.

14. This Court is authorized to issue the requested injunctive relief pursuant to 42 U.S.C. §1983 and Rule 65 of the Federal Rules of Civil Procedure.

15. This Court is authorized to award the requested damages pursuant to 28 U.S.C. § 1343.

16. This Court is authorized to award the requested attorney's fees and costs pursuant to 42 U.S.C. § 1988.

17. Venue is proper in the United States District Court for the Eastern District of Michigan under 28 U.S.C. § 1391(b), in that the events giving rise to the claim occurred within the district.

III. IDENTIFICATION OF PLAINTIFF

18. Julea Ward was a student in EMU's School Counseling Program until she was dismissed from that program on March 12, 2009. Ms. Ward is a Christian who derives her beliefs and

moral values from the Bible. Based on her sincerely held religious beliefs, Ms. Ward believes that homosexual behavior is immoral sexual conduct, and cannot affirm or validate that behavior, or otherwise use her counseling skills and abilities to encourage or facilitate homosexual behavior, without violating her sincere religious beliefs.

IV. IDENTIFICATION OF DEFENDANTS

19. Defendants Roy Wilbanks, Floyd Clack, Gary D. Hawks, Philip A. Incarnati, Mohamed Okdie, Francine Parker, Thomas W. Sidlik, and James F. Stapleton are members of the Board of Control of Eastern Michigan University, a public university organized and existing under the laws of Michigan, and are responsible for the Board of Control's administration and policy-making, including the policies and procedures challenged herein that were applied in dismissing Ms. Ward from EMU's School Counseling Program. Each of these Defendants acquiesces in, sanctions, and supports the actions of Defendants Polite, Ametrano, Francis, Marx, Stanifer, Callaway, and Dugger in enforcing these policies against Ms. Ward and dismissing Ms. Ward from the School Counseling Program. Each of these Defendants are sued both in their individual and official capacities.

20. Defendant Dr. Susan Martin is, and was at all times relevant to this Complaint, the President of Eastern Michigan University, a public university organized and existing under the laws of the State of Michigan, and is responsible for enactment and enforcement of EMU policies, including the policies and procedures challenged herein that were applied in dismissing Ms. Ward from EMU's School Counseling Program. Dr. Martin is sued both in her individual and official capacities.

21. Defendant Dr. Vernon Polite is, and was at all times relevant to this Complaint, Dean of the College of Education at Eastern Michigan University, and is responsible for overseeing and enforcing the policies and procedures challenged herein that were applied in dismissing Ms. Ward from EMU's School Counseling Program, and is responsible for dismissing Ms. Ward pursuant to these policies. Dr. Polite is sued both in his official and individual capacities.

22. Dr. Irene Ametrano is, and was at all times relevant to this Complaint, Professor of Counseling at Eastern Michigan University. Dr. Ametrano chaired the formal review committee responsible for enforcing the policies challenged herein against Ms. Ward, and is responsible for dismissing Ms. Ward pursuant to these policies. Dr. Ametrano is sued both in her official and individual capacities.

23. Dr. Perry Francis is, and was at all times relevant to this Complaint, Associate Professor of Counseling at Eastern Michigan University. Dr. Francis was a member of the formal review committee that enforced the policies challenged herein against Ms. Ward, and is responsible for dismissing Ms. Ward pursuant to these policies. Dr. Francis is sued both in his individual and official capacities.

24. Dr. Gary Marx is, and was at all times relevant to this Complaint, Assistant Professor of Educational Leadership at Eastern Michigan University. Dr. Marx was a member of the formal review committee that enforced the policies challenged herein against Ms. Ward, and is responsible for dismissing Ms. Ward pursuant to these policies. Dr. Marx is sued both in his individual and official capacities.

25. Paula Stanifer is, and was at all times relevant to this Complaint, a student in EMU's counseling program. Ms. Stanifer was a member of the formal review committee that enforced

the policies challenged herein against Ms. Ward, and is responsible for dismissing Ms. Ward pursuant to these policies. Ms. Stanifer is sued both in her individual and official capacities.

26. Dr. Yvonne Callaway is, and was at all times relevant to this Complaint, Professor of Counseling at Eastern Michigan University. Dr. Callaway is responsible for ensuring student compliance with the policies challenged herein, and for enforcing these policies against Ms. Ward by initiating the EMU counseling department's student disciplinary process against Ms. Ward. Dr. Callaway is sued both in her individual and official capacities.

27. Dr. Suzanne Dugger is, and was at all times relevant to this Complaint, Professor of Counseling at Eastern Michigan University. Dr. Dugger is responsible for ensuring student compliance with the policies challenged herein, and for enforcing these policies against Ms. Ward at her informal review meeting and by recommending to the formal review committee that Ms. Ward be dismissed from the School Counseling Program. Dr. Dugger is sued both in her individual and official capacities.

V. STATEMENT OF FACTS

Eastern Michigan University's Policies and Practices

28. EMU's Handbook for counseling students states that counseling students must comply with all EMU policies. (Ex. 1 at 3.) A true and accurate copy of excerpts from the counseling student handbook, entitled Finding Your Way: The Counseling Student Handbook, is attached as Exhibit 1.

29. The Handbook states that these EMU policies include, among other things, the University Student Conduct Code and the American Counseling Association Code of Ethics and Standards of Practice (2005). (Ex. 1 at 3.)

30. According to the Handbook, counseling students can be disciplined if they violate any of EMU's policies, including the ACA Code of Ethics. (*Id.*)

31. The first level of discipline for a student who may be in violation of EMU policy is an informal review meeting. (*Id.* at 5.)

32. The purpose of this meeting is for EMU officials to make their concerns known to the student, and to help the student fix their problem through a remediation program or explore the option of the student leaving the program. (*Id.*)

33. The next level of discipline is a formal review hearing. (*Id.*)

34. The formal review hearing takes place before a formal review committee, consisting of three EMU professors and one student member. (*Id.*)

35. At a formal review hearing, the following takes place: the individual who raised concerns regarding the student summarizes those concerns for the committee; the student may speak on his or her behalf; evidence may be submitted; and the committee members may ask questions of the student, of the individual raising concerns with the student, and of any witnesses. (*Id.* at 6.)

36. Within five calendar days of the formal review hearing, the Chair of the formal review committee must notify the student of its decision. (*Id.*)

37. The actions the committee may take include but are not limited to: requiring that a course be satisfactorily completed; placing a student on a behavioral contract which imposes conditions that must be met for the student to remain in the program; suspending a student for a specified or unspecified amount of time with or without specific conditions that must be met for the student to be reinstated in the program; or permanently dismissing the student from the program. (*Id.*)

38. The decision of the formal review committee may be appealed to the Dean of the College of Education within ten days of the date that the committee's notification is sent to the student. (*Id.*)

39. The decision of the Dean is final. (*Id.*)

40. The EMU policies at issue in this matter include ACA Code 4.A.b., which states: "Counselors are aware of their own values, attitudes, beliefs, and behaviors and avoid imposing values that are inconsistent with counseling goals." (*Id.* at 13.)

41. Also at issue is ACA Code C.5., which states: "Counselors do not condone or engage in discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law." (*Id.* at 17.)

42. Also at issue is a policy that states EMU's counseling department may discipline a student who demonstrates an "[f]ailure to tolerate different points of view." (Ex. 2 at 18.) Ms. Ward was charged with violating this policy in a letter from Defendant Dugger notifying Ms. Ward of the date of her formal review hearing and the nature of the charges against her. A true and accurate copy of this letter is attached as Exhibit 2.

43. The point of view Defendants charge Ms. Ward with not "tolerating" is the EMU counseling department's requirement that its students express support for homosexual behavior, which is directly contrary to Ms. Ward's Christian point of view regarding the same subject.

44. Also at issue is a policy that states EMU's counseling department may discipline a student for "[u]nethical, threatening or unprofessional conduct." (Ex. 2 at 18.)

45. Defendants applied each of these policies to Ms. Ward in dismissing her from the School Counseling Program because her religious beliefs and expression regarding homosexual behavior are contrary to EMU's views regarding the same matter, and because she is unwilling to change her beliefs and views to those of the Defendants.

Eastern Michigan University's View That Homosexual Behavior Must Be Affirmed

46. The topic of counseling clients regarding their homosexual behavior and relationship was discussed in several classes Ms. Ward took as part of her counseling degree.

47. During these class discussions, EMU counseling faculty, with no exception, stated that in such circumstances a student is expected to affirm or validate the client's homosexual behavior.

48. At the same time, EMU counseling faculty stated that students were prohibited from counseling such clients that they could change their homosexual behavior (for example, by refraining from engaging in homosexual sex).

49. When these classroom discussions occurred, Ms. Ward often respectfully expressed her religious beliefs that homosexual behavior is immoral and that a person can change their homosexual behavior.

50. In response to expressing her religious beliefs in class, EMU faculty typically stated that Ms. Ward must conform to the counseling department's affirming viewpoint regarding homosexual behavior, and that her religious beliefs and views were not compatible with EMU's counseling department.

51. During a discussion on this topic that occurred in Defendant Callaway's multiculturalism class, Defendant Callaway stated that she would do everything within her power to weed

students out of EMU's counseling program who did not share the counseling department's views regarding counseling clients about homosexual behavior.

52. Defendant Callaway was Ms. Ward's supervising professor during Practicum and is responsible for initiating the disciplinary process that resulted in Ms. Ward's dismissal from the counseling program.

53. The classroom discussions outlined above occurred prior to Ms. Ward enrolling in the Practicum course in January 2009.

Events Leading Up To Enforcement of EMU's Policies Against Ms. Ward

54. Practicum provides counseling students an opportunity to get firsthand experience counseling clients, under the supervision of an EMU counseling professor.

55. Practicum students must compose a professional disclosure statement to provide to their clients.

56. Ms. Ward asked Defendant Callaway if she should put the fact that she is a Christian in her disclosure statement.

57. Defendant Callaway stated that Ms. Ward should not do so, and Ms. Ward complied.

58. A conversation then ensued between Defendant Callaway and Ms. Ward regarding Ms. Ward's religious beliefs and views about homosexual behavior, the conflict between her views on that issue and the views of EMU's counseling department, and the fact that Ms. Ward could not affirm homosexual behavior in a counseling relationship, as the EMU counseling department requires her to do, without violating her religious beliefs.

59. Dr. Callaway accused Ms. Ward of being a “homophobe,” and told her that some Christians do not agree with Ms. Ward and would be willing to affirm homosexual behavior in a counseling relationship.

60. Ms. Ward responded that she has no problem counseling homosexual persons on any issue that would not require her to affirm or validate their homosexual behavior or relationship.

61. Ms. Ward also stated that being required to affirm or validate homosexual behavior would require her to violate her religious beliefs and that she would not sell out God.

62. Defendant Callaway laughed at Ms. Ward’s comment regarding her commitment to God.

63. The students in Practicum see clients who come to EMU’s Counseling Clinic seeking services.

64. The Counseling Clinic offers mental health services to the general public for a small fee, and to members of the EMU community free of charge.

65. Approximately 15-18 counseling students were enrolled in three different sections of Practicum in January 2009, including Ms. Ward.

66. Each student participating in Practicum handles 5-8 clients at one time, and typically sees only these same clients during the Practicum semester, unless a client ends the relationship early.

67. A student enrolled in Practicum must complete 100 practicum hours; these hours are typically completed within one semester.

68. During one semester, at least one hundred clients seek counseling services at the Counseling Clinic.

69. A very small percentage of the individuals who come to the Counseling Clinic are seeking counseling regarding their homosexual behavior or relationship.

70. Nonetheless, the third client assigned to Ms. Ward was seeking counseling regarding a homosexual relationship.

71. A few hours prior to her first meeting with the client, Ms. Ward reviewed the client's file and noted that he was seeking counsel regarding his homosexual behavior and relationship, that he had been to the clinic previously seeking counsel on the same issues, and that the previous student counselor had affirmed the client's homosexual behavior and relationship.

72. Ms. Ward could not provide the same counsel because affirming the client's homosexual behavior and relationship would require her to violate her religious beliefs and views.

73. As a result, Ms. Ward contacted Defendant Callaway and asked her whether she should meet the client and refer him if it became necessary, or just cancel the appointment.

74. Defendant Callaway advised Ms. Ward to have the clinic secretary assign the client to a different counselor before her first meeting with him.

75. Defendant Callaway would not have advised Ms. Ward to have the client reassigned prior to her initial meeting with him if doing so would have harmed the client.

Eastern Michigan University's Enforcement of Its Policies Against Ms. Ward

76. At Ms. Ward's next scheduled meeting with Defendant Callaway as part of Practicum, Ms. Ward and Defendant Callaway again discussed Ms. Ward's religious beliefs regarding homosexual behavior.

77. Defendant Callaway stated that Ms. Ward's beliefs went against her values and were contrary to the counseling department's views regarding homosexual behavior.

78. Defendant Callaway also told Ms. Ward that that she would not be assigned any more clients as part of Practicum, and that Defendant Callaway would be requesting an informal review meeting with Ms. Ward and her Advisor, Defendant Dugger.

79. The informal review meeting was held on February 3, 2009. Defendants Callaway and Dugger and Ms. Ward attended the meeting.

80. At the meeting, Defendants Callaway and Dugger told Ms. Ward that her religious views regarding homosexual behavior were contrary to the counseling department's views regarding the same subject.

81. Defendants Callaway and Dugger gave Ms. Ward three options.

82. The first option was for Ms. Ward to submit to a "remediation" program.

83. Defendants told Ms. Ward that the purpose of the "remediation" program was to make her see the "error of her ways," and for her to change her views so that they were consistent with the counseling department's affirming point of view regarding homosexual behavior.

84. At Ms. Ward's formal review hearing, Defendant Dugger explained the "remediation" program offered to Ms. Ward in this way: "The development of a remediation plan of course would . . . be contingent on Ms. Ward's recognition that she needed to make some changes. And . . . she . . . expressed just the opposite. [She] . . . communicated an attempt to maintain this belief system and those behaviors." (Ex. 3 at 29.) A true and accurate copy of the transcript of the formal review hearing is attached as Exhibit 3.

85. Because Ms. Ward was unwilling to change her religious beliefs and views to be consistent with those of the EMU counseling department, she declined the "remediation" program.

86. Defendants offered Ms. Ward two other options: voluntarily remove herself from the program or request a formal review hearing.

87. Ms. Ward did not wish to voluntarily remove herself from the program.

88. Defendant Dugger also told Ms. Ward that if she removed herself from the program that she may be able to use her already completed coursework to obtain a master's degree in interdisciplinary studies.

89. Unwilling to compromise her religious beliefs and to concede to the Defendants' violation of her rights, Ms. Ward rejected this proposal as well.

90. Accordingly, Ms. Ward elected not to voluntarily remove herself from the program and requested a formal review hearing, via an email to Defendant Dugger, on February 9, 2009.

91. Ms. Ward attached a letter to the February 9 email to Dr. Dugger setting out her religious beliefs and views and clarifying some of the facts pertaining to the situation. A true and accurate copy of the email and attached letter Ms. Ward sent to Ms. Dugger requesting the formal review hearing is attached as Exhibit 4.

92. The formal review hearing occurred on March 10, 2009.

93. The formal review committee consisted of Defendants Ametrano (Chair), Defendant Francis, Defendant Marx, and Defendant Stanifer.

94. At the formal review hearing, Defendant Callaway denigrated Ms. Ward's Christian beliefs and views by stating that she advised Ms. Ward not to disclose that she was a Christian in her disclosure statement because "[e]ven clients that are Christian may in fact feel that they're going to be judged more w[hen] that title is given," and because doing so would "[j]eopardize the client's sense of safety and comfort." (Ex. 3 at 27-28.)

95. EMU faculty also asked Ms. Ward several inappropriate and intrusive questions about her religious beliefs and views at the formal review hearing.

96. Defendant Dugger asked Ms. Ward if she viewed her “brand of Christianity as superior” to Defendant Francis’ brand of Christianity because Ms. Ward and Dr. Francis observed Christianity differently. (*Id.* at 49.)

97. Defendant Dugger later withdrew this question.

98. Even though Defendant Dugger withdrew this question, Defendant Francis immediately followed up her question by stating he was going to take Ms. Ward on a “theological bout.” (*Id.*)

99. Defendant Francis then asked Ms. Ward: “[I]s anyone more righteous than another before God?” (*Id.* at 50.)

100. When Ms. Ward answered “God says that we’re all the same,” Defendant Francis followed up by asking: “Then doesn’t that mean that you’re all on the same boat and shouldn’t [clients seeking counsel regarding their homosexual behavior] be accorded the same respect and honor that God would give them?” (*Id.* at 50.)

101. Ms. Ward answered that she is not discriminating against a person based on their sexual orientation when she refuses to counsel them based on their homosexual behavior.

102. If Ms. Ward adhered to a form of Christianity or another religion that comported with the EMU counseling department’s view that homosexual behavior must be affirmed, Defendants would not have dismissed her from the program.

103. Two days after the formal review hearing, Defendant Ametrano sent notification to Ms. Ward that the committee had unanimously decided to dismiss her from the program. A true and accurate copy of the dismissal letter is attached as Exhibit 5.

104. The dismissal letter stated that Ms. Ward had violated two provisions of EMU policy.

105. Specifically, the letter stated: “[Y]ou have violated the ACA Codes of Ethics including, ‘Counselors . . . avoid imposing values that are inconsistent with counseling goals’ (A.4.b.) and ‘Counselors do not condone or engage in discrimination based on age, culture . . . sexual orientation . . .’ (C.5.).” (Ex. 5 at 67.)

106. Ms. Ward appealed her dismissal from the School Counseling Program to Defendant Polite, in writing, within the ten days allotted by EMU policy. A true and accurate copy of Ms. Ward’s appeal letter is attached as Exhibit 6.

107. Defendant Polite upheld Ms. Ward’s dismissal in a letter dated March 26, 2009. A true and accurate copy of Defendant Polite’s letter is attached as Exhibit 7.

The “Imposing Values” Charge

108. Defendant Ametrano, Chair of the formal review committee that dismissed Ms. Ward from the program, assigned a book as required reading in a required course Ms. Ward took from Defendant Ametrano, which states that “[i]t is now generally recognized that the therapeutic endeavor is a value-laden process and that all counselors, to some degree, communicate their values to clients,” and that “the assumption that counseling is value-neutral is no longer tenable.” (Ex. 8 at 73.) A true and accurate copy of excerpts from this book, *Becoming a Helper* by Marianne Schneider Corey and Gerald Corey and published in 2007, is attached as Exhibit 8.

109. This book also explains that “because the values [counselors] hold cannot be kept out of their work, they should not refuse to discuss their core values.” (*Id.*)

110. Regarding values, the book further states: “In our view it is neither possible nor desirable for helpers to remain neutral or to keep their values separate from their professional

relationships. Because values have a significant impact on the helping process, it is important to express them openly when doing so is appropriate.” (*Id.* at 73.)

111. As taught by the EMU counseling department in required courses, the counseling profession understands that personal values impact a counselor’s practice, and that exposing a client to your values can be an appropriate course of action in a counseling relationship.

112. However, with clients seeking advice regarding their homosexual behavior or relationship, the only value EMU allows a counseling student to promote is one that affirms or validates the person’s homosexual behavior or relationship.

113. In Defendant Callaway’s multiculturalism class, counseling students are expressly taught that when you enter into a counseling relationship that involves a person seeking counsel about homosexual behavior, you should affirm and validate that behavior.

114. In addition, EMU counseling faculty told Ms. Ward in class and at the formal review hearing that she is prohibited from trying to help a client change their homosexual behavior.

115. Ms. Ward is prohibited by her religious beliefs from affirming or validating homosexual behavior, yet is required by EMU to affirm and promote homosexual behavior when a client seeks advice about a homosexual relationship.

116. Because of this irreconcilable conflict, Ms. Ward decided the best way to handle the remote possibility that she be assigned a client seeking advice about a homosexual relationship during Practicum was to refer the client prior to a first meeting.

117. When this remote situation arose during Practicum Ms. Ward asked Defendant Callaway what the appropriate course of action was, and Defendant Callaway advised Ms. Ward to have the clinic secretary refer the client to another counselor prior to her first meeting with the client.

118. Accordingly, Ms. Ward did not in fact impose her religious views regarding homosexual behavior on the client because she never met with him.

119. As a result of the situation involving this client, however, Ms. Ward did express her religious beliefs and values regarding homosexual behavior to EMU officials and was dismissed from the program based on those views, and based on her unwillingness to change those views to conform to the views of EMU's counseling department regarding homosexual behavior.

The "Discrimination" Charge And The Practice Of Referring Clients Where Value Conflicts Arise

120. Ms. Ward repeatedly explained to EMU officials—at the informal review meeting, through letters written to Defendants Dugger and Polite, and at the formal review hearing—that she would counsel a client that identifies as gay, lesbian, or some other sexual orientation on any issue that does not require her to validate or affirm homosexual behavior.

121. Ms. Ward therefore is not engaging in sexual orientation discrimination, as EMU charges her with doing.

122. In addition, Defendant Ametrano assigned a required book in a required course Ms. Ward took with Dr. Ametrano which teaches that where irreconcilable value conflicts arise between a counselor and a client, an appropriate referral is a valid option.

123. Specifically, the book states: "If you find yourself struggling with an ethical dilemma over value differences, we encourage you to seek consultation. Supervision is often a useful way to explore value clashes with clients. After exploring the issues in supervision, if you find that you are still not able to work effectively with a client, the ethical course of action might be to refer the client to another professional." (Ex. 8 at 73-74.)

124. The book expressly states that referrals are a valid option where a counselor who is morally opposed to homosexual behavior is being asked by a client for advice regarding a homosexual relationship.

125. The book suggests that counselors follow guidelines published by the American Psychology Association when counseling homosexual clients.

126. Several provisions from these APA guidelines are included in the book, one of which states: “Psychologists are encouraged to recognize how their attitudes and knowledge about lesbian, gay, and bisexual issues may be relevant to assessment and treatment and seek consultation or make appropriate referrals when indicated.” (Ex. 8 at 75.)

127. Thus, Defendant Ametrano—who decided as part of the formal review committee to dismiss Ms. Ward from the program—taught Ms. Ward in a required course that it was an accepted practice of the counseling profession to refer a client where a conflict between the counselor’s values and the client’s values was not reconcilable, including where that conflict involved homosexual behavior and relationships.

128. This same book also states that referrals are a valid option where a counselor’s values irreconcilably clash with a client’s values regarding a whole range of issues, including: marriage, divorce; gender roles and the division of responsibility in the family; extramarital affairs; premarital sex; religious and spiritual values; abortion; end-of-life decisions; etc.

129. For example, regarding a clash between a counselor’s and client’s values regarding sexual practices, the book notes a study that found that “40% [of counselors] had to refer a client because of a value conflict.” (Ex. 8 at 80.)

130. The book Defendant Ametrano assigned teaches that referring a client where value conflicts arise is an appropriate course of action even in those counseling settings where the ACA Code of Ethics provision regarding nondiscrimination may be applicable.

131. The ACA Code of Ethics prohibits discrimination based on “sexual orientation,” yet the book states that a counselor whose values regarding homosexuality conflict with a client who is seeking assistance regarding gay, lesbian, or bisexual issues may refer the client.

132. The ACA Code of Ethics prohibits discrimination based on “marital status,” yet the book states that a counselor whose values regarding sexual practices conflict with a client who is seeking advice pertaining to premarital sex or divorce may refer the client.

133. The ACA Code of Ethics prohibits discrimination based on “religion/spirituality,” yet the book states that a counselor whose religious values conflict with a client’s religious values may refer the client.

134. The ACA Code of Ethics prohibits discrimination based on “culture,” yet the book states that a counselor whose values regarding gender roles conflict with a client’s values regarding gender roles may refer the client.

135. Provision A.9.b. of the ACA Code of Ethics recognizes that personal and moral beliefs may prevent a counselor from being able to provide services to a client who is interested in evaluating his end of life options, and states that if such a conflict arises an “appropriate referral” should be made. (Ex. 1 at 15.)

136. Provision A.1.a. of the ACA Code of Ethics states that one of the main responsibilities of a counselor is “to respect the dignity and to promote the welfare of clients.” (*Id.* at 11.)

137. Provision A.11.b. of the ACA Code of Ethics states that counselors should avoid counseling relationships where they are unable to “be of professional assistance to clients.” (*Id.* at 16.)

138. This same provision states that where a counselor determines he or she is unable to be of professional assistance, an “appropriate referral” should be made. (*Id.*)

139. Ms. Ward determined that she would not be able to be of professional assistance to the client assigned to her in Practicum who sought advice regarding his homosexual relationship because of the irreconcilable conflict between her religious views regarding homosexual behavior and his desire for counseling regarding his homosexual relationship.

140. Ms. Ward determined that the best way to promote the welfare of this client was to refer him to another student in Practicum that did not share her religious beliefs and views.

141. Ms. Ward believed this was an appropriate course of action based on what EMU faculty taught her in classes and on the Code provisions outlined above.

VI. ALLEGATIONS OF LAW

142. All of the acts of Defendants, their officers, agents, employees, and servants, were executed and are continuing to be executed by the Defendants under the color and pretense of the policies, statutes, ordinances, regulations, customs, and usages of the State of Michigan.

143. Plaintiff is suffering irreparable harm from the conduct of Defendants.

144. Plaintiff has no adequate or speedy remedy at law to correct or redress the deprivation of her rights by Defendants.

145. Unless the conduct of Defendants is enjoined, Plaintiff will continue to suffer irreparable injury.

VII. CAUSES OF ACTION

First Cause of Action:

Violation of the Free Speech Clause of the First Amendment: Viewpoint Discrimination, Compelled Speech, and Unconstitutional Conditions

146. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

147. By dismissing Ms. Ward from the School Counseling Program because her Christian beliefs and views regarding homosexual behavior are contrary to the EMU counseling department's views regarding homosexual behavior, compelling Ms. Ward to change her beliefs and views regarding homosexual behavior to be consistent with those of the EMU counseling department, denigrating Ms. Ward's Christian beliefs and views, and favoring Christian views that are consistent with the EMU counseling department's affirming views regarding homosexual behavior over Ms. Ward's Christian views that are contrary to the department's views, among other things, Defendants by policy and practice have discriminated against Plaintiff based on the viewpoint of her speech.

148. By conditioning Ms. Ward's ability to obtain a master's degree in School Counseling on her willingness to affirm or validate homosexual behavior within the context of a counseling relationship, which would be a violation of Ms. Ward's religious beliefs and views, Defendants by policy and practice have imposed unconstitutional conditions on Ms. Ward, and unlawfully compelled her to speak a message with which she disagrees.

149. By conditioning Ms. Ward's ability to obtain a master's degree in School Counseling on her willingness to change her religious beliefs and views regarding homosexual behavior to the EMU counseling department's affirming point of view regarding homosexual behavior,

Defendants by policy and practice have imposed unconstitutional conditions on Ms. Ward, and unlawfully compelled her to speak a message with which she disagrees.

150. Defendants' policies and practice impose an unconstitutional prior restraint because they vest EMU officials with the unbridled discretion to punish protected religious expression subject to no standards or guidelines.

151. Defendants' policies and practice are additionally overbroad because they sweep within their ambit protected First Amendment expression.

152. The overbreadth of Defendants' Policies and practice chills protected speech by discouraging students from exercising their First Amendment rights based on the fear that they will be punished for exercising their rights.

153. Defendants' policies and practices outlined above are not the least restrictive means to serve any legitimate, let alone compelling, interest which Defendants seek thereby to secure.

154. Defendants, acting under color of state law, and pursuant to EMU policies and practice, have engaged in actions that have deprived and are depriving Plaintiff of her clearly established rights to freedom of speech and expression secured by the First Amendment to the United States Constitution.

155. Because of Defendants' policies and actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. She, therefore, is entitled to an award of monetary damages, including punitive damages, and equitable relief.

156. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated her First Amendment rights and an injunction against their actions.

Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court, and the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

Second Cause of Action:

Violation of First Amendment Right to Be Free from Retaliation for Exercise of First Amendment Freedoms

157. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

158. Defendants, pursuant to EMU policies and practice, retaliated against Plaintiff for exercising her First Amendment rights to free speech and free exercise of religion by dismissing her from the School Counseling Program.

159. Plaintiff's expression of her religious beliefs and views to Defendants regarding homosexual behavior, her unwillingness to change her beliefs and views to conform with the EMU counseling department's affirming point of view regarding homosexual behavior, and her decision not to affirm or validate homosexual behavior in the context of a counseling relationship, are speech and conduct protected by the First Amendment.

160. It is beyond the authority of Defendants to compel Plaintiff to express a view regarding homosexual behavior that is contrary to her religious views on that matter, to compel Plaintiff to change her religious beliefs and views regarding homosexual behavior so that they conform to those of EMU's counseling department, or to punish Plaintiff for so exercising her First Amendment rights.

161. Defendants' action, taken pursuant to EMU policies and practice, of dismissing Ms. Ward from the School Counseling Program based on her religious speech and conduct would deter a person of ordinary firmness from continuing to engage in that speech and conduct.

162. Defendants' decision to dismiss Ms. Ward from the School Counseling Program was motivated entirely by the Plaintiff's protected speech and conduct.

163. Defendants, acting under color of state law, and pursuant to EMU policies and practice, have engaged in actions that are retaliatory and therefore have deprived and are depriving Plaintiff of her clearly established rights to freedom of speech and free exercise of religion secured by the First Amendment to the United States Constitution.

164. Because of Defendants' policies and actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. She, therefore, is entitled to an award of monetary damages, including punitive damages, and equitable relief.

165. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated her First Amendment rights and an injunction against their actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court, and the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

Third Cause of Action:
Violation of the Free Exercise Clause of the First Amendment

166. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

167. Plaintiff's views regarding homosexual behavior, and refusal to advocate views regarding homosexual behavior contrary to her own, are based on her sincerely held religious beliefs.

168. Defendants, acting pursuant to EMU policies and practice, substantially burdened Plaintiff's free exercise of religion by conditioning receipt of a master's degree in School Counseling on her willingness to violate and/or change her religious beliefs and views.

169. Defendants' actions imposed an unconstitutional choice on Plaintiff, forcing her either to adhere to her religious beliefs and views and forgo a master's degree in School Counseling or, alternatively, to violate her religious beliefs and views and receive the master's degree.

170. Defendants' actions impose special disabilities on Plaintiff due to her religion and her intent to engage in religious expression.

171. The special disabilities Defendants are placing on Plaintiff are neither neutral nor of general applicability.

172. These special disabilities target only Plaintiff's religious speech and exercise, and no other speech.

173. Defendants' policies and practices outlined above are not the least restrictive means to serve any legitimate, let alone compelling, interest which Defendants seek thereby to secure.

174. Defendants, acting under color of state law, and pursuant to EMU policies and practice, have engaged in actions that discriminate against Plaintiff's religious beliefs and views and therefore have deprived and are depriving Plaintiff of her clearly established right to free exercise of religion secured by the First Amendment to the United States Constitution.

175. Because of Defendants' policies and actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. She, therefore, is entitled to an award of monetary damages, including punitive damages, and equitable relief.

176. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated her First Amendment rights and an injunction against their actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court, and the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

Fourth Cause of Action:
Violation of the Equal Protection Clause of the Fourteenth Amendment

177. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

178. The Equal Protection Clause of the Fourteenth Amendment requires that the government treat similarly situated persons equally.

179. By dismissing Ms. Ward from the School Counseling Program because her Christian beliefs and views regarding homosexual behavior are contrary to the EMU counseling department's views regarding homosexual behavior, compelling Ms. Ward to change her beliefs and views regarding homosexual behavior to be consistent with those of the EMU counseling department, denigrating Ms. Ward's Christian beliefs and views, and favoring Christian views that are consistent with the EMU counseling department's affirming views regarding homosexual behavior over Ms. Ward's Christian views that are contrary to the department's views, among other things, Defendants by policy and practice have treated Plaintiff different than similarly situation persons based on her fundamental rights to free speech and free exercise of religion.

180. When government regulations, like the Defendants' policies and practice challenged herein, infringe on fundamental rights, discriminatory intent is presumed.

181. Defendants' policies and practices outlined above are not the least restrictive means to serve any legitimate, let alone compelling, interest which Defendants seek thereby to secure.

182. Defendants, acting under color of state law, and pursuant to EMU policies and practice, have therefore engaged in actions that have deprived and are depriving Plaintiff of her clearly established right to equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution.

183. Because of Defendants' policies and actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. She, therefore, is entitled to an award of monetary damages, including punitive damages, and equitable relief.

184. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated her Fourteenth Amendment rights and an injunction against their actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court, and the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

Fifth Cause of Action:
Violation of the Establishment Clause of the First Amendment

185. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

186. The First Amendment's Establishment Clause prohibits governmental hostility toward religion.

187. Defendants, acting under color of state law, and pursuant to EMU policies and practice, targeted and punished Plaintiff's particular religious beliefs and views regarding homosexual behavior, and therefore demonstrate impermissible hostility toward religion.

188. The Establishment Clause also prohibits the government from preferring some religious views over others.

189. Defendants, acting under color of state law, and pursuant to EMU policies and practice, favor Christian and other religious views that comport with the EMU counseling department's affirming point of view regarding homosexual behavior, and denigrate and punish Christian views, like Plaintiff's, which hold that homosexual behavior is immoral.

190. No compelling state interest exists to justify the Defendants' hostility toward religion, or their preference of some religious views over others.

191. Defendants, acting under color of state law, and pursuant to EMU policies and practice, have therefore engaged in actions that have deprived and are depriving Plaintiff's rights under the Establishment Clause of the First Amendment to the United States Constitution.

192. Because of Defendants' policies and actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. She, therefore, is entitled to an award of monetary damages, including punitive damages, and equitable relief.

193. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated her First Amendment rights and an injunction against their actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court, and the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

Sixth Cause of Action:
Violation of the Due Process Clause of The Fourteenth Amendment

194. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint.

195. Defendants' policies prohibiting the "[i]nability to tolerate different points of view," "imposing values that are inconsistent with counseling goals," and "condon[ing] . . . discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law" are vague, overbroad, and allow for unbridled discretion in determining what protected expression and conduct fall under their prohibition.

196. Defendants' policies thereby limit constitutionally-protected speech and conduct without providing any objective guidelines by which Plaintiff or other students can guide their speech and behavior.

197. The vagueness, overbreadth, and lack of guidelines in Defendants' policies also permit Defendants to enforce the policies in a discriminatory and arbitrary manner against protected expression and conduct.

198. Defendants, acting under color of state law, and pursuant to EMU policies and practice, have therefore violated Plaintiff's right to due process under the Fourteenth Amendment to the United States Constitution.

199. Because of Defendants' policies and actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. She, therefore, is entitled to an award of monetary damages, including punitive damages, and equitable relief.

200. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated her Fourteenth Amendment rights and an injunction against their actions, including an injunction against any enforcement of its unconstitutionally vague and overbroad policies. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court, and the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment as follows:

A. That this Court issue a preliminary and permanent injunction restraining Defendants, their officers, agents, employees, and all other persons acting in active concert with them, from enforcing their policies prohibiting "[u]nethical, threatening or unprofessional conduct," "[i]nability to tolerate different points of view," "imposing values that are inconsistent with counseling goals," and "discrimination based on . . . sexual orientation" against Ms. Ward to

punish and retaliate against her based on her religious beliefs and expression regarding homosexual behavior, and ordering Defendants to immediately reinstate Ms. Ward into EMU's School Counseling Program;

B. That this Court enter a Declaratory Judgment declaring unconstitutional the application of Defendants' policies prohibiting "[u]nethical, threatening or unprofessional conduct," "[i]nability to tolerate different points of view," "imposing values that are inconsistent with counseling goals," and "discrimination based on . . . sexual orientation" against students so as to punish and retaliate against them based on their religious beliefs and views regarding homosexual behavior;

C. That this Court issue a permanent injunction restraining Defendants, their officers, agents, employees, and all other persons acting in active concert with them, from enforcing their policies prohibiting the "[i]nability to tolerate different points of view," "imposing values that are inconsistent with counseling goals," and "condon[ing] . . . discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law";

D. That this Court enter a Declaratory Judgment declaring facially unconstitutional the Defendants' policies prohibiting the "[i]nability to tolerate different points of view," "imposing values that are inconsistent with counseling goals," and "condon[ing] . . . discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law";

E. That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such declarations shall have the force and effect of final judgment;

F. That this Court grant an award of compensatory and/or nominal damages to Ms. Ward against the individual Defendants in an amount to be determined by the evidence and this Court;

G. That this Court grant an award of punitive damages to Ms. Ward against the individual Defendants for their actions in wantonly violating Ms. Ward's First and Fourteenth Amendment rights;

H. That this Court retain jurisdiction of this matter for the purpose of enforcing any Orders;

I. That this Court award Plaintiff's costs and expenses of this action, including a reasonable attorney's fees award;

J. That this Court issue the requested injunctive relief without a condition of bond or other security being required of Plaintiff; and

K. That this Court grant such other and further relief as the Court deems equitable, just, and proper in the circumstances.

Respectfully submitted this the 2nd day of April, 2009.

By: /s/David A. French

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DEMAND FOR JURY TRIAL

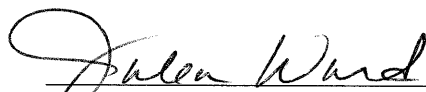
Plaintiff demands trial by jury of all matters so triable herein.

By: /s/David A. French
David A. French
Attorney for Plaintiff

VERIFICATION OF COMPLAINT

I, Julea Ward, a citizen of the United States and resident of the State of Michigan, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 1st day of April, 2009, at Bellville, Michigan.


Julea Ward