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Bureau of
Legislative Research

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State Agency Litigation Notification Form

Dear Agency Director:

Arkansas Code § 10-3-312 requires that any agency or institution that is not represented by the Attorney General shall notify the Director of the Bureau of Legislative Research of pending litigation so that the appropriate legislative committee may "determine the action that may be deemed necessary to protect the interests of the General Assembly and the State of Arkansas in that matter."

In order to submit a report regarding pending litigation pursuant to Arkansas Code § 10-3-312, please complete the following form for each pending lawsuit, along with a cover letter to the Director of the Bureau of Legislative Research, and submit to desikans@blr.arkansas.gov.

DATE REPORTING:			
Agency:	University of Arkansas System (UA Pulaski Technical College)	Phone:	501-686-2518
E-mail:	aschubert@uasys.edu	Contact:	Amber Schubert

1. STYLE OF THE CASE BEING LITIGATED

Bradley Braziel v. The Board of Trustees of the University of Arkansas, et. al

2. IDENTITY OF THE TRIBUNAL BEFORE WHICH THE MATTER HAS BEEN FILED (COURT)

U.S. District Court for the Eastern District of Arkansas

3. BRIEF DESCRIPTION OF THE ISSUES INVOLVED

Bradley Braziel is a current instructor at the University of Arkansas Pulaski Technical College who alleges that the college denied his preferred accommodation for his disability in violation of the Americans with Disabilities Act and Age Discrimination in Employment Act. The college denies the allegations.

3A. OTHER DESCRIPTION INFORMATION

Docket Number	4:26-cv-00597-DPM
Date Filed	June 15, 2026
Defendant	Board of Trustees of the Univ.of Ark., Summer Deprow, Ana Hunt, Richard Moss, Randy Lawson, Natalie Hibdon
Defendant Attorney	Amber Schubert
Plaintiff	Dr. Tamara Pace-Glover
Plaintiff Attorney	Luther Sutter

4. ANY OTHER RELEVANT INFORMATION

4A. OTHER RELEVANT INFORMATION

Case History	Defendants filed a motion to dismiss which is currently pending.
Relief Sought	Unspecified monetary damages and injunctive relief
Current Status	Awaiting ruling on Defendants' motion to dismiss

A.C.A. § 10-3-312

Current through all laws of the 2017 Regular Session and 2017 First Extraordinary Session, including changes and corrections by the Arkansas Code Revision Commission.

- **Arkansas Code Annotated**
- **Title 10 General Assembly**
- **Chapter 3 Committees**
- **Subchapter 3-- Legislative Council**

10-3-312. NOTIFICATION OF LAWSUITS AFFECTING STATE.

- **(a)** In order that the General Assembly may take whatever steps it deems necessary concerning lawsuits which may affect the State of Arkansas, its officials, or its financial resources:
  - **(1)** The Attorney General shall notify the Director of the Bureau of Legislative Research who is the Executive Secretary to the Legislative Council as soon as possible after the Attorney General becomes involved in such litigation;
  - (2) **When any state agency or any entity which receives an appropriation of funds from the General Assembly becomes involved in litigation without representation by the Attorney General, the director or administrative head of the agency shall notify the Director of the Bureau of Legislative Research as soon as possible.**

- **(b)** The notice given by the Attorney General or by the director or administrative head of a state agency to the Director of the Bureau of Legislative Research shall include the style of the case being litigated, the identity of the tribunal before which the matter has been filed, a brief description of the issues involved, and other information that will enable the Legislative Council or the Joint Budget Committee to determine the action that may be deemed necessary to protect the interests of the General Assembly and the State of Arkansas in that matter.

- **(c)** Upon receipt of the notice, the Director of the Bureau of Legislative Research shall during the interim between legislative sessions transmit a copy of the notice to the cochairs of the Legislative Council and to the cochairs of the Joint Budget Committee during legislative sessions in order that those committees may schedule that matter upon their respective agendas at the earliest possible date.

- **(d)** During the interim between legislative sessions, the Legislative Council shall determine, and during legislative sessions the Joint Budget Committee shall determine, whether the General Assembly has an interest in the litigation and, if so, take whatever action deemed necessary to protect the General Assembly's and the state's interest in that matter.

HISTORY

Acts 1987, No. 798, §§ 1, 2.

Arkansas Code of 1987 Annotated Official Edition
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A.C.A. § 10-3-312 (Lexis Advance through all laws of the 2017 Regular Session and 2017 First Extraordinary Session, including changes and corrections by the Arkansas Code Revision Commission)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

BRADLEY BRAZIEL,

Plaintiff,

v. **Case No.:** 4:26CV597-DPM

UNIVERSITY OF ARKANSAS PULASKI TECHNICAL COLLEGE; SUMMER DEPROW, in her official capacity as Chancellor of University of Arkansas Pulaski Technical College; RICHARD MOSS, in his official capacity as Dean of University of Arkansas Pulaski Technical College; BOARD OF TRUSTEES FOR THE UNIVERSITY OF ARKANSAS; RANDY LAWSON, in his official capacity as Chair of the Board of Trustees; DR. ANA HUNT, in her official capacity as Provost and Vice Chancellor of Academic Affairs; NATALIE HIBDON, in her official capacity as Head of Human Resources; and UNIVERSITY OF ARKANSAS SYSTEM.

RECEIVED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
JUN 23 2026
TAMMY H. DOWNS
By: DEP CLERK

Defendants.

This case assigned to District Judge Marshall
and to Magistrate Judge Harris

COMPLAINT

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1. Plaintiff, Bradley Braziel ["Plaintiff" or Mr. Braziel"], is a resident of Hot Spring County, Arkansas. Specifically, Plaintiff resides at 1009 Bayne Road, Malvern, Arkansas 72104.

2. Defendant, University of Arkansas – Pulaski Technical College ["UA-PTC"], is an institution within the University of Arkansas system, a multi-campus system administered by a President and Board of Trustees. Its principal place of business is 3000 West Scenic Drive, North Little Rock, Arkansas 72118. Its registered agent for service of process is the State of Arkansas's Attorney General's Office located at 101 West Capitol Avenue, Little Rock, Arkansas, 72201, and

The University of Arkansas System Office of General Counsel, David A. Curran, located at 2404 North University Avenue, Little Rock, Arkansas 72207.

3. Defendant Summer DeProw is the Chancellor of UA-PTC, and she is sued in her official capacity.

4. Defendant Richard Moss is the Dean of UA-PTC, and he is sued in his official capacity.

5. Defendant, Board of Trustees for the University of Arkansas ["Board"], is the state-appointed governing body that oversees public university systems, colleges, and specific state agencies. The Board operates UA-PTC. Its principal place of business is 2404 North University Avenue, Little Rock, Arkansas 72207 and can be served at that address.

6. Defendant Randy Lawson is the Chair of the Board of Trustee, and he is sued in his official capacity.

7. Defendant Dr. Ana Hunt is the Provost and Vice Chancellor of Academic Affairs for UA-PTC, and she is sued in her official capacity.

8. Defendant Natalie Hibdon is the Head of Human Resources for UA-PTC, and she is sued in her official capacity.

9. Defendant, University of Arkansas System ["The System"], is a public institution of higher education organized under Arkansas law, operating multiple campuses including UA-PTC. Its principal place of business is 2404 North University Avenue, Little Rock, Arkansas 72207 and can be served at the same address.

10. This action is filed pursuant to Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. ("ADA"); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504"); and the Age Discrimination in Employment Act of 1967 ["ADEA"],

as amended, 29 U.S.C. §§ 621–34. These statutes protect employees from discrimination, retaliation, and failure to accommodate based on disability.

11. This Court has federal question jurisdiction over this case pursuant to 28 U.S.C. § 1331.

12. At all times relevant, Defendant UA-PTC has been a recipient of federal financial assistance, including federal student aid and federal grants, thereby waiving its sovereign immunity to claims brought under Section 504 of the Rehabilitation Act.

13. This Court is the proper venue pursuant to 28 U.S.C. § 1391(b) and (c).

14. Defendant employs more than 500 employees.

15. On or about August 19, 2019, Plaintiff was hired at Defendant's University of Arkansas Pulaski Technical College as a nine-month Assistant Teaching Professor of Social Sciences. Plaintiff teaches classes in sociology, psychology, and history. Throughout his employment, Plaintiff has been good, effective employee. Plaintiff has not received any discipline throughout his tenure with Defendant.

16. In January 2021, Plaintiff was transitioned to Instructor of Sociology as a full-time faculty member.

17. In Plaintiff's department, there are three (3) other instructors who are all younger than Plaintiff. None of them have been instructed to teach 8:00 a.m. classes, some have received overload classes, and some have received courses to teach in the summer.

18. Prior to the events discussed *infra*, Plaintiff's performance evaluations were overall positive and an accurate reflection of his long tenure in education.

2023 – 2024 ACADEMIC YEAR

19. In August 2023, Plaintiff was diagnosed with deep vein thrombosis in his right leg.

This condition causes significant pain at times. Specifically, it is difficult for Plaintiff to drive long distances.

20. On September 29, 2023, Plaintiff requested reasonable accommodations for his disability via email to Chairperson of the Social/Behavioral Sciences Department Rebecca Dover ["Dover"].

21. Plaintiff heard back regarding this accommodation request on October 20, 2023, when the Director of Human Resources sent Plaintiff the ADA Accommodation request paperwork. Plaintiff's physician recommended the following accommodations: (1) Plaintiff should drive 80 miles or less per day, and (2) Plaintiff should not drive on consecutive days. These accommodations were grounded in the fact that Plaintiff was unable to sit, walk, or stand for prolonged periods of time due to his disability.

22. On November 14, 2023, Plaintiff returned the ADA forms.

23. On December 4, 2023, Defendant proposed two (2) accommodations for Plaintiff: (1) Adjustment of Work Schedule, and (2) a new, adjustable classroom chair.

24. The "Adjustment of Work Schedule" proposed by Defendant did not meet the recommended accommodations per Plaintiff's physician. Although one of Plaintiff's classes was transitioned to an online class, Plaintiff's proposed class schedule still required Plaintiff to travel every day of the work week.

25. On January 2, 2024, after correspondence back and forth, Plaintiff was given a Spring 2024 Schedule that aligned with his accommodations by only requiring Plaintiff to be on campus Monday, Wednesday, and Friday.

26. Notably, Plaintiff was assigned the earliest and latest classes possible with a significant gap in between. Further, an adjunct professor was assigned history classes instead of

allowing Plaintiff an "overload" of classes. An "overload" is teaching more classes than the base load of classes which is five classes per semester. An adjunct professor had only been hired once before to teach history classes.

27. Moreover, the new, adjustable classroom chair fell extremely short, as Plaintiff was provided with a wooden stool.

28. On April 11, 2024, Chancellor Summer DeProw informed Plaintiff that Dean Richard Moss had indicated that he did not believe it was fair for Plaintiff to have an accommodation.

29. Also in 2024, Plaintiff's annual evaluation for the 2023-2024 school year was incredibly flawed. The peer evaluation performed failed to adhere to the relevant policy due to its subjective nature and personal bias. The Chancellor and the Provost explained to Plaintiff that the peer evaluation process was flawed and needed revision.

30. However, this evaluation, along with a secondary evaluation by a chef, was used to demand Plaintiff receive more training, and the evaluation remained in Plaintiff's personnel file.

31. On or about May 1, 2024, Plaintiff was informed by Dover that his faculty evaluation plan which was a result of his annual evaluation would require him to re-take a teaching practices class and a professional development course on classroom management on his own time and without pay.

32. Defendant attempted to remedy the new training burden Plaintiff would have to bear with the indication that his Fall 2024 Schedule would be transitioned to fully online classes.

2024 – 2025 ACADEMIC YEAR

33. On May 13, 2024, Plaintiff again requested ADA accommodations for the Fall 2024 Schedule.

34. Plaintiff's physician's accommodations were very similar; however, he added "[Plaintiff] will not be required to stand or walk for more than 30 minutes."

35. On or about August 5, 2024, Plaintiff was notified that his accommodations for the Fall 2024 Schedule had been approved. Plaintiff would again only be required to teach in person on Monday, Wednesday, and Friday, and the rest of his classes would be online. The transition to fully online classes for Fall 2024 was not done as indicated.

36. On January 6, 2025, Plaintiff re-submitted his ADA documents for the 2025 Spring Schedule.

37. Plaintiff's physician's accommodations were very similar; however, he added "[Plaintiff] will not be required to sit (ex: at a desk or driving) for prolonged periods of time (not over 45-50 minutes)… Avoid driving during rush hour time frames; do not spend more than 45-50 minutes driving."

38. Although Defendant did not change Plaintiff's class schedule from Fall 2024 Schedule, this schedule no longer fit Plaintiff's accommodations. Plaintiff was scheduled for a class to begin at 8:00 a.m. on Monday, Wednesday, and Friday. This would require Plaintiff to drive during rush hour.

2025 – 2026 ACADEMIC YEAR

39. On April 15, 2025, Plaintiff re-submitted his ADA paperwork for the Fall 2025 Schedule.

40. Plaintiff's physician's accommodations were very similar; however, he added "[Plaintiff's] on-campus presence (ex: office time) will begin no earlier than 9:00 a.m. and will end no later than 2:00 p.m. His synchronous instructional duties will begin no earlier than 9:00 a.m. and will end no later than 2:00 p.m."

41. Again, Plaintiff's suggested Fall 2025 Schedule stayed the same, and this schedule did not accommodate Plaintiff appropriately. Plaintiff was scheduled for a class to begin at 8:00 a.m. and instructed that his office hours were to begin at 7:00 a.m.

42. Notably, other instructors without a disability were not scheduled for 8:00 a.m. classes and were not instructed to have office hours at 7:00 a.m.

43. After further communication, Defendant did amend the Fall 2025 Schedule to meet Plaintiff's medical accommodations.

44. For Spring 2026 Schedule, Plaintiff was not required to re-submit his accommodation paperwork. Defendant allowed Plaintiff the option to pick his class schedule which seems to be cooperative and courteous; however, upon further evaluation, every option for his class schedule required Plaintiff to teach a class that began at 8:00 a.m. which explicitly contradicted his medical accommodations.

45. After Plaintiff explained that beginning his class schedule at 8:00 a.m. did not comply with his medical accommodations, Defendant maintained its position that it could not accommodate Plaintiff's "preferred accommodation of a 9:00 am start to [Plaintiff's] work day."

46. Plaintiff submitted documentation from his physician indicating that adherence to the accommodations were medically necessary.

47. Defendant maintained its position; however, Plaintiff's 8:00 a.m. and 9:00 a.m. class failed to have enough student registration so both classes were dropped from Plaintiff's schedule and replaced with online classes. Although Defendant's hand was forced, Plaintiff's new schedule complied with his medical accommodations.

48. Plaintiff's Fall 2026 Schedule met his medical accommodations.

49. On or about July 21, 2025, Plaintiff filed his Charge of Discrimination with the

Equal Employment Opportunity Commission.

50. Plaintiff received his right to sue letter from the EEOC on March 18, 2026.

51. As a direct and proximate result of the discriminatory acts set forth above, Plaintiff has suffered the following injuries, including but not limited to, embarrassment, humiliation, loss of self-esteem, increased anxiety, damage of reputation, and loss of concentration.

52. The foregoing injuries set forth have been suffered and will continue to be suffered into the foreseeable future.

53. Plaintiff should be made whole for all injuries and losses suffered by Plaintiff as a proximate result of Defendant's unlawful acts, including, an award of back pay and front pay.

COUNT I – ADA DISABILITY DISCRIMINATION

54. The allegations contained in paragraphs 1 through 52 are incorporated by reference into this Count I.

55. All of Plaintiff's diagnoses are considered a disability affecting his major life activities as described in 42 U.S.C.S. § 12102(1) – (2). Plaintiff made his supervisors aware of his disability and informed them of his treatment.

56. Plaintiff was qualified to perform the essential functions of his position.

57. Plaintiff's requested accommodations were and are reasonable.

58. Defendant failed to reasonably accommodate Plaintiff according to his medical accommodations.

59. Accordingly, Plaintiff is entitled to a damages award against Defendant for all back pay, front pay, lost benefits, prejudgment interest, tax gross-up, attorney's fees, and expenses.

COUNT II – § 504 DISABILITY DISCRIMINATION

60. The allegations contained in paragraphs 1 through 52 are incorporated by reference into this Count II.

61. Defendant UA-PTC is a program and activity receiving federal financial assistance within the meaning of 29 U.S.C. § 794(b).

62. Plaintiff is a qualified individual with a disability under Section 504, as he suffers from deep vein thrombosis, a physical impairment that substantially limits one or more major life activities, including walking, standing, and sitting.

63. Defendant UA-PTC was aware of Plaintiff's disability and medical restrictions.

64. Defendant UA-PTC discriminated against Plaintiff on the basis of his disability by repeatedly failing to provide reasonable accommodations for his medical needs, imposing punitive training burdens based on flawed evaluations, and refusing to honor his medically necessary schedule adjustments.

65. As a direct and proximate result of Defendant UA-PTC's discriminatory actions, Plaintiff has suffered economic damages, including loss of earning capacity and benefits, as well as compensatory damages for emotional distress, anxiety, and humiliation.

66. Defendant UA-PTC has knowingly and intentionally violated Plaintiff's rights under Section 504, entitling Plaintiff to compensatory financial damages, equitable relief, and reasonable attorney's fees.

COUNT III – AGE DISCRIMINATION

67. The allegations contained in paragraphs 1 through 52 are incorporated by reference into this Count III.

68. Plaintiff is the oldest in his department at 60 years old. His co-workers in the same department are all younger than him, and they have more favorable class schedules.

69. Defendants took adverse employment actions against Plaintiff in violation of the anti-discrimination provisions of ADEA on the basis of Plaintiff's age.

70. Accordingly, Plaintiff is entitled to a damages award against Defendant for all back pay, front pay, lost benefits, prejudgment interest, tax gross-up, attorney's fees, and expenses. In addition, Plaintiff is entitled to compensatory damages for emotional distress. Finally, because of Defendant's willful and intentional conduct and reckless disregard for Plaintiff's federally protected rights, Plaintiff is entitled to a liquidated damages award of two times his lost back pay, front pay, and compensatory damages.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter judgment in his favor and against Defendants, granting the following relief:

1. As to Official-Capacity Defendants Board of Trustees, The System, DeProw, Hunt, Hibdon, Moss, and Lawson: Issue a permanent injunction under the ADA ordering them to maintain a teaching schedule that complies with Plaintiff's medical restrictions, and to remove the retaliatory peer evaluations and forced training mandates from Plaintiff's personnel file.

2. As to Defendant UA-PTC: Award Plaintiff compensatory financial damages under Section 504 of the Rehabilitation Act to make him whole for lost wages, benefits, front pay, back pay, and severe emotional distress caused by the institution's discriminatory acts.

3. Award Plaintiff pre-judgment interest, post-judgment interest, and a tax gross-up on any back pay award.

4. Award Plaintiff reasonable attorney's fees, litigation expenses, and court costs pursuant to 42 U.S.C. § 12205 and 29 U.S.C. § 794a.

5. Grant Plaintiff all other legal or equitable relief to which he may be justly entitled.

6. Plaintiff demands a jury trial.

Respectfully submitted,

Ralph T. Gibson (TN BPR #14861)
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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

BRADLEY BRAZIEL PLAINTIFF

v. Case No. 4:26-cv-00597-DPM

UNIVERSITY OF ARKANSAS
PULASKI TECHNICAL COLLEGE;
SUMMER DEPROW, in her official
capacity as Chancellor of the University of
Arkansas Pulaski Technical College;
RICHARD MOSS, in his official capacity
as Dean of University of Arkansas Pulaski
Technical College; BOARD OF TRUSTEES
FOR THE UNIVERSITY OF ARKANSAS;
RANDY LAWSON, in his official capacity
as Chair of the Board of Trustees; DR. ANA HUNT,
in her official capacity as Provost and Vice
Chancellor of Academic Affairs; NATALIE HIBDON,
in her individual capacity as Head of Human Resources;
and University of Arkansas System DEFENDANTS

DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT

Defendants University of Arkansas Pulaski Technical College, Summer DeProw, Richard Moss, Board of Trustees of the University of Arkansas, Randy Lawson, Dr. Ana Hunt, Natalie Hibdon, and the University of Arkansas System ("Defendants") move to dismiss Plaintiff's Complaint under Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, and in support, state:

1. Plaintiff Bradley Braziel ("Braziel"), a current employee of the University of Arkansas Pulaski Technical College ("UAPTC"), brings claims against UAPTC, the University of Arkansas System, the Board of Trustees for the University of Arkansas ("the Board"), UAPTC employees Summer DeProw, Richard Moss, Ana Hunt, and

Natalie Hibdon in their official capacities, and Board of Trustee member Randy Lawson in his official capacity under the Title I of the Americans with Disabilities Act ("ADA"), Section 504 of the Rehabilitation Act ("Rehab Act"), and the Age Discrimination in Employment Act ("ADEA").

2. Braziel alleges that Defendants discriminated against him and delayed granting him the accommodation he preferred for his deep vein thrombosis. Braziel seeks injunctive relief, compensatory damages, damages for emotional distress, and attorneys' fees and costs.

3. Braziel's claims against UAPTC and the University of Arkansas System must be dismissed because they lack the capacity to be sued in federal court.

4. Sovereign immunity bars Braziel's claims for monetary relief against all defendants under the ADA and ADEA.

5. Additionally, Braziel's Complaint must be dismissed in its entirety pursuant to Federal Rule of Civil Procedure 12(b)(6) because he fails to state factual allegations sufficient to support a discrimination or failure to accommodate claim under the ADEA, ADA or the Rehab Act.

6. To sustain a discrimination claim under the ADEA, Braziel must plead facts showing that his age was the but-for cause of an adverse action. He has failed to do so.

7. To sustain a failure to accommodate claim under the ADA and the Rehab Act, Braziel "must establish both a prima facie case of discrimination based on [his]

disability and a failure to accommodate it." *Kelleher v. Wal-Mart Stores, Inc.*, 817 F.3d 624, 631 (8th Cir. 2016).

8. Braziel failed to plead facts showing that he suffered an adverse action.

9. Additionally, the purportedly adverse actions Braziel identified are outside the ADA statute of limitations.

10. Braziel's Complaint shows that Defendants engaged in the interactive process in good faith, which is fatal to his failure to accommodate claim.

11. Moreover, Braziel admits that he is currently receiving his preferred accommodation.

12. Additionally, Braziel's claim for emotional distress damages must be dismissed because such damages are not available under the Rehab Act.

13. In 2022, the United States Supreme Court definitively held that emotional distress damages are not recoverable in private enforcement actions under the Rehab Act. *See, Cummings v. Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212 (2022).

14. Braziel's claim for injunctive relief should be denied because the relief he requests is overbroad and contrary to the ADA and Rehab Act.

WHEREFORE, Defendants pray that the Court dismiss Plaintiff's Complaint with prejudice and for all other appropriate relief.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
OFFICE OF THE GENERAL COUNSEL

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

BRADLEY BRAZIEL PLAINTIFF

v. Case No. 4:26-cv-00597-DPM

UNIVERSITY OF ARKANSAS PULASKI TECHNICAL COLLEGE; SUMMER DEPROW, in her official capacity as Chancellor of the University of Arkansas Pulaski Technical College; RICHARD MOSS, in his official capacity as Dean of University of Arkansas Pulaski Technical College; BOARD OF TRUSTEES FOR THE UNIVERSITY OF ARKANSAS; RANDY LAWSON, in his official capacity as Chair of the Board of Trustees; DR. ANA HUNT, in her official capacity as Provost and Vice Chancellor of Academic Affairs; NATALIE HIBDON, in her individual capacity as Head of Human Resources; and University of Arkansas System DEFENDANTS

BRIEF IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT

INTRODUCTION

Plaintiff, Bradley Braziel ("Braziel"), a current employee of the University of Arkansas Pulaski Technical College ("UAPTC"), alleges that he is entitled to monetary damages and permanent injunctive relief because he did not like the accommodations UAPTC initially offered him for his deep vein thrombosis. Braziel admits that his current accommodations "met his medical accommodations." Doc. 1 ¶ 48. Braziel also alleges that he was subjected to a "flawed" peer evaluation process that caused him to have to take a professional development course. Braziel alleges these actions

violated Title I of the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act of 1973 ("Rehab Act"). Additionally, Braziel alleges that his younger co-workers "have more favorable class schedules" in violation of the Age Discrimination in Employment Act ("ADEA"). Braziel brings claims against UAPTC, the University of Arkansas System, the Board of Trustees for the University of Arkansas ("the Board"), UAPTC employees Summer DeProw, Richard Moss, Ana Hunt, and Natalie Hibdon in their official capacities, and Board of Trustee member Randy Lawson in his official capacity. Braziel seeks compensatory damages, damages for emotional distress, and attorney's fees and costs. Braziel also seeks a permanent injunction guaranteeing him his preferred accommodation for his disability in the future and ordering removal of peer evaluations and training mandates from his personnel file.

Braziel's Complaint must be dismissed for several reasons. First, UAPTC and the University of Arkansas System lack capacity to sue or be sued in court. Second, sovereign immunity bars Braziel's ADA and ADEA claims for monetary damages against all Defendants. Third, Braziel's claims must be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6) because he fails to state factual allegations sufficient to support a discrimination or failure to accommodate claim under the ADA, Rehab Act, or ADEA. Specifically, Braziel admits that Defendants engaged in the interactive process and he failed to identify any legally sufficient adverse employment action. Additionally, Braziel's claim for emotional distress damages must be dismissed because such damages are not available under the Rehab Act. Similarly, the

type of permanent injunctive relief Braziel seeks is inconsistent with the ADA or Rehab Act's interactive process and undue burden analysis.

FACTUAL ALLEGATIONS[1]

Braziel has been employed at UAPTC as an Assistant Teaching Professor of Social Sciences since August of 2019. Doc. 1 ¶ 15. In August of 2023, Braziel was diagnosed with deep vein thrombosis in his right leg, which causes pain and makes it difficult for him to drive long distances. Doc. 1 ¶ 19. On September 29, 2023, Braziel notified the Chair of the Social/Behavioral Sciences Department, Rebecca Dover, that he needed accommodations for his medical condition. Doc. 1 ¶ 20. On October 20, 2023, the Director of Human Resources sent Braziel ADA Accommodation request paperwork, which he returned on November 14, 2023. Doc. 1 ¶¶ 21-22. Braziel's physician recommended that he drive 80 miles or less per day, and that he not drive on consecutive days. Doc. 1 ¶ 21. On December 4, 2023, UAPTC offered Braziel accommodations in the form of an adjustable chair for his classroom and an adjusted work schedule requiring him to drive every day, to which he objected. Doc. 1 ¶¶ 23-24. After engaging in discussions with Braziel, UAPTC offered him an adjusted work schedule that only required him to be on campus Monday, Wednesday, and Friday as an accommodation for the Spring 2024 semester. Doc. 1 ¶ 25.

Braziel alleges that beginning in January of 2024, after his requested accommodation was granted, he was denied the opportunity to teach overload classes and advised that Dean Richard Moss believed it was unfair for Braziel to receive

[1] Defendants reserve the right to dispute the factual allegations in Braziel's Complaint at a later stage of the litigation.

accommodations. Doc. 1 ¶ 26-28. Braziel also alleges that his annual evaluation for the 2023-2024 school year was "incredibly flawed" and failed to adhere to the relevant policy. Doc. 1 ¶ 29. After he complained to the Chancellor and Provost, Braziel was given a second peer evaluation. Doc. 1 ¶ 29. On or about May 1, 2024, Braziel was advised that he was required to re-take a teaching practices class and a professional development course on classroom management based on his annual evaluation. Braziel did not receive additional compensation beyond his salary for taking the course. Doc. 1 ¶¶ 30-31.

On May 13, 2024, Braziel submitted updated paperwork requesting accommodations for the Fall 2024 semester. Doc. 1 ¶ 33. The updated paperwork included the previous restrictions from his physician and a new restriction on standing or walking for more than 30 minutes. Doc. 1 ¶ 34. UAPTC granted Braziel's requested accommodations for the Fall 2024 semester, which included teaching in person on Monday, Wednesday, and Friday, and teaching other courses online. Doc. 1 ¶ 35. On January 6, 2025, Braziel submitted updated paperwork requesting accommodations for the Spring 2025 semester. Doc. 1 ¶ 36. The updated paperwork included the previous restrictions from his physician and a new restriction on sitting (including driving) for time periods exceeding 45-50 minutes. Doc. 1 ¶ 37. UAPTC offered Braziel the same schedule accommodations for the Spring 2025 semester that he had in the Fall 2024 semester. Doc. 1 ¶ 38. According to Braziel, this accommodated schedule did not meet his needs because it required him to teach an in-person class at 8:00 a.m., Monday, Wednesday, and Friday. Doc. 1 ¶ 38.

On April 15, 2025, Braziel submitted updated paperwork requesting accommodations for the Fall 2025 semester. Doc. 1 ¶ 39. The updated paperwork included the previous restrictions from his physician and new language limiting Braziel's working hours to five hours each day, whether in person or online synchronous instruction. Doc. 1 ¶ 40. That paperwork specifically stated that "[Plaintiff's] on-campus presence (ex: office time) will begin no earlier than 9:00 a.m. and will end no later than 2:00 p.m. His synchronous instruction duties will begin no earlier than 9:00 a.m. and will end no later than 2:00 p.m. *Id.* UAPTC offered Braziel the same schedule accommodations for the Fall 2025 semester that he had in the Fall 2024 and Spring 2025 semesters. Doc. 1 ¶ 41. UAPTC allowed Braziel to begin his office hours at 7:00 a.m. to accommodate his need to avoid driving during rush hour. *Id.* UAPTC engaged in additional conversations with Braziel and his final Fall 2025 teaching schedule met his requested accommodations. Doc. 1 ¶ 43.

For the Spring 2026 semester, UAPTC allowed Braziel to pick his class schedule. Doc. 1 ¶ 44. But Braziel objected to all of the available schedules as inconsistent with his medical needs because they required teaching a class that began at 8:00 a.m. *Id.* UAPTC notified Braziel that for the Spring 2026 semester, it was unable to grant his preferred accommodation of a start time of 9:00 a.m. Doc. 1 ¶ 45. However, the 8:00 a.m. class that Braziel was scheduled to teach for the Spring 2026 semester was cancelled, resulting in Braziel having a start time that met his preferred accommodation. Doc. 1 ¶ 47. Braziel admits that he received his preferred accommodation for

the Fall 2026 semester. Doc. 1 ¶ 48. Braziel filed his charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") on or about July 21, 2025.

For the reasons explained below, Braziel's Complaint must be dismissed.

STANDARD FOR DISMISSAL

Defendants move for dismissal of Braziel's complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). "[D]ismissal under Rule 12(b)(6) serves to eliminate actions which are fatally flawed in their legal premises and deigned to fail, thereby sparing litigants the burden of unnecessary pretrial and trial activity." *Young v. St. Charles, Mo.*, 244 F.3d 623, 627 (8th Cir. 2001). To avoid dismissal under Rule 12(b)(6), a complaint must include "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is "plausible" if the plaintiff "pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Such an inference cannot be drawn from "labels and conclusions" or a "formulaic recitation of the elements of a cause of action." *Id.* at 678. "Where a complaint pleads facts that are merely consistent with a defendant's liability, it stops short of the line between possibility and plausibility of entitlement to relief." *McDonough v. Anoka Cty.*, 799 F.3d 931, 946 (8th Cir. 2015) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 945 (2009)). It is not a district court's role to "conjure up unpled allegations to save a complaint." *Gregory v. Dillard's, Inc.*, 565 F.3d 464, 473 (8th Cir. 2009). The elements of a *prima facie* case "are not irrelevant to a plausibility determination in a discrimination suit" and "are part of the background against

which a plausibility determination should be made." *Blomker v. Jewell*, 831 F.3d 1051, 1056 (8th Cir. 2016).

ARGUMENT

I. UAPTC and the University of Arkansas System lack capacity to be sued in federal court.

UAPTC is an individual campus within the University of Arkansas System and is not an institution that is able to sue or be sued. Only the Board of Trustees has the capacity to sue or be sued. *See* Ark. Code Ann. § 6-64-301. "Rule 17(b) [of the Federal Rules of Civil Procedure] defines when a party has the capacity to sue or be sued in federal court." *Lindquist v. Univ. of S. Dakota Sanford Sch. Of Med.*, 705 F.3d 378, 379 (8th Cir. 2013). "Capacity" in this sense means "'a party's personal right to litigate.'" *Id.* (quoting 6A *Wright, Miller & Kane*, Federal Practice and Procedure § 1542 (3d ed. 2010)). "The capacity of a unit of state or local government that is incorporated, like that of a private corporation, is determined 'by the law under which it was organized.'" *Id.* (quoting Fed.R.Civ.P. 17(b)(2)).

In 1985, the Eighth Circuit concluded that the University of Arkansas at Little Rock ("UALR") was a "place and not a suable entity," noting that UALR was "a component of the University of Arkansas," and that "Arkansas state law designates the Board of Trustees of the University of Arkansas as the entity capable of being sued." *Greenwood v. Ross*, 778 F.2d 448, 449 n.1 (8th Cir. 1985). The courts reaffirmed this holding in a 1990 case against the University of Arkansas for Medical Sciences ("UAMS"), finding that under Arkansas law, "UAMS is not a separate institution or a corporate body which has the capacity to sue or be sued." *Assaad-Faltas v. Univ. of*

Arkansas for Med. Scis., 708 F.Supp. 1026, 1030 (E.D. Ark. 1989), *aff'd*, 902 F.2d 1572 (8th Cir. 1990).

Since that time, the Eighth Circuit and federal district courts in Arkansas have routinely dismissed suits against individual campuses within the University of Arkansas System. *See Stilley v. University of Arkansas at Fort Smith*, No. 2:08-CV-2032-JLH, 2008 WL 4704353 (W.D. Ark. Oct. 22, 2008) ("[i]t is clear from the pleading that [the plaintiff] is suing one campus of the wider university system, and under these circumstances the claim against [University of Arkansas at Fort Smith] must be dismissed"). See also *Coleman v. Pulaski County Court*, 4:17-CV-816 JM, 2018 WL 11267145, *3 (E.D. Ark. June 7, 2018); *Norwood v. Univ. of Arkansas at Little Rock*, No. 4:10-CV-00018 GTE, 2010 WL 11534582, *1 (E.D. Ark. June 4, 2010); *Bass v. University of Arkansas at Pine Bluff*, No. 5:12-CV-286-KGB, 2014 WL 4630459, *4 (E.D. Ark. Sept. 16, 2014); *McCullough v. University of Arkansas*, 559 F.3d 855, 860 n. 2 (8th Cir. 2009).

The same arguments apply equally to "University of Arkansas System." It is not an entity capable of being sued under Arkansas law. Because UAPTC and the University of Arkansas System are not proper parties to this litigation, Braziel's claims against them must be dismissed with prejudice.

II. Sovereign immunity bars Braziel's claims for monetary relief under the ADA and ADEA.

All Defendants are immune from suit for money damages under the ADEA and the ADA. The Eleventh Amendment is a jurisdictional bar to any lawsuit against the state, a state agency or instrumentality, or a state official acting in his or her official

capacity without the state's consent. *Edelman v. Jordan*, 415 U.S. 651, 662-63 (1974). This includes suits against the Board of Trustees of the University of Arkansas, its individual members, and employees of University of Arkansas system institutions. *See Bunch v. Univ. of Ark. Bd. of Trustees*, 863 F.3d 1062 (8th Cir. 2017) (citing *Univ. of Ark. for Med. Scis. v. Adams*, 354 Ark. 21 (2003)) ("A suit against a state university or its board of trustees is a suit against the State and is barred by the doctrine of sovereign immunity."). It is well-settled that the Eleventh Amendment bars suit against states for violations of Title I of the ADA, including Braziel's claims in this case. *Bd. of Trustees of Univ. of Ala. v. Garrett*, 531 U.S. 356, 373 (2001).

Sovereign immunity also bars Braziel's claims for money damages under the ADEA. The Eighth Circuit has repeatedly held that state entities, including the University of Arkansas and its Board of Trustees, are immune from suit under the ADEA. *See*, *e.g.*, *Bunch v. University of Ark. Bd. of Trustees*, 863 F.3d at 1062 (holding that district court correctly held sovereign immunity barred former employee's claims under ADEA); *Goss v. Arkansas*, 164 F. 430 (8th Cir. 1999) (dismissing former employee's ADEA claims against the University of Arkansas and its Board of Trustees based on sovereign immunity); *Humenansky v. Regents of the University of Minnesota*, 152 F.3d 822 (8th Cir. 1998) (holding that the ADEA does not abrogate Eleventh Amendment immunity).

It is clear that sovereign immunity bars Braziel's ADEA and ADA claims for money damages against all Defendants. Therefore, those claims must be dismissed.

III. Braziel fails to state a claim for relief under the ADEA.

Braziel's Complaint fails to state facts sufficient to show that any purportedly adverse action against him was because of his age. The ADEA prohibits employers from discriminating against an individual who is at least forty years old with respect to his compensation, terms, conditions, or privileges of employment because of the individual's age. 29 U.S.C. § 623(a)(1). In age discrimination cases, the plaintiff has the burden to present a prima facie case. *Ryther v. KARE 11*, 108 F.3d 832, 836 (8th Cir. 1997).

In evaluating an ADEA disparate treatment claim, courts apply the *McDonnell-Douglas* burden-shifting framework. Under *McDonnel Douglas*, Braziel must first establish a prima facie case of age discrimination. To establish a prima facie case of age discrimination, Braziel must show that (1) he is over 40 years old; (2) he met the applicable job qualifications; (3) he suffered an adverse employment action; and (4) there is some additional evidence that age was a factor in UAPTC's employment decision. *Rahlf v. Mo-Tech Corp.,* 642 F.3d 633, 637 (8th Cir. 2011). To succeed on a claim of age discrimination, a plaintiff must "establish that age was the 'but-for' cause of the employer's adverse action." *Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167, 177 (2009). A disparate treatment claim "cannot succeed unless the employee's protected trait actually played a role in [the employer's decisionmaking] process *and had a determinative influence on the outcome*." (emphasis added). *Tramp v. Associated Underwriters, Inc.*, 768 F.3d 793, 801 (8th Cir. 2014) (citing *Hazen Paper Co. v. Biggins*, 507 U.S. 604, 610 (1993)).

Braziel makes only one factual allegation in support of his age discrimination claim: that "his co-workers in the same department are all younger than him, and they have more favorable class schedules." Doc. 1 ⁋⁋ 68, 17. Even assuming Braziel's allegation is true, he failed to plead any facts showing that his age was the but-for cause of the alleged adverse actions. Braziel's Complaint is devoid of any additional evidence that age was a factor in his co-workers receiving allegedly more favorable schedules. On the contrary, Braziel's Complaint makes it clear that it was his request for disability accommodations, not his age, that resulted in changes to his teaching schedule. Therefore, Braziel's ADEA claim must be dismissed.

IV. Braziel fails to state a claim for relief under the ADA or Rehab Act.

Braziel's disability discrimination and failure to accommodate claims must be dismissed because he does not identify an adverse employment action within the meaning of the ADA or Rehab Act. Moreover, the purportedly adverse actions Braziel identified occurred outside the ADA statute of limitations. Additionally, Braziel's failure to accommodate claim should be dismissed because the facts show that Defendants engaged in the interactive process and that he is currently receiving his preferred accommodation.

The ADA and Rehab Act are similar in substance and analyzed the same way, and "cases interpreting either are applicable and interchangeable." *Randolph v. Rodgers*, 170 F.3d 850, 858 (8th Cir. 1999). The ADA prohibits employers from discriminating against a disabled individual qualified for a job because of the disability of such individual. 42 U.S.C.A. § 12112(a). Discrimination is defined to include "not

making reasonable accommodations to the known physical or mental limitations of an otherwise qualified [employee] with a disability." 42 U.S.C. § 12112(b)(5)(A); *Faidley v. United Parcel Service, Inc.*, 889 F.3d 933, 940 (8th Cir. 2018) (*en banc*). To establish a prima facie case of disability discrimination, a plaintiff must show (1) that he or she was disabled; (2) that he or she was qualified to do the essential job functions with or without reasonable accommodation; and (3) that he or she suffered an adverse action due to his or her disability. *Alexander v. E. Tank Servs., Inc.*, 2016 Ark. App. 544, 505 S.W.3d 239, 245 (2016).

To sustain a failure-to-accommodate claim under the ADA and the Rehab Act, Braziel must establish both a prima facie case of discrimination based on disability and a failure to accommodate it. *Moses v. Dassault Falcon Jet-Wilmington Corp.*, 894 F.3d 911, 923 (8th Cir. 2018). See also *Hopman v. Union Pac. R.R.*, 68 F.4th 394, 396 (8th Cir. 2023), *cert. denied*, No. 23-362, 2024 WL 674724 (U.S. Feb. 20, 2024). In addition, Braziel must show that Defendants failed to engage in the interactive process in good faith. *Mobley v. St. Luke's Health Sys., Inc.*, 53 F.4th 452, 457 (8th Cir. 2022). To establish that Defendants failed to participate in the interactive process, Braziel must demonstrate that Defendants knew about his disability, that he requested an accommodation for his disability, and that Defendants "did not make a good faith effort to assist the employee in seeking accommodations." *Id.* (quoting *Fjellestad v. Pizza Hut of Am., Inc.*, 188 F.3d 944, 952 (8th Cir. 1999)).

The facts alleged in Braziel's Complaint fail to meet his pleading burden.

A. Braziel failed to identify an adverse employment action.

Braziel cannot establish a prima facie case of discrimination because he failed to identify an adverse employment action within the meaning of the ADA. Braziel identifies two purportedly adverse actions in support of his disability discrimination claims: flawed evaluations and punitive training burdens. Doc. 1 ¶ 64. But a "flawed" annual evaluation and required training course are not adverse actions within the meaning of the ADA or Rehab Act. "Not everything that makes an employee unhappy is an actionable adverse action." *Duffy v. McPhillips*, 276 F.3d 988, 991-92 (8th Cir. 2002). An adverse action is one that "results in 'some harm' to an 'identifiable term or condition of employment." *Martinez-Medina v. Rollins*, 144 F.4th 1091, 1096 (8th Cir. 2025) (citing *Muldrow v. St. Louis*, 601 U.S. 346, 354-55).

Braziel alleges that after he complained to DeProw and Hunt about a "flawed" peer elevation in 2024, they agreed and permitted him a second evaluation by a different peer. Doc. 1 ¶¶ 29-30. Braziel's allegation that both his first and second peer evaluations were "flawed" is entirely conclusory. Braziel does not state whether the resulting score from the peer evaluations was good or bad, nor does he provide any facts which would suggest that his evaluation by two separate peers was influenced by his request for disability accommodations. Braziel admits that the only repercussion from his evaluation by his peers was a required professional development course. Doc. 1 ¶ 31. Braziel does not allege that purportedly flawed evaluations or the training course affected his compensation, benefits, or other terms and conditions of his employment.

In *Martinez-Medina v. Rollins*, the Eighth Circuit held that requiring an employee to perform additional work previously completed by employees in a higher pay grade did not constitute a change in employment conditions because the work was not outside the scope of her job responsibilities. *Martinez-Medina v. Rollins*, 144 F.4th at 1097, quoting *Arnold v. United Airlines, Inc.*, 142 F.4th 460, 471 (7th Cir. June 27, 2025) ("[T]he employee was given some additional assignments, and some of her assignments changed. But these changes were all within the normal scope of her employment and thus did not adversely affect the terms and conditions of her employment."). The same is true here. Braziel states that the professional development course focused on classroom management, which falls within the scope of a full-time teaching instructor.

Braziel incorrectly alleges that UAPTC's failure to grant his preferred accommodation is also an adverse action. In the Eighth Circuit, it is well-established that plaintiffs must state a prima facie case of disability discrimination—including an adverse employment action independent of the failure to accommodate itself—to sustain a claim for failure to accommodate under the ADA and the Rehab Act. See *Fenney v. Dakota, Minn. & E. R.R. Co.*, 327 F.3d 707, 716 (8th Cir. 2003) ("In order to overcome his initial burden of establishing a prima facie case, Fenney must also demonstrate that he suffered an adverse employment action."); *Kelleher*, 817 F.3d at 631 (holding that whether plaintiff suffered an adverse employment action was dispositive of her claim); *Moses v. Dassault Falcon Jet-Wilmington Corp*, 894 F.3d 911, 923 (8th Cir. 2018) (listing the elements, including adverse employment action, plaintiffs must

establish to prevail on a failure-to-accommodate claim); *Holtz v. Board of Trustees of the Univ. of Ark.*, No. 4:24-cv-00511-LPR at p. 12 (E.D. Ark. Mar. 14, 2025) ("[U]nder *Hopman*, it is clear that Eighth Circuit precedent requires the plaintiff to show an adverse employment action taken against her as part of a successful job-performance accommodation claim").

Because Braziel has failed to state facts to support a prima facie case of discrimination, his Complaint must be dismissed.

B. The purportedly adverse actions are untimely under the ADA.

Even assuming the adverse actions identified by Braziel were legally sufficient, they are barred by the ADA statute of limitations. In order for an EEOC right-to-sue letter to begin running the statute of limitations, the underlying EEOC charge of discrimination must have been timely filed. *Duty v. Norton-Alcoa Proppants*, 293 F.3d 481, 489 (8th Cir. 2002) (citing *Douglas v. California Dep't of Youth Authority*, 271 F.3d 812, 823 n.12 (9th Cir. 2001) (noting that limitations period of underlying EEOC charge governs statute of limitations for ADA charges in federal court) (citing *Zipes v. Trans World Airlines, Inc.*, 455 U.S. 385, 393 (1982); see also *Dring v. McDonnel Douglas Corp.*, 58 F.3d 1323, 1327 (8th Cir. 1995) (holding that failure to file a timely underlying EEOC charge bars pursuit of ADEA action in federal court). According to EEOC regulations, a claimant must file a charge of discrimination with the EEOC within 180 days of the date of discrimination. 42 U.S.C. § 2000e-5(e)(1).

Braziel states that the allegedly flawed evaluations and punitive training burdens occurred on or before May 1, 2024. Doc. 1 ¶¶ 29-31. By his own admission,

Braziel filed his charge of discrimination with the EEOC on or about July 21, 2025, well over a year after the purportedly adverse actions occurred. Doc. 1 ¶ 49. Therefore, his ADA claims must be dismissed as untimely.

C. Defendants engaged in the interactive process and granted Braziel a reasonable accommodation.

Braziel admits that since January of 2024, Defendants have accommodated him with an adjustable chair and a modified work schedule that allows him to teach remotely on some days and to avoid driving during rush hour traffic on others. As Braziel explains in his Complaint, those accommodations were the result of the parties engaging in an interactive process that began in September of 2023. Braziel also describes detailed interactions with UAPTC each semester since the Spring of 2024 where he submitted revised requests for accommodations with additional restrictions that resulted in approved accommodations continuing through the present day. For example, Braziel admits that in the Fall of 2025, he objected to the accommodations initially offered to him, but that "[a]fter further communication, Defendant did amend the Fall 2025 Schedule to meet Plaintiff's medical accommodations." Doc. 1 ¶ 43. Similarly, Braziel states that for the Spring of 2026, UAPTC "allowed Plaintiff the option to pick his class schedule…" Doc. 1 ¶ 44. Although Braziel states he was displeased with the available options, he admits that he was ultimately given his preferred schedule for the Spring 2026 semester. Doc. 1 ¶ 44. These facts preclude a finding that Defendants failed to engage in the interactive process in good faith. *See Young v. Univ. of Arkansas Sys.*, No. 4:17CV00858 JLH, 2019 WL 165702, at *3 (E.D.

Ark. Jan. 10, 2019) ("Any failure to accommodate claim fails because the parties agree that the University did reasonably accommodate Young.")

The fact that Braziel did not initially receive the specific accommodation he desired does not negate that Defendants considered his request for accommodations and granted what they believed to be a reasonable accommodation. The law is well-settled that employers are not required to grant an employee's preferred accommodation, only one that is reasonable. *See Brunckhorst v. City of Oak Park Heights*, 914 F.3d 1177, 1182-83 (2019). "All the interactive process requires is that employers make a good faith effort to seek accommodations." *Mobley v. St. Luke's Health Sys., Inc.*, 53 F.4th 452, 457 (8th Cir. 2022) (internal citations and quotations omitted). The facts alleged by Braziel show that Defendants have done so and that he is currently receiving his preferred accommodation. Doc. 1 ¶ 48. Braziel's allegation that UAPTC provided him with his preferred accommodation only because its "hand was forced," does not change the analysis. Braziel admits that he was provided a reasonable accommodation.

Moreover, the initial accommodation offered to Braziel for the Spring 2026 semester was a reasonable one. The law requires only that employers make reasonable accommodations to allow disabled individuals to perform the essential functions of their positions. *Kiel v. Select Artificials, Inc.*, 169 F.3d 1131, 1136 (8th Cir. 1999). The ADA paperwork completed by Braziel's doctor stated that he was unable to drive for more than 45-50 minutes, meaning he could not commute from his home during rush hour traffic. Doc. 1 ¶¶ 37-38. UAPTC offered Braziel a modified work schedule

that would allow him to complete some of his required office hours from 7:00 a.m. to 8:00 a.m. before teaching an 8:00 a.m. class. Although this accommodation may not have been the one that Braziel preferred, it was a reasonable one that met his medical restrictions and allowed him to perform the essential functions of his job.

It is undisputed that Defendants engaged in the interactive process and granted Braziel an accommodation that is allowing him to perform the essential functions of his job. Therefore, Braziel's failure to accommodate claim must be dismissed.

V. Braziel cannot recover emotional distress damages under the Rehab Act.

Braziel seeks damages for emotional distress as part of his disability discrimination and failure to accommodate claims against all Defendants under the Rehab Act. But in 2022, the United States Supreme Court definitively held that emotional distress damages are not recoverable in private enforcement actions under the Rehab Act. *See Cummings v. Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212 (2022). Congress enacted the Rehab Act pursuant to its authority under the Spending Clause of the U.S. Constitution to prohibit recipients of federal financial assistance from discriminating against individuals because of a disability. 29 U.S.C. § 794. While courts have long recognized that private individuals may sue to enforce the Rehab Act and other anti-discrimination statutes enacted pursuant to the Spending Clause, prior to *Cummings* it was unclear what remedies were available in such a suit. *Cummings*, 596 U.S. at 218.

Following the same reasoning articulated in *Barnes v. Gorman*, the *Cummings* Court explained that because Spending Clause legislation operates on the consent of

the recipient of the federal funds, a particular remedy is available "only if the funding recipient is *on notice* that, by accepting federal funding, it exposes itself to liability of that nature." *Cummings*, 596 U.S. at 213 (quoting *Barnes*, 536 U.S. 181, 187 (2002)). Because Spending Clause statutes operate in the nature of a contract by "conditioning an offer of federal funding on a promise by the recipient not to discriminate," the Court determined that federal funding recipients may be considered on notice that they are subject to "those remedies traditionally available in suits for breach of contract." *Cummings*, 596 U.S. at 220-21. Concluding that it is "hornbook law that 'emotional distress is generally not compensable in contract," the Court determined that neither are emotional distress damages recoverable under the Rehab Act. *Id*. at 221-22 (quoting D. Laycock & R. Hasen, Modern American Remedies 216 (5th ed. 2019). Braziel's claim for emotional distress damages under the Rehab Act must therefore be dismissed.

VI. Braziel's requested injunctive relief is contrary to the ADA and Rehab Act.

Braziel's requested permanent injunctive relief must be denied because it is an overbroad request that would cause significant harm to Defendants. The ADA grants a private right of action for injunctive relief to "any person" subject to disability discrimination. § 12188(a)(1). "[T]he court must balance three factors to determine if injunctive relief is appropriate: (1) the threat of irreparable harm to the moving party, (2) the harm to be suffered by the nonmoving party if the court grants the injunction, and (3) the public interest at stake." *Equal Emp. Opportunity Comm'n v. Drivers Mgmt., LLC*, 142 F.4th 1122, 1138 (8th Cir. 2025) (citing *Wedow v. City of Kansas*

City, 442 F.3d 661, 676 (8th Cir. 2006)). While its discretion is broad, the district court should fashion an injunction no "broader than necessary to remedy the underlying wrong." *Id*. (citing *EEOC v. HBE Corp.*, 135 F.3d 543, 557 (8th Cir. 1998)).

Braziel seeks to permanently circumvent the interactive process and prevent Defendants from raising an undue hardship defense as to his future requests for accommodation, whatever those may be. Specifically, Braziel asks the court to "[i]ssue a permanent injunction under the ADA ordering [official capacity defendants] to maintain a teaching schedule that complies with Plaintiff's medical restrictions..." Doc. 1 ⁋ 1 Prayers for Relief. Braziel. In *Sturgill v. United Parcel Serv., Inc.*, 512 F.3d 1024 (8th Cir. 2008), the Eighth Circuit vacated the lower court's grant of a similar request as overbroad. In *Sturgill*, the lower court granted an injunction requiring UPS "to accommodate plaintiff's religious observation of the Sabbath in the future." *Id*. at 1035. In reversing, the Eighth Circuit stated that "[t]his command to obey the law 'was overbroad under general equitable principles.'" *Id*. (quoting *Jake's Ltd. v. City of Coates*, 356 F.3d 896, 904 (8th Cir. 2004). As the *Sturgill* court noted, "it is not at all clear what accommodations will be reasonable in the future," and that "[s]uch a debatable issue should not be the subject of contempt proceedings." *Id*.

The same is true in this case. The facts pled by Braziel show that he has expanded his request for disability accommodations every semester since he first requested accommodations in the Spring of 2024. According to Braziel, his most recent accommodation request was to limit his instructional duties to the hours of 9:00 a.m. to 2:00 p.m. Doc. 1 ⁋ 40. The ADA and Rehab Act require the parties to engage in an

interactive process that affords Defendants an opportunity to determine whether this request, or even more restrictive requests Braziel may make in the future, causes them an undue burden or results in Braziel no longer being qualified to perform the essential functions of his job as a teaching instructor.

The permanent injunctive relief sought by Braziel must be denied because it is overbroad and inconsistent with the interactive process and undue burden analysis under the ADA and Rehab Act.

CONCLUSION

Braziel has held the same position since 2019. Since January of 2024, Braziel has received accommodations including an adjustable chair and a modified work schedule that have enabled him to continue performing his job. Defendants have engaged in an ongoing interactive process with Braziel to offer him new accommodations each semester through the present. In fact, Brazil admits that he is currently receiving his preferred accommodation. Based on these facts, Braziel has failed to state a prima facie case of discrimination or failure to accommodate under the ADEA, ADA or the Rehab Act. For the reasons stated herein, Braziel's Complaint should be dismissed.

Respectfully submitted,

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