

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
KANSAS CITY-LEAVENWORTH DIVISION**

JARED NALLY, ET AL.,

Plaintiffs,

v.

RONALD GRAHAM, ET AL.,

Defendants.

CIVIL ACTION NO.: 21-2113

**PLAINTIFFS' MOTION
FOR PRELIMINARY
INJUNCTION ON
CLAIMS 4 AND 5**

Pursuant to Federal Rule of Civil Procedure 65(a) and Local Rule 65.1, Plaintiffs Jared Nally and the Indian Leader Association ("Plaintiffs") respectfully submit this Motion for Preliminary Injunction on Claims 4 and 5. In support of this motion, Plaintiffs state as follows:

1. On March 2, 2021, Plaintiffs filed this lawsuit alleging seven claims against Defendants. Claims 4 and 5 of Plaintiffs' Complaint challenge the constitutionality of Haskell's Campus Expression Policy, which states: "Discussion and expression of all views is permitted, consistent with Haskell's CIRCLE values and subject only to requirements for the maintenance of order." The CIRCLE values are a set of subjective and amorphous terms, "Communication, Integrity, Respect, Collaboration, Leadership, and Excellence," that are included in Haskell's Code of Student Conduct and incorporated into the Campus Expression Policy.

2. As detailed in the accompanying memorandum of law, Plaintiffs are entitled to a preliminary injunction enjoining Defendants from enforcing Haskell's

Campus Expression Policy because Plaintiffs are likely to succeed on the merits of their challenges to the Campus Expression Policy. First, by restricting a broad range of students' protected expression, the Campus Expression Policy is overbroad in violation of the First Amendment.

3. Second, by requiring adherence to amorphous and inherently subjective CIRCLE values, the Campus Expression Policy is unconstitutionally vague because it fails to give students notice of what expression is prohibited and invites arbitrary enforcement by giving administrators unbridled discretion in violation of the First and Fifth Amendments.

4. Moreover, the chilling effect on Plaintiffs' expressive and due process rights constitutes an irreparable harm.

5. Additionally, the balance of equities favors Plaintiffs, as Defendants cannot present any interest that outweighs Plaintiffs' interest in the enjoyment of their constitutional rights.

6. Granting a preliminary injunction would also further the public interest because it would protect the expressive and due process rights of hundreds of other Haskell students.

7. Finally, this Court should waive Rule 65(c)'s bond requirement because this is a public-interest lawsuit and imposing a preliminary injunction poses no risk of financial loss to Defendants.

8. Accordingly, Plaintiffs respectfully request that this Court preliminarily enjoin Defendants from enforcing the portion of the Campus

Expression Policy that makes students' expressive rights contingent upon compliance with the CIRCLE values. This includes taking any action to investigate, threaten, or punish students for violations of that portion of the Campus Expression Policy and the CIRCLE values.

9. In further support of this motion, Plaintiffs submit the following materials:

a. Declaration of Jared Nally with attached Exhibits 1 through 4.;

and

b. Declaration of Lindsie Rank with attached Exhibits 1 through 3.

10. Plaintiffs respectfully request a hearing on this motion under Local Rule 7.2.

Dated: May 19, 2021

Respectfully submitted,

/s/ Stephen Douglas Bonney
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*Counsel for Plaintiffs Jared Nally and
the Indian Leader Association*

CERTIFICATE OF SERVICE

I, Stephen D. Bonney, hereby certify that on May 19, 2021, a copy of the foregoing motion was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt, and parties may access this filing through the Court's electronic filing system.

/s/ Stephen Douglas Bonney
STEPHEN DOUGLAS BONNEY