

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

ALEXANDRA LIEBL and MADELYN  
RYSAVY, students at the University of  
Wisconsin, Eau Claire,

*Plaintiffs,*

v.

JAMES SCHMIDT, individually and in his  
official capacity as the Chancellor of the  
University of Wisconsin, Eau Claire;  
PATRICIA KLEINE, individually and in  
her official capacity as the Provost/Vice  
Chancellor for Academic Affairs at the  
University of Wisconsin, Eau Claire;  
MICHAEL CARNEY, individually and in  
his official capacity as the Assistant Vice  
Chancellor of Curriculum, Internaliza-  
tion, and Immersion for the University  
of Wisconsin, Eau Claire; and BENITA  
WAGNER, individually and in her official  
capacity as the Coordinator of Service-  
Learning at the University of Wisconsin,  
Eau Claire,

*Defendants.*

Case No. 16-cv-739

**JURY TRIAL DEMANDED**

**VERIFIED COMPLAINT**

Plaintiffs Alexandra Liebl and Madelyn Rysavy, by and through counsel, and for their Complaint against Defendants hereby state as follows:

**INTRODUCTION**

1. The hallmark of higher education is that all students and all viewpoints are allowed to compete in the “marketplace of ideas” on campus. The First Amendment dictates that this marketplace cannot prefer some viewpoints and cannot exile, denigrate, or target others.

2. In direct violation of these principles, the University of Wisconsin, Eau Claire

enforces policies that subject certain religious activities in which students voluntarily engage to unique restrictions and disabilities while conferring academic credit upon students that engage in identical forms of expression from a non-religious viewpoint.

3. This case arises from policies and practices of the University of Wisconsin-Eau Claire (“UWEC” or the “University”) and public officials employed by the University that restrict the expressive rights of students.

4. Through its service-learning program, the University requires all students to complete thirty hours of community service in order to graduate. It allows students to select community service activities that suit their beliefs, preferences, and values in order to satisfy this requirement.

5. However, through its Service-Learning Policy (contained in the *Service-Learning Guidebook*), the University bans students from receiving service-learning credit for any activities that it deems to be “time spent directly involved in promoting religious doctrine, proselytizing, or worship.” In so doing, it prohibits students from receiving service-learning credit for activities that involve religious instruction, persuasion, and recruitment though it awards credit—and even encourages students to seek credit—for engaging in activities that involve the same forms of expression, albeit from a non-religious perspective.

6. In the spring of 2016, Plaintiff Alexandra Liebl sought to obtain service-learning credit for the thirty hours she spent volunteering with the second grade religious education class at a local Roman Catholic church. Defendants denied her request, citing the Service-Learning Policy. Upon hearing of this decision (and others like it), Plaintiff Madelyn Rysavy realized that she would not receive credit for the approximately twenty-four hours she spent volunteering in the same church’s Sunday School classes, and so due to the Service-Learning Policy, she has yet to submit these hours for credit but would like to have them approved.

7. Defendants' Service-Learning Policy and decisions enforcing that policy discriminate on the basis of content and viewpoint, confer unbridled discretion, abridge the free exercise of religion, violate the Establishment Clause, and deny the due process and equal protection of law.

8. This action is premised on the United States Constitution and concerns the denial of Plaintiffs' fundamental and clearly established rights under the Free Speech, Free Exercise, and Establishment Clauses of the First Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

9. Defendants' Service-Learning Policy and associated practice have deprived, and will continue to deprive, Plaintiffs of their paramount rights under the United States Constitution.

10. Each and every act of Defendants alleged herein was committed by such Defendants, each and every one of them, under color of state law and authority.

#### **JURISDICTION & VENUE**

11. This civil rights action raises federal questions under the United States Constitution, particularly the First and Fourteenth Amendments, and the Civil Rights Act of 1871, 42 U.S.C. § 1983.

12. This Court has original jurisdiction over these federal claims pursuant to 28 U.S.C. §§ 1331 and 1343.

13. This Court has authority to award the requested damages pursuant to 28 U.S.C. § 1343; the requested declaratory relief pursuant to 28 U.S.C. §§ 2201–02; the requested injunctive relief pursuant to 28 U.S.C. § 1343 and FED. R. CIV. P. 65; and costs and attorneys' fees under 42 U.S.C. § 1988.

14. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because most of the Defendants reside in this district and/or all of the acts described in this Complaint occurred in this district.

**PLAINTIFFS**

15. Plaintiff Alexandra Liebl is a resident of the State of Minnesota and is a senior at the University of Wisconsin, Eau Claire.

16. Miss Liebl is an active member of the Roman Catholic Church and seeks to live out her faith and to serve her community through a variety of church-related activities.

17. Among other activities, Miss Liebl served her community by participating as a teaching assistant in the Wednesday night religious education classes for second grade children at the Newman Parish in Eau Claire.

18. Plaintiff Madelyn Rysavy is a resident of the State of Minnesota and is a junior at the University of Wisconsin, Eau Claire.

19. Miss Rysavy is an active member of the Roman Catholic Church and seeks to live out her faith and to serve her community through a variety of church-related activities.

20. Among other activities, Miss Rysavy served her community by teaching Sunday School classes for kindergarten, second, and third grade children at the Newman Parish in Eau Claire.

**DEFENDANTS**

21. Defendant James Schmidt is, and was at all times relevant to this Complaint, the Chancellor of the University of Wisconsin, Eau Claire (“University” or “UWEC”), a public university organized and existing under the laws of the State of Wisconsin.

22. The Regents of the University of Wisconsin System have designated the University Chancellor as the chief executive officer and administrative head of the University of Wisconsin, Eau Claire.

23. The Regents of the University of Wisconsin System delegate to Defendant Schmidt the responsibility for final policy-making authority concerning students at UWEC.

24. Defendant Schmidt is responsible for the enactment, amendment, execution, implementation, and enforcement of University policies and their application to student speech and expression, including the policies and practices challenged herein.

25. Defendant Schmidt is responsible for the enactment, implementation, and enforcement of the Service-Learning Policy by University employees, including against Plaintiffs.

26. All changes in UWEC policies concerning the service-learning program are made only with the prior approval of Defendant Schmidt.

27. Defendant Schmidt is ultimately responsible for all administration and policymaking at UWEC.

28. Defendant Schmidt is aware of the Service-Learning Policy and has the authority to change the policy. But he has not modified the policy or instructed University personnel to modify the policy to comply with all constitutional mandates.

29. Defendant Schmidt is sued in his official and individual capacities.

30. Defendant Patricia Kleine is, and was at all times relevant to this Complaint, the Provost/Vice Chancellor of Academic Affairs for the University of Wisconsin, Eau Claire, a public university organized and existing under the laws of the State of Wisconsin.

31. Defendant Kleine, in consultation with Defendant Schmidt, is responsible for the administration, enforcement, interpretation, oversight, and implementation of certain university policies, including the Service-Learning Policy, and their application to student speech and expression, including against Plaintiffs.

32. Defendant Kleine is aware of the Service-Learning Policy, and has the authority to recommend changes to the policy, but she has not recommended any modifications.

33. Defendant Kleine is sued in her official and individual capacities.

34. Defendant Michael Carney is, and was at all times relevant to this Complaint, the Assistant Vice Chancellor of Curriculum, Internalization, and Immersion for the University of Wisconsin, Eau Claire, a public university organized and existing under the laws of the State of Wisconsin.

35. Defendant Carney, in consultation with Defendants Schmidt and Kleine, is responsible for the administration, enforcement, interpretation, oversight, and implementation of certain university policies, including the Service-Learning Policy, and their application to student speech and expression, such as Plaintiffs'.

36. Defendant Carney supervises the Coordinator of Service-Learning, is aware of the Service-Learning Policy, and has the authority to recommend changes to the policy. But he has not recommended any such modifications.

37. Defendant Carney is sued in his official and individual capacities.

38. Defendant Benita Wagner is, and was at all times relevant to this Complaint, the Coordinator of Service-Learning for the University of Wisconsin, Eau Claire, a public university organized and existing under the laws of the State of Wisconsin.

39. As Coordinator of Service-Learning, Defendant Wagner oversees the Office of Service-Learning at the University of Wisconsin, Eau Claire, which is the office that administers the service-learning program.

40. Defendant Wagner, in consultation with Defendants Schmidt, Kleine, and Carney, is responsible for the administration, enforcement, interpretation, oversight, and implementation of certain university policies, including the Service-Learning Policy, and their application to student speech and expression, such as Plaintiffs'.

41. One of Defendant Wagner's duties as Coordinator of Service-Learning is to review and give final approval or disapproval to activities students' propose or submit for service-learning credit.

42. In executing her duty to review these activities, Defendant Wagner implements UWEC's policies and procedures regarding service-learning credit, including

the Service-Learning Policy.

43. Defendant Wagner is aware of the Service-Learning Policy, and has the authority to recommend changes to the policy, but she has not recommended any such modifications.

44. While enforcing the Service-Learning Policy, Defendant Wagner has denied service-learning credit to multiple students, including Miss Liebl, who have sought to satisfy the service-learning requirement by volunteering in activities that Defendant Wagner deems to involve “promoting religious doctrine, proselytizing, or worship.”

45. Defendant Wagner is sued in her official and individual capacities.

### **FACTUAL BACKGROUND**

#### **I. THE UNIVERSITY’S UNCONSTITUTIONAL SERVICE-LEARNING POLICY**

46. The University of Wisconsin, Eau Claire is a public university organized and existing under the laws of the State of Wisconsin and receives funding from the State of Wisconsin in order to operate.

47. The University requires all students to complete a service-learning requirement, lasting thirty hours, in order to graduate.

48. The University’s service-learning program is governed by its *Service-Learning Guidebook*. A true and correct copy of the University’s *Service-Learning Guidebook* is attached to this Complaint as Exhibit 1.

49. In order to receive a baccalaureate degree, all students at the University must complete at least thirty hours of service-learning activity.

50. The *Service-Learning Guidebook* states: “All candidates for the baccalaureate degree at the University of Wisconsin-Eau Claire must satisfactorily complete 30 or more hours of accepted service-learning activity.” Ex. 1 at 1.

51. Defendants afford students significant flexibility in proposing service-learning activities that are consistent with their personal beliefs, preferences, and values.

52. The *Service-Learning Guidebook* states: “Students’ sincerely held beliefs,

preferences, and values will be reasonably accommodated in accepting service-learning proposals.” Ex. 1 at 1.

53. Defendants also make it clear that UWEC does not endorse any particular service-learning activity or any organizations that might be involved in a particular service-learning activity.

54. The *Service-Learning Guidebook* states: “Acceptance of a service-learning proposal indicates that the proposal is acceptable for meeting the service-learning requirement; it does not imply endorsement either of the proposed activities or of the recipient by the University of Wisconsin-Eau Claire.” Ex. 1 at 2.

55. However, Defendants refuse to give service-learning credit to a wide variety of religious activities simply because of their religious motivation, content, and viewpoint.

56. Specifically, Defendants prohibit students from receiving service-learning credit for any activities that involve “promoting religious doctrine, proselytizing, or worship.” Ex. 1 at 2.

57. The *Service-Learning Guidebook* contains the challenge Service-Learning Policy, which states: “[T]his public university will not award [service-learning] credit for time spent directly involved in promoting religious doctrine, proselytizing, or worship.” Ex. 1 at 2.

58. The *Service-Learning Guidebook* provides no definitions, standard, or other guidance to assist University personnel in determining whether a specific activity qualifies as “time spent directly involved in promoting religious doctrine, proselytizing, or worship.”

59. On information and belief, Defendants have no documents, policies, or standard operating procedures that provide a uniform definition of the terms “directly involved in” or “promoting religious doctrine, proselytizing, or worship,” or that provide consistent guidance to University personnel that enforce and implement this policy.

60. Hence, Defendants prohibit students from receiving service-learning credit for any activities that involve religious instruction (*i.e.*, “promoting religious doctrine”) or religious persuasion and recruitment (*i.e.*, “proselytizing”).

61. However, Defendants allow students to receive service-learning credit for a wide variety of activities that involve non-religious instruction or non-religious persuasion and recruitment.

62. On their Service-Learning website, Defendants publish a list entitled *Examples of Service-Learning Projects*. A true and correct copy of this list entitled *Examples of Service-Learning Projects* is attached to this Complaint as Exhibit 2.

63. Included on Defendants’ list of *Examples of Service-Learning Projects* are many activities that call for non-religious persuasion and recruitment:

- a. Students of any major can earn service-learning credit by “[w]ork[ing] with a public interest organization.” Ex. 2 at 8.
- b. Students of any major can earn service-learning credit by “[w]ork[ing] with a political campaign.” Ex. 2 at 8.
- c. Students majoring in art can earn service-learning credit by “[d]esign[ing] brochures, annual reports, logos and other publications for a non-profit organization.” Ex. 2 at 8.
- d. Students majoring in business communication can earn service-learning credit by “help[ing] organizations with fund-raising activities.” Ex. 2 at 8.
- e. Students majoring in communications and journalism can earn service-learning credit by “[h]elp[ing] a non-profit organization create a public awareness campaign,” by “design[ing] logos or prepar[ing] reports, brochures or newsletters for a non-profit organization or community agency,” by “work[ing] with a public access television station on community issue programming,” or by “writ[ing] for a newspaper or newsletter that focuses on public issues that concern you.” Ex. 2 at 8–9.

- f. Students majoring in English can earn service-learning credit by “prepar[ing] reports, brochures or newsletters for a non-profit organization or community agency.” Ex. 2 at 9.
- g. Students majoring in geography can earn service-learning credit by “conduct[ing] an assessment study for a downtown revitalization project,” by “assist[ing] with a local comprehensive planning process,” or by “work[ing] on assessment projects for natural resource agencies.” Ex. 2 at 9.
- h. Students majoring in geology can earn service-learning credit by “work[ing] with an environmental action group.” Ex. 2 at 9.
- i. Students majoring in Latin American Studies can earn service-learning credit by “organiz[ing] and conduct[ing] cultural awareness programs or festivals.” Ex. 2 at 9–10.
- j. Students majoring in political science can earn service-learning credit by “[v]olunteer[ing] with political campaigns,” by “work[ing] with public interest organizations or political watch groups,” by “help[ing] the League of Women Voters present community programs,” by “help[ing] a human rights organization,” by “serv[ing] on a community board or advisory committee,” or by “help[ing] with a voter-registration drive.” Ex. 2 at 10.

64. Included on Defendants’ list of *Examples of Service-Learning Projects* are many activities that call for non-religious instruction:

- a. Students of any major can earn service-learning credit by “[t]utor[ing] elementary or secondary students in a variety of subjects,” by “work[ing] with Literacy Volunteers of America,” or by “serv[ing] as a ‘Reading Partner’ to encourage youngsters to develop good reading habits.” Ex. 2 at 8.
- b. Students of any major can earn service-learning credit by “[s]erv[ing] as a mentor for a young person through Big Brothers Big Sisters, Scouting, 4-H, or other youth organizations.” Ex. 2 at 8.

- c. Students majoring in accounting and finance can earn service-learning credit by “[s]har[ing] accounting or finance skills with a non-profit organization, a religious congregation, a day-care center, or a homeless shelter”; by “present[ing] community workshops on personal accounting and money management.” Ex. 2 at 8.
- d. Students majoring in American Indian Studies can earn service-learning credit by “[t]utor[ing] or serv[ing] as a mentor to a Native American elementary or secondary student” or by “mak[ing] presentations to elementary students about Native American culture.” Ex. 2 at 8.
- e. Students majoring in anthropology can earn service-learning credit by “mak[ing] presentations at local schools on different cultural groups in the U.S. and throughout the world.” Ex. 2 at 8.
- f. Students majoring in art can earn service-learning credit by “visit[ing] local schools to promote appreciation for the arts.” Ex. 2 at 8.
- g. Students majoring in biology can earn service-learning credit by “tutor[ing] secondary students in biology” or by “present[ing] an interactive seminar for an elementary or secondary school class or club.” Ex. 2 at 8.
- h. Students majoring in chemistry can earn service-learning credit by “tutor[ing] high school students in chemistry” or by “present[ing] an interactive seminar for an elementary or secondary school class or club.” Ex. 2 at 8.
- i. Students majoring in computer science can earn service-learning credit by “design[ing] an educational game to be used in schools.” Ex. 2 at 9.
- j. Students majoring in dance can earn service-learning credit by “offer[ing] a class in a local community center” or by “teach[ing] children cultural dances.” Ex. 2 at 9.
- k. Students majoring in economics can earn service-learning credit by

“work[ing] with a public interest group” or by “tutor[ing] high school students in economics.” Ex. 2 at 9.

- l. Students in English can earn service-learning credit by “[t]utor[ing] elementary or secondary school students” or by “organiz[ing] book-readings and discussions in a school, nursing home, church or hospital.” Ex. 2 at 9.
- m. Students majoring in a foreign language can earn service-learning credit by “teach[ing] English as a second language,” by “hold[ing] language classes for community groups,” and by “assist[ing] with cultural awareness programs.” Ex. 2 at 9.
- n. Students majoring in geography can earn service-learning credit by “present[ing] special units on geography at local schools.” Ex. 2 at 9.
- o. Students majoring in geology can earn service-learning credit by “[p]resent[ing] special units on geology at local schools,” by “organiz[ing] and conduct[ing] field excursions for children, senior citizens, or disabled persons,” or by “volunteer[ing] at a natural history museum or local nature center.” Ex. 2 at 9.
- p. Students majoring in history can earn service-learning credit by “creat[ing] and present[ing] innovative history units for elementary and secondary students.” Ex. 2 at 9.
- q. Students majoring in kinesiology can earn service-learning credit by “serv[ing] as a counselor in a youth summer sports” and by “teach[ing] aerobics, calisthenics or general fitness for hospitals, senior citizen centers, nursing homes or community organizations.” Ex. 2 at 9.
- r. Students majoring in Latin American Studies can earn service-learning credit by “organiz[ing] units on Latin American studies or conduct[ing] special projects with elementary students.” Ex. 2 at 9–10.
- s. Students majoring in mathematics can earn service-learning credit by

“[s]erv[ing] as a math tutor for elementary and secondary school students,” by “serv[ing] as a teacher’s aide,” or by “work[ing] with a school math club or help[ing] with after-school programs.” Ex. 2 at 10.

- t. Students majoring in physics and astronomy can earn service-learning credit by “[t]utor[ing] high school students taking physics courses,” by “lead[ing] an after-school astronomy or physics program.” Ex. 2 at 10.
- u. Students majoring in sociology can earn service-learning credit by “mak[ing] presentations at local schools on different cultural groups in the U.S. and throughout the world.” Ex. 2 at 10.

65. Included on Defendants’ list of *Examples of Service-Learning Projects* are activities that call for University-approved forms of religious advocacy, instruction, and recruitment. For example, students majoring in philosophy and religious studies can earn service-learning credit by “participat[ing] in Alternative Winter Break activities with the Ecumenical Religious Center,” by “develop[ing] a website for a religious congregation,” or by “work[ing] with a consortium of religious organizations on a social issue.” Ex. 2 at 10.

66. Defendants and other University officials regularly circulate to the University community via electronic mail announcements of programs, events, and other opportunities through which students can earn service-learning credit.

67. Many of the e-mailed announcements of programs, events, and opportunities through which students can earn service-learning credit involve activities that call for non-religious instruction:

- a. On numerous occasions, University officials have informed juniors and seniors in the honors program that they can earn thirty hours of service-learning credit by mentoring in an honors class or by tutoring in an honors colloquium or elective. True and correct copies of examples of these e-mail announcements are attached as Exhibit 3 to this Complaint.

- b. In February 2015, University officials informed students that they could earn thirty hours of service-learning credit by serving as a peer guide. Among other things, peer guides were responsible for “[c]onduct[ing] workshops regarding social issues, campus life, and cultural adjustment.” A true and correct copy of the February 2015 e-mail announcement, along with the position description linked in it, is attached as Exhibit 4 to this Complaint.
- c. On multiple occasions, University officials have informed students that they could earn fifteen hours of service-learning credit by volunteering to “lead campus tours for 1700 fifth graders,” a task that included giving instruction to “[i]ntroduce the idea of college to all students at an early age” and “instill[ing] the importance of a higher education.” True and correct copies of examples of these e-mail announcements are attached as Exhibit 5 to this Complaint.
- d. On multiple occasions, University officials have informed students that they could earn service-learning credit by volunteering with the “8th Grade Tour Days.” Student volunteers would help eighth grade participants “take tours, try out classes with professors, and learn about their options when it comes to higher education!” True and correct copies of examples of these e-mail announcements are attached as Exhibit 6 to this Complaint.

68. Several of the e-mailed announcements of programs, events, and opportunities through which students can earn service-learning credit involve non-religious persuasion and recruitment.

- a. In January 2015, Defendant Wagner informed journalism students that they could earn service-learning credit by participating in the White House Student Film Festival. According to the announcement, participants in this festival were supposed to highlight, among other topics, “why equality mat-

ters” or “what change looks like to them.” A true and correct copy of Defendant Wagner’s January 2015 e-mail announcement is attached as Exhibit 7 to this Complaint.

- b. In 2015, students who belonged to the student organization Human Trafficking Abolitionists received service-learning credit for each organization meeting and event they attended, including an October 2015 lecture the group sponsored that was intended to persuade attendees of how Planned Parenthood has allegedly contributed to society.

69. Despite prohibiting students from receiving service-learning credit for any activities that involve “promoting religious doctrine, proselytizing, or worship,” Defendants count these activities as community service in other contexts.

70. In December 2014, Defendant Wagner sent an e-mail to students soliciting information for “a report called the President’s Higher Education Community Service Honor Roll.” A true and correct copy of Defendant Wagner’s e-mail is attached as Exhibit 8 to this Complaint.

71. In this e-mail, Defendant Wagner explained that this report tallied all community service hours completed by students between July 1, 2013 and June 30, 2014.

72. Defendant Wagner asked students to “tell us about all volunteer or service projects completed during July 1, 2013 through June 30, 2014.” Ex. 8 at 34.

73. Defendant Wagner noted that the University would automatically include students’ service-learning hours in this report. Ex. 8 at 34.

74. Defendant Wagner also asked students to tell her about any activities that did not qualify for service-learning credit, specifying that this included “all faith-based (mission trips, VBS, Sunday School, teaching, training, mentoring, worship services) and political campaigns (campaigning, lobbying) you have been involved with.” Ex. 8 at 34.

75. Defendant Wagner explained that these hours would be included in the report to help “make UWEC shine brightly in the university community.” Ex. 8 at 34.

76. Hence, Defendants recognize that many activities that include “promoting religious doctrine, proselytizing, or worship” qualify as community service, and indeed they use students’ efforts in such activities to burnish their reputations. But they refuse to award students service-learning credit for these activities because of their religious content, viewpoint, and motivation.

## **II. BACKGROUND ON MISS LIEBL AND MISS RYSAVY**

77. Beginning in the fall of 2015, Miss Liebl volunteered as a teaching assistant in the second grade religious education class at the Newman Parish in Eau Claire.

78. These religious education classes met each Wednesday evening during the 2015–2016 academic year, with some exceptions that coincided with the students’ breaks from school.

79. These religious education classes lasted approximately one hour and fifteen minutes each week, from 6:00–7:15 p.m.

80. The second grade religious education classes included instruction regarding the sacraments of First Reconciliation and First Communion and also taught the children some of the basic prayers of the Roman Catholic faith.

81. To prepare the children for First Communion, the class taught the children about the Scripture passages that relate to this sacrament (including the portions of the Gospels that discuss Jesus’ Last Supper with His disciples), educated them about the related ideas and beliefs, and explained to them the symbolism present during this service. In addition, the class focused on how the children should behave during the service, as they sing the hymns, listen to the Scripture readings and message, and receive communion.

82. To prepare the children for First Reconciliation, the class taught the children

about the importance of recognizing when they have sinned, the importance of seeking forgiveness when that happens, and God's willingness to grant that forgiveness. It included instruction on Scripture passages that reinforced these points (such as the Parable of the Prodigal Son), on how to examine one's conscience, and on the elements of confession. It also instructed the children on the importance of seeking reconciliation with any individuals they may have wronged.

83. The class regularly incorporated character lessons and moral instruction, educating the children how to live and behave properly. Among other things, it taught the children to obey authority figures in their lives, to treat other all people equally kind regardless of how they are treated, to seek forgiveness from God and from others when they erred. It discussed the Ten Commandments on an age-appropriate level, explaining how children should not disobey their parents, lie, steal, or be jealous of what others have. Focusing on some of the more practical social and moral lessons for children this age, the class also instructed children on how they should interact with family members (*e.g.*, not hitting siblings, not talking back to parents). The class also taught children the importance of recognizing and being grateful for the blessings in their lives.

84. The class also regularly tutored children in their reading skills. Children would take turns reading aloud from the class textbook, and Miss Liebl and the other teachers would assist them in sounding out words to improve their reading skills. The class would then discuss the readings and the lessons they conveyed.

85. The class also regularly instructed children about different cultures from around the world, generally the cultures involved in the various Bible stories that the class covered.

86. The class also provided the children instruction in art history and art appreciation. For example, one of the crafts the children completed involved creating a banner using various church symbols. While completing this craft, the children

learned about the significance, meaning, and history of these sacred art symbols.

87. The class also taught the children about church history, the traditions of the church and their historical background, and many of the major figures of church history.

88. The class also included instruction in foreign language, teaching the children about various Latin, Greek, and Hebrew phrases commonly used in the church and what they mean.

89. Miss Liebl primarily helped the teacher keep the children focused and engaged in the lessons. She also led the children in games between different instructional sections, assisted the children in completing the craft projects outlined in the class textbook, and periodically participated in group presentations to the class on a variety of religious, moral, and character-related topics. All of these activities were designed to underscore and reinforce the moral and character lessons the children had just received.

90. Miss Liebl also worked one-on-one with the children, mentoring them on the memory work that the class featured.

91. Miss Liebl also helped coordinate the weekly review game that the class played to help the children remember the lesson that the children had learned the prior week.

92. Miss Liebl arrived at the Newman Parish about fifteen minutes before the religious education classes each week to assist with setting up the room and preparing for the class. She stayed approximately fifteen minutes after it ended to help coordinate parents picking up their children and then to help clean up the room after the class.

93. So each week, Miss Liebl dedicated approximately one and three-quarters hours to volunteering as a teaching assistant in the second grade religious education class.

94. During the 2015–2016 academic year, the second grade religious education class met nineteen times, but Miss Liebl served in seventeen of them: October 7, 14,

21, and 28; November 4, 11, and 18; December 2 and 9; January 27; February 3, 17, and 24; March 2, 9, and 30; and April 6.

95. In April 2016, Miss Liebl assisted in another hour-long event for the class.

96. Therefore, during the 2015–2016 academic year, Miss Liebl engaged in over thirty hours of community service with the second grade religious education class at the Newman Parish.

97. During the spring semester of the 2016–2017 academic year, Miss Liebl plans to volunteer once again as a teaching assistant with the weekly religious education classes at the Newman Parish.

98. Beginning in the fall of 2014, Miss Rysavy volunteered as a teaching assistant in the kindergarten Sunday School class at the Newman Parish in Eau Claire. This was during Miss Rysavy's freshman year of college.

99. Beginning in the fall of 2015, Miss Rysavy volunteered as a teaching assistant in the second and third grade Sunday School class at the Newman Parish in Eau Claire. This was during Miss Rysavy's sophomore year of college.

100. These classes met one Sunday a month during the fall semester of the 2014–2015 academic year and during the fall semester of the 2015–2016 academic year.

101. These classes lasted approximately one and a half hours per week.

102. The kindergarten class instructed the approximately five or six children in the weekly lesson they had just heard during mass, explained that lesson in terms they could better understand, and conducted crafts and recreational activities that underscored the principles of the lesson.

103. The second and third grade class instructed the approximately fifteen children in the weekly lesson they had just heard during mass, explained that lesson to them in terms they could better understand, and conducted crafts and recreational activities that underscored the principles of the lesson.

104. In the process, each of these classes incorporated character lessons and moral

instruction, teaching the children how to live and behave properly. Among other things, they taught the children to obey authority figures in their lives, to treat all other people equally well regardless of how they are treated, to seek forgiveness from God and from others when they have erred. They also taught the children about social issues such as the importance of being honest, kind, accepting of others, polite, and respectful of both their parents and their siblings.

105. As a teaching assistant, Miss Rysavy participated in all aspects of the classes, including instructing the children in what the lesson meant and planning the craft and recreational activities. She also led the children in games between different instructional sections, assisted the children in completing the craft projects, and periodically gave presentations to the class on a variety of religious, moral, and character-related topics. All of these activities were designed to underscore and reinforce the moral and character lessons the children had just received. She also helped ensure that the children remained actively involved in the class.

106. In each of these classes, Miss Rysavy engaged in tutoring activities, answering questions and providing instruction about topics that confused particular students.

107. In each of these classes, Miss Rysavy served as a mentor to the students, both by being approachable so the children would feel comfortable asking her questions and by living as an example before the children of how they should conduct themselves. For example, she took pains to attend the mass right before the Sunday School classes so that the children would see that she took mass seriously.

108. Frequently in each of these classes, Miss Rysavy would make presentations to the students that discussed what the Scripture passage of the day meant on their level or that told stories featuring the same theme so that the children could understand how the lesson applied to them.

109. In many of these classes, the teachers, including Miss Rysavy, would instruct the children on various aspects of Biblical history, geography, and the cultural groups

living in the relevant locations at the time.

110. In many of these classes (especially in the second and third grade class), the children would read aloud directly from books they were given and then discuss the substance of those readings with the teachers, including Miss Rysavy. Whenever the children would come to a word they had difficulty pronouncing, the teachers would assist them.

111. As a teaching assistant, Miss Rysavy spent approximately an hour and a half planning for the Sunday morning class.

112. So Miss Rysavy spent three hours per class period volunteering as a teaching assistant with the kindergarten and the second and third grade classes.

113. During the 2014–2015 academic year, the kindergarten class met four times: September, October, November, and December.

114. During the 2015–2016 academic year, the second and third grade class met four times: September, October, November, and December.

115. Miss Rysavy served as a teaching assistant during each of these classes.

116. Therefore, during the 2014–2015 and 2015–2016 academic years, Miss Rysavy engaged in twenty-four hours of community service with the kindergarten, second, and third grade classes at the Newman Parish.

117. Ms. Liebl and Ms. Rysavy were motivated to volunteer with their respective classes at the Newman Parish due to their sincerely held religious beliefs. By helping teach these classes, they not only helped instruct others about those beliefs, but they also exercised their beliefs and lived out their faith through the act of teaching.

118. During the 2017–2018 academic year, Miss Rysavy plans to serve as teaching assistants in the weekly religious education classes at the Newman Parish.

119. Both Miss Liebl and Miss Rysavy desired, and still desire, to receive service-learning credit for the hours they spent volunteering with their respective classes at the Newman Parish. They also desire to receive any needed service-learning credit

for the hours they plan to volunteer with the Newman Parish during the 2016–2017 or 2017–2018 academic years.

**III. THE UNIVERSITY’S UNCONSTITUTIONAL SERVICE-LEARNING POLICY PREVENTS MISS LIEBL AND MISS RYSAVY FROM RECEIVING CREDIT FOR THEIR SERVICE.**

120. In April 2016, having completed over thirty hours of community service through the Newman Parish religious education class, Miss Liebl sought to have those hours count towards (and satisfy) her obligations under the University’s service-learning requirement.

121. To accomplish this goal, Miss Liebl sent an e-mail to Defendant Wagner on April 6, 2016. A true and correct copy of Miss Liebl’s e-mail to Defendant Wagner, along with Defendant Wagner’s response, is attached to this Complaint as Exhibit 9.

122. In her e-mail, Miss Liebl explained that she had “been a volunteer religious education teaching assistant all school year,” that she would “have acquired at least 30 hours by the end of the year,” and that she had been “told by the religious education director that [she was] able to count these hours for [her] service learning.” She then asked about what forms would be needed to complete this process. *See Ex. 9 at 36.*

123. The same day, Defendant Wagner responded, saying that Miss Liebl’s hours serving as a teaching assistant with the religious education class could not count towards her service-learning requirement.

124. In her response, Defendant Wagner explained that Miss Liebl’s hours could not count towards her service-learning requirement because “University policy says otherwise.” *See Ex. 9 at 35.*

125. Defendant Wagner then quoted Defendants’ Service-Learning Policy, which prohibits “time spent directly involved in promoting religious doctrine, proselytizing, or worship” from qualifying as service-learning hours. *See Ex. 9 at 35.*

126. Defendant Wagner also explained that “[a]ny religious instruction is considered ‘promoting religious doctrine.’” *See Ex. 9 at 35.*

127. As a result, Defendant Wagner refused to give Miss Liebl any service-learning credit for the hours she volunteered as a teaching assistant with the religious education class.

128. After receiving this denial from Defendant Wagner, Miss Liebl discovered that she is not the first student to have been denied service-learning credit for volunteer activities simply because they have a religious connotation or motivation.

129. In November 2015, Teresa Wolfe, another student at the University, corresponded with Defendant Wagner about the service-learning requirement. A true and correct copy of Miss Wolfe's correspondence with Defendant Wagner is attached as Exhibit 10 to this Complaint.

130. Defendant Wagner sent Miss Wolfe an e-mail notifying her that she had not yet completed her service-learning requirement in order to graduate in December 2015. *See* Ex. 10 at 44.

131. Miss Wolfe explained to Defendant Wagner that she had completed twenty hours of serving at the "Community Table." But she also noted that she had "volunteer[ed] as a cantor (lead singer) at a local church for upwards of 30 hours." Ex. 10 at 43.

132. Miss Wolfe was requesting that Defendant Wagner apply the thirty hours she had spent volunteering as a cantor to her service-learning requirement.

133. Defendant Wagner responded by writing: "I'm thinking you may want to stay focused on your Community Table project, as the University service-learning policy does not allow for you to participate in worship services as hours for service-learning." Ex. 10 at 42.

134. In writing this, Defendant Wagner was referencing the University's Service-Learning Policy, which bans time "spent directly involved in promoting religious doctrine, proselytizing, or worship" from counting towards the service-learning requirement.

135. Miss Wolfe noted in her reply that if she had been volunteering with a non-religious community choir, her hours would have qualified for service-learning credit. Ex. 10 at 42.

136. Miss Wolfe objected that “the University can simply dismiss service because it is religious by nature,” rather than “secular or non-religious by nature.” Ex. 10 at 42.

137. Defendant Wagner did not disagree with either of Miss Wolfe’s assertions regarding the practical impact of the Service-Learning Policy as applied to her. Ex. 10 at 42.

138. Based on Defendants’ Policy and practice, if in the spring of 2017, Miss Liebl were to submit the hours she volunteers with the religious education classes at the Neman Center Parish in the 2016–2017 academic year, Defendant Wagner or another University official acting on her instructions would deny her service-learning credit, applying Defendants’ policy banning hours spent “directly involved in promoting religious doctrine, proselytizing, or worship” from counting as service-learning credit.

139. In the spring of 2016, Miss Rysavy also planned to seek service-learning credits for the time she spent volunteering for the kindergarten and the second and third grade Sunday School class at the Newman Parish in the 2014–2015 and 2015–2016 academic years.

140. Miss Rysavy discussed her plans to seek this credit with Miss Liebl.

141. During that discussion, Miss Liebl shared with Miss Rysavy the correspondence she received from Defendant Wagner, refusing to grant service-learning credit for time spent volunteering with the second grade religious education classes.

142. Miss Liebl also told Miss Rysavy about the correspondence between Defendant Wagner and Miss Wolfe.

143. As a result, Miss Rysavy realized that applying for service-learning credit for her hours volunteering with the Sunday School class would be a futile endeavor.

144. Based on Defendants' Policy and practice, if Miss Rysavy were to seek service-learning credit for her hours spent volunteering with the Sunday School class during the 2014–2015 and 2015–2016 academic years, Defendant Wagner or another University official acting on her instructions would deny her service-learning credit, applying Defendants' policy banning hours spent "directly involved in promoting religious doctrine, proselytizing, or worship" from counting as service-learning credit.

145. Based on Defendants' Policy and practice, if in the spring of 2018, Miss Rysavy were to submit the hours she volunteers with the religious education classes at the Neman Center Parish in the 2017–2018 academic year, Defendant Wagner or another University official acting on her instructions would deny her service-learning credit, applying Defendants' policy banning hours spent "directly involved in promoting religious doctrine, proselytizing, or worship" from counting as service-learning credit.

146. Both Miss Liebl and Miss Rysavy desire to receive service-learning credit for the hours they spent volunteering for their classes at the Newman Parish.

147. Because Defendants have denied and continue to deny Miss Liebl and Miss Rysavy any service-learning credit for the time they spent volunteering with the religious education classes, Miss Liebl and Miss Rysavy will have to dedicate an additional thirty hours to community service that satisfies Defendants' discriminatory standards.

148. Neither Miss Liebl nor Miss Rysavy can graduate from the University until they satisfy the service-learning requirement.

149. If not for Defendants' Service-Learning Policy and the actions of Defendants, Miss Liebl would have already completed the service-learning requirement, and Miss Rysavy would have already completed over three-quarters of the requirement.

#### **ALLEGATIONS OF LAW**

150. At all times relevant to this Complaint, each and all of the acts and policies related to the Defendants alleged herein were attributed to the Defendants who acted under color of a statute, regulation, policy, custom, or usage of the State of Wisconsin.

151. Defendants knew or should have known that they were violating Plaintiffs' constitutional rights by banning Plaintiffs, and all other University students, from receiving service-learning credit for hours spent "directly involved promoting religious doctrine, proselytizing, or worship."

152. Plaintiffs are suffering irreparable injury from Defendants' Service-Learning Policy and related practices, which cannot be fully compensated by an award of money damages.

153. Plaintiffs have no adequate or speedy remedy at law to correct or redress the deprivation of their rights by the Defendants.

154. Defendants' actions and policies, as set forth above, do not serve any legitimate or compelling state interest.

155. Defendants have deprived, and continue to deprive, Plaintiffs of their clearly established rights under the United States Constitution, as set forth in the causes of action below.

156. Unless the Service-Learning Policy and Defendants' enforcement of it is enjoined, Plaintiffs will continue to suffer irreparable injury.

157. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to appropriate relief invalidating UWEC's unconstitutional Service-Learning Policy.

**FIRST CAUSE OF ACTION**

**Violation of Plaintiffs' First Amendment Right to Freedom of Speech  
(42 U.S.C § 1983)**

158. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–157 of this Complaint, as if set forth fully herein.

159. Speech and expression are entitled to comprehensive protection under the First Amendment.

160. Religious speech is also fully protected under the First Amendment.

161. The First Amendment right of free speech extends to the campuses of state

universities and to the students attending those state universities.

162. The First Amendment's Free Speech Clause prohibits censorship of religious expression.

163. The First Amendment prohibits the government from prohibiting, limiting, or restricting speech because of its religious content, viewpoint, or motivation, and any governmental attempts to do so are inherently content and/or viewpoint based.

164. Subjecting expression to unique restrictions because it involves religious instruction, persuasion, or recruitment when those restrictions do not apply to non-religious versions of the same types of expression represents content and/or viewpoint discrimination.

165. Under the First Amendment's Free Speech Clause, a prior restraint on citizens' expression is presumptively unconstitutional, unless it (1) does not delegate overly broad licensing discretion to a government official; (2) contains only content and viewpoint neutral reasonable time, place, and manner restrictions; (3) is narrowly tailored to serve a significant governmental interest; and (4) leaves open ample alternative means for communication.

166. Thus, the government may not regulate speech based on policies that permit arbitrary, discriminatory, or overzealous enforcement.

167. Unbridled discretion to discriminate against speech based on its content or viewpoint violates the First Amendment regardless of whether that discretion has ever been unconstitutionally applied in practice.

168. Defendants' Service-Learning Policy and their associated practices violate the First Amendment facially and as applied because they grant University officials unbridled discretion to discriminate against speech based on its content or viewpoint.

169. Defendants' Service-Learning Policy and their associated practices are an unconstitutional restriction on Plaintiffs' and other students' right to freedom of speech

and expression because they are not content or viewpoint neutral, they are not narrowly tailored to serve a significant government interest, and they do not leave open ample alternative channels of communication.

170. Defendants' Service-Learning Policy and their associated practices provide no objective guidelines or standard to limit the discretion of UWEC officials in determining whether a specific activity qualifies as "promoting religious doctrine, proselytizing, or worship."

171. As a result, Defendants have granted UWEC officials unbridled discretion to determine whether student expression can qualify for service-learning credit, something that is inherently content and viewpoint based.

172. The First Amendment's prohibition against content and viewpoint discrimination requires Defendants to provide adequate safeguards to protect against the improper exclusion of student speech based on its content or viewpoint.

173. Because Defendants have failed to establish neutral criteria governing the granting, denial, or relocation of service-learning credit, there is a substantial risk that UWEC officials will engage in content and viewpoint discrimination when administering the Service-Learning Policy and reviewing student requests for service-learning credit.

174. Defendants engaged in content and/or viewpoint discrimination when they enforced the Service-Learning Policy and denied Miss Liebl's request that her hours as a teaching assistant for the religious education class count towards her service-learning requirement.

175. Defendants exercised the unbridled discretion granted them under the Service-Learning Policy when they denied Miss Liebl's request that her hours as a teaching assistant for the religious education class count towards her service-learning requirement.

176. Defendants' Service-Learning Policy, associated practices, and history of enforcing that policy have chilled, deterred, and restricted Miss Rysavy from seeking service-learning credit for the hours spent teaching the Sunday School class.

177. Defendants' service-learning program represents a designated public forum for the speech and expression of students enrolled at UWEC, as this forum is limited only by the identity of the speaker (*i.e.*, students at UWEC).

178. The First Amendment's Free Speech Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits content and viewpoint discrimination in the public forums for student speech and expression on the campus of a public college.

179. A public college's ability to restrict speech—particularly student speech—in a public forum is limited.

180. Excluding expression from a public forum because it involves religious instruction, persuasion, or recruitment when non-religious instruction, persuasion, and recruitment are permitted represents content and/or viewpoint discrimination.

181. Defendants' Service-Learning Policy and their associated practices violate the First Amendment facially and as applied because they exclude religious instruction, persuasion, and recruitment from a designated public forum where non-religious versions of the same types of expression are permitted.

182. Defendants' Service-Learning Policy and associated practices do not satisfy strict scrutiny because they support no compelling governmental interest and they are not narrowly tailored to meet any such concerns.

183. Defendants Service-Learning Policy, associated practices, and history enforcing that policy are neither reasonable nor valid time, place, and manner restrictions on speech because they are not content or viewpoint neutral, they are not narrowly tailored to serve a significant government interest, and they do not leave open ample alternative channels of communication.

184. Defendants' Service-Learning Policy and associated practices are also overbroad because they prohibit and restrict protected expression.

185. Defendants Service-Learning Policy and associated practices unconstitutionally censor or restrict all private speech that Defendants deem to involve "promoting religious doctrine, proselytizing, or worship" by denying students any service-learning credit for any such activities.

186. The overbreadth of Defendants' Service-Learning Policy and related practices chills the speech of students not before the Court who seek to receive service-learning credit for activities that may include religious components, include religious content, or be motivated by a religious purpose.

187. Defendants' Service-Learning Policy and associated practices chill, deter, and restrict Plaintiffs from expressing their religious beliefs within Defendants' service-learning forum.

188. Defendants' Service-Learning Policy and associated practices violate Plaintiffs' right to free speech as guaranteed by the First Amendment to the United States Constitution.

189. Defendants acting under color of state law, and by policy and practice have explicitly and implicitly discriminated on the basis of content and viewpoint and deprived Plaintiffs of their clearly established right to freedom of expression as secured by the First Amendment to the United States Constitution.

190. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They are entitled to an award of monetary damages and equitable relief.

191. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a declaration that Defendants violated their First Amendment right to freedom of speech and an injunction against Defendants' policy and actions. Additionally, Plaintiffs are entitled to damages in an amount to be determined by the evidence and this Court and

the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

**SECOND CAUSE OF ACTION**

**Violation of Plaintiffs' First Amendment Right to Free Exercise of Religion  
(42 U.S.C. § 1983)**

192. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–157 of this Complaint, as if set forth fully herein.

193. The First Amendment's Free Exercise Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, guarantees Plaintiffs free exercise of religion.

194. Laws that burden the free exercise of religion must be neutral and generally applicable.

195. If they are not neutral and generally applicable, then laws that burden the free exercise of religion must be justified by a compelling state interest.

196. Plaintiffs' decision to affiliate with the Newman Parish, an off-campus religious organization, is motivated by their sincerely held religious beliefs, is an avenue through which they exercise their religious faith, and constitutes a central component of their sincerely held religious beliefs.

197. By conditioning service-learning credit on activities and expression that the University determines do not "directly involve[] . . . promoting religious doctrine, proselytizing, or worship," Defendants have infringed Plaintiffs' (and all UWEC students') right to free exercise of religion.

198. By denying service-learning credit for the hours Plaintiffs spend volunteering with classes taught at the Newman Parish because they involve religious instruction, persuasion, and recruitment, Defendants have infringed Plaintiffs' right to free exercise of their religion.

199. Defendants' Service-Learning Policy and associated practices are neither neutral nor generally applicable but target religious expression and activities specifically.

200. Defendants' Service-Learning Policy and associated practices are neither neutral nor generally applicable because they represent a system of individualized assessments. For the same reason, they are subject to strict scrutiny.

201. Defendants' infringement of Plaintiffs' free exercise of religion fails to satisfy strict scrutiny because it is not narrowly tailored to promote a compelling government interest.

202. Defendants, acting under color of state law, and by policy and practice have explicitly and implicitly infringed Plaintiffs' free exercise of religion and deprived Plaintiffs of their clearly established rights to freedom of expression secured by the First Amendment to the United States Constitution.

203. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They are entitled to an award of monetary damages and equitable relief.

204. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a declaration that Defendants violated their First Amendment right to free exercise of religion and an injunction against Defendants' policy and actions. Additionally, Plaintiffs are entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

**THIRD CAUSE OF ACTION**  
**Violation of Plaintiffs' Fourteenth Amendment Right to**  
**Equal Protection of the Law**  
**(42 U.S.C. § 1983)**

205. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–157 of this Complaint, as if set forth fully herein.

206. The Fourteenth Amendment to the United States Constitution guarantees Plaintiffs the equal protection of the laws, which prohibits Defendants from treating Plaintiffs differently than similarly situated students.

207. Defendants granted service-learning credit to students who engaged in activities similar to Plaintiffs, but denied the same to Plaintiffs.

208. Defendants' Service-Learning Policy denies service-learning credit to activities that involve religious instruction, persuasion, or recruitment (*i.e.*, "promoting religious doctrine, proselytizing, or worship"), but it grants service-learning to a myriad of activities that involve non-religious versions of the same forms of expression.

209. Defendants refuse to award service-learning credit to activities that involve religious instruction, persuasion, or recruitment (*i.e.*, "promoting religious doctrine, proselytizing, or worship"), but they grant service-learning credit to a myriad of activities that involve non-religious versions of the same forms of expression.

210. Defendants treated Miss Liebl disparately when compared to similarly situated students by denying her service-learning credit for the hours she spent volunteering with the religious education class at the Newman Parish because of the religious content, viewpoint, and motivation of her activities.

211. Defendants treated Miss Liebl disparately when compared to similarly situated students by denying her service-learning credit for helping teach a religious education class when they would award credit to a student engaged in instruction, persuasion, and recruitment from a non-religious viewpoint.

212. Defendants treated Miss Liebl disparately when compared to similarly situated students by denying her service-learning credit for helping teach a religious education class when they would award credit to a student engaged in other forms of religious advocacy that the University finds acceptable.

213. Defendants' Service-Learning Policy and associated practices violate various fundamental rights of Plaintiffs, such as their freedom of speech and free exercise of religion.

214. When government regulations, like Defendants' Service-Learning Policy and practices challenged herein, infringe on fundamental rights, discriminatory intent is

presumed.

215. Government regulations, like Defendants' Service-Learning Policy and practices challenged herein, that utilize religious classifications are inherently suspect and must serve a compelling government interest and be narrowly tailored to that interest.

216. Defendants' Service-Learning Policy and practices have also been applied to discriminate intentionally against Plaintiffs' rights to freedom of speech and the free exercise of religion.

217. Defendants lack a rational or compelling state interest for such disparate treatment of Plaintiffs.

218. Defendants' Service-Learning Policy and associated practices are not narrowly tailored as applied to Plaintiffs because Plaintiffs' speech does not implicate any of the legitimate interests Defendants' might have.

219. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They are entitled to an award of monetary damages and equitable relief.

220. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a declaration that Defendants violated their Fourteenth Amendment right to equal protection of law and an injunction against Defendants' policy and actions. Additionally, Plaintiffs are entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

**FOURTH CAUSE OF ACTION**  
**Violation of Plaintiffs' Fourteenth Amendment Right to**  
**Due Process of Law**  
**(42 U.S.C. § 1983)**

221. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–157 of this Complaint, as if set forth fully herein.

222. The Fourteenth Amendment to the United States Constitution guarantees Plaintiffs the right to due process of law and prohibits Defendants from promulgating and employing vague standards that allow for viewpoint discrimination in Defendants' handling of Plaintiffs' expressive activities.

223. The government may not regulate speech based on policies that permit arbitrary, discriminatory, and overzealous enforcement.

224. The government may not regulate speech based on policies that cause persons of common intelligence to guess at their meaning and differ as to their application.

225. Defendants' Service-Learning Policy and associated practices contain no objective and comprehensive criteria to guide administrators when deciding whether a particular activity qualifies for service-learning credit or whether it is to be denied because it involves "promoting religious doctrine, proselytizing, or worship."

226. Defendants' Service-Learning Policy and associated practices are impermissibly vague and ambiguous and are thus incapable of providing meaningful guidance to Defendants.

227. The lack of objective and comprehensive criteria, factors, or standards in Defendants' Service-Learning Policy and associated practices renders this policy unconstitutionally vague and in violation of Plaintiffs' right to due process of law under the Fourteenth Amendment.

228. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They are entitled to an award of monetary damages and equitable relief.

229. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a declaration that Defendants violated their Fourteenth Amendment right to due process of law and an injunction against Defendants' policy and actions. Additionally, Plaintiffs are entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

**FIFTH CAUSE OF ACTION**  
**Violation of the First Amendment's Establishment Clause**  
**(42 U.S.C. § 1983)**

230. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–157 of this Complaint, as if set forth fully herein.

231. The First Amendment's Establishment Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, guarantees Plaintiffs freedom from government hostility towards religion, inhibition of religion, and entanglement with religion.

232. Government laws must have a secular purpose, neither advance nor inhibit religion, and not entangle the government with religion.

233. Without access to service-learning credit for volunteer activities associated with their faith, religious students face additional and unique burdens in completing their service-learning requirements.

234. Defendants' Service-Learning Policy and associated practices of denying students service-learning credit for "time spent directly involved in promoting religious doctrine, proselytizing, or worship" conveys hostility towards religion and inhibits religion.

235. Defendants' Service-Learning Policy and associated practices require that the government scrutinize a student proposed or submitted volunteer activity to determine whether it qualified as "time spent directly involved in promoting religious doctrine, proselytizing, or worship," thus impermissibly entangling the government with religion.

236. Defendants' Service-Learning Policy and associated practices of denying students service-learning credit for activities that qualify as being "directly involved in promoting religious doctrine, proselytizing, or worship" excessively entangles the government with religion.

237. By denying Miss Liebl service-learning credit for her time spent volunteering

with the religious education classes at the Newman Parish, Defendants have exhibited hostility towards religion and have inhibited religion.

238. Defendants' policy and practice of targeting and denying service-learning credit to student expression due to its religious viewpoint, content, imagery, and/or purpose betrays hostility toward religion, inhibits religion, and entangles the government with religion.

239. Defendants have no compelling interest that would justify their hostility towards religion, inhibition of it, or excessive entanglement with it.

240. The First Amendment's Establishment Clause also prohibits the government from preferring one sect, denomination, or religious group over another, and it subjects laws that grant such a preference to strict scrutiny.

241. By granting students service-learning credit for certain, University-approved forms of religious advocacy, instruction, and recruitment (*e.g.*, activities with the Ecumenical Religious Center or a consortium of religious organizations), Defendants have instituted precisely the sort of denominational preference the Establishment Clause prohibits.

242. Defendants have no compelling interest that would justify their denominational preference.

243. Defendants' Service-Learning Policy and their enforcement of that policy against Plaintiffs violates Plaintiffs' rights under the Establishment Clause of the First Amendment.

244. Defendants' policy and practice of targeting and denying service-learning credit to student expression due to its religious viewpoint, content, and motivation violates Plaintiffs' clearly established rights under the Establishment Clause of the First Amendment.

245. Defendants' policy and practice of preferring some religious groups or modes

of religious expression violates Plaintiffs' clearly established rights under the Establishment Clause of the First Amendment.

246. Because of Defendants' policies and actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They are entitled to an award of monetary damages and equitable relief.

247. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a declaration that Defendants violated their First Amendments under the Establishment Clause and an injunction against Defendants' policy and actions. Additionally, Plaintiffs are entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants and provide Plaintiffs with the following relief:

- A. A declaratory judgment that Defendants' Service-Learning Policy violates Plaintiffs' rights both facially and as-applied under the First and Fourteenth Amendments.
- B. A preliminary and permanent injunction prohibiting Defendants, their agents, officials, servants, employees, and any other person acting in their behalf, from enforcing the policies that deny service-learning credit to activities and expression that involve "promoting religious doctrine, proselytizing, or worship."
- C. A preliminary and permanent injunction ordering Defendants, their agents, officials, servants, employees, and any other person acting on their behalf, to confer thirty hours of service-learning credit upon Miss Liebl;
- D. A preliminary and permanent injunction ordering Defendants, their agents, officials, servants, employees, and any other person acting on their behalf, to confer twenty-four hours of service-learning credit upon Miss Rysavy;
- E. Nominal and compensatory damages for the violation of Plaintiffs' First and

Fourteenth Amendment rights;

F. Plaintiffs' reasonable attorneys' fees, costs, and other cost and disbursements in this action pursuant to 42 U.S.C. § 1988; and

G. All other further relieve to which Plaintiffs may be entitled.

Respectfully submitted this 10th day of November, 2016,

*/s/ Travis C. Barham*

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**DEMAND FOR TRIAL BY JURY**

Plaintiffs demand trial by jury for all matters so triable herein.

*/s/ Travis C. Barham*

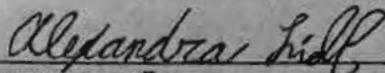
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TRAVIS C. BARHAM  
*Attorney for Plaintiffs*

**DECLARATION UNDER PENALTY OF PERJURY**

I, ALEXANDRA LIEBL, a citizen of the United States and a resident of the State of Minnesota, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, except as to statements made on information and belief, and those I believe to be true and correct.

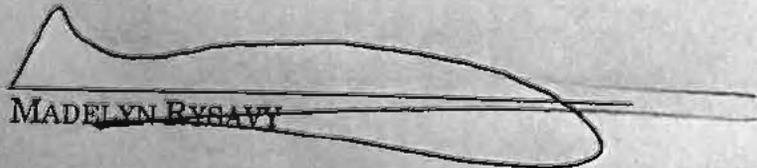
Executed this 9 day of November, 2016, at Eau Claire, Wisconsin.

  
\_\_\_\_\_  
ALEXANDRA LIEBL

**DECLARATION UNDER PENALTY OF PERJURY**

I, MADELYN RYSAVY, a citizen of the United States and a resident of the State of Minnesota, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, except as to statements made on information and belief, and those I believe to be true and correct.

Executed this 9 day of November, 2016, at Eau Claire, Wisconsin.

  
MADELYN RYSAVY