



UNIVERSITY RISK AND COMPLIANCE SERVICES

DEPARTMENT OF INVESTIGATION AND ADJUDICATION

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June 30, 2025

CONFIDENTIAL VIA EEOC PORTAL

Equal Employment Opportunity Commission (EEOC)
Attn: Christopher Scott
EEOC – San Antonio Field Office
5410 Fredericksburg Rd., Suite 200
San Antonio, TX 78229

RE: Byron Wilson v. The University of Texas at Austin

EEOC Charge No.: 480-2025-03619

Mr. Scott:

Pursuant to your request, The University of Texas at Austin (“the University”) submits the following position statement in response to the Equal Employment Opportunity Commission (the “Commission”) Charge No. 480-2025-03619 (the “Charge”), dated April 30, 2025, solely for the purpose of aiding the Commission in the investigation of this Charge. This position statement is not intended to raise all legal theories or defenses that ultimately may be raised in this matter, and the University reserves the right to offer additional facts as may be discovered upon further investigation.

This statement is prepared by Dominique Fessenden, investigator, Department of Investigation and Adjudication (DIA). Ms. Fessenden may be contacted by mail at 100 W. Dean Keeton St., SSB 4.102, Mail Code D9250, Austin, TX 78712; by phone at 512-471-3701; or by email at dominique@austin.utexas.edu. Jim Davis serves as interim president of The University of Texas at Austin, an employer of more than 15,000 employees. The University of Texas at Austin is a component institution of The University of Texas System. John Zerwas serves as interim chancellor of The University of Texas System.

In his Charge against the University, Byron Wilson (“Complainant”), associate professor of practice, Department of Design, alleges that he was subjected to discrimination based on his race and was retaliated against for engaging in a protected activity, in particular by Karol Murlak, department chair and professor, Department of Design. **Exhibit I, EEOC Charge.** The University



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denies these allegations. There is no causal nexus between any actions taken and Complainant's race or protected activity.

I. Factual Background

Complainant was hired on or about January 5, 2022, as an associate professor of practice. **Exhibit I.** Complainant was initially hired to teach two, three-credit courses in the fall semester and two in the spring (a 2-2 load), accounting for his increased administrative responsibilities. **Exhibit II, Karol Murlak's Written Statement, ¶ 2.** Historically, the department has not needed more than two courses per semester in Complainant's area of expertise. *Id.*

However, due to poor teaching outcomes and student complaints in the Fall 2023 semester, Complainant was placed under a Performance Improvement Plan (PIP), which relieved him of administrative duties to allow him to focus solely on his teaching responsibilities. *Id.* As part of the PIP, he was assigned a teaching load typical for a professor of practice—three, three-credit courses per semester in both the fall and spring (a 3-3 load). *Id.* This decision was aligned with the role of a professor of practice, whose primary responsibility is teaching. *Id.* While the PIP led to some improvement in Complainant's teaching, it was deemed necessary for him to maintain the 3-3 load, but the department did not have a sufficient number of appropriate courses available within his field to support this teaching load. *Id.*

Complainant was primarily hired to support the department's Option III program, MA in Design focused on Health, a program aligned with his area of specialization. *Id. at ¶ 3.* However, this program is currently facing significant budgetary challenges. *Id.* Due to an expiring agreement with Dell Medical School, Murlak was forced to cut the instructional budget by half, including a 50% reduction in instructional compensation across the board, which included Complainant, as well as other faculty members teaching within that program. *Id.*

Despite these limitations, Murlak attempted to retain as much of Complainant's teaching assignment as possible. *Id. at ¶ 4.* Last year, to meet the increased teaching load required under the PIP, Complainant began teaching courses outside of his original area of specialization. *Id.* The department even offered a new elective course specifically for him to teach, but only three students enrolled in the class, far below the University's minimum enrollment requirement of 10 students. *Id.* Nevertheless, Murlak secured one, three-credit course for Complainant in the upcoming Fall 2025 semester and two courses totaling three credits in the Spring 2026 semester. *Id.*

Although the number of available classes was insufficient to support a full-time teaching position for Complainant in the 2025-2026 academic year, Murlak initially attempted to maintain Complainant's academic title. *Id. at ¶ 5.* The dean decided to change Complainant's title to senior lecturer to ensure consistency and fairness with other part-time faculty members within the College of Fine Arts. *Id.* An email was sent to Complainant by Timothy Creswick, directory of faculty



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advancement, College of Fine Arts, on April 16, 2025, providing a detailed justification for this decision. *Id.* and Exhibit III, Email From Timothy Creswick to Complainant.

Also, during this time, Complainant asked about research. Murlak did not instruct Complainant to “acquire approval of research activities,” as Complainant states in his Charge. Exhibit II at ¶ 6. Complainant’s research activities were mentioned in the PIP, which was enacted before Murlak began his tenure at the University. Complainant and Murlak discussed Complainant’s research twice, and Murlak advised Complainant to follow the Dean’s Office guidelines. *Id.*

As noted above, Complainant’s teaching did improve some under the PIP, but it still did not meet the standards expected by the department. *Id.* at ¶ 7. In the 2024–2025 academic year, some of Complainant’s student evaluations yielded an average score of only 3.6 (out of 5). *Id.* In addition, Murlak continued to receive student complaints about Complainant’s classes. *Id.* As chair, Murlak is responsible for ensuring the highest quality of instruction, and Murlak was not confident that the improvements observed would be deep or lasting. *Id.* Given that some of Complainant’s past course evaluation scores were as low as 1.75 or 3.00, and some of his most recent scores are only marginally higher, there is a significant risk of regression to earlier performance levels. *Id.*

Additionally, communication with Complainant has been consistently difficult. *Id.* at ¶ 9. He frequently fails to respond to emails or does so only after significant delays. *Id.* He also fulfills his obligations with significant delays—for instance, he submitted his Faculty Annual Review over a month late. *Id.* This lack of responsiveness and punctuality further reinforces Murlak’s concerns and has made working with Complainant exceptionally challenging. *Id.*

Complainant’s professional track contract will end this summer. *Id.* at ¶ 8. Although the department has the option to renew such contracts, it is under no obligation to do so. *Id.* These contracts are intended to give departments flexibility to make personnel changes when the needs of a department change or there are doubts about the quality of teaching. *Id.* In this case, Murlak has seen evidence of both satisfactory and extremely poor performance, which prevented Murlak from endorsing a renewal of a full-time appointment. *Id.*

Complainant’s courseload reduction had nothing to do with his race, and Murlak did not retaliate against Complainant. *Id.* at ¶ 10. Murlak’s decision was based on the lack of sufficient demand for the courses Complainant teaches, which did not allow for a full-time appointment, and the difficult financial situation of the program that Complainant was primarily hired to support. *Id.* Additional concerns involved the uneven and often unsatisfactory quality of instruction in Complainant’s classes, as well as persistent communication issues, most notably his frequent failure to respond to emails, which made working with him extremely difficult. *Id.*



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II. The University's Position Statement

The University is an equal opportunity employer and does not discriminate based on race, color, sex, pregnancy, gender, gender identity, sexual orientation, gender expression, religion, age, national origin, ethnicity, veteran status, disability, genetic information, military status, or any other legally protected basis. **Exhibit IV, University Nondiscrimination Policy.** In addition, the University strictly prohibits retaliation against individuals who file discrimination complaints, participate in discrimination investigations, or otherwise engage in a protected activity. *Id.*

Complainant Cannot Establish a Prima Facie Case for Discrimination

To establish a prima facie case of racial discrimination, an employee must show (1) he is a member of a protected class, (2) he was qualified for his position, (3) he was subject to an adverse employment action, and (4) he "was treated less favorably because of his membership in that protected class than were other similarly situated employees who were not members of the protected class, under nearly identical circumstances."¹ Wilson cannot establish the fourth element of this test.

Complainant has not identified any comparators.

Complainant was placed on a PIP, received lower student evaluation scores, and his department had its funding cut, leading to fewer classes across the board. This led to Complainant receiving fewer classes. Complainant does not identify any person outside of his class that was treated better under nearly identical circumstances.

The University Had a Legitimate, Nondiscriminatory Reason for Its Actions

Under the Supreme Court's burden-shifting framework outlined in *McDonnell Douglas v. Green*, once an employee makes a prima facie showing, the employer must articulate a legitimate, nondiscriminatory reason for its action.² The University easily meets this burden.

Murlak assigned a reduced number of classes to Complainant for legitimate, nondiscriminatory business reasons wholly unrelated to Complainant's race.

As stated above, Murlak's decision was based on the lack of sufficient demand for the courses Complainant teaches and the difficult financial situation of Complainant's program. Additionally, there were concerns about the quality of instruction in Complainant's classes, as well as persistent communication issues.

¹ *Paske v. Fitzgerald*, 785 F.3d 977, 985 (5th Cir. 2015).

² *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).



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Complainant cannot prove pretext.

Because the University has a legitimate, nondiscriminatory rationale for the decision to reduce Complainant's courseload, Complainant must prove that this justification was merely a pretext for discrimination to prevail on his claim.³ Complainant makes no attempts to try to prove this point. Complainant does not offer a single explanation as to why race played a role in the reduction of his courseload. Complainant's Charge is devoid of any facts which indicate that he was discriminated against because of his race, and he fails to make any connection to his race and any decision regarding his reduction in courseload.

Complainant lacks sufficient evidence of race discrimination and cannot prevail on his discrimination claim.

The University Did Not Retaliate Against Complainant

To establish a prima facie case of retaliation, Complainant must demonstrate that: (1) he participated in a protected activity under relevant employment statutes; (2) he suffered an adverse employment action; and (3) a causal connection exists between the protected activity and the adverse employment action.⁴

Complainant correctly states in his Charge that he filed a complaint with the EEOC in August 2024. **Exhibit I.** However, Complainant fails to make any causal connection between his protected activity and the adverse employment action (reduction in courseload). As detailed above, Complainant had a history of poor performance, leading to his being placed on a PIP, which predated his protected activity. Despite resolution of the PIP, Complainant continued to have mixed course evaluations. This, coupled with the financial constraints in the department overall, led to Complainant receiving a reduction in courseload for the upcoming 2025–2026 academic year. For these reasons, Complainant's retaliation claim should be dismissed.

III. Conclusion

As established by the facts and evidence herein, the University did not discriminate or retaliate against Complainant. Accordingly, the Commission should issue a No Cause finding.

³ *Owens v. Circassia Pharm., Inc.*, 33 F.4th 814, 825–26 (5th Cir. 2022).

⁴ See *McCoy v. City of Shreveport*, 492 F.3d 551, 556–57 (5th Cir. 2007) ("To establish a prima facie case of retaliation, the plaintiff must establish that: (1) he participated in an activity protected by Title VII; (2) his employer took an adverse employment action against him; and (3) a causal connection exists between the protected activity and the adverse employment action.") (citing *Banks v. E. Baton Rouge Parish Sch. Bd.*, 320 F.3d 570, 575 (5th Cir. 2003)).



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Should you have any questions or need additional information, please do not hesitate to contact me at dominique@austin.utexas.edu.

A handwritten signature in black ink, appearing to read "Dom Fessenden".

Dominique Fessenden, J.D.

Investigator | Department of Investigation and Adjudication

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The University of Texas at Austin





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EXHIBITS

EXHIBIT I	EEOC Charge
EXHIBIT II	Karol Murlak's Written Statement
EXHIBIT III	Email From Timothy Creswick to Complainant
EXHIBIT IV	University Nondiscrimination Policy

