

Table of Contents

| | |
|--|-----------|
| INITIAL OIE COMPLAINT | 2 |
| I. Protection for Veterans | 2 |
| A. Federal protections | 2 |
| B. State protections..... | 4 |
| C. University policies | 5 |
| II. Protected Activity | 5 |
| A. Spring 2016 Precept | 5 |
| B. Meeting with Ellen Davis | 6 |
| C. Meeting with Dan Struble..... | 8 |
| III. Alleged Adverse Actions | 9 |
| A. Dan Struble – Discrimination & Disclosure of Protected Activities | 9 |
| B. Kori Robins – Retaliation | 11 |
| IV. OIE Complaint | 12 |
| A. Initial Complaint and Timeframe | 12 |
| B. Subsequent Contract Offer | 14 |
| V. OIE Report of Findings | 14 |
| A. Final Report | 14 |
| B. Disclosure of Protected Activity a Materially Adverse Action..... | 17 |
| C. OIE Interviews Reveal Inconsistent or Shifting Explanations | 18 |
| OFCCP INVESTIGATION | 19 |
| VI. University History of Bias, Harassment, Discrimination | 19 |
| A. Appropriation – Blue Devils..... | 19 |
| B. Displays – War Memorial | 20 |
| C. Negligence – Marine Leadership Scholar Program | 22 |
| D. Insensitivity – “The End is Near” LDOC theme | 22 |
| E. Editorializing – Duke Today Article..... | 23 |
| F. Exclusion – Taskforce on Bias and Hate final report | 25 |
| VII. Hostile Environment(s) | 27 |
| A. Definitions | 27 |
| B. Pervasive Bias and Harassment | 28 |
| C. 2010 New Student Orientation | 30 |
| D. Dean (non)Involvement | 31 |
| E. 2016 Orientation | 33 |
| VIII. “Faculty Panel on War” | 34 |
| A. “Academic” Inconsistencies and Objections | 34 |
| B. Objectionable Faculty Remarks | 35 |
| C. “Gnosis of Violence” and Epistemological Appropriation | 37 |
| IX. Doctoral Admissions | 37 |
| A. Claimant Qualifications | 38 |

| | |
|---|----|
| B. Application for Fall 2015..... | 40 |
| C. Application for Fall 2016..... | 42 |
| X. “War” Course/s and “Competition” | 44 |
| A. PoliSci Course Development..... | 44 |
| B. Course Flyers..... | 46 |
| C. November 3 Precept..... | 46 |
| D. Intimidation | 48 |
| E. Competition Claim Doubtful | 49 |
| F. Dean Involvement | 50 |
| XI. Advanced Spiritual Formation | 51 |
| Appendix A - OIE TIMELINE..... | 52 |

INITIAL OIE COMPLAINT

I. Protection for Veterans

A. Federal protections

In 1974, Congress passed the [Vietnam Era Veterans Readjustment Assistance Act](#) (VEVRAA).¹ All public and government entities are subject to VEVRAA, but all parties receiving \$100,000 or more in federal funds also fall under its jurisdiction. Duke University claims the threshold is only \$50,000.² There are two types of contractors;

- **Prime contractors** bid on and win contracts directly from government agencies. After award, the prime contractor company is the entity that is legally responsible for all aspects of fulfilling the contract
- **Subcontractors** join prime contractors’ teams, usually to provide a specific capability or product.³

Duke University and Health System qualifies as a Prime Contractor with the government and is therefore subject to VEVRAA.

March 14, 2014 was the most recent effective date for revisions to VEVRAA, which streamlined and consolidated protections for certain veterans. Those veterans protected under VEVRAA are;⁴

- **Disabled Veteran:** A veteran who served on active duty in the U.S. military ground, naval, or air service and (1) who was discharged or

¹ A quick fact sheet on VEVRAA can be found at <https://adata.org/factsheet/VEVRAA>

² Duke University 2016 “Affirmative Action Plan for Veterans & Individuals with Disabilities” page 11.

³ Retrieved November 25, 2016 at 12:55pm from <https://www.sba.gov/contracting/what-government-contracting/overview>

⁴ The following list was pulled on November 26, 2016 at 5pm from <https://web.duke.edu/equity/resources/veterans.html>. It provides greater detail than the list found at <https://adata.org/factsheet/VEVRAA>.

released from active duty because of a service-connected disability, or (2) who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) for certain disabilities under laws administered by the Department of Veterans Affairs.

- **Disabled veterans also fall under the jurisdiction of the Americans with Disabilities Act*
- **Recently Separated Veteran:** A veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.
- **Active Duty Wartime or Campaign Badge Veteran:** Someone who served on active duty in the U.S. military, ground, naval or air service during a war, or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.
- **Armed Forces Service Medal Veteran:** Any veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209) (an operation in which the participants encountered no foreign armed opposition or imminent hostile action.)

The Department of Labor's [Office of Federal Contract Compliance Programs](#) (OFCCP) oversees implementation and enforcement of VEVRAA.

Responsibilities of contractors are listed in detail on their info page, but include;

- Hiring benchmarks
- Data collection
- Invitation to Self-Identify
- Job Listings
- Records Access⁵

Contractors are required to invite all applicants to self-identify as protected veterans. They are also required to report information on how many protected veterans are employed with them and how many new hires have self-identified as protected veterans in the preceding year. This data is contained in the "Federal Contractor Veterans' Employment Report," or "VETS 4212" for short. According to [Duke's VETS-4212 form](#), for the twelve month period ending August 31, 2015, Duke employed 30,254 individuals, 650 (2.1%) of which were **protected veterans**, and 3,865 new hires, 91 (2.3%) of which were protected veterans.

⁵ OFCCP provides details for each of these bullet items on their website; <https://www.dol.gov/ofccp/regs/compliance/vevraa.htm>

Only 650 individual employees, or just over 2% of Duke's workforce, have self-identified as protected veterans.

Approximately seven percent (6.9%) is established for tracking by the Department of Labor (DoL), based on the average number of protected veterans employed in the civilian workforce. In an unbiased system, approximately seven percent of a given workforce would be made up of protected veterans. Contractors can adopt the DoL's benchmark or establish their own, but must make their calculations public. Duke University has adopted the federally determined benchmark for tracking purposes.

That Duke only employs about one third the number of protected veterans established as a hiring benchmark suggests a system with either a recruitment or a retention problem. In other words, Duke exercises explicit or implicit bias which is somehow either discouraging veterans from applying or forcing them out once they are hired.

B. State protections

Duke is located in Durham, NC and is [the third largest private employer in the state](#), according to the North Carolina Department of Commerce.⁶ The North Carolina General Assembly has adopted protections for veterans; [Chapter 95, Article 21](#) of the NC General Statutes protects against Retaliatory Employment Discrimination.⁷

Additionally, three state agencies worked together to produce the "NC4VETS 2016 Resource Guide"⁸

- NC Department of Military and Veterans Affairs
- NC Department of Health and Human Services
- NC Department of Commerce

In the 128-page guide, one section states that veterans with service connected disabilities rated at least 30 percent are entitled to "Affirmative action in employment."⁹ According to this document produced in collaboration with three state agencies, veterans protected by merit of their disability "cannot be passed over to hire a nondisabled veteran or non- veteran **unless at least three interviews have been conducted by the employer.**"¹⁰ Claimant is rated 100%

⁶ See https://www.nccommerce.com/Portals/47/Data/Non%20Manufacturing%20Employers%20Only_2016.pdf, retrieved December 1, 2016 at 3:40pm.

⁷ http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_95/Article_21.html

⁸ "NC4VETS Resource Guide," page 1. Retrieved December 21, 2016 at 7:05 pm from <http://www.nc4vets.com/blog/resource-guide>

⁹ Ibid., page 45.

¹⁰ Ibid.

disabled by the US Department of Veterans Affairs, and he resides and works in North Carolina.

C. University policies

Duke University's Affirmative Action Plan (AAP) for [Veterans and Individuals with Disabilities](#) creates a duty to "make special efforts to identify, recruit, hire, and promote" veterans as a population which is "underrepresented in [Duke's] workforce." These special efforts help ensure that "employment decisions are based on *individual merit* as opposed to stereotypes and biases," and apply to "hiring, *appointment*, and promotion for all positions."¹¹ The most recent AAP states "The equal opportunity policy is distributed to all members of the University community," including professional/graduate school administrators, staff and faculty.

II. Protected Activity

The United States [Equal Employment Opportunity Commission defines "protected activity"](#) as an assertion of a person's "rights to be free from employment discrimination." Such assertions include "communicating with a supervisor or manager about employment discrimination, including harassment."¹²

A. Spring 2016 Precept

During the Spring 2016 semester the claimant, Logan Isaac, was a contract employee working as a teaching assistant at Duke University, within the Divinity School. Claimant's contract was under his married name, Isaac, which was pending final approval at time of hire and was finalized on May 9, 2016. Previously, Isaac was employed as an adjunct professor at Methodist University for four semesters, teaching core courses in the Philosophy & Religion Department. Despite claimant's teaching experience and status as a protected veteran, claimant was assigned the only evening small group section (called a "precept") of the course, from 7pm-7:50pm. Furthermore, claimant's precept had significantly fewer students than other sections.

Claimant's being assigned an unfavorable precept time and a lower, less prestigious number of students was an under-utilization of claimant's skills which reflected a lack of trust in him despite his credentials and individual merit. The

¹¹ Duke University 2016 AAP, page 15. Emphasis added to highlight those fields applicable to claimant's contract as a teaching assistant.

¹² "Facts About Retaliation," US EEOC, retrieved December 1, 2016 from <https://www.eeoc.gov/laws/types/facts-retal.cfm>

2016 Duke AAP for veterans applies to appointments “for all positions.”¹³ Being under-utilized makes it appear that claimant was erroneously [seen as “able to perform only limited tasks.”](#)¹⁴ This is displayed clearly by comments made by claimants hiring manager, Divinity School Registrar Kori Robins. When interviewed by OIE compliance officer Clinton, Robins pointed out claimant was “compensated the same amount for **‘half the work.’**”¹⁵

Based on claimant’s experience at Duke, and evidence uncovered by the OIE investigation, claimant had reason to believe that he was treated unfairly because of negative pre-conceived notions about military service. This fits with research conducted by [Greenburg, Quinlan, and Rosner](#), which found that “America’s current view of veterans is fundamentally defined by a duality that allows people to see them as concurrently damaged and heroic.”¹⁶ Stereotypes can dehumanize by being negative, as in the ‘angry veteran’ or the ‘damaged goods’ trope, but they can also dehumanize by creating unrealistic expectations of veterans, as in the ‘hero’ stereotype. These perceptions are widely held but “generic and literal” in nature – in other words, based on unfounded and injurious stereotypes and caricatures.¹⁷ Duke’s AAP requires that “employment decisions are based on individual merit, as opposed to stereotypes and biases.”¹⁸

As a contract worker in an at-will state, someone who wished for him to not work there would need merely to withhold subsequent teaching contracts from him. This violates Duke University’s Affirmative Action Plan (AAP) for [Veterans and Individuals with Disabilities](#).¹⁹ Knowing this, the claimant approached then-dean Ellen Davis, who was filling in for Richard Hays after he had been diagnosed with cancer.

B. Meeting with Ellen Davis

With concern for his employment, claimant met with interim dean [Ellen Davis](#) on February 29, 2016. Earlier that same day, Davis had ‘sponsored’ a training workshop on implicit bias, given by Ben Reese of Duke’s Office of Institutional Equity (OIE).²⁰ Claimant told Davis that he was worried about asking to not be

¹³ 2016 Duke AAP for Veterans and Individuals with Disabilities, page 15.

¹⁴ The US EEOC claims that term “‘Under Utilized’... is often applied to categories of employees who are working at jobs that do not make use of their skills and abilities, although they may have been hired for those skills and abilities. When an employee is consistently assigned to ‘dead end’ jobs, he or she may be under utilized because they are often seen as able to perform only limited tasks.”

¹⁵ Clinton relayed this to Isaac by phone on October 10, 2016.

¹⁶ “Strengthening Perceptions of America’s Post-9/11 Veterans,” June 2014, page 1. Available online at <https://gotyour6.org/wp-content/uploads/2015/08/GY6-Survey-Analysis-Report-2014.pdf>

¹⁷ “Strengthening Perceptions,” page 3

¹⁸ Duke’s AAP, page 15.

¹⁹ Duke’s AAP for Veterans and Individuals with Disabilities is available online at https://web.duke.edu/equity/eoo/documents/affirmative_action_plan_for_veterans_and_disabled.pdf

²⁰ Kori Robins emailed all staff and faculty about the workshop on January 11, 2016.

assigned an evening precept the following semester because it might affect claimant's employment status, highlighting the unusual and inequitable treatment he received compared to other preceptors.

The claimant stated to Davis, "as a contract worker in an at-will state, the squeaky wheel just gets replaced." He told her about family commitments preventing him from being able to take an evening precept and that the \$500 or so per month was not much, but "it's more than nothing." Claimant explained that professional school deans are named as the party "[responsible for consistent and effective implementation of](#)" the university's AAP.²¹

Claimant's meeting with Davis, because it involved concerns regarding discrimination and/or inequitable treatment, is considered a "protected activity."²²

Claimant told Davis that there are no faculty persons in whom he could confide as an aspiring scholar and teaching assistant because there are no veterans on faculty at the Divinity School. Reflecting on the lack of veterans in regular rank religion and theology faculty positions, she commented that there was a "conspicuous lack of veterans in PhD programs." The two agreed that a lack of PhD student veterans would explain their being absent from university faculties. Davis knew of one veteran staff person, Dan Struble, a former Navy commander, to whom she referred the claimant. Hays had also mentioned Struble as a veteran employee in the Divinity School.

In their meeting, claimant explicitly asked Davis to keep his concerns in confidence because he was worried about the registrar, his hiring manager, finding out that a veteran was asking questions which might reflect poorly upon them and therefore create an incentive to withhold future precepting contracts from him to prevent claimant's asking protected questions. In an email the same day of the meeting from the claimant to his partner, Laura Isaac, he relayed that Davis asked if claimant wanted her to send a note to Kori Robins, the registrar in charge of hiring preceptors, or Jeff Conklin-Miller, a dean for academics and Robins' supervisor. According to the email, **claimant told Davis in their meeting that he did not want her to disclose to anyone that they had met, for fear of it affecting claimant's employment status.**

²¹ 2016 AAP, page 9.

²² Cynthia Clinton defines "protected activity" in her November 9, 2016 final report document as "the right to raise concerns or file a complaint regarding discrimination or inequitable treatment based upon a protected class."

C. Meeting with Dan Struble

Claimant met with [Associate Dean of External Relations Dan Struble](#) on April 11, 2016. Although the terms of claimant's contract stipulate that claimant is only paid through April, his duties continued into May, to include proctoring and grading the final exam (on May 3, 2016). Claimant was therefore still an employee at Duke when he met with Struble.

By the time they met, Struble had been given email correspondences between claimant and former dean Richard Hays. Claimant was not aware that Hays had shared said emails with Struble until that day, nor had claimant granted permission for them to be shared. Though not strictly illegal, this action suggests Hays, Davis, and/or Struble had pre-formed their opinions about claimant or the meeting and had already made strategic decisions based on that prejudice.

Struble began the meeting by saying Veteran Status was like other protected statuses, which helps guide the school in "not [being] discriminatory" but which was "not an affirmative action category." Struble also discussed, without solicitation, that he did not believe veteran status was a consideration for admissions, unlike affirmative consideration for Methodist applicants, for example.

Struble acknowledged that anti-military bias was present and remarked that it was likely a result of the prominence of pacifist theology at the Divinity School. He felt the environment there was "not as positive as it should be," but that it was not wholly negative either. Although he looked prior to this meeting, he could find no resources on improving the experience of veterans. Student veterans, he explained, were welcomed to the Divinity School, but that, upon enrollment, they were "just like any other student." Claimant's memory of these elements of the conversation are aided because he was taking notes by hand as Struble spoke to him.

Struble, and by extension Hays and Davis, did not appear to understand the obligations of the Divinity School to university policy and federal regulations. They had not read, and did not seem to even be aware of, the existence of the AAP, though it had been distributed to all subordinate schools and departments at Duke by OIE on a regular basis since at least 2014.

Claimant had said very little to Struble by this point, and he felt a certain affinity to him as a fellow veteran. When he finished, claimant told him that from that point onward, they could have "two very different conversations." On the one hand, they could have an "institutional" conversation, relying on formal structures and protections. On the other hand, claimant said, "we can have a conversation between you and I." The latter, claimant told Struble, would be more forthright

and blunt, and would not leave the room. Struble indicated his desire to have the non-institutional conversation. Claimant remembers this because it was at that point that he ceased taking notes.

At the conclusion of their meeting, claimant asked to help improve the situation for veterans at the Divinity School. Claimant had been present as a student prior to Struble being hired and so had more experience of the culture there, he had experienced mistreatment firsthand, and could therefore identify with incoming student veterans more quickly and credibly than Struble or non veteran staff, who had no experience of mistreatment from which to inform their efforts to improve programming.

III. Alleged Adverse Actions

A. Dan Struble – Discrimination & Disclosure of Protected Activities

Their conversation on April 11 was Protected Activity because it involved discussions of pay and employment as well as claimants request for confidentiality. The content of their discussion on April 11, however, was not kept “between [Struble] and I[saac].” Struble was negligent in his duty as a Duke manager to protected veterans and also discriminated against claimant by willfully excluding him from deliberation which would directly impact him and other protected veterans working for a prime contractor.

According to Cynthia Clinton’s Final Report from the OIE inquiry, covered below, Struble claims to have no memory of claimant requesting confidentiality within the conversation. Struble told Clinton that claimant only requested confidentiality after April 21. The two of them had no contact with one another between April 11 and 21, so Struble’s implicit claim is that claimant asked for confidentiality after the meeting on April 21. Evidence of this delayed request has not been shared with the claimant, who maintains his request was reasonably clear in the condition to which Struble agreed by voluntarily and knowingly proceeding with a “non-institutional conversation” which claimant insisted must stay “between you and I.”

Dan Struble made two individuals aware of claimant’s protected activity without claimant’s consent.

On April 21, claimant received an unsolicited email from Struble which was CCed to Ellen Davis, Warren Kinghorn, and Jeff Conklin-Miller. [Kinghorn](#) is a professor and a VA clinician, and [Conklin-Miller](#) is an associate dean for academic affairs. Conklin-Miller has oversight in contract matters for preceptors and would have

been implicated in any wrong doing or negligence discussed during claimant's protected activity with Davis and Struble. The four of them, Struble reported, had discussed how to "improve the environment for veteran and active duty students" and had determined several actions they planned to take.

Struble's email closed with the following;

I've shared the affirmative action plan with our HR office and with the Dean.

*We also informed OIE and the task force on hate and bias that there are some issues here. **I believe the task force will include veterans' issues in its report.***²³

There is no "HR office" in the Divinity School, there is only a [Human Resources Manager, Dana Auton](#). Auton and Conklin-Miller both worked with the registrar, Kori Robins, to make employment decisions for preceptors. Since the AAP is supposed to be distributed to all graduate and professional schools by OIE, Struble bringing the AAP to their attention was superfluous and out of the ordinary. This adverse action was a direct result of claimant's engaging in protected activities, namely "communicating with a supervisor or manager about employment discrimination."²⁴

When pressed whether he included any protected veterans in the meeting he convened, Struble claimed he "met with" student veterans [REDACTED] [REDACTED] and [REDACTED] [REDACTED] [REDACTED] and [REDACTED] each denied having met with Struble. [REDACTED] told claimant in an email that same day, on April 21, that the meeting convened by Struble earlier that day was "total news to [her]."

According to [REDACTED] and [REDACTED] Warren Kinghorn sent them an email on April 20, telling them of the meeting but not inviting them to it. [REDACTED] said that Kinghorn stated he "hope[s] this leads to direct conversations with veterans soon."²⁵ This demonstrates an awareness that this meeting represented inappropriate and premeditated exclusion of veterans. Claimant met with Kinghorn in the afternoon of April 21 in his office at the Divinity School and told him that Struble's action violated claimant's rights as a protected veteran and endangered claimant's employment by exposing his protected activity to staff responsible for hiring.

²³ This has proven to be false, and veterans make no appearance in the Taskforce's Final Report. See Section VI-F below.

²⁴ "Facts about Retaliation," Equal Employment Opportunity Commission. Retrieved November 25, 2016 at 6:15pm from <https://www.eeoc.gov/laws/types/facts-retal.cfm>

²⁵ This was said to Logan Isaac by [REDACTED] during a phone conversation on April 22, 2016.

B. Kori Robins – Retaliation

Kori Robins was the primary person with whom claimant communicated in terms of claimant's hiring for both the Spring and Fall semesters in 2016. On November 19, 2015, claimant was offered a contract to precept for Joel Marcus' New Testament course in the Spring 2016 semester. In an email confirming the offer, Robins BCCed other individuals being offered the contract, but did not openly CC anyone. Claimant was assigned Precept 10, which met from 7-7:50pm on Tuesday evenings. Nine students were enrolled in claimant's precept. Every other precept assigned to a teaching assistant had 15 or more students. Although claimant's legal name was still Mehl-Laituri at the time, claimant's contract was written up under claimant's pending married name, Isaac, without any difficulty.

Claimant alleges that Struble's adverse action of "[sharing] the affirmative action plan with the HR office" was a factor in his not being offered a Fall 2016 precepting contract.

After Struble shared the AAP, unwarranted attention would have been created for "Veterans and People with Disabilities." This attention would have attached itself to the claimant because he has been a prominent advocate for veterans at Duke since 2010. A hiring manager who has received an AAP focusing on veterans the same semester claimant was hired as a preceptor could easily have inferred that it was he who was engaging in protected activities and would have known that preventing further activity was as easy as not offering him any more teaching contracts. **"Refusal to hire" represents a work-related materially adverse action**, which the United States EEOC defines as any "action that might well deter a reasonable person from engaging in protected activity."²⁶

Robins started her Master of Divinity degree one year before Isaac began at Duke, and graduated in May 2012. During that time, claimant organized what Camille Jackson of the Duke News and Communication Office called "the largest student run conference in university history" on Veterans Day in 2011. Any student enrolled in 2011 would have known claimant was a veteran of the war in Iraq. It would have been Robins' professional responsibility, later, as Registrar, to also know that combat veterans are protected by VEVRAA as well as the university's AAP.

²⁶ "EEOC Enforcement Guidance on Retaliation and Related Issues," Section IIB.2. Retrieved November 25, 2016 at 6:15pm from <https://www.eeoc.gov/laws/guidance/retaliation-guidance.cfm>,

By bringing the AAP to the attention of hiring managers, Struble effectively increased the obligation of hiring managers to “recruit, train, and promote” protected populations in accordance with university policy because hiring managers would have forfeited any claim to plausible deniability. Robins would have been implicated in any violation of or negligence in abiding by the AAP, of which Struble would have reminded her and/or her office in April 2016.

Robins sent the first round of contract offers for Fall 2016 on or around May 19, 2016. Claimant knows that he was on a list of requested preceptors for [REDACTED] [REDACTED] [REDACTED] core course because they corresponded in March, when precepting lists were still being formed for Fall 2016.

On May 24, Robins sent an email to an undisclosed number of recipients stating that all precepts had been filled, “due to the high number of PhD and ThD students,” who receive preferential hiring for precepts. In that first round, more than one contract was given to less qualified individuals than the claimant, and in one case an individual was offered more than one contract. These individuals were “external candidates” like the claimant, i.e. they were not PhD or ThD students.²⁷

On June 8, 2016, claimant emailed [Benjamin Reese](#), Duke’s Vice President for Institutional Equity & Chief Diversity Officer, and [Inderdeep Chatrath](#), Assistant Vice President of Affirmative Action & Equal Opportunity. Claimant stated that his being denied a contract while less qualified individuals received them appeared to be retaliation. Claimant was referred by Chatrath to the compliance officer, Cynthia Clinton.

IV. OIE Complaint

In June 2016, claimant alleged retaliation and negligence, nothing else. Because of the university inquiry, however, additional evidence suggested discrimination against him in doctoral admissions. Furthermore, an incident occurred involving a Spring 2017 course was also discriminatory. Those incidents were not a formal part of the initial OIE inquiry and are covered in Sections VI to X, below. Claimant has asked the Department of Labor’s Office of Federal Contracts Compliance Programs to investigate these additional events as part of claimant’s federal complaint.

A. Initial Complaint and Timeframe

In an email on June 13, 2016 to [Cynthia Clinton](#), Assistant Vice President of Harassment & Discrimination Prevention and Compliance at Duke’s [Office of](#)

²⁷ Robins referred to precept applicants who were not also doctoral students as “external candidates” in her email to an undisclosed number of recipients on May 24, 2016.

[Institutional Equity](#) (“OIE”) claimant reported “what reasonably appears to be retaliation against a protected veteran, and to report a clear violation of Duke policy and federal obligations to prime contractors. Isaac met with and was interviewed by Clinton on June 16 at 3:30pm at Smith Warehouse in Durham.

On July 9, claimant confirmed in writing to Clinton that he wished “to begin a formal complaint” to investigate bias, harassment, and discrimination claimant experienced while affiliated with Duke as a student and as an employee. On August 20, after claimant’s meeting with Clinton, he asked which kind of complaint procedure OIE was executing, to which Clinton responded, on August 23, “this is an informal complaint.”

At the time of the initial complaint to OIE, Duke’s Discrimination Grievance Procedure did not cover veterans

Although a formal complaint was requested, it appears OIE followed the procedure laid out for [complaints of discrimination](#) (pdf) rather than those for [harassment](#) (pdf). Both policies were revised by Duke on November 7, 2016, after claimant’s complaint was filed. The discrimination revision applicable in claimant’s case was last updated April 22, 2015. **The [2015 document](#) fails to mention veteran status in its list of protected populations.**²⁸

Although the *harassment* grievance procedure has options for formal and informal processes, the *discrimination* grievance procedure only seeks to find “whether there is sufficient evidence to show there were acts taken against the complainant based on one or more of the protected classes listed above.” The standard for determining if such acts occurred requires only “a preponderance of the evidence,” a less severe test than ‘beyond a reasonable doubt.’²⁹

The inquiry is to produce “written results” which are to be “forwarded to the complainant within forty-five (45) workdays of the receipt of the complaint.”³⁰ Despite claimant’s July 9 email, Clinton requested additional confirmation that claimant was indeed requesting an inquiry, which he provided on July 25. Forty five workdays from that date is September 28, 2016.³¹

²⁸ The 2016 file adds “veteran status, sexual orientation, gender expression” to the second sentence in the first paragraph, as well as “veteran status” and “gender expression” to the first sentence of the third paragraph.

²⁹ Discrimination Grievance Procedure, Page 2, item 4 (both the 2015 and 2016 versions).

³⁰ Discrimination Grievance Procedure, page 2, item 5 (both versions) and AAP, page 26 in the 2015 version and page 24 for 2016 version.

³¹ Forty five workdays from Clinton’s “receipt of the complaint” on June 13 would have been August 16, 2016.

B. Subsequent Contract Offer

On July 21, 2016, claimant received an email from Robins offering him a contract to precept for [REDACTED] [REDACTED] with [REDACTED] [REDACTED] Conklin-Miller was CCed in the email, which had not happened when claimant was offered the Spring 2016 contract in November 2015. Conklin-Miller's inclusion in the email was out of the ordinary, which made it appear as though claimant's contract was a response to the complaint claimant filed with OIE. Under normal circumstances this may have made the issue moot, but the OIE inquiry revealed additional information which suggests a deeper and more fundamental pattern of bias, harassment, and discrimination at Duke. Furthermore, there was still the problem that the Divinity School was not adhering to University policy and that, if Struble lacked adequate training around protected activity, then other high ranking administrators likely did as well

In the contract sent to him on August 9, 2016, claimant's name was spelled "Leituri." Claimant's name has only ever been "Mehl-Laituri" in Duke's employee database. Claimant checked to make sure it was still spelled that way the same day and he confirmed that it was. As of November 25, 2016, at 8:30pm EST, his name is still "Logan Mehl-Laituri" on Duke's self-service HR website. He did not change his name to "Leituri," so the change must have originated from within Duke.

When claimant asked for it to be changed back to Isaac, as it had been for the last prior contract, he was told he needed to bring in copy of his social security card to verify his identity. This unwarranted name change, which claimant did not initiate, in addition to the unprecedented standard required to correct it suggests a kind of "Harassing Conduct"³² further suggesting that adverse actions were taken against him after he engaged in protected activity.

V. OIE Report of Findings

A. Final Report

September 28, 2016 was the 45-workday threshold cited in the Discrimination Grievance Procedure policy, by which time "written results" were to be provided by OIE. Claimant was never "notified of any timeline extension [or] the basis for such an extension."³³ On October 7, claimant asked for a status update. Clinton arranged a phone call for October 10, twelve days after the deadline. In the call, she explained she found insufficient evidence of adverse action. She based this determination on an unquestioned acceptance of the testimony of respondents. Davis and Struble claimed to have no memory of claimant's request for

³² "EEOC Enforcement Guidance on Retaliation and Related Issues," Section IIB.3

³³ Duke's 2016 Discrimination Grievance Procedure policy, page 2.

confidentiality, the primary motivating factor for claimant's initiating contact with them. This is suspicious in both cases for the following reasons;

1. Davis sponsored the "Implicit Bias training workshop" just hours before meeting with claimant on February 29, in which protected activity was explained. Her participation in the workshop, and the email record between claimant and spouse casts doubt upon the claim of non memory.
2. Struble having received private emails between former dean Hays and claimant heightens the appearance of prejudice and suggests they both felt claimant may engage in protected activity about employment and student experience (the latter of which was the subject of said emails)

After the call, claimant sent objections to Clinton by email;

Thank you for the update yesterday. I wish you had responded to my email or reached out to me in some way before the September 28th deadline for my informal complaint, but it was good to hear that something had been done. I wanted to respond in writing to our phone call.

You said that Davis and Struble both claimed they do not remember my asking for confidentiality in February and again in April. As I have said repeatedly to you, I do remember asking for it and protection from retaliation was explicitly brought up in each of those conversations. I also know that the questions I asked are protected by federal laws to which Duke is subject as a prime contractor. That you have taken their word over my own represents a lack of any relatively objective standard which protected populations need and which reasonable people and societies require. My frustration is exacerbated by the fact that these values have cost the blood and tears of men and women I know personally, as well as my own. But to be any more blunt than that would be to expose myself to tropes and caricatures to which I have already been repeatedly subjected in claimant's many years working in and around Duke, and which I supplied evidence to you of the same.

As you may recall, claimant's complaint was about retaliation and negligence, which has affected not just me but several members of a federally protected population. Without formal procedures that one can point to, the institution fundamentally permits the unrestricted bias of individuals and groups. That OIE knows this and sees no requirement to take action reflects poorly upon the credibility of your office and upon the university.

My hope that OIE was able to be a relatively impartial third party was misplaced, for you simply accept their claim that I failed to ask for confidentiality and therefore, you conclude, there is no cause for action on

your part. I heard no evidence that any truly critical assessment was made on the part of your office, the senior official of which openly disrespected me in front of not only my peers but two respondents to my complaint. This is a violation of my privacy and strongly suggests the ability of this office to do the work with which it is charged has been undermined.

It took a leap of faith to step up and contact OIE. Because I did, I have been effectively excommunicated from multiple departments and schools at Duke, which has created a measurable negative effect on my career advancement. I have also lost friendships with those professionally beholden to Duke who are unwilling to endanger their own career in order to interrupt bias and discrimination. My complaint has changed nothing for Duke and everything for my own professional trajectory. As I said on the phone; if this can happen to a veteran who has done as much as I have for Duke, it can happen to any and every veteran, whether they fit the predetermined mold or not.

There is no need for you to reply. I wanted to respond in writing so that there is a record of our correspondence.

On November 4, 2016, Isaac requested a written report via email to Clinton and Reese. Eleven days later, on November 15, he received their report by certified mail, which was dated November 9 and signed by Clinton. That report has been scanned into a PDF file, [to which the claimant added commentary](#).³⁴

Claimant states in the PDF file that OIE “fundamentally and repeatedly misrepresented [his] complaint” and failed to act impartially in the execution of their duties, writing to the OFCCP investigator on November 15, 2016 that;

*Their finding that there was insufficient evidence is unsupported in any way; they do not identify what 'sufficient' evidence is or what constitutes a 'causal connection' short of an explicit admission by a respondent. Furthermore, they found in favor of multiple respondents who simply failed to recall central defining features of protected conversations and they uncritically accepted cavalier denials of wrong doing by respondents. Under these circumstances, there can be no real protections for veterans. Duke University is therefore noncompliant with the spirit and essence of federal law as well as their own AAP.*³⁵

³⁴ The commented-on file is available online on claimant’s website; <https://feraltheology.files.wordpress.com/2016/11/oie-report.pdf>

³⁵ “Causal connection” seems a higher standard than that of “preponderance of evidence” which the Discrimination Grievance Procedure stipulates.

B. Disclosure of Protected Activity a Materially Adverse Action

On August 23, after claimant accepted a contract for Fall 2016, he attended an all-day “Mandatory Preceptor Orientation” organized by Robins and attended by Conklin-Miller. A two-hour block in the afternoon was devoted to a presentation titled “Implicit Bias” by Benjamin Reese, Senior VP for Institutional Equity and Chief Diversity Officer at Duke.

This was the same Implicit Bias presentation given the morning of February 29 by Reese. Claimant had attended the presentation in February as a preceptor, just hours before claimant’s afternoon meeting with Davis that same day. The February presentation was the first claimant had learned about OIE, and it informed his meeting with Davis, namely the danger of asking questions about employment and pay and the importance of Protected Activity. This is why claimant had asked for confidentiality, and why Davis should have known or remembered that he asked for it; **according to Robins’ email inviting staff to attend, the “Implicit Bias” presentation by Reese was ‘sponsored’ by then-dean Davis.**

By the time claimant attended the Mandatory Preceptor Orientation in August, claimant’s allegations were being investigated by OIE, the office of which Reese is in charge. Robins and Conklin-Miller were both named respondents in the complaint, were interviewed by Clinton, and were in attendance on August 23. When Reese asked for questions, claimant raised his hand.³⁶

Claimant’s question was about what OIE does in the event of bias or discrimination, what resources preceptors had to understand protected veterans they might encounter in precepts. He began his question by pointing out that the recent report from the [Taskforce on Bias and Hate](#) contained zero mentions of protected veterans.³⁷ Claimant’s concern was the that **“Disparate Treatment”** of, and bias against, the military was especially problematic because **the Department of Defense sends military chaplains to the Divinity School to receive training.** Preceptors there would be particularly likely to encounter military students, but resources provided by OIE were limited. [The Diversity Toolkit](#) they publicize, for example, references no information about soldiers and veterans.

Claimant began his question with “what does your office do for professional schools, especially the Divinity School...” but Reese interrupted him before he could finish. “Why are you asking this publicly?” Reese interjected. Before

³⁶ Claimant had two questions, the first of which was research related.

³⁷ The lack of any mention of veterans in the Taskforce on Bias and Hate is noteworthy because Dan Struble claimed, on April 21, that he brought claimant’s concerns to their attention. The Taskforce Final Report is covered in greater detail in Section VI.F, below.

claimant had time to ask what he meant, Reese turned to others in 0012 Westbrook, including approximately 50 fellow preceptors, and said “Because we have already had private conversations about this.”

With that comment, each of claimant’s peers learned he had been having discussions with the office at Duke in charge of affirmative action and equal employment opportunity. Those discussions are protected activities, but they became public knowledge and therefore lost any protection provided by confidentiality. The senior vice president and person in charge of OIE violated the Discrimination Grievance Procedure, which states “as much as possible, the complaint and investigation will be treated with an appropriate degree of privacy and discretion.”³⁸

Knowing the university’s chief diversity officer can and will violate confidentiality creates a deterrent to engaging in Protected Activities. The United States EEOC defines a materially adverse act any “action that might well deter a reasonable person from engaging in protected activity.”³⁹ Claimant informed Cynthia Clinton of Reese’s work-related materially adverse action and asked that he be excused from any role he played in the inquiry.

C. OIE Interviews Reveal Inconsistent or Shifting Explanations

Robins told Clinton in her OIE interview that Isaac “didn’t have much teaching experience.”⁴⁰ On June 19, 2015 the claimant sent her a CV detailing claimant’s teaching experience. The first entry under “Service and Experience” detailed claimant’s position as an adjunct professor at Methodist University;

Sole instructor for 115+ Religion & Philosophy undergraduates; Five units for 3 credit hours each – 4 units “Introduction to Biblical Literature,” 1 unit “Religion in American Culture”; 48 unique lectures given (up to 2.5 hours in length); 330 individual paper and exam grades issued; 3rd highest rating in department (3.8) on RateMyProfessors.com

The following semester, Fall 2015, claimant taught another course with Methodist University and he was teaching undergraduate students without supervision when offered a precepting contract in November 2015. What Robins means by “much,” if she did read his CV, could be explained if other preceptors had more teaching experience. For many doctoral students, however, the first time they teach is under supervision for precepts or as Teaching Assistants.

³⁸ Duke “Discrimination Grievance Procedure,” page 2, section 9 (both the 2015 and 2016 versions).

³⁹ “EEOC Enforcement Guidance on Retaliation and Related Issues,” Section IIB.2. Retrieved November 25, 2016 at 6:15pm from <https://www.eeoc.gov/laws/guidance/retaliation-guidance.cfm#B>. [Materially](#)

⁴⁰ This was relayed to claimant by Clinton over the phone on September 21, 2016.

Clinton determined that claimant had been assigned the late-hour precept in Spring 2016 because the Divinity School was 'experimenting' with evening time slots. No mention of this was ever made to claimant by Robins and no effort at data collection was made of which claimant is aware. Nor was this 'experimentation' mentioned by Davis during or after her February 29 meeting with the claimant, which could have resolved his concerns without any further escalation. That no mention of it was made by Davis, Struble, or any individual involved until **Clinton's interviews makes it appear much more likely that an 'experiment' narrative was created after the fact or that the school has provided "inconsistent or shifting explanations."**⁴¹

Duke might argue that the number of students in the Spring 2016 precept was a factor of self-selection, not assignment. But in conversations during that semester, several students mentioned that they were as unhappy with an evening precept as was the claimant. This suggests that students could be, and in fact were, assigned by Robins or others without ultimately having students self-select for an evening time slot. If an administrator can assign nine students to an unpopular precept, one can just as easily distribute students more equitably amongst preceptors. Claimant's being assigned so few students reflects a subjective decision by claimant's hiring manager, not the impartial machinations of a predetermined formal process.

OFCCP INVESTIGATION

VI. University History of Bias, Harassment, Discrimination

A. Appropriation – Blue Devils

Kathleen Ashley and Veronique Plesch, in an academic volume published by Duke University Press, describe "the fundamentally active nature of appropriation" and its linguistic roots;

from the Latin verb appropriare, "to make one's own," a combination of "ad, meaning 'to,' with the notion of 'rendering to,' and proprius, 'own or personal.'" Beyond the simple acknowledgment of borrowing or influence, what the concept of appropriation stresses is, above all, the motivation for the appropriation: to gain power over.⁴²

In their essay, they draw inspiration from Craig Owen's "Representation, Appropriation, and Power," published in 1982. For Owen, appropriation within "a humanistic discipline" implies

⁴¹ "EEOC Enforcement Guidance on Retaliation and Related Issues," Section IIC.3, iv.

⁴² "The Cultural Processes of Appropriation," *Journal of Medieval and Early Modern Studies* (32:1, Winter 2002), page 3.

*a desire for property, which conveys man's sense of his 'power over things'; a desire for propriety, a standard of decorum based upon respect for property relations; a desire for the proper name, which designates the specific person who is invariably identified as the subject of the work of art; finally, a desire for appropriation.*⁴³

On September 28, 1921, an article in the school newspaper, *The Trinity Chronicle*, began soliciting responses to the question "What name shall represent Trinity?"⁴⁴ The school's dark blue colors made returning WWI veterans think of a French alpine unit known as *les Diabes Bleus*, or 'the blue devils.' The graduating class of 1923 "had been the first post-war freshmen and the student body was full of returning veterans" who would have fought alongside *les Diabes bleus* in the European theater.⁴⁵ Their distinctive blue capes were unique amidst the otherwise earthen color tones normally found in military attire and the unit had also been widely recognized for bravery. The article explained the need for a name to match the mascots and nicknames of other college men. Dissatisfied with the simple term "Methodists," students desired "something... which shall be **our own possession**."⁴⁶

There is no evidence that any student or staff was ever in contact with *les Diabes Bleus*. The Duke Blue Devil logo and branding continues to appear with their distinctive blue cape. Continuing to use a military unit's distinctive dress when the military is treated in the ways described herein represents to many veterans a kind of unjust appropriation which contrasts sharply with Duke's moral and legal responsibilities to the military community.

B. Displays – War Memorial

Just outside Duke Chapel, there is a war memorial to Duke alumni who were enrolled in at least two consecutive semesters and died while serving our country. It rests atop a wall built in 1993 to display the 236 names of alumni killed in WWII. Brass panels were installed in January 2010 to list 54 names which appear in chronological order, grouped by conflict;⁴⁷

- The World War II panel has 244 names

⁴³ "Representation, Appropriation, and Power," in *Beyond Recognition: Representation, Power, and Culture*, ed. Scott Bryson et al. (Berkeley: University of California Press, 1992), 95–96.

⁴⁴ "What Name Shall Represent Trinity?" appears unattributed on page 2 of *The Trinity Chronicle* on September 28, 1921. It can be access at <http://cdm15957.contentdm.oclc.org/cdm/ref/collection/p15957coll13/id/72456>. See also <https://library.duke.edu/rubenstein/uarchives/history/articles/bluedevil>

⁴⁵ Ibid.

⁴⁶ Ibid., emphasis added. "What Name Shall Represent Trinity?" appears unattributed on page 2 of *The Trinity Chronicle* on September 28, 1921. It can be access at

<http://cdm15957.contentdm.oclc.org/cdm/ref/collection/p15957coll13/id/72456>. See also <https://library.duke.edu/rubenstein/uarchives/history/articles/bluedevil>

⁴⁷ "Memorializing Duke's War Dead" appeared unattributed in the Jan/Feb 2010 issue of *Duke Magazine*, <http://dukemagazine.duke.edu/article/memorializing-dukes-war-dead>

- The Korean War panel has 10 names
- The Vietnam War panel has 19 names
- The Iraq War panel has 2 names
- An “Active Duty” panel has 27 names

The rededication in early 2010 “took more than three years to complete,” suggesting it began in 2006. At the ceremony, Duke alumnus Eric Shinseki remarked “Duke has many distinguished alumni, but I’d argue that the names on this memorial represent the most distinguished.”

In response to the Duke Magazine article “Memorializing Duke’s War Dead,” Army Major and Duke alumnus Neil Snyder (B.S.E. ‘98) reflected on implicit messages such overt displays convey;

the fact that the university had not updated the memorial since World War II subtly communicated to me that the university was less cognizant of the recent or ongoing contributions of Duke’s military alumni... Consider that the U.S. military personnel have been in Afghanistan for almost ten years, yet the university is just now recognizing the alumni service in that war.⁴⁸

There is no WWI or Afghanistan panel on the memorial. The ongoing conflict in Afghanistan is the longest war in our nation’s history, which began five years before work to verify the names for the memorial started.

Others at Duke also saw subtle messages surrounding the memorial and its omissions. A tenure track professor who shared their reflections with the claimant anonymously wrote in 2015;

I am grieved that there is such a hostile environment for veterans and military personnel. When I think of the other causes and groups that get considerable support, I want to get sick. It took forever, apparently, to get the administration to approve dedicating the names of Vietnam Vets on the war memorial wall. For a variety of reasons, the military is spoken about in such dismissive and disparaging terms⁴⁹

During the Spring 2011 semester, the Iraq panel of the memorial was defaced. Someone had painted their tag on the panel the evening prior, a week night. For reference, defacement of property, particularly a memorial for alumni killed while serving in the military, represents what the Taskforce on Bias and Hate would later call “A Hate and Bias Intensifier,” which is supposed to trigger “education, dialogue, and engagement, with a particular focus on restorative measures to help the targeted... community.”⁵⁰ Claimant was the first to report the incident, around 10:30am, several hours into a weekday when many people would have passed by on their way to classes.

⁴⁸ <http://dukemagazine.duke.edu/article/forum-march-april-2010>

⁴⁹ Claimant can provide evidence on request, with personally identifying information redacted.

⁵⁰ Taskforce Final Report, page 33.

C. Negligence – Marine Leadership Scholar Program

Beth Morgan, Director of Higher Education Initiatives for the Marine Corps in 2013, had been trying to reach [Christoph Guttentag](#), dean of undergraduate admissions, for “several years.” Claimant was made aware of her attempts on July 18, 2013 when she contacted [Clay Adams](#), the Associate Dean of Students & Director for Parent and Family Programs, who forwarded her email to claimant. Morgan likely reached Adams because he monitored the veterans@studentaffairs.duke.edu email address around that time. She was responsible for a program supporting Marines being discharged from enlisted service and transitioning to civilian life as students.

The [Marine Corps Leadership Scholar Program](#), which Morgan oversaw, eases the transition of enlisted Marines from active duty into full time higher education. This program was supported by three general grade officers and Duke alumni; [Walter Boomer](#), [Emerson Gardner](#), and [Frank Bowman](#). Guttentag's refusal to reply went on “for several years” according to Morgan. As the person responsible for all undergraduate admissions, this reflects a high level of discrimination against or gross negligence of enlisted veterans transitioning to civilian status. This further reflects an institutional-wide bias against military which claimant alleges has negatively impacted numerous veterans.

One month after Adams at Student Affairs was made aware of this negligence and/or anti-military bias in undergraduate admissions, [Guttentag was appointed to his current five year term](#), which will expire in 2018. As of November 26, 2016, Duke University still does not participate in the Leadership Scholar Program, which requires no resources or funding from participating schools. Other COFHE Schools that do participate include Georgetown, Yale, Harvard, Amherst, Princeton, Stanford, Columbia, and the University of Chicago (to name a few). Participating in this official Marine Corps program would begin to rectify the poor number of student veterans in the undergraduate population, which, according to [The New York Times](#), is in the single digits at Duke.⁵¹

D. Insensitivity – “The End is Near” LDOC theme

Last Day of Classes for Duke undergraduate students is called “LDOC.” It is known as a campus-wide party in which musicians perform and students celebrate the end of spring classes before final exams begin. Every year there is a theme which gives the celebration some structure. In 2012, it was “LDOCalyse,” and its tagline was “The End is Near.”

⁵¹ Frank Bruni, “Where are Veterans at Our Elite Colleges?” in *The New York Times* (September 7, 2016), citing Wick Sloane, “Where are the Veteran Students?”; <https://www.insidehighered.com/views/2015/11/11/where-are-veterans-elite-colleges-and-not-essay>

Tee shirts are also made for students to remember LDOC. That year the graphics prominently displayed cartoon bombs with the tagline “The End is Near.” LDOC occurred on April 25 in 2012, less than six months after the formal withdrawal of troops from Iraq on December 18, 2011. The theme was chosen the same semester as a major conference on veterans was convened, elevating the issue of sensitivity toward the unique struggles of military communities.

Despite the attention on veterans that academic term, and echoing the origins of the “Blue Devil” mascot, no contact was made between 2012 LDOC committee chairs Nate French or Jacob Robinson and Duke Veterans, the campus wide student veterans association. The use of cartoon bombs and references to ‘the end’ came as a shock to many veterans on campus. Multiple veterans expressed difficulty in coming to campus that day and others contacted claimant as the Duke Veterans president to voice their objections.

Claimant connected with LDOC personnel by phone that day and alerted them to the insensitive use of symbols and metaphor, for it making light of violence and the use of explosives. While no changes could be made, **claimant was assured that future LDOC planning would do a better job of being sensitive to protected populations of students.**

[E. Editorializing – Duke Today Article](#)

On June 17, 2013, Keith Lawrence emailed the claimant seeking an interview and connections to other veterans for research into “a story about the growth in the number of veterans on campus, in part the result of VA funding.” Lawrence identified himself with the Duke news office.

As a result of numerous instances of bias and harassment he knew had been occurring, claimant advised Lawrence “if this is for literature meant to attract more students, I may not be the best person to speak with.” Claimant did solicit interest from other veterans and Lawrence described the project as follows;

The article I plan to write essentially highlights the fact that the number of veterans at Duke has risen lately, in large part due to VA programs now available. I want to talk with vets about the opportunity the VA has given them, how they plan to use their Duke degree and, yes, what their experience was like at Duke.

The “VA Programs” to which Lawrence refers are the “Post 9/11 GI Bill” and subordinate program called “The Yellow Ribbon Program” (YRP) passed into law in 2008. During the preceding 2012-2013 academic year, the implementation of the YRP was not uniform across Duke’s Graduate and Professional schools and

undergraduate student body. In the case of the Divinity School, for example, only five YRP slots were allocated. A direct byproduct of this was to create competition between veteran applicants when more than five planned to enroll in any given year.

Lawrence sent his first draft to Fisher, Havens, and Isaac on July 1, 2013. The draft made clear that Lawrence offered disproportionate attention to non veterans over veterans themselves, the subject matter of the article. He interviewed three veterans (claimant Logan Isaac, divinity student William Fisher, and law student Johnny Havens) and four administrators (then-Provost [Peter Lange](#), Vice President for Student Affairs [Larry Moneta](#), associate dean of students [Clay Adams](#), and then-Registrar Bruce Cunningham).

The unbalanced devotion Lawrence gave to non veterans even extended to the length and quality of quotations he pulled from interviews. In the first draft shared with the student veterans involved, Lawrence dedicated 129 words to Cunningham, 38 words to Lange, and 18 to Adams. Though he never quotes Moneta directly, Lawrence attributed 68 words to Moneta in paraphrase. Lawrence only dedicated 20 words to Havens, 15 words to Isaac, and 13 words to Fisher.

Mid-article, he quoted the claimant, as the out-going president of Duke Veterans, saying “Duke is not doing anything wrong, but there are more things they can be doing,” including establishing a veteran center on campus, which every other college in the Raleigh-Durham area had except for Duke. After Isaac, he cited Moneta describing several measures Student Affairs was taking to address, as well as Moneta’s “doubt” about the creation of a vet center. Lawrence concluded his article by quoting Havens saying “I have zero regrets... It was a pretty cool experience.”

The narrative arch Lawrence created seemed to Isaac to significantly undermine his concerns as well as the credentials he brought with two years of leadership and experience as a student veteran. Isaac felt the ordering of the quotations was objectionable, replying that Lawrence’s editorial choices reflected a positive bias in favor of Duke which “requires much of the story about why [Isaac] said what I did to be left unsaid.” Isaac asked for his name to be removed from the article before publication, which Lawrence did.

On July 1, 2013, Fisher reflected on the draft saying
No suicide rates, PTSD stats, nothing real... I'm not getting used for a back pat from a dude that didnt have enough integrity to do background research. I just emailed him and told him to take me out.

After negotiating with Lawrence, Fisher agreed to remain in the piece. It is his picture which appears in [the final article published July 8, 2013](#).⁵² After facing repeated episodes of anti-military bias and difficulty finding employment, Fisher had suspended his enrollment in 2011 and was a part time student at the time the article was published. He is still a part time student, profoundly dissatisfied with his student experience, hoping to graduate in May 2017.

F. Exclusion – Taskforce on Bias and Hate final report

Two days after Veterans Day in 2015, on Friday, November 13, President Broadhead convened a “Town Hall” for marginalized student groups with Duke University Provost Sally Kornbluth and Trinity College Dean Valerie Ashby.⁵³ Student veterans groups were not represented and Duke administrators displayed no “intensive and inclusive”⁵⁴ effort to reach out to this protected population, despite there being at least three active groups on campus at the time; Duke Armed Forces Association, based out of Fuqua School of Business, [Duke Law Veterans](#),⁵⁵ and [Duke Divinity Veterans Partnership](#).⁵⁶

The [Bias and Hate Taskforce](#) was formed that same month “to carry out a broad review of Duke’s policies, practices, and culture as they pertain to bias and hate in the Duke student experience.”⁵⁷ This “intensive and inclusive” review included a series of “listening sessions,” none of which indicate any direct connection with student veterans associations active on campus at the time.

While there were sessions at schools themselves, which may have been inclusive of student veterans there, other sessions did focus on protected populations, including LGBTQ (March 3), African American (March 7), female (March 9), Muslim (March 11), and Jewish (April 13) students. Listening sessions were convened at schools for faculty and students as well, including Nicholas (March 2), Fuqua (March 22), Sanford (March 24), Law (March 29), Nursing (March 31), and Divinity (April 4). No mention is made of the student veterans groups active at [Fuqua](#), [Law](#), or [Divinity](#), nor the Veterans Advisory Committee within GPSC, which

⁵² “Duke’s Fasted Growing Student Group” by Keith Lawrence, July 8 2013. Retrieved from <https://today.duke.edu/2013/07/vetstudents> on December 6, 2016.

⁵³ “University Leaders Hear Student Frustrations in Community Forum,” Duke Chronicle, November 13, 2015, retrieved December 3, 2016 from <https://today.duke.edu/2015/11/forum>. The Forum is also listed as a “community conversation” resource at <https://spotlight.duke.edu/taskforce/campus-resourcess/>

⁵⁴ According to <https://spotlight.duke.edu/taskforce>, the Final Report was only published after “an intensive and inclusive process.” Retrieved January 22, 2017 at 2:44pm.

⁵⁵ <https://law.duke.edu/students/orgs/#dlv>

⁵⁶ [REDACTED] and [REDACTED] were leading DDVP at the time and report not having been contacted and not even knowing about the Listening Tours at the time.

⁵⁷ According to university hosted site <https://spotlight.duke.edu/taskforce> retrieved December 3, 2016. A test on Archive.org to determine the age of this website found that it was first saved in March 2016; https://web.archive.org/web/*/https://spotlight.duke.edu/taskforce

*Meets to discuss matters dealing with veterans affairs in higher education and to draft policy recommendations that address the unique administrative needs of Duke graduate and professional students who are or have family members or friends that are former or current members of the US Armed Forces.*⁵⁸

Furthermore, some of the listening sessions were conducted at sites with particularly active student veteran contingents, such as Fuqua (March 22), Law (March 29), and the Divinity school (April 4) which founded [Duke's Student Veterans of America chapter](#). Divinity professor [Edgardo Colon-Emeric](#) served as the Chair of the Listening Tour working group, but made no apparent contact with the Divinity School student veteran groups or individuals.⁵⁹

The Office of Student Affairs, the office in which [Clay Adams](#) serves, had a Listening Tour session on March 31. Clay Adams has voluntarily adopted responsibility for veterans at Duke and has been aware of numerous concerns brought by veterans since 2013. [Vice President for Student Affairs Larry Moneta](#) was also made aware of several concerns at the same time as Adams, and had legal responsibility to be aware of protected veterans as early as March 24, 2014, when the Final Rule on VEVRAA took effect. Moneta is also named as the party responsible for appointing the [Bias Response Advisory Committee](#).⁶⁰ Adams and Moneta were both aware of concerns brought by numerous student veterans over several years, but made no apparent effort whatsoever to apply the “intensive and inclusive” standard for reaching out to “traditionally underrepresented” groups on campus to student veterans.⁶¹

Despite all the above, in May 2016, the Taskforce ended its work and entered an Implementation phase by publishing a “Final Report” which covered numerous protected classifications but left out any mention of veterans or veteran status.

The Taskforce on Bias and Hate makes no mention of protected veterans anywhere in the 69 pages of the Final Report

The Everyday Discrimination Scale emailed to 4,544 students on March 21, 2016 allowed for responses that included Ancestry or national origin, Age, Religion, Weight, Another aspect of physical Appearance, Sexual orientation, Education or income level, Physical disability, Shade of skin color, Tribe, Political orientation, Gender, and Race.

⁵⁸ GPSC claims the Veterans Advisory Committee is still active through 2016/2017 academic term; <https://gpsc.duke.edu/committees>. Retrieved December 3, 2016.

⁵⁹ Taskforce Final Report, page 59.

⁶⁰ Taskforce Final Report, page 23.

⁶¹ Veterans are named “traditionally underrepresented” in the 2016 AAP, on p.15.

There are neither explicit nor implicit options above suggestive of “Veteran Status.” **Veteran status is the only protected population not covered by the Taskforce’s Final Report.**

Veteran status was added to the university’s Discrimination Grievance Procedure policy on November 7, 2016, after the taskforce completed its report.⁶² “Gender expression” did not appear prior to this date either, but unlike veteran status, it is dealt with in detail by the taskforce.⁶³ It may be argued that “gender expression” became enforceable under Duke’s Harassment policy as early as the report’s publication on April 30, 2016, nearly seven months before “Veteran Status” finally appears in Duke’s grievance procedures.

The total omission of protected veterans in the Taskforce’s work represents what the United States EEOC calls “[disparate impact](#),” describing activity, like a listening tour or recommendations of the Taskforce, which results “a different and more inhibiting effect” on a protected population.⁶⁴ This profound oversight, from the top administration on down, created limited access to resources and programs which some protected populations receive but which are effectively denied to protected veterans.

VII. Hostile Environment(s)

A. Definitions

Duke “university has a responsibility to ensure that it does not cause, encourage, accept, tolerate, or fail to correct a hostile environment based on federally protected classes.”⁶⁵ A hostile environment is measured by the “severe or pervasive” threshold, which the [Department of Education Office of Civil Rights](#) describes as

*harassing conduct (e.g., physical, verbal, graphic, or written) that is sufficiently **severe, pervasive or persistent** so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided*⁶⁶

⁶² Discrimination Grievance Procedure, first page, third paragraph.

⁶³ Taskforce Final Report, page 35. It is also given attention earlier, on page 29, when it becomes enforceable under Duke’s Harassment policy seven months before “Veteran Status” does when it finally appears in Duke’s grievance procedure policies.

⁶⁴ <https://www.archives.gov/eo/terminology.html#d>

⁶⁵ Taskforce Final Report, page 34, 52.

⁶⁶ <http://www2.ed.gov/about/offices/list/ocr/docs/race394.html>

The Duke Community Standard relies on “broad policy” to define harassment, which is considered “unwelcome verbal or physical conduct that, because of its severity and/or persistence, interferes significantly with an individual’s work or education, or adversely affects an individual’s living conditions.”⁶⁷ Noticeably absent in this definition is the “pervasive” threshold, though it does appear in a specific policy on harassment;

*utterances, expressions, or conduct may constitute harassment when they are so **severe or pervasive** that they interfere with an individual’s work or education or adversely affect an individual’s living conditions.*⁶⁸

B. Pervasive Bias and Harassment

Student veterans are frequently the victims of bias and harassment at the Divinity School as well as the wider university. The accumulation of these incidents represents a severe and pervasive environment not just at the Divinity School but the University as well. Some examples are included below, but these are not exhaustive by any means. Claimant can provide additional examples, but includes the following as representative of the whole.

- One protected student veteran described a precept in which conversation was particularly passionate and engaged. Multiple students had very strong opinions and the discussion was intense. At the end of the precept, a fellow student leaned over to this veteran and, seemingly referencing the veteran’s investment and passion for the subject, quietly remarked “Geez, don’t kill anybody over this.”
- A student in the Nursing School described having been required to misreport the hours they were working by a supervisor, another veteran, which effectively deprived the student of much of the stipend which accompanies the GI Bill.
- An incoming student reported in 2012 that failure to coordinate care with their Service Medical Records resulted in hospitalization. Another student was required to receive redundant immunizations for the same reason, over their objections. Multiple student veterans have also expressed objections to their treatment or service by the Disabilities Management office.
- Will Fisher has faced bias for being “ignorant” because posttraumatic stress prevented him from participating in an interfaith service with Muslims students less than a year after returning home from combat. Another student veteran used the same language on November 3, 2016 to describe her hesitation about enrolling in a “War in the Christian Tradition” course in the Spring 2017 semester, saying “when I walk in there, all I think is that, to everyone in that room, I’ll have a big red ‘ignorant’ stamp on my forehead.”

⁶⁷ Taskforce Final Report, page 27

⁶⁸ Taskforce Final Report, page 29. Emphasis added.

- Several Afghanistan veterans have questioned the absence of an Afghanistan panel on the War Memorial outside Duke Chapel. A discussion with the custodian for memorials in 2013 revealed that names of alumni who have died there are known, but that no panel would be added for lack of funding.
- A faculty person brought up the crusades in a course in 2015, comparing crusaders to OIF/OEF protected veterans. Two student veterans were present and heard this remark. One student veteran took great offense that there was no rationale for the comparison, and was intensified when the professor justified it because, the faculty person said, "I have family in the military."
- Multiple veterans have reported feeling left out of the privileges of Duke enrollment, especially the annual Camp Out weekend for graduate students. The specific requirements of the event, including unannounced loud noises and heavy crowding, preclude many veterans with posttraumatic stress.
- On July 10, 2016, by Facebook Messenger, a protected student veteran described his experience in a dual degree program in terms of being closeted; "I avoid administrators the same way I avoid officers. What they don't know can't screw me."
- The environment at Duke is so hostile and retaliatory that a student veteran's spouse killed a story about veterans at Duke that she was working on, remarking "I wouldn't want Duke Magazine to not hire me for future stories"

An email from one alumnus merits special attention for the detail it provides and the environment it describes, which the veteran faced over the course of three years. The email is pasted below, from March 29, 2015, and is edited for brevity; *I feel that vets face significantly more opposition (and disadvantages) than vets in other Duke grad programs. To my knowledge, Div school vets are not permitted to recognize their veteran peers/colleagues in any way (save for vet initiated face-to-face contact).*

Let's face it - in any other context, we would call this 'prejudice' and 'discrimination'.

It's my feeling that there are vets at the Div School who are in great need of pastoral care. The Div School is prob the one place they are least likely to find it - as the administration is not keen to endorse/permit this kind of thing... Let's face it - they would prob prefer it if we ceased to exist.

I feel completely exhausted...

There is no engagement between civilians and veteran/military. There is no interest in dialogue. What is often taught in the classroom vilifies all vets and military, either suggestively or overtly

There is a predominance of the 'us vs them' mentality among most other non-vet students.

I also think it will be important to get a few more staff people on board with what MC wants to do. Students can't maintain this on their own. We can't be chaplains to others when what we need is protection FROM the Div School.

In short, we need to shift the power structures - Duke faculty who have supported [student vets] have really only done so to advance their own politics/prestige/promotability.

C. 2010 New Student Orientation

During Divinity orientation in 2010, a representative from Counseling and Psychological Services (CAPS) gave a presentation about their services. In describing doctor-patient confidentiality, the speaker tried to make a joke about how safe certain information is with their office. Before the entire entering class, including the claimant, he said “you can tell us anything. You can tell us you are cheating on your tests, cheating on your spouse, that you kick your dog... *you can even tell us that you killed someone.*”⁶⁹

The question of reporting past homicide falls under the “misprision of a felony” legal category. North Carolina law compels mental health professionals to no formal “duty to warn” or to protect possible victims from their patient’s violent activity. Federal statutes for misprision are found in *18 U.S. Code § 4* and, although federal precedents are few, failure to report past violent criminal activity could endanger future victims and the duty to warn becomes very high. The [American Psychological Association](#) provides the following guidance;

*Psychologists disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose such as to ... protect the client/patient, psychologist, or others from harm.*⁷⁰

With no regard for seriousness of the comment, the CAPS representative intended it to be a joke. The incoming cohort of nearly 200 students took it as such, and in fact most of the room burst out laughing.

⁶⁹ Emphasis added to imply speaker’s inflection and tone.

⁷⁰ APA Ethical Standard 4.05, “Disclosures.” The APA has a helpful article about it at <http://www.apa.org/monitor/2014/04/disclosing-information.aspx>

As a member of an infantry platoon in Iraq in 2004, the claimant would have benefitted from disclosing details of lethal force he employed there as a soldier in combat. Before classes began in 2010, claimant's military service was negatively stigmatized and he was treated with hostility and distrust based on perceived disability and stereotypes about veteran status. **The episode during orientation created a "severe and pervasive" hostile environment because it created a deterrent to claimant utilizing psychological services and significantly interfered with his education and, later, ability to find and maintain work.**

D. Dean (non)Involvement

On September 1, 2010, claimant alerted Richard Hays, then interim Dean of the Divinity School, of the inappropriate comments by the CAPS representative. The representative was also informed about how the comments reflected bias and created a hostile environment. In the letter to Hays, claimant cited the statistics of soldier and veteran suicide, insisting "something should be done about the lack of sensitivity expressed." The impetus for action, claimant stated, should be to prevent other protected veterans from the same treatment, who may compensate by "[camouflaging] their scars beneath a thin veneer of collegiate credentials."

Hays replied to claimant's letter on September 7, 2010, acknowledging the "sheltered and privileged lives" of many students and staff which allowed the incident to occur. He also confessed to a "sense of puzzlement about what actions could be taken to set this matter right."

Claimant sent multiple emails to Hays providing opportunities to rectify the anti-military bias encountered. In 2010, emails sent to Hays by the claimant on November 22, 29, and December 12 went unanswered. Although one element of Hays' deanship focused on theology and the arts, he indicated no interest in contributing to [a work commissioned by Catholic iconographer Bill McNichols](#) which he was invited to do in an email on February 6, 2011. The subject line of an email sent to him on March 20, 2011 by the claimant read "*help make DDS a more welcome place for veterans,*" to which Hays never responded.

These unacknowledged correspondences were all sent during the claimant's first year of studies, after which he gave up trying to work with the dean to change the hostile environment. During that first year, claimant took one less class/credit than expected due to the stress caused by severe and pervasive anti-military bias on campus, which claimant repeatedly made aware to Dean Hays. His official transcripts will show that, during academic term 2010-2011, he earned a 3.20 GPA (for comparison, his total undergraduate GPA had been a 3.81)

After a full academic year of silence from the Dean, claimant gave up trying to address the hostile environment.

After his first year, the claimant took a year-long recuperative leave of absence. In that time, claimant wrote two books (one of which received [a Publishers Weekly “starred review”](#)) and organized a veterans conference which Camille Jackson of the Duke News and Communication Office called “the largest student-run conference in Duke’s history.” His second and final year, during the 2012-2013 academic term, he worked half time in the Women’s Center, and brought his grades up to a 3.68 GPA while taking an extra course to make up for his lower course load the prior academic term (2010/2011).

For approximately six years after being alerted to the incident with CAPS, Hays took no substantive action to address the hostile environment of which he had been made aware by claimant. On November 3, 2014, the day before a “Faculty Panel on War” which knowingly excluded individuals who had served in war, **claimant emailed Hays once again, begging him to “Please end the silence to which Duke has relegated soldiers’ voices and experiences.”** Hays never responded.

Then on March 31, 2016, claimant emailed Hays as an alumni and employee because he was “worried that the anti-military bias I experienced at Duke Divinity, beginning in 2010 and which I brought to your attention in September of that year, has not been reduced and may actually be increasing.” Returning as an employee exposed the claimant to the same anti-military bias from a different angle. He asked Hays to describe “any measurable efforts you took in response to my [2010] email.”

Hays responded on April 2, 2016, objecting that claimant’s experience “stands alongside the many complaints and allegations” Hays received, including “bias against different racial and ethnic groups (e.g. black, Latino/a, Asian)” as well as “various sexual/gender identities, bias against students holding particular theological convictions (e.g, evangelical, liberal, Pentecostal, Unitarian, even Baptist.”

Of the above, a few are specifically subject to either university or federal nondiscrimination protection; black students receive the benefit of the [Mary Lou Williams Center for Black Culture](#) as well as the [Office of Black Church Studies](#); “various sexual/gender identities” receive the benefit of the [Center for Sexual and Gender Diversity](#), the university [Women’s Center](#), the Divinity School [Women’s Center](#), and a [certificate program](#). Baptist students are *not* a protected

classification but *do* have dedicated resources at the Divinity School in the form of the [Baptist House of Studies](#) as well as [a certificate program](#).

Veterans are specifically subject to university policy & federal legislation, but have no dedicated institutional resources.

Hays did not deny that bias was severe and pervasive, in fact affirming he had no doubt “that [claimant’s] experience was affected by that contentious environment” which Hays felt was characteristic of universities generally.

“The role of the administration” Hays explained, “is to welcome such diverse initiatives—but not necessarily to launch administrative programs to promote the concerns of every interest group.”

E. 2016 Orientation

As a protected veteran and employee with significant experience as a student, claimant approached Senior Director of Admissions, Recruitment, and Student Finance [Todd Maberry](#) about dedicating time during new student orientation to issues of concern to veterans. He was careful to explain that veterans’ issues were not pertinent to veterans themselves, but to the hundreds of pastors Duke was training and who were almost certain to encounter veterans in their career and who would benefit from special attention to veterans’ issues in their training. Claimant explained to Maberry that, with 774,000 resident veterans, NC has twice the national average in raw numbers of veterans, heightening Duke’s potential positive impact.⁷¹

Maberry denied claimant’s request. In an email on August 6, 2016, Maberry explained that, rather than working with current or former student or employee veterans, he enlisted the expertise of [Warren Kinghorn](#), a faculty member and VA clinician. With Kinghorn’s assistance, Maberry was crafting “language that we can infuse into some of our presentations to the students in order to lay the groundwork for making the Divinity School a welcoming environment for veterans.” He also made no indication to claimant that time would be given during orientation to issues of concern to protected veterans.

On August 11, 2016 claimant replied, thinking Maberry was soliciting feedback on his strategy regarding ‘infusing language.’ He replied

I cannot vouch for Dr. Kinghorn or what value he might bring to DDS. He represents the VA, the Psychiatry department at Duke, and the div school, but not veterans. He may be the faculty rep for the student group, but if that's

⁷¹ https://www.va.gov/vetdata/docs/SpecialReports/State_Summaries_North_Carolina.pdf

the case it is because there are no veterans on faculty at DDS. Privileging nonveteran voices over veterans silences those voices with the authority to speak about the subject at hand even if it seems like a step in the right direction. I appreciate your thoughtful intentions, but it doesn't actually address the problem of veterans not being welcomed at Duke.

Two days later, on August 13, 2016, Maberry accused claimant of inserting claimant's own "personal standards or expectations" into the process. Claimant clarified his remarks in a reply on August 14, saying

*I did not offer my personal expectations or standards, nor do I remember you asking for them. You added an aside to an email to which I responded; to address a problem you must go to its source. In this case the source is student veterans who do not or have not felt welcome at DDS. Not only is Dr. Kinghorn not a student veteran who's felt unwelcome, he is not a veteran of any kind. Certainly he has some expertise, being a VA clinician, but he cannot speak directly about the experience of veterans without a degree of separation. "This issue" has not been addressed reliably because **you have not addressed veterans themselves as people with credible and valued experiences**. I take this to be a set of facts, not a personal set of observations or expectations.*

Maberry did not reply.

VIII. "Faculty Panel on War"

A. "Academic" Inconsistencies and Objections

November 4, 2015, three tenured faculty members were involved in a panel facilitated by local WRAL news anchor [David Crabtree](#). The professors participating were [Richard Hays](#), [Stanley Hauerwas](#), and [Amy Laura Hall](#). The panel was recorded and is available on line under the title "Faculty Panel on War." **None of the panel participants mentioned any direct experience of war or having served in a conflict area in any capacity.** Their commentary, informed by formal education and reflection, did not reflect the rigorous standards of humanities faculty at a top tier research institution, which demands as few degrees of interpretation as possible.

According to Hays, in a later email, the panel "was organized by Dr Hall, and she invited Prof. Hauerwas and me to participate. Neither I nor anyone else in the Divinity School administration had any role in conceiving or planning it." His understanding of the purpose of the panel was that it was "an *academic* panel" for which Hays and Hauerwas were qualified because they "had written on the

topic.”⁷² Although it was billed and is advertised online as a panel on “war,” Hays referred to it as a “panel on the topic of Christian pacifism.”⁷³

Hays implied “academic” was a characteristic which immunized panel participants from intellectual rigor and federal nondiscrimination protection, claimant emailed Hays. The day before the panel, claimant insisted,

*If this were just some academic exercise, that might be one thing. But human lives hang in the balance, and, as a prominent theologian, your hand is upon the scale... silence dictates the experience of soldiers. It is evidenced by the absence of soldiers’ voices tomorrow. It is evidenced in the silence that shapes the deaths of those soldiers that I told you five years ago were killing themselves faster than they could be killed in combat.*⁷⁴

In an email to Hall, claimant asked that she “Please reconsider this or insist that one of the many veteran students... be present on the panel.”

By his own admission, Hays “met... with several members of the... [divinity student veterans] organization” in the morning before the panel took place; [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED] Lovell.⁷⁵ Hays and Hall each were also informed by the claimant, a protected veteran, that this action did not adhere to any sense of academic rigor, by excluding contrasting voices, and might also represent discrimination against military personnel. Nonetheless, the panel proceeded unchanged, without including any participants who had a direct and personal connection to war.

B. Objectionable Faculty Remarks

Introducing the panel, Hays said “I’ve had several people ask me what occasioned this event” which he said was prompted by the

*concern, in general public discourse, people are not given the opportunity to hear a nuanced and reasoned presentation of the case for Christian pacifism... It is not intended to be a panel which presents both sides of an issue. It doesn’t intend to be representative of different perspectives within this community.*⁷⁶

Claimant wrote a rebuttal to the panel title “[Theology Without Witness](#)” based on Hays’ claim that there was a hard and fast distinction between theology and

⁷² Emphasis in original, though it was unclear to what “academic” might stand in contrast.

⁷³ The panel was recorded and uploaded to the Divinity School’s official iTunesU channel, which can be downloaded at <https://itunes.apple.com/us/itunes-u/other-lectures/id940581691?mt=10>

⁷⁴ This email was sent by claimant to Hays the day before the panel, on November 3, 2014. “Five years ago” refers to a letter sent by the claimant on September 1, 2010.

⁷⁵ Hays went on to describe his meeting with student veterans as a means of “how we might begin creating a venue where we could have a much more sustained and engaged conversation than we can do in one lunch hour, so we’re gonna work on that.” Hays reflected positively on the meeting in an email to the claimant on April 2, 2016, saying “I was sympathetically responsive to their concerns.”

⁷⁶ Transcript of the panel is available at <https://feraltheology.files.wordpress.com/2016/12/faculty-panel-on-war.pdf>

pastoral responsibility.⁷⁷ Claimant also fails to see how any “nuanced and reasoned” *academic* presentation can retain that quality while failing to engage or even acknowledge contrasting voices.

Following the faculty reflections, Crabtree opened a Question & Answer segment. One of the student veterans who met with Hays earlier that morning asked a question that, coming from a veteran, evokes posttraumatic stress and other forms of perpetrator-induced trauma;

What does being a pacifist here, at the Divinity School, where there’s no bullets and bodies flying and no air raid sirens going on, what does it mean to hold that position when you have the privilege not to experience that?

Hauerwas offered the first and only reply to this protected student veteran by saying “It’s too easy. But simply because [being a pacifist is] too easy doesn’t mean it’s wrong.” He then went on to illustrate his point by describing having told his six-year-old son, in elementary school, that whenever his teacher mentioned the name “Richard Nixon,” to raise his hand and ask “You mean the murderer?”⁷⁸ At that comment, many in the room laughed, not unlike claimant’s experience during new student orientation in 2010.

In response to a subsequent question, Hall acknowledged that “first hand” experience increases “capacity” in an educational environment. She defended her teaching about war because she is “someone who’s heard enough stories, over my 15 years of teaching... *from people who’ve served in the military and from serving in a church with veterans.*”⁷⁹ **Hall’s response makes clear that her knowledge of the topic of war is derivative**, that any topical credibility she has is not her own, but depends upon stories which do not belong to her and which were knowingly and strategically excluded from this event.

In the days following, student veterans expressed a variety of objections to the panel and what was said therein. One of the student veteran group leaders cited concern about

*the ever increasing popularity of Dr. Hall and her still unapologetic “There is a ‘gnosis of violence thingy going on. The notion that combat vets ‘know’ is not good for vets” comment and actions, are clear signs of the new “breed” of academics entering DDS, and its not good.*⁸⁰

⁷⁷ <https://iamloganmi.org/2014/11/25/theology-without-witness/>

⁷⁸ Hauerwas used this same anecdote in March, 2016 while speaking at an off campus gathering at Baylor University; “Leading Theologian Talks War, Politics with Baylor Students at Off Campus Apartment,” *Waco Tribune-Herald*, March 19, 2016. Retrieved December 4, 2016 from http://www.wacotrib.com/news/politics/leading-theologian-talks-war-politics-with-baylor-students-at-off/article_bccbde3f-f4e5-5d81-9220-3ba4b863f892.html

⁷⁹ Her reply to the second question, asked about sports and military culture, about 46 minutes into the broadcast. Emphasis added to illustrate that her credibility is derivative.

⁸⁰ Email to Logan Isaac, March 28, 2015.

C. “Gnosis of Violence” and Epistemological Appropriation

In the evening, after the panel, Hall tweeted something which implied that ‘knowledge’ gained by experience did not or should not attach directly to the individual.



Implicit in her message is that soldier’s stories and experience are owned (or more properly ‘known’) by agents external to the soldier. As Jodi Simon, a lawyer in California, stated about Sergeant First Class Jeffrey Sarver’s defamation lawsuit against the crew behind *The Hurt Locker*, “[soldiers don’t have privacy](#).”⁸¹ Likewise, Hall’s comment becomes an assertion of ownership; she suggests individual martial experience belongs to an entity other than that individual. Put in terms described above in Section VI.A, above, Hall’s words and actions surrounding the panel represents an appropriation of the experience of military personnel as “something which shall be our own possession.”⁸²

Her forcible pluralization of the first person dependent possessive form (“my” knowledge to “our” knowledge) is a derogatory assertion of ownership or propriety; this knowledge is not, or should not, be properly possessed by “combat vets” themselves, for that would be “not good for vets”. “Our,” in this case, displays Hall, Hays, and Hauerwas’ illegitimate justification of any event about “war” which invites participation by “*academic[s]*” whose expertise derives exclusively from having “written about” a subject with which they have no “first hand” experience.

IX. Doctoral Admissions

Based on the OIE Report provided to the claimant, OFCCP has found possible discrimination in applications process based on statements made by the ThD program director in his OIE interview. Claimant provides the following information for context and consideration by OFCCP.

⁸¹ Julie Hinds, “Army Bomb Expert Claims ‘Hurt Locker’ Based on Him” in USA Today, March 3, 2010. Retrieved December 7, 2016 from http://usatoday30.usatoday.com/life/movies/news/2010-03-03-hurt-locker-lawsuit_N.htm

⁸² “What Name Shall Represent Trinity?” *The Trinity Chronicle* on September 28, 1921. See Section VI.A, note 44, above.

A. Claimant Qualifications

In 2010, after less than three years, claimant received his Bachelor's degree with a 3.81 GPA, from Hawaii Pacific University, the largest private university in the state of Hawaii. While there, he co-founded the "Student Advocates" group and served as their military liaison, for the numerous soldiers and veterans at the school consistently ranked the best for military in the state.⁸³ He graduated in the top 10% of his class and spent every semester on the prestigious Dean's list.

At Duke, claimant had a difficult start in the Master of Theological Studies program due to anti-military bias at the Divinity School and was forced to take only seven courses to acclimate to the hostile environment. His grades suffered as a result, which for the first year were his lowest ever. However, he quickly adapted during a brief leave of absence, in which he completed [two trade paperback publications](#), one of which was awarded a coveted "[Starred Review](#)" by *Publishers Weekly*.⁸⁴ During that same leave, claimant organized and executed "the largest student run conference in Duke's history" on Veterans Day in 2011 and served as a "Duke Expert" about July 4th and military communities for the News and Communications Office.⁸⁵ In his second year, claimant took nine courses, was employed half time as only the third male at the Women's Center, and completed a Certificate in Gender, Theology, and Ministry while rebounding his grades to a 3.61 overall GPA.

Immediately following his graduation, claimant started as an Adjunct Professor in the Philosophy and Religion Department at [Methodist University](#), teaching core classes on Biblical literature and American culture. He taught over 130 individual students, prepared and gave 48 unique lectures of up to two and a half hours in length, and maintained the third highest overall score (4.0 / 5) and greatest number of student responses (12) in the department [on RateMyProfessors.com](#).⁸⁶

During the 2014-2015 academic year, claimant completed a Master of Letters in Systematic and Historical Theology from the University of St Andrews in Scotland, the third oldest English speaking university in the world. While there, he gave two invited academic papers for two different international

⁸³ http://www.hpu.edu/Military_Campus_Programs/MilitaryRecognition.html

⁸⁴ <http://www.publishersweekly.com/978-0-8308-3652-9>

⁸⁵ According to Camille Jackson, of the Duke News and Communications Office.

⁸⁶ <http://www.ratemyprofessors.com/ShowRatings.jsp?tid=1858063>

conferences,⁸⁷ wrote three [encyclopedia articles](#) related to his research,⁸⁸ was awarded a scholarship to study at the Catholic University of Paris, and was featured on the print [cover of Christianity Today](#).⁸⁹ Upon his return to the United States, he resumed his position at Methodist before taking a contract as a Teaching Assistant/Preceptor at Duke.

Claimant has taken the GRE three times, and has never performed as well as he could because the testing environment creates combat-related posttraumatic stress triggers.⁹⁰ The testing center in Raleigh places test takers within cubicle structures in a windowless room, which causes claustrophobia-like symptoms after claimant witnessed a service member crushed to death in Iraq in November 2004. The testing software also features a ticking timer on the screen of test computers, which evokes memories and nightmares he has suffered as a result of watching an Improvised Explosive Device detonate in front of his vehicle in February 2004, which caused recurring nightmares involving ticking sounds and sensations.

Claimant did not seek reasonable accommodations at the times he tested because “veteran status” is not uniformly listed as a protected characteristic in settings he has worked or studied in, including Duke University,⁹¹ in part because VEVRAA is not formally a part of the Civil Rights or Americans With Disabilities acts. Claimant was not aware he was entitled to accommodation until early 2016. His last GRE test was December 4, 2014, shortly before his first application to Duke Divinity School. Despite the hardships caused by his combat service, he scored in the 80th percentile for verbal and the 93rd percentile for writing, scores which appear to not be competitive for Duke, as he was twice turned down for [the Doctor of Theology program](#).

The qualifications outlined above, numerous extracurricular accomplishments omitted for brevity’s sake, two letters of recommendation from Duke Divinity professors, and his scores for the GRE were altogether not enough to allay

⁸⁷ The first was the Catholic Theological Association of Great Britain in London and the second was the History and Ontology conference in Delphi, Greece. The paper given in Greece has been selected for print publication and is currently under review.

⁸⁸ “Killing, Burden of,” “Desensitization,” and “Peace Church” are included in the SAGE Encyclopedia of War: Social Science Perspectives which was published in 2016; <https://us.sagepub.com/en-us/nam/the-sage-encyclopedia-of-war-social-science-perspectives/book244054>

⁸⁹ Chuang, Annalaura. “Wartorn,” *Christianity Today* (Volume 59, Number 9). The cover story for the magazine’s June 2015 issue was retitled “Formed by War” for the online edition; <http://www.christianitytoday.com/ct/2015/june/formed-by-war-ptsd.html>

⁹⁰ Claimant is rated 70% for PTSD by the Department of Veterans Affairs. His total disability is rated 100%.

⁹¹ The oldest university AAP is dated 2015, two years after he graduated. “Veteran status” was not listed on some policy documents until November 7, 2016.

concerns expressed by the admissions committee that the claimant was not “equipped to perform doctoral research with Duke Divinity faculty.”⁹²

B. Application for Fall 2015

Claimant applied to the Doctor of Theology (ThD) program with the above qualifications provided in a *curriculum vitae* before the deadline of January 15, 2015. On February 2, 2015, he was invited to a “Finalist Interview” by Ross Wagner, the director of the program. In the emailed invitation, Wagner stated the purpose of the interview would be to measure “the fit of [claimant’s] research interests with Duke’s ThD Program.” The interview was conducted by Wagner and [Craig Dykstra](#) on February 11, 2015.

On February 18, 2015 claimant received an email from [Amy Laura Hall](#) asking him to identify a student veteran, at whom she was “looking sideways” for reasons related to the “War Panel” she organized. She accused this person of being “untruthful.” This request alarmed the claimant for several reasons;

1. It implied a desire to retaliate in some way against a protected veteran
2. Hall provided no evidence to support her claims about the person in question
3. Hall would have been aware claimant was an applicant to the ThD program and sent the email the week decisions were made

Each application cycle, all regular rank faculty are given a list of applicants and asked for feedback. As a tenured professor in the discipline to which claimant sought entrance who was also the program’s first director, Hall’s opinion would have been important to the admissions committee. It is noteworthy that **Hall’s unsolicited email was sent the same week the admissions committee met** and contained no indication as to why it was sent three months after the panel. This email created a dynamic in which the claimant’s response to Hall could have affected his perceived fit within the department. Claimant denied Hall’s request that he identify the student veteran in question.

On February 27, 2015, claimant received a letter informing him that the program was “unable to offer [him] admission this year.” No additional information was provided

The next day, on February 28, Wagner sent the claimant an unsolicited email saying “sorry that it couldn’t have been better news.” Wagner also made assurances in the same email that “[he meant] everything [he] said in the

⁹² Stated by Ross Wagner, ThD program director, to Cynthia Clinton during her discrimination complaint interview and recorded in the final report on her investigation.

interview,” implying a perceived transgression Wagner felt he had made which he subsequently felt compelled to defend.

Claimant’s response to Wagner’s email expressed confusion as to the choice of language and reiterated the fact that he was a veteran. This reminder expels any legitimate claim to plausible deniability that claimant was a protected veteran, subject to the revisions to VEVRAA which went into effect less than a year prior.⁹³ The University’s AAP applies to all professional schools, creating a duty to “recruit, train, and promote... veterans” in employment and “educational opportunities,” the affirmative protection of which extends to “applicants.”⁹⁴

In Wagner’s February 28 email, he had expressed “[interest] in getting to know [claimant] on a more personal level” and invited him to consider sharing “a cup of coffee and conversation.”

On September 2, 2015, claimant emailed Wagner, after his spouse secured employment in Chapel Hill and they found themselves back in Durham. Claimant accepted Wagner’s offer of “coffee and conversation,” writing;

I'd be interested to hear your reflections on the state of the academy and the perils I'd face, which would help me discern if that is where my gifts might flourish. If I do reapply this year, having as much insight into my last application will also help me understand where I could improve.

The two met on Friday, September 11, 2015 at Joe Van Gogh coffee shop on Broad Street in Durham. At their meeting, Wagner suggested two ways in which the claimant might strengthen a subsequent application;

1. Narrow his focus to no more than two disciplines
2. Name the faculty whose expertise aligns with his research interests

Wagner made no comment regarding claimant’s GRE score, but did remark that the committee is often hesitant to accept very many Divinity alumni, as the program can become self-referring and lack theological diversity.

Contrary to the Wagner’s comments to Cynthia Clinton during his OIE interview in September 2016, claimant never expressed an expectation that Wagner’s insight would “guarantee” him an offer if he later applied. Wagner’s placement in the admissions process as director does, however, afford him special expertise which should carry particular value.

⁹³ The Department of Labor published their Final Rule on VEVRAA on September 24, 2013, which became effective on March 24, 2014; <https://www.dol.gov/ofccp/regs/compliance/vevraa.htm>

⁹⁴ 2015 Duke University AAP, page 14

C. Application for Fall 2016

Claimant's prior advancement to a "Finalist Interview" for the ThD program suggested a strong likelihood of fit. He applied again for enrollment in Fall 2016 by the deadline, December 20, 2015 one month earlier than the prior application cycle.

After consulting with admissions staff, claimant asked for his prior-submitted GRE scores to be considered. Wagner did not mention his GRE score as being a barrier for consideration, nor did claimant re-take the test, because his scores were evidently high enough for a Finalist Interview once before. Claimant did not request scores to be sent from the ETS website because it was understood the scores were still on file. On December 4, 2015, Kate Grimmatt, of the Admissions Office, told claimant by email "We can definitely use your GRE scores as they are already uploaded into the system," that all which was required was to "start the process of extracting [claimant's] documents from our past files."

In filling in the online form which made up the application, some information did not save, creating a delay which claimant worried imperiled his application. The online form would not accept the city and country of his most recent degree, which was from St Andrews in Scotland. This led to a series of emails with Paige Anderson, whose December 7 reply offered no advice, only a description of the problem by "the Technical Team." She offered to answer questions, but did not reply to three subsequent emails sent on December 11, 2015. Her only response came on December 21, a day after the deadline passed, in which she contradicted Grimmatt's earlier email, saying claimant's GRE scores will "roll automatically into your application" (rather than admissions personnel having to initiate a "process of extracting... documents").

On December 23, 2015, claimant received an email from Grimmatt, confirming his application was "complete." On January 7, 2016, he received an auto-generated email from the "ACES/STORM" online platform, informing him that status and a decision would come through there. These automatic actions did not fully satisfy claimant's concerns that the application had been not treated with the care it needed to be in order to reach the committee in full and be considered in light of his self-identification as a protected veteran.

On February 22, 2016, claimant reached out to Wagner to confirm his application had been successfully received and reviewed. The deadline had given the department an extra month to consider applications. Claimant had heard nothing by email, except the ACES alert, and asked if the "small kerfuffle" indicated his application had not been correctly processed. The next day, Wagner replied and confirmed "The committee did review [claimant's] application" and was "not able

to offer you a spot this year.” Other applicants received rejection letters on February 25, 2016 either through ACES/STORM or by mail.

A week after receiving this news, on March 1 2016, claimant reached out to Wagner as he had done the prior year, asking if “it be appropriate to discuss ways [he] fell short.” The day before sending this email, on February 29, 2016, interim dean Ellen Davis had remarked to claimant that “there is a conspicuous lack of student veterans in PhD programs.” Furthermore, claimant remarked to Wagner, he had acted on Wagner’s “advice of focusing on no more than two areas of interest, but I seem to have done even worse than last year” when claimant had been invited to a Finalist Interview.

On March 3, 2016, Wagner replied;

*It’s really difficult to analyze a process as complex as this one. Once again there were over 100 applicants for 5-6 slots, and many more qualified applicants than the committee could interview. Comments are solicited from the entire faculty, and a lot of attention is given to **the fit of a proposed project with the strengths and interests of potential supervisors as well as to the student’s preparation for doctoral study**. I don’t think there’s anything more specific I can say about your application at this point, I’m afraid.*⁹⁵

By March 29, 2016, claimant had heard nothing on ACES/STORM and requested a written decision letter from Wagner. Wagner had one sent by Paige Anderson, which claimant received in PDF format the next day. The letter was dated February 25, 2016 and provided similar language as the last prior decision. Neither Wagner nor Anderson could explain why claimant’s decision was not sent at the same time as other decision letters. Anderson indicated that the claimant’s application was the only one which had not been properly processed, stating “We have not received emails from other applicants indicating that they did not receive an email or were unable to view their decision.”

On April 18, 2016, Wagner sent an email to all regular rank faculty providing details of applicants who accepted offers to the ThD program which provided qualifications by which to compare with those of the claimant to help illuminate claimant’s allegations of discrimination following the OIE final report. This email also listed faculty who served on the 2016 committee, all but one of whom also served on the 2015 committee. Of the six applicants who were accepted for the Fall cohort, three were Divinity School alumni. Only one student, who deferred their enrollment to fall 2017, had more than one Masters degree than the claimant. No publication history of the admitted students was shared in the email,

⁹⁵ Emphasis added

and only one student was cited for having any teaching experience, which began one year later than that of the claimant.

X. “War” Course/s and “Competition”

A. PoliSci Course Development

The idea of teaching a course focusing on veterans as a protected population originated in a meeting between claimant and Inderdeep Chatrath, in her office in Smith Warehouse on March 22, 2016. After the spring semester ended, the idea continued to develop.

On July 25, 2016, Stanley Hauerwas agreed to consider co-teaching a course with claimant. The course had been discussed in late 2013, but did not advance very far. At that meeting and subsequent emails and phone calls, they jointly discussed reading material and course layout. Several months later, Hauerwas alerted claimant that he had been asked to teach a course in the Spring due to the loss of several professors to other universities. As the course proposal advanced, claimant ceased referring to Hauerwas as a “co-teacher,” referring to him instead as the supervising professor. When the Political Science Department curriculum committee approved the course on October 24, only claimant’s name was attached to Duke Hub materials, indicating their admission of claimant as sole instructor. Claimant is the only instructor listed online for both PoliSci and cross-listed departments, such as the Kenan Center for Ethics.

Prior to a planned meeting on August 1, 2016, claimant wrote to Chatrath, saying *When we meet, I'd like to [chat about the recommendation](#), by the Prevention & Learning Subcommittee of the Taskforce on Bias and Hate alongside Imagining the Duke Curriculum Committee, to create and promote courses that build cultural competencies about “topics of identity and inclusion,” especially those relating to “historic and current inequalities, especially those relevant to the specific history of Duke as an institution.”*⁹⁶

In that meeting, Chatrath promised to provide an endorsement letter that claimant could include in a new course proposal, which would be due September 1, 2016. Chatrath also promised that Ben Reese would contact [Kathryn Whetten](#), Chair of the Sanford Diversity Committee, in the hopes that the public policy school might be interested in the course. The [Committee on Diversity and Inclusion](#) (CDI) is also housed at Sanford and has taken up much of the work of implementing the report findings of the Taskforce on Bias and Hate.⁹⁷

⁹⁶ Taskforce Final Report, page 38

⁹⁷ <https://sanford.duke.edu/about-us/our-values-principles/diversity-and-inclusion>

In numerous emails between August 3 to August 11, claimant asked about the letter and contact with Whetten. On August 11, Chatrath promised the letter would be provided “by Tuesday,” August 16. On August 17, claimant asked once more for the letter, which still had not been provided. The following day, Chatrath again promised the letter “on Monday,” August 22, just over a week prior to the new course proposal deadline. August 23, 2016 was the day when Reese presented on “Implicit Bias” for Divinity School’s “Mandatory Preceptor Orientation” in which he disclosed claimant’s Protected Activity.⁹⁸

The letter arrived on August 22, through Elizabeth Amend. The same day, claimant approached Leslie Babinski, the Director of Undergraduate Studies (DUS) at Sanford School of Public Policy about hosting the course. On August 26, Babinski replied that Sanford could not host the course, but that “One of the faculty thought that these concepts could be incorporated into existing courses.” Claimant was also invited to consider “serving as a guest speaker or panel discussant for public policy classes.” This sent conflicting messages to the claimant, whose material was valuable enough to be “incorporated” into public policy courses and merit his serving as a guest lecturer, but whose course proposal allegedly failed an assessment of “fit.” The claimant had offered to work without pay because the material could be developed for publication, and he was at a loss as to what possible deterrent the department had to adopting the course.

Claimant asserted his concerns by email the following day;

So no such role or panel discussion exists, so I would be pitching myself blind to faculty who may absorb concepts I've first suggested? I'm confused.

I am also curious if ill "fit" is not a product of bias against critical engagement of these issues, evident by the lack of representation of veterans in the report published by the task force on bias and hate, as well as Duke's noncompliance with VEVRAA. In which case diffusing these concepts seems to effectively avoid addressing them head on.

Maybe there is no response to these concerns. I'm just not sure I understand the process preventing these concepts from being given scholarly attention.

On September 9, 2016, Babinski reported the department was not “able to approve the cross list” from Political Science, the department which approved the course for Spring 2017. Claimant remains unaware what deterrent Sanford had

⁹⁸ See Section V.B, “Disclosure of Protected Activity a Materially Adverse Action”

to deny a cross list, which is merely the appearance of the course in their internal course catalogue.

B. Course Flyers

The DUS for the Political Science department approved the initial course proposal on September 22, 2016, and the curriculum committee formally approved it on October 24. Three days later, with formal approval completed, claimant sent Stanley Hauerwas an email which included a picture of the course flyers.

Stated on the flyer was “Instructor: Logan Isaac” and on the line below that appeared “with Stanley Hauerwas”. In the intervening time after agreeing to “co-teach” the course with the claimant, Hauerwas had been asked to teach a course in the Divinity School “because professors were leaving.” Claimant was informed of this on September 21, when Hauerwas agreed to compensate for the change by appearing in “three or four classes.”⁹⁹ Claimant felt the language of “with” sufficiently conveyed the degree of participation Hauerwas had already completed (reading list considerations, syllabus development) as well as the promise of several appearances during the course.

In response to the October 27 email, which included an inline picture of the course poster, Hauerwas remarked “a very attractive flyer.” The next morning, Friday, October 28, claimant began putting them up around several locations at Duke University, including the Divinity School.

Before walking into the Thursday, November 3 lecture for [REDACTED] [REDACTED] the course claimant was precepting for, he updated the posters by hand with blue Sharpie, writing “open to master’s students” at the bottom of the flyers. He did so between 9 and 10am, when lecture began. At 11:15am, after lecture concluded, claimant was walking out of the Divinity School when he noticed multiple flyers had been removed. No flyers were found in nearby trashcans, suggesting they were being collected rather than discarded. By the end of the day, he noticed at least six flyers which were removed. He replaced those he found to be removed and documented the sites in which they were removed. According to Staff Assistant [Diane Decker](#), there were no regulations governing the bulletin boards and areas in which he had placed flyers.

C. November 3 Precept

At 12:25pm on November 3, claimant alerted Dean [Elaine Heath](#) of the removal of the flyers, asserting that the act appeared to reflect “the presence of operative and malicious bias.” He also alerted Reese, Clinton, and Chatrath in OIE,

⁹⁹ Relayed by email on September 21, 2016, the subject line of which read “Course Update.”

forwarding the email he sent to Heath and adding that he considered it “an act of discrimination and harassment.”

At 1:30pm, he was to conduct a precept for [REDACTED] [REDACTED] the lecture for which had adjourned at 11:15am. Between reporting the removal of the flyers, eating lunch, and trying to decompress from the stress caused by the unprofessional and discriminatory activity, claimant had approximately 15 minutes to prepare. The actions exacerbated elements of his posttraumatic stress and he had difficulty focusing on the task at hand.

When students arrived, he followed his weekly routine of taking attendance, inviting announcements, and asking for questions about the readings for that week or others about the lectures, material, or the prior week’s discussions. No student indicated having any announcements or questions of any kind. The next item in his routine had been to invite a student to read a quotation and question they submitted based on the readings. Between two students being unable to attend precept that day and not feeling capable of leading an abstract conversation, claimant adjourned the precept early, approximately 20 minutes into the 50 minute timeframe.

Before dismissing the students, claimant offered to provide and discuss his own Quotation and Question, in which those who remained agreed to participate as equals. That conversation lasted approximately 30 minutes, pertained to some of what is contained in this document, and was not a part of a precept. Claimant later learned that a student contacted [REDACTED] [REDACTED] with concerns that the scheduled material was not discussed. Before contacting the claimant, [REDACTED] emailed a second student and “asked for a summary of the day's precept.” A third student, Matt Anderson, who had participated in the discussion after the formal precept had been adjourned, had referred to the precept as “the best he’d had in [his] time at Duke.” Other students relayed to claimant that they appreciated the new perspective they gained during the post-precept discussion.

[REDACTED] met with claimant on Thursday, November 17 before lecture for that day. They both agreed an apology was in order for those students who did not feel free to ask to discuss the material on November 3. Furthermore, an optional makeup precept was arranged to cover the same material on December 1 at the same time and place. Six students attended that optional precept.

¹⁰⁰ This was [REDACTED] description to Jeff Conklin-Miller, in an email informing him of the incident, on November 17, 2016 at 3:05pm.

D. Intimidation

At 4:25pm on November 3, claimant received an email from Stanley Hauerwas explaining the impetus for removing the flyers;

*Amy Laura is teaching a course on war in the Divinity School so the posters you put up for your course seem to suggest that I am in competition with her course. I do not want that to happen and **would appreciate it if you would take down the posters** for the course... I have to live here just as you do.*¹⁰¹

When asked who took them down or why, Hauerwas denied knowing, and claimed to be “quite surprised when [he] saw [his] picture. One way or the other **they need to come down.**”

Claimant called Hauerwas rather than continue emailing.

According to Hauerwas, Hall “thought some students were suggesting that this was in competition with her.” During the call, Hauerwas also changed his commitment from “three or four classes” to “two or three” appearances.¹⁰²

Sensing the loss of Hauerwas’ support, claimant articulated the difficulty he was having not asking too much of Hauerwas, but also asking appropriately of “a scholar **who has written on this subject** and whose writings have affected the course material.”¹⁰³

“I don’t want to make life in the Divinity School more complex than it already is,” Hauerwas said. When pressed to describe how this complicates life in the Divinity School, Hauerwas deflected, insisting that the claimant “take what I’ve just said and don’t argue further with me. I’m just telling you what, if you want me involved, is the bottom line.” At this, claimant said he would get back to Hauerwas about the issue. Hauerwas asked “So you’re going to take them down?” to which claimant replied “I’m not promising anything.”

“Well, **if you don’t take them down, you can kiss me goodbye.**” Hauerwas returned.

As a professor repeatedly touted as “TIME Magazine’s Best Theologian,” this threat was not only one of nonparticipation. It was also a threat to withdraw any and all association with the course, which could affect interest in the course by students on campus who might be initially attracted to the course in order to study under him. The threat to remove his association with the course carried

¹⁰¹ This comment stands in direct contradiction to Hauerwas’ response to a student veteran on November 4, 2016, in which he critiqued his own privilege of being a pacifist by insisting “It’s too easy,” implying that adhering to his convictions should not be so easy. See Section VIII.B, above.

¹⁰² From “Course Update” email to claimant on September 21, 2016. See Section X.B, note 97, above.

¹⁰³ Hays had claimed justification for he, Hall, and Hauerwas speaking at the Faculty Panel on War by merit of having “written on the topic.” See Section VIII.A, note 70, above. This same justification also conveys a duty or responsibility, which Hauerwas effectively denies here.

with it the potential to affect student enrollment. The week these events took place, there were eight enrolled students in “The Virtues of War.” By Monday of the following week, there were five. By the time the fall 2016 semester ended, there were 20 students enrolled in Hall’s “War in the Christian Tradition” course.

E. Competition Claim Doubtful

Amy Laura Hall is giving XTIANETH 800, titled “War in the Christian Tradition” which meets Mondays from 2:30-5pm in the Divinity School, the syllabus for which she has made available online on [her personal website](#).¹⁰⁴ The course is a mainstay in the Divinity School course catalogue and is given every other year. Claimant Logan Isaac is giving an undergraduate senior seminar, PoliSci 497, titled “The Virtues of War: Politics, Policy, and Perception of Military Service” which meets Tuesdays and Thursdays from 3:05-4:20pm in the Physics building. His course proposal is viewable online at [his Academia.edu profile](#).¹⁰⁵ Spring 2017 is the first time it will ever be given and wades into questions and material rarely dealt with in any sustained and attentive way, given the polarized state of public discourse. Recognizing this value, the university Office of Institutional Equity formally endorsed claimant’s course, likening it to an extension of the university’s “outreach to veterans.” OIE provided a support letter which described the value of the course in no uncertain terms as

an important step in considering historical, philosophical and public policy aspects related to perceptions and realities of wars and the military. The course will provide an opportunity for students and faculty to learn and contemplate issues relevant to war and the impact on society. This course and perhaps other future academic opportunities will enhance our training initiatives for managers and administrators at Duke.

Hauerwas was the first to press an unexplained claim about competition, saying in his email “the posters you put up for your course seem to suggest that I am in competition with her course.” He implied the claim by phone as well, insisting “If you want me involved at all, don’t go after the Divinity School students. If some of them find their way in it, fine.”

The claim of “competition” is without any basis in reason and it does not justify unlawful discrimination

However, the very idea that these courses are so similar as to compete with one another relies on biases and stereotypes. “War” is not the same as individual

¹⁰⁴ <http://www.profligategrace.com/?p=1787>

¹⁰⁵ https://www.academia.edu/29665728/New_Course_Proposal_The_Virtues_of_War

experience of “Military Service,” and claimant’s course proposal contains no sustained attention at all to war’s conduct, legitimacy, or history. His course is focused on virtue ethics, mass media, social programs, and how these impact the lives of actual military personnel. Claimant’s course deals with Hall’s “Christian tradition” only sporadically. Hall’s course deals with war as a phenomenon, in abstract principles, and contains significantly different readings than claimant’s. Furthermore, the courses occur at different times of the week, and are offered by two departments that differ in location as well as academic standing. **If a student so chose, they could take both courses for credit simultaneously.**

There are no reasonable grounds to use “competition” to justify this unlawful discrimination which has had immediate and injurious effects on claimant’s professional development and earning potential. On November 3, the day the flyers were removed without any warning, “The Virtues of War” course had eight students enrolled. The following week, the number dropped to five, the minimum allowed before a course is cancelled. Claimant had already communicated with publishers about developing the material into a manuscript, and teaching provides a landscape in which academics frequently receive feedback, improve argumentation, etc. If the course were to be cancelled for lack of enrollment, claimant would suffer professional injury.

F. Dean Involvement

November 4 at 2:51pm claimant requested confirmation of receipt of the email he sent before the precept on November 3, because he had not heard from any of the three OIE representatives or the office of the Dean. That morning, he had received word from a student veteran by text message that the flyers he replaced had been removed a second time sometime before 10:15am. Claimant described the effect of removing flyers for an approved course offering;

Removal of the flyers implies an effort to stifle academic freedom and in particular the proposition that the military is not inherently morally wrong. Furthermore, it interferes with my professional development as a protected veteran by keeping the course out of sight of an entire professional school and thereby reducing potential interest in the course and therefore likelihood that it be given again. OIE also endorsed the course as contributing positively to institutional equity, so the removal of flyers advertising this course is also effectively impeding the efforts toward diversity and inclusion at Duke as a whole.

Dean Elaine Heath replied an hour later, adding Hauerwas to an email thread which already included Reese of OIE. She was already aware of Hauerwas’ ultimatum about removing the flyers, claiming “students have been confused” about Hauerwas’ photo, whether he was co-teaching or not. Heath also

explained “at the Divinity School we do not offer competing courses like this, out of respect for our colleagues,” neglecting the fact that PoliSci497 was not being offered through the Divinity School. Heath concluded by informing claimant that it was her staff that took the flyers down.

Claimant replied to Heath and provided clarifying remarks as to Hauerwas’ involvement, and added

No attempt to contact me at the email address listed on the flyer itself was ever made to my knowledge, which is alarming. It assumes I am not a colleague, which may be fair in purely meritocratic terms, as I am the only person in question without a PhD... I do not feel this has been handled respectfully. It's handling also jeopardizes my professional development and endangers my relationship with other departments without good cause. That it's effect is discriminatory still seems open to debate, but that will have to be left to others to determine.

Heath thanked the claimant for the clarification about Hauerwas’ involvement and reminded him “do not put the posters up in the Divinity School, for the reasons already stated.” Claimant made no indication that he planned to put more up or replace the flyers that had been removed a second time, and is unaware what reason Heath had to ask to cease an action which he had not taken. He agreed to not replace the flyers and cited the fact that none had gone up since the afternoon of November 3, almost 24 hours before being contacted by the dean. Claimant added Cynthia Clinton to the email chain and asked that related communication go through OIE, saying “I take this to be clear toleration of and contribution to a hostile work environment against a protected population at the hands of a prime contractor with the government.”

XI. Advanced Spiritual Formation

As early as 2013, claimant was among multiple protected veterans who asked that the Divinity School create an Advanced Spiritual Formation course focused on the concerns of veterans. This request was made multiple times until 2016, when claimant proposed a course structure and offered to lead it without pay as a pilot program. That proposal was denied and the course created anyway, but lead by someone who had solicited and received specific information on course structure from claimant. A narrative description of these events is being developed in a separate document.

Appendix A OIE TIMELINE

February 29

- 10 11:30am – Implicit Bias Training offered to all Divinity staff, faculty, and preceptors. Sponsored by Ellen Davis, presented by Ben Reese.
- 2:30 3pm – Protected Activity; claimant meets with Ellen Davis

April 11 – Protected Activity; claimant meets with Dan Struble

April 21 – Negligence & Discrimination; Struble sends email revealing disclosure of protected activity and of meeting which excluded protected veterans

May 19 – Retaliation; Kori Robins sends out first contracts for Fall 2016, several of which go to ‘external candidates’ with fewer qualifications than claimant

June 8 – Ben Reese and Inderdeep Chatrath of the Office of Institutional Equity (OIE) at Duke receive complaint alleging retaliation and violation of AAP

June 16 – claimant interviewed by Cynthia Clinton of OIE

July 9 – Claimant confirms desire to pursue “formal” inquiry

July 21 – Contract offer sent to claimant by Kori Robins, CCing Jeff Conklin Miller

August 9 – Contract sent with name “Leitiuri”

August 23 – Mandatory Preceptor Training, including “Implicit Bias” presentation by Reese, attended by Conklin Miller and Robins. Disclosure of protected activities by Reese before claimant’s peers represents a materially adverse action.

September 28 – Informal inquiry deadline for completion.

October 10 – Phone call with Clinton, verbal description of findings

November 4 – Claimant requests OIE report in writing

November 15 – Claimant receives written report in the mail, dated November 9