

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT**

HAMPSHIRE, ss.

SUPERIOR COURT
DOCKET NO. _____

KIVLIGHAN DE MONTEBELLO,

Plaintiff,

v.

**UNIVERSITY OF MASSACHUSETTS
AMHERST, JEFF HESCOCK, and
FARSHID HAJIR,**

Defendants.

VERIFIED COMPLAINT AND JURY DEMAND

INTRODUCTION

1. The University of Massachusetts Amherst (“University”) proudly calls on its students to “be revolutionary.” Yet when Kiv de Montebello (“Plaintiff”) answered that call—peacefully protesting a weapons manufacturer’s presence at a campus career fair amid an ongoing humanitarian disaster—the University suspended him.
2. The University’s actions are not merely hypocritical—they are unlawful and unconstitutional. The pre-suspension hearing process denied Plaintiff fundamental due process protections, including the opportunity to present witness testimony and cross-examine his sole accuser. And the University sanctioned Plaintiff for speech that caused no material disruption, infringed on no one’s rights, and consisted entirely of peaceful protest in a public campus area—conduct indisputably protected by the United States and Massachusetts constitutions.

PARTIES

3. Plaintiff Kiv de Montebello is a third-year student at the University of Massachusetts Amherst. He currently resides in New York, New York.
4. Defendant University of Massachusetts Amherst is a public body corporate and politic established under the laws of Massachusetts, with the authority to sue and be sued. At all times relevant herein, the University was operating under color of state law.
5. Defendant Jeffrey Hescock is, and was at all times relevant herein, Associate Vice Chancellor, Environmental Health and Safety and Emergency Management at the University. Upon information and belief he resides in Brookfield, MA. He is sued in his individual and official capacities.
6. Defendant Farshid Hajir is, and was at all times relevant herein, Senior Vice Provost and Dean of Undergraduate Education at the University. Upon information and belief he resides in Leverett, MA. He is sued in his individual and official capacities.

ALLEGATIONS

The University's Campus

7. The University's main campus is located in Amherst, Massachusetts.
8. The campus grounds and its Campus Center are generally open to the public.

The University's Rules and Policies

Student Code of Conduct

9. The University's policies and procedures form a contract between the University and its students.
10. The University's Code of Student Conduct and other policies, such as the Picketing Code, govern student behavior and disciplinary proceedings.

11. The Code of Student Conduct guarantees students certain rights in the investigatory stage of disciplinary proceedings including:

- a. Notice of the conduct proceeding;
- b. To review and address information that might be used in determining a conduct outcome;
- c. To provide information, including the identities of witnesses;
- d. That “the Student Conduct and Community Standards staff will review all relevant information” ;
- e. That the Case Administrator(s) will impose “reasonable” deadlines for the submission of information.

12. Students facing certain sanctions have the right to request a hearing before the University Hearing Board (“Hearing Board”) when facts or responsibility are disputed after the initial investigation is complete.

13. At least five business days before such a hearing, students must receive written notification including: (a) the specific alleged policy violations; (b) a summary of the allegations including the date and time of the incidents; (c) the time and place of the hearing; (d) the University Hearing procedures; and (e) a list of campus resources available to individuals involved in the conduct process.

14. The Reporting Party and Respondent are expected to attend the hearing, though under the Student Code of Conduct a hearing may be held in their absence.

15. Witnesses are only allowed to participate in the hearing if the hearing Board has questions for them..

16. The Hearing Board issues a report outlining its decision and rationale for the decision.

17. After receiving a University Hearing decision, the student may appeal the outcome to the University Appeal Board.
18. However, grounds for appeal are limited to three narrow grounds: (i) procedural errors or irregularities that materially affected the outcome; (ii) new information that would have substantially impacted the outcome and was not known or discoverable during the original process; or (iii) conflict of interest or bias by an investigator, case administrator, or hearing board member that affected the outcome.

Picketing Code

19. The Picketing Code states: “The exercise of free speech, including demonstrations, marches, rallies, leafletting, and picketing and equivalent activities (“demonstrations”), has long been recognized as a legitimate form of self-expression in the university community.”
20. It further guarantees the right to “demonstrate on university premises” and only prohibits demonstrations that “materially disrupt[] class work or other university business, or involve[] substantial disorder or invasion of the rights of others.” *Id.*
21. The Picketing Code prohibits students from including presenting obstacles to regular university activities (including sounds that prevent “normal aural communication”) and blocking free entry to or free exit from buildings. *Id.*
22. The University also has a website explaining the University’s policies on free speech activities.
23. Under the free speech policies students can distribute literature as long as it is not: (1) forced upon others; (2) placed on vehicles parked on campus; (3) distributed in such a way to obstruct the free flow of traffic; or (4) left in such a way that it would be considered litter.
24. The policy on free speech activities explicitly notes that students can use amplified sound so long as that sound does not disrupt academic or administrative activities.

25. No University policy contains a blanket provision on the use of bullhorns or chanting.

Students for Justice in Palestine's Protest

26. Plaintiff, a member of Students for Justice in Palestine, opposes the war in Gaza.

27. On September 29, 2025, Plaintiff helped organize a protest at the Campus Center where the Isenberg Career Fair was taking place.

28. SJP planned to protest Raytheon—a major defense contractor—which was recruiting at the career fair.

29. At around 12:30 pm, about 20-25 students gathered outside the Student Union and marched to the Campus Center.

30. As they walked, Plaintiff used a bullhorn to initiate a call-and-response with other protesters about Raytheon's role in the Palestinian genocide and the University's complicity by allowing Raytheon at the career fair.

31. As SJP approached the Campus Center, the University's Demonstration Response and Safety Team ("DRST") greeted the group.

32. SJP continued into the Campus Center and down the escalator.

33. As Plaintiff was about to enter the building, Jeffrey Hescock, Associate Vice Chancellor, Environmental Health and Safety and Emergency Management, confronted him.

34. Without any citation to any University rule or policy, Hescock insisted that protesters were not allowed to use amplified sound indoors.

35. At this point, Plaintiff informed Hescock that another student had been designated as the point of contact.

36. Plaintiff continued down the escalator.

DRST's First Directive

37. When SJP gathered in the Campus Center, Hescock read from written remarks, repeatedly stating Hescock repeatedly read from a prepared document stating: "We're here to support your First Amendment rights to free speech and demonstration."
38. Shortly after SJP gathered in the Campus Center, Hescock issued DRST's first directive: stop using the bullhorn and stand behind stanchions in a designated corner.
39. Plaintiff and the rest of the demonstrators complied, moving to stand behind the stanchions, approximately 40 feet from the auditorium.
40. Under the impression that using a bullhorn was not categorically prohibited, Plaintiff approached Hescock seeking clarification.
41. Hescock insisted that bullhorns were categorically prohibited, again without referring to any University or policy.
42. Plaintiff complied and did not use the bullhorn for the remainder of the protest.
43. At some point University staff inside the career fair closed the doors to the auditorium.

DRST's Second Directive

44. At some point later, DRST issued its second directive: stay quiet and remain behind the stanchions.
45. Plaintiff gestured for others to return behind the stanchions.
46. Now prohibited from making any noise, some protesters began placing post-it notes around the area to express their message, while others engaged in conversation with passersby and distributed material about Raytheon's role in weapons manufacturing.
47. Farshid Hajir, Senior Vice Provost and Dean of Undergraduate Education, ordered Plaintiff and others to stop attempting to speak to students entering the fair and ordered them not to distribute literature in the area of the protest.

48. Meanwhile, Plaintiff talked with fellow protesters and spoke with William Brown, Associate Dean of the Isenberg School of Management.

DRST's Final Directive

49. After a ten-minute conversation with Brown, Plaintiff returned behind the stanchions and began a soft-spoken call-and-response.

50. Hajir approached Plaintiff and ordered him to stop, insisting that SJP was not allowed to chant.

51. When Plaintiff asked where the Code of Student Conduct prohibited chanting, Hajir evaded, insisting the matter was not up for debate. He told Plaintiff that loud chanting is disruptive, but identified no actual disruption Plaintiff caused.

52. Plaintiff, nonetheless, complied and ceased the call-and-response.

53. Around 2:20 pm, DRST issued its final directive: everyone at the demonstration had to leave or they would be referred to the University for discipline.

54. Without the opportunity to comply, Plaintiff was stopped by a member of DRST and asked to identify himself for the purpose of the University issuing disciplinary charges.

55. As far as Plaintiff could see, during the time the protest was in the student center no student was prevented from entering the career fair.

The Hajir Report

56. The Reporting Party was Hajir, and his was the sole incident report filed.

57. Hajir's report did not accurately reflect what occurred at the protest. For example, Hajir alleged that once in the Student Center and behind the stanchions, Plaintiff led the protesters in a "call and response" that was intended to drown out the directions of the DRST. Plaintiff never had such an intent.

58. Hajir's report did admit that the DRST ordered Plaintiff and the other protesters to remain behind stanchions, then ordered them to "stay[] quiet," ordered them not to talk to students entering the career fair, and prohibited them from distributing literature.

59. Hajir's report also admitted that when Plaintiff began a call-and-response chant around 1:30 pm he did so without amplification and without yelling, but Hajir nonetheless ordered him to stop chanting because loud chanting is "disruptive."

60. Hajir's report admits that shortly after 2:00 pm Hescock ordered all protesters to leave, and that although Plaintiff did not "immediately" comply, he did proceed up the escalator and left the protest.

61. Despite admitting to these facts, Hajir repeatedly characterized Plaintiff's behavior as "disruptive" and "defiant."

The Hescock Report

62. Hescock messaged the DRST team later that day, summarizing the events at the protest.

63. Remarkably, despite witnessing the same events Hajir described, Hescock reached a fundamentally different conclusion about the protest's impact. Rather than characterizing the protest as disruptive, Hescock reported success: "1,000 students successfully participated in the career fair[;... there were no disruptions inside the Campus Center auditorium[; and the event proceeded as planned."

Student Witness Accounts

64. Dan McGlynn, a student journalist at the University, observed the September 29 demonstration.

65. According to a statement McGlynn wrote about the protest:

- SJP "quickly ceased using amplified sound devices" after administrators warned protesters of unspecified campus policies regarding amplified sound.

- b. The demonstration “appeared disciplined” and “demonstrators seem[ed] to make efforts to comply with campus demonstration policies and communicate with representatives of the DRST.”
- c. Plaintiff “appeared eager to work with Mr. Hescock to ensure the demonstration did not violate his interpretation of campus demonstration policies.”
- d. Protesters “carefully observ[ed] the perimeter laid out by university officials.”
- e. He did not witness “any material disruption to the career fair” or “any flagrant violation of other campus policies.”

66. Similarly, Olivia Brandi-Miller, one of the protesters, described the following:

- a. After Hescock warned protesters about adhering to the University’s policies, SJP’s “chanting fizzled out with the help of Kiv [Plaintiff], who gestured for us to quiet down.”
- b. Plaintiff “facilitated peace” and encouraged students to listen to administrators.
- c. SJP “demonstrated peacefully and there was no disruption.”

The University Charges Plaintiff

67. On October 10, 2025, the University notified Plaintiff that it had received a conduct referral about his involvement in the protest.

68. The notice contained a summary of information the Student Conduct and Community Standards Office had received, described the Code of Student Conduct policies that were under review, and advised Plaintiff that the next step in the process was an administrative meeting with a case administrator.

69. Importantly, the notice stated that Plaintiff would have the opportunity to identify witnesses and provide information relative to the incident.

70. The University alleged five violations of the Code of Student Conduct: Threatening Behavior (4.1.2.1.b), Creating Disturbance (4.1.3.a), Disruptive Behavior (4.1.3.c), Failure to Comply (4.1.3.e), and Violation of University Policies and Regulations - Picketing Code (4.1.8.a).

The University's Initial Decision to Suspend Plaintiff

71. On October 31, Plaintiff met with William Elum, Assistant Dean of Students for Student Conduct and Community Standards, for an administrative meeting.

72. Elum showed Plaintiff, for the first time, the Hajir Report and selected videos of the protest.

73. Plaintiff was asked to respond to the report immediately and verbally at the meeting.

74. Plaintiff asserted that he was not responsible for any of alleged violations and maintained he did not cause any disruption.

75. After the meeting Elum e-mailed Plaintiff and told him he had until November 5 to submit any information and witness names he wanted Elum to consider in making his decision.

76. Nothing in Elum's email, or in the University's policies, stated that after Elum came to his initial decision Plaintiff would be prohibited from providing additional evidence or witnesses in later stages of the disciplinary process.

77. On November 7 Elum issued a decision finding Plaintiff responsible for four charges—all except Threatening Behavior.

78. Elum imposed a suspension from November 7, 2025 through May 31, 2026.

79. During this suspension, Plaintiff could not register for or attend classes, was banned from campus without advance permission, and would not receive a refund for tuition and fees he had already paid for the fall semester that he would be unable to complete.

80. Plaintiff was permanently barred from university housing and required to complete a re-entry assessment, reflection paper, and re-enrollment application at the end of the suspension to determine if he would be re-admitted to the University.

81. On November 14, Plaintiff exercised his right under the Code of Student Conduct to request a hearing before the Hearing Board.

82. To prepare for his hearing and learn about the timeline for submitting evidence and witnesses, Plaintiff met with two Conduct Advisors, students “trained to understand the Code of Student Conduct . . . and hearing board procedures,” on November 14 and November 21.¹

83. Both advisors told him he would have the opportunity to provide both witnesses and evidence at the hearing stage of his case.

Plaintiff’s Hearing Before the Hearing Board

84. On November 20, Plaintiff received written notice that his hearing would take place on December 5.

85. On December 1, Plaintiff made two requests to Kimberly M. Colón, Assistant Dean of Students for Student Conduct and Community Standards: delay the hearing so he could obtain legal representation, and to hold the hearing in person rather than via Zoom.

86. Colón denied both requests.

87. Colón also informed Plaintiff that he could not submit any witness statements or evidence to the Hearing Board beyond what he had already submitted to Elum during the administrative phase of the process, because of the November 5 deadline Elum had imposed.

¹ Conduct Advising, <https://www.umass.edusga/conduct-advisors/> (last visited Jan. 17, 2026).

88. This deadline, however, came two days *before* the University issued its initial decision finding him responsible, and well before Plaintiff had to decide whether to request a hearing with the Hearing Board.

89. In other words, the University imposed a deadline for submitting evidence before Plaintiff even knew he would need a hearing.

90. Nothing in the University's policies suggested such a deadline was required.

91. The December 5 hearing proceeded with Plaintiff, two advisors, Colón, Elum, and three board members present.

92. The Reporting Party and sole witness in support of the finding that Plaintiff had violated University policies—Hajir—did not attend the hearing.

93. Nonetheless, Plaintiff submitted a number of questions to demonstrate what should have been asked of Hajir.

94. But because Hajir was absent, neither the Board nor Plaintiff had any opportunity to examine him.

95. While Plaintiff was permitted to make opening and closing statements, he was prohibited from presenting any witness testimony.

96. He objected strenuously to this restriction.

97. Had witnesses been allowed, the two student witnesses would have provided testimony consistent with their written statements. *See* Paragraphs 61-63.

98. The Hearing Board heard none of this exculpatory evidence.

99. On December 15, the Hearing Board found Plaintiff responsible for three charges: Creating Disturbance, Disruptive Behavior, and Failure to Comply.

100. The Hearing Board imposed a suspension from December 22, 2025-December 31, 2026.

101. The Hearing Board banned Plaintiff from University housing, effective immediately.

Plaintiff's Appeal to the University Appeal Board

102. On December 22, Plaintiff appealed, raising two primary arguments.

103. First, he argued the University punished him for protected speech that caused no material disruption and involved no substantial disorder or invasion of others' rights, violating the First Amendment standard established in *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 513 (1969).

104. Second, he argued the University violated his rights by barring him from presenting witnesses and denying him any opportunity to cross-examine his accuser.

105. With his appeal Kiv submitted statements from the student witnesses that he had been prohibited from submitting to the Board, and which would have materially impacted the decision in his case.

106. On January 7, 2026, Pete Smith, Chair of the University Appeal Board, summarily denied Plaintiff's appeal without addressing the merits of his claims, stating only that the appeal did not meet the grounds enumerated in the Code of Student Conduct.

Harm to Plaintiff's Educational, Reputational, and Career Prospects

107. The University's spring 2026 semester begins January 29, 2026.

108. The last day to add or drop any class for undergraduate students is February 4.

109. Had the University not suspended Plaintiff, Plaintiff would have registered for and attended classes during the spring 2026 and fall 2026 semesters.

110. Under University policies, the disciplinary finding and sanctions are "reportable" to outside agencies, potential employers, and other schools to which Plaintiff might apply.

111. It will follow him into the job market, compromising his employment prospects.

112. The year-long gap in his educational career will require explanation to future schools and employers.

CAUSES OF ACTION

COUNT I

*Breach of Contract
(as to University)*

113. Plaintiff repeats and realleges all preceding allegations as if fully set forth herein.

114. Plaintiff and the University entered into a contract under which Plaintiff was entitled to receive his undergraduate education and degree upon meeting graduation requirements.

115. The terms of this contract were set forth in the University's policies, procedures, handbooks, and other publications.

116. The contract required the University to follow its own rules when dealing with on-campus protests and adjudicating misconduct allegations.

117. The University breached its contract with Plaintiff by preventing him from engaging in forms of protest permitted by its policies and punishing him for engaging in forms of protest permitted by its policies.

118. The University further breached its contract with Plaintiff by refusing to allow him to present witnesses at his disciplinary hearing.

119. As a direct and proximate result of these breaches, Plaintiff has suffered and will continue to suffer harm to his educational and career prospects, reputational injury, and emotional distress.

COUNT II

*First Amendment to the U.S. Constitution and Article 16 of the Declaration of Rights
(as to University)*

120. Plaintiff repeats and realleges all preceding allegations as if fully set forth herein.

121. As a public university, the University is a state actor bound by the First Amendment to the United States Constitution.

122. Plaintiff engaged in constitutionally protected expressive conduct when he participated in a peaceful protest against Raytheon's recruiting presence on campus.

123. The University violated Plaintiff's First Amendment and Article 16 rights by suspending him for protected speech that did not materially disrupt campus operations or substantially interfere with the rights of others.

124. As a direct and proximate result of this constitutional violation, Plaintiff has suffered and will continue to suffer harm to his educational and career prospects, reputational injury, and emotional distress.

COUNT III

*Fourteenth Amendment to the U.S. Constitution and Article 10 of the Declaration of Rights
(as to University)*

125. Plaintiff repeats and realleges all preceding allegations as if fully set forth herein.

126. As a public university, the University is a state actor bound by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

127. Plaintiff had a protected property interest in his continued enrollment at the University.

128. Prior to depriving Plaintiff of that protected property interest, the University was required to provide Plaintiff with due process.

129. The University failed to provide Plaintiff due process, including but not limited to by:

- a. denying him any opportunity to cross-examine the sole witness against him, who did not even attend the hearing;
- b. preventing him from calling witnesses to the hearing;

130. These deficiencies, individually and collectively, deprived Plaintiff of a meaningful opportunity to be heard before being deprived of his property interest in his education.

131. As a direct and proximate result of these constitutional violations, Plaintiff has suffered and will continue to suffer harm to his educational and career prospects, reputational injury, and emotional distress.

COUNT IV

42 U.S. § 1983

(as to Defendants Hescock and Hajir)

132. Plaintiff repeats and realleges all preceding allegations as if fully set forth herein.

133. Pursuant to the First Amendment to the United States Constitution, Plaintiff enjoys the right to freedom of speech. The contours of that right were clearly established at the time of the protest.

134. At all times relevant to the facts alleged in the Complaint, Defendants Hescock and Hajir were acting under color of state law.

135. As a direct and proximate result of this constitutional violation, Plaintiff has suffered and will continue to suffer harm to his educational and career prospects, reputational injury, and emotional distress.

COUNT V

M.G.L. c. 12, § 11H

(as to Defendants Hescock and Hajir)

136. Plaintiff repeats and realleges all preceding allegations as if fully set forth herein.

137. Pursuant to the First Amendment to the United States Constitution, Plaintiff enjoys the right to freedom of speech.

138. Defendants Hescock and Hajir interfered with Plaintiff's constitutional rights to free speech by means of threats, intimidation, and/or coercion by ordering him not to exercise

those rights under threat of disciplinary proceedings, and then initiating disciplinary proceedings because of his exercise of those rights.

139. As a direct and proximate result of this constitutional violation, Plaintiff has suffered and will continue to suffer harm to his educational and career prospects, reputational injury, and emotional distress.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Enter judgment in Plaintiff's favor on all counts;
2. Declare that Defendants violated Plaintiff's constitutional rights;
3. Vacate the University's decision finding Plaintiff responsible for violating the Code of Student Conduct;
4. Vacate the sanctions imposed by the University for the violations of the Code of Student Conduct;
5. Order the University to expunge any record of the Code of Student Conduct finding and sanction;
6. Award Plaintiff compensatory, punitive, and/or exemplary damages in an amount to be determined at trial;
7. Award Plaintiff all other damages as permitted by applicable law;
8. Grant such other and further relief as the Court deems just and proper.

JURY DEMAND

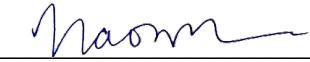
Plaintiff demands a trial by jury on all issues so triable.

Respectfully Submitted,
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VERIFICATION OF COMPLAINT

I, Kivlighan de Montebello, hereby affirm on this 27th day of January, 2026, under the pains and penalties of perjury, that the factual allegations in this Complaint are true and accurate to the very best of my knowledge, information, and belief.



Kivlighan de Montebello (Jan 27, 2026 10:18:54 EST)
Kivlighan de Montebello