UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 9th day of June, two thousand twenty.

PRESENT:

ROSEMARY S. POOLER,
REENA RAGGI,
WILLIAM J. NARDINI,
Circuit Judges.

Anthony John Ripa,

Plaintiff-Appellant,

v. **19-1293**

Stony Brook University,

Defendant-Appellee.

FOR PLAINTIFF-APPELLANT:	Anthony John Ripa, pro se, New York, NY.
FOR DEFENDANT-APPELLEE:	Amit R. Vora, Assistant Solicitor General, Steven C. Wu, Deputy Solicitor General, Barbara D. Underwood, Solicitor General, *for* Letitia James, Attorney General of the State of New York, New York, NY.

Appeal from a judgment of the United States District Court for the Eastern District of New York (Mauskopf, *J.*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court is **AFFIRMED**.

Plaintiff-Appellant Anthony John Ripa, proceeding pro se, appeals from the April 4, 2019 judgment of the United States District Court for the Eastern District of New York (Mauskopf, *J.*) dismissing his claims against Defendant-Appellee Stony Brook University ("SBU") under 42 U.S.C. § 1983, Title IX of the

Education Amendments of 1972, and Title VII of the Civil Rights Act of 1964, and denying his motions for recusal of Judges Azrack and Locke and disqualification of opposing counsel. We assume the parties' familiarity with the underlying facts, the procedural history of the case, and the issues on appeal.

Whether a defendant is entitled to Eleventh Amendment immunity is a legal question that we review *de novo*. *See National Ass'n for Advancement of Colored People v. Merrill*, 939 F.3d 470, 475 (2d Cir. 2019).[1] "We review *de novo* a district court's dismissal of a complaint for lack of subject matter jurisdiction." *Amidax Trading Grp. v. S.W.I.F.T. SCRL*, 671 F.3d 140, 145 (2d Cir. 2011). Finally, "[w]e review *de novo* a district court's dismissal of a complaint pursuant to Rule 12(b)(6), construing the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff's favor." *Chambers v. Time Warner, Inc.*, 282 F.3d 147, 152 (2d Cir. 2002). The complaint must plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

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[1] Whether Eleventh Amendment immunity "constitutes a true issue of subject matter jurisdiction or is more appropriately viewed as an affirmative defense" has not yet been decided by the Supreme Court or this Court. *See Carver v. Nassau Cty. Interim Fin. Auth.*, 730 F.3d 150, 156 (2d Cir. 2013) (citing *Wisconsin Dep't of Corr. v. Schacht*, 524 U.S. 381, 391 (1998) (leaving question open)). We need not pursue the matter here because the answer does not affect our decision to affirm.

The district court properly dismissed Ripa's Section 1983 claims under the Eleventh Amendment, which precludes suits against states unless the state expressly waives its immunity or Congress abrogates that immunity, neither of which occurred here. *CSX Transp., Inc. v. N.Y. State Office of Real Prop. Servs.*, 306 F.3d 87, 94-95 (2d Cir. 2002). State universities such as SBU are arms of the state for purposes of the Eleventh Amendment and are therefore entitled to Eleventh Amendment immunity. *See Dube v. State Univ. of N.Y.*, 900 F.2d 587, 594 (2d Cir. 1990). Though Ripa argues that the Eleventh Amendment cannot bar the prospective relief he seeks—the termination of SBU's federal funding—the *Ex Parte Young*[2] exception to Eleventh Amendment immunity for prospective relief applies only when a state official is sued, which Ripa has not done. *See id.* at 594-95.

The district court also properly dismissed Ripa's Title IX claims. First, Ripa lacked standing to bring a Title IX claim based on the existence of a Women's Studies Department and the lack of a Men's Studies Department. This does not amount to a concrete injury, such as the denial of an educational opportunity, sufficient to meet the injury-in-fact requirement of Article III standing. *See Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1548 (2016). To the extent Ripa alleges that the existence of a Women's Studies program discriminated against men, he has not shown any ensuing concrete harm to him. To the extent he alleges injury from the

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[2] 209 U.S. 123 (1908).

lack of a Men's Studies program, the alleged injury is only "conjectural or hypothetical." *Gully v. Nat'l Credit Union Admin. Bd.*, 341 F.3d 155, 160 (2d Cir. 2003).

Second, Ripa failed to state a hostile educational environment claim under Title IX. Title IX provides that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance[.]" 20 U.S.C. § 1681(a). To state a hostile educational environment claim under Title IX, a plaintiff must plausibly allege that sex-based discriminatory conduct "created an educational environment sufficiently hostile as to deprive [him] of 'access to the educational opportunities or benefits' provided by" his school and that the individual defendants had actual knowledge of the discrimination and failed to respond adequately. *Hayut v. State Univ. of N.Y.*, 352 F.3d 733, 750 (2d Cir. 2003) (quoting *Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629, 650 (1999)).

Ripa's complaint alleges that Professor Robert Cserni created such a hostile environment by engaging in "demographically based slander" when he called Ripa "privileged"; he gave one of Ripa's assignments a grade of zero and labelled it "Incomplete/missing or irrelevant"; and he used a female student's work as an example of a well-written assignment. These allegations do not plausibly allege intentional discrimination actionable under Title IX. Although Ripa asserts that Professor Cserni took these actions because he believed that Ripa was a white male, Ripa did not

support that conclusion with any facts indicating that Professor Cserni was motivated by Ripa's sex or gender. Nor do the additional allegations in Ripa's amended complaint, including SBU's advertisement of and support for programs targeted toward women, offer of free feminine hygiene products, or Ripa's voluntary attendance at a Ph.D. student's presentation that proposed a purportedly anti-male research project plausibly allege discrimination on the basis of sex or amount to a hostile environment. *See Twombly*, 550 U.S. at 555 ("Factual allegations must be enough to raise a right to relief above the speculative level[.]").

We also conclude that the district court properly dismissed Ripa's Title VII claims for failure to state a claim. Even if Ripa's student assistant position at SBU qualified him as an employee for purposes of Title VII, Ripa did not allege any facts showing that he was subjected to an adverse employment action. To make out a prima facie case of discrimination under Title VII, a plaintiff must allege, *inter alia*, that he was subject to an adverse employment action under circumstances giving rise to an inference of discrimination. *See McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973); *Shumway v. United Parcel Serv., Inc.*, 118 F.3d 60, 63 (2d Cir. 1997). The sole employment action Ripa alleges is that his boss stated that her superiors were female and that she liked that fact. This does not constitute an adverse action. *See Vega v. Hempstead Union Free Sch. Dist.*, 801 F.3d 72, 85 (2d Cir. 2015) ("A plaintiff sustains an adverse employment action if he or she endures a materially adverse change in the terms and

conditions of employment." (internal quotation marks and citation omitted)).

The district court also acted in its discretion in denying Ripa's motion to recuse Judges Azrack and Locke as these judges were no longer assigned to his case. *See United States v. Lovaglia*, 954 F.2d 811, 815 (2d Cir. 1992).

Insofar as Ripa argues that Judge Mauskopf should have recused herself or been substituted, he did not file an amended notice of appeal from the denial of the motion for her recusal, which occurred after he had filed his appeal from the judgment. Accordingly, we lack jurisdiction over the district court's post judgment decision. *See Sorensen v. City of New York*, 413 F.3d 292, 295- 96 (2d Cir. 2005); Fed. R. App. P. 4(a)(4)(B)(ii). In any event, Ripa's claim that Judge Mauskopf was biased against him lacks support in the record. The fact that she dismissed his complaint and denied reconsideration does not demonstrate bias. *See Liteky v. United States*, 510 U.S. 540, 555 (1994) ("[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.").

We also identify no abuse of discretion in the denial of Ripa's motion to disqualify, *see Telectronics Proprietary, Ltd. v. Medtronic, Inc.*, 836 F.2d 1332, 1335 (2d Cir. 1988), as that motion lacks a foundation in law or fact. Ripa sought disqualification based on counsel's purportedly making "false statements." But the statements at issue were either SBU's legal arguments in support of its motion to dismiss and in opposition to

Ripa's various motions, or, at most, constituted minor factual misstatements that had no bearing on the merits of the case.

We have reviewed the remainder of Ripa's arguments and conclude that they are without merit. For the foregoing reasons, the judgment of the district court is **AFFIRMED**, and Ripa's motion to strike SBU's oral argument statement is **DENIED** as moot.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANTHONY JOHN RIPA,

Plaintiff,

-against-

STONY BROOK UNIVERSITY

Defendant.

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MEMORANDUM AND ORDER

17-CV-4941 (RRM) (JO)

(Filed Apr. 4, 2019)

ROSLYNN R. MAUSKOPF, United States District Judge.

This action was recently re-assigned to the undersigned and Magistrate Judge James Orenstein. Pending before the Court are multiple motions filed by plaintiff Anthony John Ripa seeking recusal of Judges Locke and Azrack, the judges who dismissed plaintiff's original complaint; reconsideration of their rulings with regard to dismissal; and a motion by defendant to dismiss the Amended Complaint filed by plaintiff on September 28, 2018. The court is fully familiar with the procedural history and the record in this action. For the reasons set forth below, the Court finds moot plaintiff's request to have the judges originally assigned to this action replaced, denies plaintiff's motion for reconsideration, dismisses the federal claims brought in plaintiff's Amended Complaint, and declines to exercise supplemental jurisdiction on any remaining state claims.

Recusal and Reconsideration

Disposing of plaintiff's recusal motions and his requests for reconsideration of the rulings by Judges Azrack and Locke dismissing plaintiff's original complaint are straightforward. First, as to recusal, this case has been re-assigned for reasons wholly unrelated to plaintiff's request. As such, the request is moot. Second, with respect to reconsideration of Magistrate Judge Locke's Report and Recommendation ("R&R" (Doc. No. 11)) and Judge Azrack's Order adopting it (Doc. No. 15), plaintiff has provided no valid basis for reconsideration.

Reconsideration is "an extraordinary remedy to be employed sparingly in the interests of finality and conservation of scarce judicial resources." *Butto v. Collecto Inc.*, 845 F. Supp. 2d 491, 494 (E.D.N.Y. 2012) (quoting *Trans-Pro Logistic Inc. v. Coby Electronics Corp.*, No. 05-CV-1759 (CLP), 2010 WL 4065603, at *1 (E.D.N.Y. Oct. 15, 2010)) (internal quotation marks omitted). A party requesting reconsideration must adduce controlling law or facts that were overlooked by the Court that might materially have influenced its conclusion. *See Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995); *Perez v. New York City Dep't of Corr.*, No. 10-CV-2697 (RRM) (RML), 2013 WL 500448, at *1 (E.D.N.Y. Jan. 17, 2013). Moreover, "[a] motion for reconsideration may not . . . be used as a vehicle for relitigating issues already decided by the Court." *Webb v. City of New York*, No. 08-CV-5145 (CBA), 2011 WL 5825690, at *1 (E.D.N.Y. Nov. 17, 2011) (quoting *Davidson v. Scully*, 172 F. Supp. 2d 458, 461 (S.D.N.Y. 2001)). Plaintiff's

request does not demonstrate any clear error, highlight a change in controlling law, or present new evidence. *See Montblanc-Simplo GmbH v. Colibri Corp.*, 739 F. Supp. 2d 143, 147 (E.D.N.Y. 2010). Nor does the letter establish that reconsideration is necessary to prevent manifest injustice. *Id.* As such, plaintiff's requests for reconsideration of the orders of Judges Locke and Azrack (Doc. Nos. 16, 22) are denied

The Amended Complaint

Plaintiff has timely filed an Amended Complaint (Doc. No. 20-3) as permitted by Judge Azrack's ruling.[1] The Amended Complaint consists of 38 pages, largely encompassing an unsigned draft of plaintiff's original complaint with the same attachments, setting forth the same factual allegations and raising the same claims. These claims, which span events in the fall semester of 2016, fare no better the second time around before this court than they did before Judges Azrack and Locke, and for the reasons set forth in the R&R and Judge Azrack's order adopting it, this Court finds that all of plaintiff's claims in the Amended Complaint that are duplicative of those brought in the original complaint merit dismissal.

[1] The Amended Complaint can be found as Exhibit A to the Declaration of Toni E. Logue, dated October 3, 2018 (Doc. No. 20). As it was unpaginated in its original form, the court adopts the ECF pagination for the Amended Complaint.

Much of the rest of plaintiff's Amended Complaint consists of arguments directed at Judge Locke's R&R, for which reconsideration has been denied as above, or personal attacks directed-toward Judge Locke. The final two-and-one-half pages, captioned "Recharacterizing previous complaint" and "Adding to previous complaint," arguably raise new material during the period that spans May 2017 through August 28, 2018. (Am. Compl. at 36-38.) Specifically, Plaintiff adds claims about: 1) receiving Stony Brook emails or seeing advertisements directed toward women relating to academics, health or sports; 2) receiving a B+ instead of his allegedly never receiving a grade less than a B+; 3) posters regarding celebrating diversity; "Dissent: Currents and Counter-Currents," sexual assault, or seeking female research subjects; and 4) about another student's PhD Research Proficiency Evaluation. *(Id.)* On the last page of his Amended Complaint, Plaintiff states that he is now increasing the damages he is seeking from "$1,000,000 to $2,000,000 which [he] demand[s] be handed over forthwith." Plaintiff also seeks for Defendant to lose its federal funding, and that "the entire complaint actually be read this time." *(Id.)* For the same reasons plaintiff's original complaint fails, so too do these new claims.

Standard of Review[2]

A motion to dismiss under Rule 12(b)(6) requires a court to evaluate the legal, rather than factual, sufficiency of a complaint. "To survive a motion to dismiss, a complaint 'must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.'" *Cohen v. Rosicki, Rosicki & Assocs., P.C.*, 897 F.3d 75, 80 (2d Cir. 2018) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678 (citation omitted). Detailed facts are not required, but "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* (citation omitted). The determination of whether "a complaint states a plausible claim for relief" is "a context-specific task that requires" the court to "draw on its judicial experience and common sense." *Id.* at 69 (citation omitted).

Furthermore, it is axiomatic that *pro se* complaints are held to less stringent standards than pleadings drafted by attorneys, and the Court is required to read the plaintiff's *pro se* complaint liberally and

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[2] In addition to dismissing this action for failure to state a claim, the court finds, for the same reasons set forth by Judge Locke, that this court lacks subject matter jurisdiction for any claims in the Amended Complaint brought under 42 U.S.C. § 1983 as barred by the Eleventh Amendment. *See Dube v. State Univ. of New York*, 900 F.2d 587, 594-95 (2d Cir. 1990) (suit brought against State University of New York under Section 1983 is barred by the Eleventh Amendment).

interpret it to raise the strongest arguments it suggests. *Erickson v. Pardus, 551* U.S. 89, 94 (2007); *Hughes v. Rowe*, 449 U.S. 5, 9 (1980); *Sealed Plaintiff v. Sealed Defendant #1*, 537 F.3d 185, 191-93 (2d Cir. 2008).

Title VII

To the extent that plaintiff attempts to plead in his Amended Complaint claims of discrimination based on gender and/or other protected characteristics under Title VII for the period 2017 through 2018, those claims fail as, once again, plaintiff has failed to allege the necessary employer-employee relationship.

Title VII provides, in relevant part, that "[i]t shall be an unlawful employment practice for an employer . . . to discriminate against any individual with respect to [her] compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin. . . ." 42 U.S.C. § 2000e-2(a). As noted by the Second Circuit, "Title VII is an employment law, available only to employees (or prospective employees) seeking redress for the unlawful employment practices of their employers." *Kern v. City of Rochester*, 93 F.3d 38, 45 (2d Cir. 1996). (internal citations omitted). To be held liable under Title VII for unlawful practices, an employer-employee relationship must have existed between the parties at the time of the alleged discrimination. *See id.* "Consequently, the existence of an employer-employee relationship is a primary element of Title VII claims." *Gulino v. New*

York State Educ. Dep't, 460 F.3d 361, 370 (2d Cir. 2006). To that end, the relationship between a student and a university is insufficient to maintain a claim under the statute. *See Morales v. New York*, 22 F. Supp. 3d 256, 271 (S.D.N.Y. 2014) (action plaintiff student, not an employee, not protected by Title VII).

Here, Ripa has failed to allege the requisite employer-employee relationship with regard to the claims proffered in the Amended Complaint. Plaintiff states that it is "technically true" that he worked as a part-time student assistant in the Math Department on and off from 2012 to 2017. (Am. Compl. at 34.) He adds that from 2017 to 2018 "my boss stated 'My boss is female. My boss's boss is female. My boss's boss's boss is female. And I like it that *way*." (*Id.* at 35.) However, Ripa does not allege anywhere in his Amended Complaint that his status changed from student assistant to employee. Moreover, it is difficult to see how this statement amounts to any kind of gender discrimination. As such, since, as a matter of law, Ripa has not alleged facts to support the necessary employment relationship, nor has he alleged any type of discriminatory conduct during this period, his Title VII claims must fail.

Title IX

As before, Ripa's attempt to allege claims under Title IX in his Amended Complaint fail. Title IX prohibits educational institutions receiving federal financial assistance from discriminating against students or employees based on sex and provides a private cause

of action for violations thereof. *See* 20 U.S.C. § 1681; *see also North Haven Bd. of Educ. v. Bell*, 456 U.S. 512, 520-34, 102 S.Ct. 1912, 1917-25 (1982); *see also Cannon v. Univ. of Chicago*, 441 U.S. 677, 99 S.Ct. 1946, 60 plaintiff showing: (1) that he was subjected to discrimination in an educational program; (2) that the program receives federal assistance; and (3) that the discrimination was based on sex. *Manolov v. Borough of Manhattan Cmty. Coll.*, 952 F. Supp. 2d 522, 533 (S.D.N.Y. 2013). Further, a plaintiff can establish a hostile educational environment claim under the statute if he demonstrates "that he subjectively perceived the environment to be hostile or abusive and that the environment objectively was hostile or abusive, that is, that it was permeated with discriminatory intimidation, ridicule, and insult sufficiently severe or pervasive to alter the conditions of his educational environment." *Papelino v. Albany Coll. of Pharmacy of Union Univ.*, 633 F.3d 81, 89 (2d Cir. 2011). To survive a motion to dismiss, either type of claim requires specific allegations of intentional discrimination or circumstances "giving rise to a plausible inference of [. . .] discriminatory intent." *See Yusuf v. Vassar Coll.*, 35 F.3d 709, 712-14 (2d Cir. 1994). Simply, "[b]ald assertions and conclusions of law will not suffice." *Rodriguez v. N.Y. Univ.*, No. 05-cv-7374, 2007 WL 117775, at *5 (S.D.N.Y. Jan. 16, 2007) (quoting *Leeds v. Meltz*, 85 F.3d 51, 53 (2d Cir. 1996)).

Here, plaintiff's Title IX claims fail as a matter of law. Ripa's additional allegations relate to the following: 1) receiving Stony Brook emails or seeing

advertisements directed toward women relating to academics, health or sports; 2) receiving a B+ instead of his allegedly never receiving a grade less than a B+; 3) seeing posters regarding celebrating diversity, "Dissent: Currents and Counter-Currents," sexual assault, or seeking female research subjects; and 4) attending another student's PhD Research Proficiency Evaluation. (Am. Compl. at 30-37.) Plaintiff has failed to allege how walking by posters, receiving emails or voluntarily attending a student's PhD evaluation that he may not like, rises to the level of an injury. He also complains generally that the University lacks a men's studies program, but does not tie that comment to any type of discriminatory intent or injury to him.[3]

Moreover, plaintiff alleges that "[i]n the aftermath of my ill-treatment at the hands of Stony Brook, I received my first B+ to date in any class at Stony Brook." This grade appears to be from a class other than the women's studies class taught by Mr. Cserni, since in that class, Plaintiff received a grade of A-. *Id.*; *see Davis Monroe County Bd of Educ.*, 526 U.S. 629, 652 (1999) ("[N]or do we contemplate, much less hold, that a mere 'decline in grades is enough to survive' a motion to dismiss."). Moreover, the grade of A- that he received in the class taught by Mr. Cserni, which is the subject matter of his complaint, does not constitute a "decline

[3] In fact, plaintiff agrees that the Men's Alliance club receives funding as do other clubs, including those related to women and diversity. Am. Compl. at 36.

in grades" as Ripa himself notes that he has not received anything less than a B+ while at the University.

Ripa's grievances, newly-pled in his Amended Complaint, are in no way linked to intentional discrimination based on sex. Accordingly, because he has failed to allege facts from which one could plausibly infer discriminatory intent, any Title IX claim must fail.[4]

Leave to Amend and Supplemental Jurisdiction

"A *pro se* complaint 'should not [be] dismiss[ed] without [the court] granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated.'" *Grullon*, 720 F.3d at 139 (first and second alterations in original) (quoting *Chavis v. Chappius*, 618 F.3d 162, 170 (2d Cir. 2010)). "Leave to amend may properly be denied if the amendment would be 'futil[e],'" *id.* at 140 (alteration in original) (quoting *Foman v. Davis.* 371 U.S. 178, 182 (1962)), or if the plaintiff has "repeated[ly] fail[ed] to cure deficiencies" through prior amendments, *Ruotolo v. City of New York*, 514 F.3d 184,

[4] To the extent that Ripa attempts to allege a Title IX hostile education environment, such claim fails as well. Because such claims import the traditional Title VII hostile work environment jurisprudence, *see Hayut v. State Univ. of N.Y.*, 352 F.3d 733, 744 (2d Cir. 2003), Ripa must establish that the environment was permeated with discriminatory intimidation, ridicule, and insult sufficiently severe or pervasive as to alter the conditions of the educational environment. *See Papelinov. Albany College of Pharm. Of Union Univ.*, 633 (F.3d 81, 89 (2d Cir. 2011) (citation omitted). None of the allegations in Ripa's Amended Complaint discussed above rise to the level of this standard.

191 (2d Cir. 2008) (quoting *Foman*, 371 U.S. at 182). Whether or not to grant leave to amend is a decision reserved to the sound discretion of the district court. *See Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Here, Ripa has been given multiple opportunities to plead his claims. His Title VII and section 1983 claims fail as a matter of law as he has been unable – and will be unable – to cure the deficiencies that gave rise to dismissal. His Title IX claims have been pled with factual specificity, but do not rise to an actionable claim. As such, amendment would be futile.

As this Court has dismissed all federal claims sought to be brought in plaintiff's Amended Complaint, and has denied leave to amend, the Court declines to exercise supplemental jurisdiction over any remaining state law causes of action after balancing "judicial economy, convenience, fairness and comity." *Valencia v. Lee*, 316 F.3d 299, 305 (2d Cir. 2003). Comity and judicial economy augur in favor of bringing state claims in state court. This litigation has throughout been in its initial stages, and Ripa's ability to bring state claims in a state forum is unaffected by the litigation here.

CONCLUSION

For the reasons stated herein, Ripa's motions for reconsideration and recusal are denied. The University's motion to dismiss the Amended Complaint is granted. All federal claims are dismissed, and the Court declines to exercise supplemental jurisdiction

over any state law claims. The Clerk of Court is directed to enter judgment accordingly, and to close this case. The Clerk of Court is also directed to send a copy of this Memorandum and Order and the accompanying judgment to Ripa, and note the mailing on the docket.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Memorandum and Order would not be taken in good faith, and therefore, *in forma pauperis* status is denied for the purpose of any appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

Dated: Brooklyn, New York
April 4, 2019

SO ORDERED

/s/ Roslynn R. Mauskopf
ROSLYNN R. MAUSKOPF
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANTHONY JOHN RIPA,

Plaintiff,

-against-

STONY BROOK UNIVERSITY

Defendant.

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JUDGMENT

17-CV-4941 (RRM) (JO)

(Filed Apr. 4, 2019)

A Memorandum and Order having been issued this day dismissing all federal claims in this action, and declining to exercise supplemental jurisdiction over any remaining state law claims, it is hereby

ORDERED, ADJUDGED AND DECREED that plaintiff take nothing of defendant, and that this action is hereby dismissed.

Dated: Brooklyn, New York
April 4, 2019

SO ORDERED

/s/ Roslynn R. Mauskopf
ROSLYNN R. MAUSKOPF
United States District Judge