Original

25-6802

No. ___

In the

SUPREME COURT OF THE UNITED STATES

DR. EMIR JAMES PHILLIPS,

Petitioner,

v.

BOARD OF CURATORS OF LINCOLN UNIVERSITY, et al.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI

Petitioner is an individual, and Respondent Board of Curators of Lincoln University is a public body. No corporate disclosure statement is required under Rule 29.6.

(On Petition from the United States Court of Appeals for the Eighth Circuit)

Dr. Emir James Phillips (pro se)

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Filed under Supreme Court Rule 33.2 (8½ × 11 inch paper; ≤ 40 pages)

QUESTIONS PRESENTED

1. **Compelled alteration / nullification of academic-dishonesty grades.**

   Whether compelled alteration or administrative nullification of a professor's final academic-dishonesty grade is speech "related to scholarship or teaching" that falls outside *Garcetti*'s "official duties" rule and is therefore subject to Pickering v. Bd. of Educ., 391 U.S. 563 (1968), and Connick v. Myers, 461 U.S. 138 (1983) balancing—and to this Court's compelled-speech limits when the professor's endorsement is required.

2. **State-created entitlements and "follow-your-own-rules."**

   Whether public-university policies and handbooks that expressly delegate final academic-dishonesty grading to faculty create a state-law entitlement the institution must honor under *Roth*, *Sindermann,* and the *Accardi* "follow-your-own-rules" principle, thereby requiring *Mathews*-calibrated process before an administrator may nullify a professor's final dishonesty grade.

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The order of the United States District Court for the Western District of Missouri (May 19, 2025) granting the motion to dismiss is unreported and reproduced in the appendix. (App. A.)

The judgment of the United States Court of Appeals for the Eighth Circuit (Nov. 7, 2025) summarily affirming under Eighth Circuit Rule 47B is unreported and reproduced in the appendix. (App. B.)

The court of appeals' order denying the petition for panel rehearing and rehearing en banc (Dec. 5, 2025) is reproduced in the appendix. (App. B-1.)

JURISDICTION

The district court entered final judgment on May 19, 2025. (App. A.)

On November 7, 2025, the United States Court of Appeals for the Eighth Circuit entered judgment in *Phillips v. Board of Curators of Lincoln University*, No. 25-2051, summarily affirming under 8th Cir. R. 47B. (App. B.)

On November 10, 2025, Petitioner timely filed a combined petition for panel rehearing and rehearing en banc. The court of appeals denied rehearing on December 5, 2025. (App. B-1.)

This petition is filed within 90 days of the order denying rehearing and is therefore timely under Supreme Court Rule 13.3. This Court has jurisdiction under 28 U.S.C. § 1254(1).

Preservation. Both questions presented were pressed below and passed upon. The district court resolved them on a Rule 12(b)(6) motion. (App. A at 2.) The court of appeals summarily affirmed under Rule 47B. (App. B at 1.) No alternative grounds were invoked, so the issues are cleanly teed up.

PARTIES TO THE PROCEEDINGS

Petitioner. Dr. Emir James Phillips is a tenure-track faculty member at Lincoln University, a public land-grant institution, at the time of the events giving rise to this case.

Respondents.

- The Board of Curators of Lincoln University, formerly known as Lincoln University, the governing body of the institution;
- Dr. Stevie Lawrence, then–Provost and Vice President for Academic Affairs of Lincoln University;
- Dr. Cornelius Brownlee, an administrator in the Office of Student Conduct responsible for student-discipline processes;
- Dr. Deneia Thomas, then–Dean of the School of Business; and
- Does 1–20, additional institutional officials whose identities were unknown at the time of filing.

All individual Respondents were sued in their official capacities in the district court. No additional parties appeared in the court of appeals.

RELATED PROCEEDINGS

Phillips v. Board of Curators of Lincoln University, No. 2:25-cv-04025-BP (W.D. Mo.) — Judgment entered May 19, 2025 (grade-override/academic-dishonesty case; this petition).

Phillips v. Board of Curators of Lincoln University, No. 2:25-cv-04024-BP (W.D. Mo.) — Final judgment entered (companion governance and search-committee case; now on appeal).

Phillips v. Board of Curators of Lincoln University, No. 25-2051 (8th Cir.) — Judgment entered November 7, 2025, summarily affirming under 8th Cir. R. 47B; rehearing and rehearing en banc denied December 5, 2025 (this case).

Phillips v. Board of Curators of Lincoln University, No. 25-2169 (8th Cir.) — Judgment entered November 7, 2025 (companion governance/search-committee case; subject of a separate petition for a writ of certiorari filed contemporaneously).

CONSTITUTIONAL AND STATUTORY PROVISIONS

This case involves:

- U.S. Const. amend. I;
- U.S. Const. amend. XIV, § 1 (Due Process Clause);
- 42 U.S.C. § 1983; and
- Federal accreditation and recognition provisions at 20 U.S.C. § 1099b and 34 C.F.R. § 602.16(a)(1)(ii)–(v), which govern accrediting-agency standards for curricula, faculty, student achievement, and academic policies.

The relevant texts are reproduced in full in Appendix C.

STATEMENT

1. Academic-dishonesty process and faculty grading authority.

Lincoln University is a public land-grant institution in Missouri. Its Faculty and Student Handbooks codify an academic-dishonesty process in which faculty investigate suspected misconduct and, where dishonesty is found, assign final academic-dishonesty grades. The district court expressly acknowledged that the Student Handbook "explicitly grants faculty the authority to assign grades in cases of academic dishonesty." (App. A at 2.)

Those policies reflect longstanding understandings in higher education: faculty bear primary responsibility for academic content, standards, and grading, while administrators provide support and oversight but do not substitute their own non-academic judgment for faculty academic determinations. Those written procedures are also part of the framework through which Lincoln satisfies accreditor expectations and maintains Title IV eligibility.

2. **Petitioner's investigation and final dishonesty grades.**

In the 2024–2025 academic year, Petitioner taught a business-law course at Lincoln. During the course, he detected plagiarism and other academic misconduct in student work. He followed the codified process: investigating the suspected misconduct, notifying the students, documenting the evidence, and applying the criteria for academic dishonesty contained in the University's policies.

At the end of that process, Petitioner assigned failing grades for academic dishonesty in accordance with the Handbook. These were not preliminary marks entered as placeholders; they were final dishonesty grades reached through faculty investigation and professional judgment and communicated to the affected students.

3. **Administrative nullification of faculty-final dishonesty grades.**

After Petitioner assigned those final dishonesty grades, Lincoln's administrators removed the matter from the faculty-governed process and transferred it to the Office of Student Conduct, overseen by Assistant Dean Cornelius Brownlee. That office has responsibility for student-discipline processes but no grading authority under the adopted academic policies. Nevertheless, non-academic staff, acting outside the faculty-governed grading framework, nullified Petitioner's final dishonesty grades and replaced them with non-dishonesty outcomes.

The University did not notify Petitioner in advance, did not afford him an opportunity to be heard before the override, and did not convene any faculty body with authority to

review his determination or to substitute an academic judgment grounded in the curriculum.

4. **Petitioner's internal objections.**

Petitioner notified senior administrators, including the Provost, that the override violated Lincoln's codified academic-dishonesty procedures, undermined faculty authority, and conflicted with accreditation standards and state-created expectations of faculty primacy in grading. He explained that the override was not merely an internal personnel dispute, but an institutional decision that erased faculty-final dishonesty grades and replaced them with non-academic outcomes, compromising both academic integrity and the integrity of the record.

Lincoln declined to restore the grades or to provide process keyed to the faculty delegation. Instead, the University ratified the override and treated the non-dishonesty outcomes as final for institutional purposes.

5. **District-court proceedings.**

Petitioner filed this action under 42 U.S.C. § 1983, alleging First Amendment and due-process violations. He alleged that:

- **First Amendment.** Compelled alteration or administrative nullification of his final dishonesty grades infringed core academic speech and professional academic judgment, subject to *Pickering/Connick* and this Court's compelled-speech

precedents, especially given *Garcetti*'s reservation of speech "related to scholarship or teaching."

- **Due Process / Accardi.** Lincoln's formal delegation of final academic-dishonesty grading to faculty, through policies adopted under state law and relied upon for accreditation and public funding, created a protected interest that the institution could not disregard without due process and adherence to its own rules, under *Roth*, *Sindermann*, *Loudermill*, and the *Accardi* line.

The district court granted Respondents' motion to dismiss and dismissed the federal claims with prejudice. It held that there is no First Amendment right to insist that the University "assign a particular grade," relying on *Brown v. Armenti*, *Lovelace v. Southeastern Massachusetts University*, and *Wozniak v. Conry* to characterize grades as purely institutional acts, rather than as faculty academic speech and professional judgment. (App. A at 2–3.) At the same time, the court acknowledged that the Student Handbook explicitly grants faculty grading authority in academic-dishonesty cases. (App. A at 2.)

On the due-process claim, the court concluded that Petitioner had no cognizable liberty or property interest in "the grade a student receives." It treated the claim as if Petitioner sought control over the institutional transcript, rather than process before nullification of a faculty-final dishonesty grade that the institution itself had delegated to him. The court declined to apply *Roth*, *Sindermann*, or *Accardi* to Lincoln's own delegation of grading authority, and it declined to engage in *Mathews* balancing keyed to the actual governance

structure. The court also declined to exercise supplemental jurisdiction over state-law claims.

6. **Eighth Circuit proceedings.**

On appeal, Petitioner argued that:

- Under *Parate*, *Johnson-Kurek*, and *Demers*, compelled alteration or administrative nullification of professor-final grades is protected academic speech and professional academic judgment subject to *Pickering/Connick*, particularly given *Garcetti*'s express reservation for speech related to scholarship or teaching, and in line with the Sixth Circuit's later protection of faculty classroom expression in *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021).
- Under *Roth*, *Sindermann*, *Loudermill*, and the *Accardi* line, Lincoln's codified delegation of final dishonesty-grading authority to faculty created a state-law entitlement and reliance interest that could not be nullified by non-academic administrators without constitutionally adequate process and adherence to the promulgated framework; and
- At a minimum, the complaint required development of the policy record and application of *Mathews* to the actual governance structure in place, including the accreditation and Title IV implications of overriding faculty-final dishonesty grades.

On November 7, 2025, the Eighth Circuit issued a consolidated per curiam decision in Nos. 25-2051 and 25-2169, summarily affirming under 8th Cir. R. 47B. The court stated

only that it had carefully reviewed the record and found no error in the dismissal or abuse of discretion in the denial of Rule 60(b) relief, and it denied pending motions as moot. It did not discuss *Garcetti*, *Parate*, *Demers*, *Roth*, *Sindermann*, *Accardi*, or *Mathews*, nor did it identify any alternative ground for affirmance. (App. B.)

On November 10, 2025, Petitioner filed a combined petition for panel rehearing and rehearing en banc, explaining that the panel's summary affirmance left unresolved a square circuit split over the academic-speech status of grading and a conflict with state-created-entitlement and "follow-your-own-rules" precedent. The Eighth Circuit denied rehearing on December 5, 2025. (App. B-1.)

This petition for a writ of certiorari followed.

Petitioner is simultaneously filing a separate petition for a writ of certiorari seeking review of a companion Eighth Circuit judgment in No. 25-2169, arising from related Lincoln University events that present overlapping questions concerning academic freedom, shared governance, and retaliation. Petitioner respectfully suggests that, if certiorari is granted in either case, the Court may wish to consolidate the cases for briefing and argument or hold the companion petition for disposition in light of the lead case.

SUMMARY OF THE ARGUMENT

I. The courts of appeals are deeply and persistently divided over whether compelled alteration or administrative nullification of a professor's final academic-dishonesty grade is protected academic speech and professional judgment, or merely institutional administration outside the First Amendment.

The Sixth and Ninth Circuits treat grading as core academic expression and professional judgment subject to *Pickering/Connick*, particularly in light of *Garcetti*'s explicit reservation for speech related to scholarship or teaching. *Parate*, *Johnson-Kurek*, and *Demers* forbid compelled alteration of a professor's final grade and recognize that institutions may annotate transcripts without compelling faculty endorsement. The Sixth Circuit's approach is of a piece with its protection of professorial classroom expression in *Meriwether*, which likewise treats faculty speech on academic matters as entitled to constitutional weight.

The First, Third, and Seventh Circuits take the opposite view, characterizing grading as an institutional act and denying First Amendment protection in this context. *Lovelace*, *Brown*, and *Wozniak* embody that approach. The Fourth Circuit aligns with the Sixth and Ninth in recognizing that *Garcetti* does not govern public-university academic speech. *Adams* reflects that stance.

This Court's decision in *Lane v. Franks*, 573 U.S. 228 (2014), confirms that *Garcetti* does not swallow the *Pickering* framework: even where speech relates to professional duties, it may remain protected when the employee speaks as a citizen on matters of

public concern. That clarification underscores why the circuits' divergent approaches to academic speech and grading warrant this Court's intervention.

II. The judgment also conflicts with this Court's state-created-entitlements doctrine and the *Accardi* "follow-your-own-rules" principle. The district court acknowledged that Lincoln's Student Handbook explicitly delegates final academic-dishonesty grading to faculty, yet held that this delegation created no protectable interest and allowed non-academic administrators to nullify the professor's final dishonesty grades without process.

Under *Roth*, *Sindermann*, and *Loudermill*, state-created rules and mutually explicit understandings define protectable interests and require constitutionally adequate procedures before deprivation. Under *United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260 (1954); Service v. Dulles, 354 U.S. 363 (1957); Vitarelli v. Seaton, 359 U.S. 535 (1959); and Morton v. Ruiz, 415 U.S. 199 (1974)*, public institutions must follow their own promulgated rules when adjudicating rights and statuses. *Regents of the University of Michigan v. Ewing*, 474 U.S. 214 (1985), recognizes deference to academic judgments, but that deference presupposes an actual academic judgment made pursuant to established procedures—not the abandonment of those procedures in favor of non-academic fiat. At a minimum, the complaint required development of the governance record and application of *Mathews* to Lincoln's actual academic-dishonesty framework, including the accreditation and federal-funding implications. The courts below instead treated faculty-delegated adjudications as constitutionally weightless, even when administrators unilaterally override them.

III. Missouri law likewise assumes that public bodies will abide by the procedures they adopt. Cases such as *State ex rel. Yarber v. McHenry*, 915 S.W.2d 325 (Mo. 1995), and *Moore v. Board of Curators*, 838 S.W.2d 314 (Mo. Ct. App. 1992), enforce the principle that agencies must adhere to governing rules when exercising delegated authority. The decision below effectively treats Lincoln's formal delegation of dishonesty-grading authority to faculty as hortatory rather than binding, in tension with these state-law understandings and with the federal constitutional principles just described.

IV. The question presented is nationally important. Federal law requires recognized accreditors to apply standards concerning curricula, faculty, student achievement, and academic policies. 20 U.S.C. § 1099b; 34 C.F.R. § 602.16(a)(1)(ii)–(v). Title IV eligibility depends on institutions' adherence to those standards and on the integrity of their academic processes.

If public universities may quietly transfer academic-dishonesty matters from faculty to non-academic administrators and nullify faculty-final grades without process or academic review, the integrity of grading—and the reliability of degrees and transcripts—is undermined. Because academic freedom is a "special concern of the First Amendment," *Keyishian*, 385 U.S. at 603; see also *Sweezy*, 354 U.S. 234; *Papish*, 410 U.S. 667, and because public funding depends on institutional integrity, uniform guidance is urgently needed.

V. This case is an excellent vehicle. The posture is Rule 12(b)(6); the key governance fact—Lincoln's delegation of final dishonesty-grading authority to faculty—was expressly acknowledged by the district court; the Eighth Circuit affirmed without

alternative reasoning; and there are no qualified-immunity, factual, or state-law complications. This petition arises from the grade-override case (No. 25-2051), while a separate companion petition challenges related governance and retaliation issues in No. 25-2169. Together, the pair offers the Court a clean way to resolve core questions about academic freedom, grading, and shared governance at public universities.

REASONS FOR GRANTING THE PETITION

I. The circuits are in open conflict over compelled alteration or nullification of professors' final grades.

This case squarely presents an entrenched conflict among the circuits on the status of faculty grading under the First Amendment and *Garcetti*.

1. **The Sixth and Ninth Circuits treat grading as protected academic speech and professional judgment.**

In *Parate v. Isibor*, 868 F.2d 821 (6th Cir. 1989), the Sixth Circuit held that a professor's grading is expressive activity and that the university could not compel the professor to change a grade. The court recognized two distinct interests: the institution's right to control the official transcript and the professor's right not to be compelled to endorse a grade he believed to be inaccurate or undeserved. The institution could annotate or correct the record, but it could not force the professor to sign off on a changed grade.

Later, in *Johnson-Kurek v. Abu-Absi*, 423 F.3d 590 (6th Cir. 2005), the Sixth Circuit again treated grading as part of academic speech and professional judgment, applying *Pickering* to evaluate the balance between faculty speech and institutional interests. And in *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021), the court recognized a professor's classroom expression on contested topics as protected under the First Amendment, reinforcing that faculty speech in the core teaching context is not easily dismissed as unprotected employee speech.

The Ninth Circuit, in *Demers v. Austin*, 746 F.3d 402 (9th Cir. 2014), held that *Garcetti* does not apply to speech related to scholarship or teaching in the university setting and that such speech is instead governed by *Pickering*. That rule necessarily covers grading, which is at the heart of scholarship and teaching, and recognizes that academic speech warrants special protection.

2. **The First, Third, and Seventh Circuits treat grading as unprotected institutional administration.**

In contrast, the First, Third, and Seventh Circuits have held that grading is institutional, not expressive, and have rejected First Amendment claims in this context.

In *Lovelace v. Southeastern Massachusetts University*, 793 F.2d 419 (1st Cir. 1986), the First Circuit held that a professor had no First Amendment right to insist that the university accept a particular grade. *Brown v. Armenti*, 247 F.3d 69 (3d Cir. 2001), reached a similar conclusion, rejecting a professor's claim that his grading decisions were

constitutionally protected. *Wozniak v. Conry*, 236 F.3d 888 (7th Cir. 2001), treated grading as an administrative function, denying First Amendment protection.

These decisions read grading as purely institutional conduct rather than as academic speech or professional judgment, effectively placing faculty grading outside the First Amendment.

3. **The Fourth Circuit aligns with the Sixth and Ninth.**

The Fourth Circuit has likewise held that *Garcetti* does not automatically apply to public-university academic speech and that academic expression warrants heightened protection. See *Adams v. Trustees of the Univ. of N.C.–Wilmington*, 640 F.3d 550 (4th Cir. 2011). *Adams* recognizes that scholarship and teaching occupy a special constitutional position within the *Pickering* framework.

4. **This case squarely presents the conflict that Garcetti reserved and implicates core compelled-speech doctrine.**

In *Garcetti v. Ceballos*, this Court expressly reserved whether its holding should apply "to speech related to scholarship or teaching." 547 U.S. at 425. Since then, the circuits have taken divergent paths. The Sixth, Ninth, and Fourth Circuits have developed a line of cases protecting academic speech and professional academic judgment, including grading, under *Pickering*. The First, Third, and Seventh have taken the opposite view.

This Court's decision in *Lane v. Franks*, 573 U.S. 228 (2014), confirms that *Garcetti* does not automatically displace *Pickering*: even when speech relates to information

learned through public employment, it may remain protected when the employee speaks as a citizen on matters of public concern. Id. at 238–42. That principle is particularly salient in the university setting, where faculty are expected to speak candidly about academic integrity.

This case squarely presents *Garcetti*'s reserved question in a clean posture. Petitioner's claim is not about general employment grievances; it is about compelled alteration and administrative nullification of final academic-dishonesty grades—an area where professional academic judgment is central and where compelled endorsement of a different outcome raises classic compelled-speech concerns under *Barnette*, *Wooley*, *Hurley*, *NIFLA*, *Janus*, and *Matal*. See *Matal v. Tam*, 582 U.S. 218 (2017) (plurality) (rejecting attempts to recast private expression as government speech to avoid First Amendment scrutiny); *Nat'l Inst. of Family & Life Advocates v. Becerra* (NIFLA), 585 U.S. 755 (2018); *Janus v. AFSCME*, 585 U.S. 878 (2018); *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557 (1995); *Wooley v. Maynard*, 430 U.S. 705 (1977); *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943).

Nor is this a government-speech case like *Shurtleff v. City of Boston*, 596 U.S. 243 (2022), where the issue was whether the government could choose which flags to fly as its own message. Petitioner does not seek to force Lincoln to host his private expression; he asks only that the State not compel him, in his own professional capacity, to endorse a grade that he has determined—through procedures the University itself adopted—to be academically false.

The Eighth Circuit's silent affirmance leaves the conflict unresolved in a context that affects thousands of faculty members and institutions nationwide. This Court's intervention is needed.

II. The decision below conflicts with Roth, Sindermann, Loudermill, and the Accardi "follow-your-own-rules" line.

The courts below effectively held that a public university may delegate final academic-dishonesty grading authority to faculty, acknowledge that delegation in official policies, and then disregard it without process and without consequence. That holding cannot be squared with this Court's state-created-entitlements doctrine or with the *Accardi* principle.

1. State-created rules and mutual understandings define protectable interests.

In *Bd. of Regents v. Roth*, 408 U.S. 564 (1972), and *Perry v. Sindermann*, 408 U.S. 593 (1972), this Court explained that liberty and property interests can be created by "rules or mutually explicit understandings" that secure certain benefits and support claims of entitlement. *Loudermill*, 470 U.S. 532 (1985), held that once the State confers such an interest, it must provide constitutionally adequate procedures before deprivation.

Here, Lincoln's Student Handbook and related policies do more than describe a general culture of academic freedom. They explicitly assign final academic-dishonesty grading decisions to faculty. The district court recognized as much. (App. A at 2.) That delegation—adopted by a public institution and relied on by faculty and students—

creates a state-law entitlement and a reasonable expectation that final dishonesty grades, once assigned by faculty under the codified process, will not be nullified by non-academic administrators without process.

The Eighth Circuit has applied similar reasoning in recognizing protected interests created by institutional rules and practices. See, e.g., *Winegar v. Des Moines Indep. Cmty. Sch. Dist.*, 20 F.3d 895 (8th Cir. 1994); *Schuler v. Univ. of Minn.*, 788 F.2d 510 (8th Cir. 1986); *Kirkeby v. Furness*, 92 F.3d 655 (8th Cir. 1996).

Missouri courts likewise enforce the principle that public bodies must follow their own governing rules when exercising delegated authority. See, e.g., *State ex rel. Yarber v. McHenry*, 915 S.W.2d 325 (Mo. 1995) (en banc); *Moore v. Bd. of Curators*, 838 S.W.2d 314 (Mo. Ct. App. 1992). The decision below is difficult to reconcile with those expectations.

2. **The Accardi line requires public institutions to follow their own rules.**

In *Accardi*, *Service*, *Vitarelli*, and *Morton*, this Court held that when an agency promulgates rules to govern decisionmaking, it must follow those rules in adjudicating rights and statuses. That principle applies with full force to public universities that adopt formal policies allocating academic authority and defining procedures.

Lincoln chose to codify an academic-dishonesty process that vests final grading authority in faculty. It did so in part to satisfy accreditors and to assure students, faculty, and the public that academic judgments would be made through a defined, faculty-governed

process. Once adopted, those rules cannot be disregarded at will by non-academic administrators without implicating due process and *Accardi*.

The district court nonetheless held that Lincoln could nullify faculty-final dishonesty grades without process, as if the delegation of authority had no constitutional significance. That result conflicts with both the state-created-entitlements framework and the "follow-your-own-rules" doctrine.

3. **At a minimum, Mathews balancing and Ewing's limited deference were required.**

Even if the Court were to conclude that faculty-final dishonesty grades implicate a more modest interest than a tenure contract or a property right in continued employment, *Mathews* requires courts to evaluate: (1) the private interest affected; (2) the risk of erroneous deprivation and the probable value of additional safeguards; and (3) the government's interest, including fiscal and administrative burdens. 424 U.S. at 334–35.

Here, the private interest includes Petitioner's professional reputation and academic integrity; the students' interest in fair and consistent application of dishonesty rules; and broader interests in the integrity of the institution's degrees and transcripts. The risk of erroneous or arbitrary overrides is high if non-academic administrators can nullify faculty-final grades in disregard of codified procedures. The value of simple safeguards—notice, an opportunity to be heard, faculty review—is readily apparent. And the administrative burden of following the existing rules is minimal.

This Court's academic-deference decisions, such as *Regents of the University of Michigan v. Ewing*, 474 U.S. 214 (1985), presume good-faith application of academic standards and procedures; they do not license institutions to ignore their own rules. Deference to substantive academic judgments does not extend to situations where, as here, the decision is not an academic judgment at all but a non-academic administrative override of a faculty-final academic determination.

The courts below did not engage in any *Mathews* analysis. They treated the interest as non-existent and allowed the university to disregard its own delegation. That approach is irreconcilable with this Court's precedents.

III. The questions presented are nationally important and affect accreditation, federal funding, and the integrity of public higher education.

Federal law does not treat accreditation and academic integrity as an internal matter of institutional preference. Under 20 U.S.C. § 1099b and 34 C.F.R. § 602.16(a)(1)(ii)–(v), accrediting agencies must adopt and apply standards addressing curricula, faculty, student achievement, and academic policies. Institutions depend on recognized accreditors for eligibility to participate in Title IV student-aid programs.

When a public university codifies an academic-dishonesty process that vests final grading authority in faculty, it is not merely allocating internal responsibilities; it is representing to accreditors and to the federal government that faculty will exercise primary academic judgment in this domain. If administrators may quietly set those rules aside—reassigning

authority to non-academic offices and overriding faculty-final dishonesty grades without process—the integrity of the institution's academic record is compromised.

This case thus raises more than an individual employment dispute. It goes to:

- Whether public institutions may circumvent faculty-governed academic processes without constitutional constraint;
- Whether students, employers, and accreditors can rely on grades as the product of faculty academic judgment rather than unreviewable administrative fiat; and
- Whether federal oversight of accreditation and Title IV eligibility has any bite where institutions are free to disregard the very academic policies they rely on for recognition.

The Court has long recognized that academic freedom is "a special concern of the First Amendment." *Keyishian*, 385 U.S. at 603; see also *Sweezy*, 354 U.S. 234; *Papish*, 410 U.S. 667. Those cases underscore that the constitutional stakes are highest where academic freedom and governance are intertwined with public obligations and federal funding.

IV. This case is an excellent vehicle and complements the companion petition in No. 25-2169.

This petition arises from the "grade-override" case, *Phillips v. Board of Curators of Lincoln University*, W.D. Mo. No. 2:25-cv-04025-BP; 8th Cir. No. 25-2051. It presents a

focused record about compelled alteration and administrative nullification of academic-dishonesty grades.

The issues are purely legal and were resolved on a Rule 12(b)(6) motion. The district court expressly acknowledged that the Student Handbook "explicitly grants faculty the authority to assign grades in cases of academic dishonesty." (App. A at 2.) The Eighth Circuit summarily affirmed under Rule 47B and later denied panel rehearing and rehearing en banc, without identifying any alternative ground for affirmance. (App. B, B-1.) There are no qualified-immunity complexities, no disputed facts, and no state-law issues clouding the federal questions.

At the same time, Petitioner is filing a separate petition seeking review of the companion Eighth Circuit judgment in No. 25-2169, arising from related events that present overlapping questions about academic freedom, shared governance, and retaliation in the governance and search-committee context. The two petitions are distinct but complementary:

- This petition (No. 25-2051) provides a clean vehicle to resolve the *Garcetti* academic-speech question, the grading-specific circuit split, and the *Roth/Sindermann/Accardi* issues in the context of academic-dishonesty grades.
- The companion petition (No. 25-2169) situates those issues within a broader pattern of governance, search-committee control, and academic-retaliation practices at a public land-grant university.

The Court can grant this petition and hold the companion petition, grant both and consolidate them for briefing and argument, or grant, vacate, and remand in one case in light of its resolution of the other. In any of those paths, this petition is a strong vehicle for resolving the questions *Garcetti* reserved and for clarifying the constitutional status of faculty-delegated academic decisions.

RELIEF SOUGHT

The Court should grant the petition and resolve the conflict by holding that:

1. Compelled alteration or administrative nullification of a professor's final academic-dishonesty grade is speech related to scholarship or teaching and therefore lies outside *Garcetti*'s "official duties" bar, subject to *Pickering/Connick* balancing and this Court's compelled-speech doctrine when endorsement of the change is required; and
2. University-promulgated policies delegating final academic-dishonesty grading authority to faculty create protectable interests under *Roth*, *Sindermann*, and *Loudermill*, and the *Accardi* principle requires public institutions to follow those rules, with procedures calibrated under *Mathews* before nullifying a faculty-final dishonesty grade.

In the alternative, the Court should grant, vacate, and remand for consideration of:

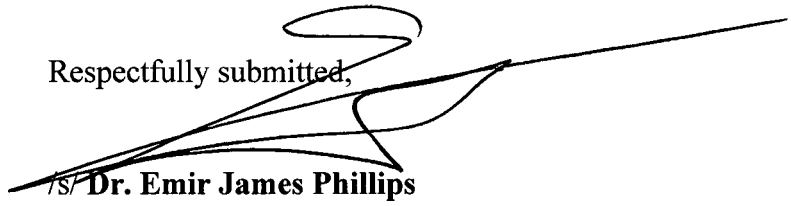
- The entrenched circuit split over compelled alteration and administrative nullification of professors' final grades; and

- Whether Lincoln's delegation of final dishonesty-grading authority to faculty created a protectable interest under *Roth/Sindermann* and *Accardi*, warranting tailored process under *Mathews* consistent with the accreditation and funding framework governing public universities.

CONCLUSION

The petition for a writ of certiorari should be granted. In the alternative, the Court should grant, vacate, and remand for further consideration in light of the circuit conflict and this Court's state-created-entitlements and *Accardi* jurisprudence.

Respectfully submitted,



/s/ **Dr. Emir James Phillips**

Petitioner, pro se

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