

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF OLMSTED

THIRD JUDICIAL DISTRICT

MICHAEL JOYNER, M.D.,Case Type: Employment
Court File No. _____

Plaintiff,

vs.

MAYO CLINIC COLLEGE OF MEDICINE
AND SCIENCE, MAYO CLINIC,
GIANRICO FARRUGIA, M.D. and
CARLOS MANTILLA, M.D., Ph.D.,**COMPLAINT**Defendants.

INTRODUCTION

1. Dr. Michael J. Joyner is a Mayo Clinic physician and a distinguished Professor of Anesthesiology at Mayo's College of Medicine and Science. He is an internationally acclaimed researcher and expert on convalescent plasma, blood pressure regulation, and the physiology of exercise and elite athletes, among other medical and scientific subjects. Joyner has well over 500 publications to his name, and his work has received over 40,000 citations.

2. Joyner is a physiologist who studies human performance, but during the COVID-19 pandemic, he repurposed his lab for research into convalescent plasma treatment for COVID-19 patients and was the principal investigator on the US Expanded Access Program for Convalescent Plasma. According to Dr. Carlos Mantilla, Joyner's Department of Anesthesiology at MCCM, "The impact of [Joyner] pivoting his research in support of the Convalescent Plasma EAP cannot be overstated...[it is] of great benefit to our entire society."

3. Mayo often holds itself out as an educational institution. In late 2022, it secured designation as an educational institution to obtain tax refunds after six years of litigation in federal

court.¹ As is characteristic of other academic institutions, Mayo promises that its faculty have academic freedom and freedom to publicly discuss their research and expertise.

4. Mayo's "Freedom of Expression and Academic Freedom Policy" promises a "free and open discussion of ideas," including that faculty have the "freedom to explore all avenues of scholarship, research, and creative expression and to reach conclusions according to [their] own scholarly discernment." The policy promises to protect faculty from "fear of retribution or retaliation if those opinions and conclusions conflict with those of the faculty or [Mayo as an] institution."

5. Yet when Joyner was interviewed regarding important scientific issues of public concern, Mayo took swift action to silence and punish Joyner for following his scientific conscience. Joyner had only summarized his research regarding testosterone's impact on athletic performance and advocated for a faster NIH response to emerging COVID-19 treatments. But these issues, and Joyner, were inconvenient to Mayo's revenue-focused agenda led by its CEO Gianrico Farrugia.

6. Mayo's actions were unlawful for multiple reasons. First, Mayo has made binding promises that its faculty, including Joyner, are free to discuss scientific research regardless of Mayo's political agenda. Second, Mayo's punitive actions regarding Joyner's communications continued a pattern of retaliation against Joyner by Mayo and its CEO Gianrico Farrugia.

7. In 2020, Joyner blew the whistle by reporting a Mayo business partner's attempt to unlawfully access and use protected patient data. Joyner's whistleblowing complicated Mayo CEO Farrugia's attempt to increase Mayo's profits. Farrugia and Mayo retaliated, labeling Joyner's whistleblowing "unprofessional" to pretextually mask Mayo's unlawful retaliation.

¹ See *Mayo Clinic v. United States*, No. 16-cv-03113, 2022 U.S. Dist. LEXIS 211800, at *3 (D. Minn. Nov. 22, 2022).

8. Mayo then continued this retaliation against Joyner in 2022 and 2023, when Joyner's research and conclusions impacted Mayo's efforts to pursue revenue and promote its brand. First, Mayo forbid Joyner from honestly sharing his research and expertise, and then, Mayo labeled Joyner's factual comments to journalists — all of which were protected by law and Mayo policy — as “unprofessional.”

9. An educational institution's mission, as well as the scientific method itself, depends upon the free exchange of ideas. Mayo's faculty, including Joyner, accept their positions and pursue research relying on the institution's promises that they may pursue and publish research regardless of Mayo's business plans or the political popularity of their results.

10. The public — and in the case of prestigious medical establishments like Mayo Clinic, the public health — depends on institutions following their promises of academic freedom for faculty, a key guarantor of scientific integrity. Americans do and *should* expect a professor and doctor's statements to reflect an honest view of the scientific evidence, not a curated institutional statement that prioritizes the brand or political reputation of the institution over the best scientific and medical advice.

11. Mayo's retaliation against and censorship of Joyner violated its promises of academic freedom and non-retaliation, contradicted its institutional claims to be an educational institution, and ultimately breached the public trust.

12. To distract from its policy violations and chill the speech of other faculty considering speaking freely about their areas of expertise, Mayo continued and expanded its retaliation against Joyner.

13. Mayo subjected Joyner to a sham investigation and discipline process, even withholding documents in violation of black letter Minnesota personnel record laws.

14. In his 36 years at the Mayo Clinic, Joyner had participated in hundreds of media interviews without incident. Yet in March 2023, Mayo disciplined Joyner for media interview statements regarding his own research and conclusions. Joyner's punishment included a one-week unpaid suspension, denial of any salary increase at his next annual review, and the threat of termination for failure to comply with the Mayo Public Affairs ("PA") Department's preclearance and oversight of any media interviews. These sanctions represent a direct and ongoing attack on Joyner's academic freedom.

15. Joyner's supposed offense was giving two "problematic" media interviews, both pre-approved by Mayo, in which he spoke freely about his own research and conclusions.

16. The first interview was a March 2022 interview with the *New York Times*, in which Joyner highlighted his scientific research showing an immediate sex-specific divergence in sports performance as testosterone surged in teen boy athletes. Joyner stated that when it comes to sex differences and sports performance, "Testosterone is the 800-pound gorilla."

17. The second interview was in November of 2022, with a follow-up in January of 2023, when Joyner spoke with CNN about another topic of his research: convalescent plasma treatments ("CP") used to treat the COVID-19 virus in immunocompromised patients. The resulting January 2023 article discussed the difficulties in getting convalescent plasma endorsed by the National Institutes of Health ("NIH") panel. Joyner described the approval process as "bureaucratic rope-a-dope" and called "the agency's guidelines a 'wet blanket' that discourages doctors from trying convalescent plasma."

18. The day after the article was published, Mayo initiated a disciplinary process against Joyner for his interview comments because they criticized the NIH, and Mayo administrators were worried that NIH would retaliate by cutting their funding.

19. In a March 2023 disciplinary letter, Mayo ignored its promise of free expression and academic freedom for faculty. It referenced both the CNN and NYT interviews, chastised Joyner for “failing to communicate in accordance with prescribed messaging,” and warned him that going forward he must “discuss approved topics only and stick to prescribed messaging,” a demand anathema to both academic freedom and to the scientific process itself.

20. The letter further warned Joyner that going forward he must “eliminate the use of idiomatic language” — a vague demand so impossible to meet that even Mayo’s CEO Farrugia cannot or does not manage to do so — and claimed Joyner’s statements “reflect poorly on Mayo Clinic’s brand and reputation.” Farrugia uses an abundance of idioms, for example: “back to our roots”; “sweep aside barriers”; and “bricks-and-mortar” offerings to patients. *See, e.g.*, <https://www.advisory.com/blog/2020/07/mayo-clinic-gianrico-farrugia>.

21. Mayo weaponized its nebulous professionalism, values, and mutual respect policies by accusing Joyner of unspecified violations, including that his tone was “unpleasant” and had “a bullying quality to it.” Yet Joyner’s personnel record is filled with outstanding reviews for his teaching, research, and overall job performance. Joyner’s professional reputation is similarly stellar, with his past department chair describing his work as “one in ten million.”

22. Mayo’s actions violated its own policies and compromised Joyner’s ability to speak about his research. Free speech and academic freedom do not become less important because of public disagreement or debate. To the contrary, it is precisely during times of intense disagreement that unbiased research and expert opinions of faculty are most in service to the public.

23. As a leading institution dedicated to scientific and medical research, Mayo’s abandonment of its core principles is dangerous. Wrongly employing its influence can inhibit or delay the release of information critical to the health of all Americans and undermine confidence

in medical science. To threaten faculty with punishment when their truthful statements about their research stray from “prescribed messaging” or implicate branding concerns chills speech on matters of public concern, impacts public health, and is antithetical to the values of an academic institution.

24. In response to Mayo’s censorship and discipline of Joyner, more than 200 prominent physicians and scientists signed a June 15, 2023, public letter urging Mayo to reconsider:

Placing academic freedom in jeopardy is certain to tarnish Mayo’s reputation among the many who have always thought of Mayo as a beacon of scientific integrity. In persecuting one of its most senior and valuable professors, Mayo is sending a terrible message not only to its other faculty, but also to other institutions in academic medicine. If a leading medical school and academic medical center can suppress the speech of an internationally recognized faculty member, imagine how much easier it will become for less well-known institutions to penalize younger and less established faculty members.

Worse yet, how can anyone now believe anything any doctor from Mayo says? These Mayo administrative actions will lead to concerns that the public statements of Mayo doctors are intended to support Mayo’s reputational and business interests rather than to reflect the doctor’s honest view of scientific evidence. Mayo is inflicting a major injury to its reputation upon itself.²

25. In response, rather than defend their actions on the merits — a fight they knew they would lose — Mayo officials tried to muddy the waters, attacking Joyner’s character and professional reputation by suddenly alleging the discipline was related to an unspecified and undocumented “unprofessional pattern of behavior.”

26. The only unprofessional pattern of behavior was by Mayo CEO Farrugia. He had previously used false allegations of unprofessionalism to retaliate against Joyner for blowing the whistle regarding a Mayo business partner’s attempt to misuse protected Mayo patient health information and for asking for additional compensation for effectively working two jobs.

² www.ipetitions.com/petition/letter-to-mayo-clinic-on-free-speech-and-academic

27. Mayo's allegations about Joyner are contradicted by its own records. Joyner's personnel record is free of documentation supporting Farrugia's pretextual narrative regarding unprofessional behavior. Instead, Joyner's personnel record is replete with glowing evaluations and compliments regarding his collegiality and contributions at Mayo.

28. Joyner appealed Mayo's gag order and disciplinary sanctions in 2023, requesting more information about his supposed wrongdoing. Mayo repeatedly refused to provide any evidence regarding Joyner's alleged "pattern of unprofessional behavior."

29. Mayo predictably denied Joyner's appeal, ignoring the damning plain language of its March 2023 written warning — which explicitly stated that Joyner's truthful comments were "problematic" because they did not align with "Mayo Clinic's brand and reputation" — and simply repeated allegations of unspecified unprofessionalism from Farrugia's 2020 retaliatory discipline.

30. But Mayo's pretextual discipline of Joyner speaks for itself: "Your use of idiomatic language has been problematic and reflects poorly on Mayo Clinic's brand and reputation." Mayo promised Joyner and the public academic freedom and scientific integrity, free from retaliation. This lawsuit is the inevitable result of Mayo's broken promises, violations of the law, and breaches of the public trust.

THE PARTIES

31. Plaintiff Michael J. Joyner is a medical doctor and faculty member employed by Defendant Mayo Clinic. Joyner works and resides in Rochester, Minnesota.

32. Defendant Mayo Clinic ("Mayo Clinic" or "Mayo") is a diversified healthcare system organized as a Minnesota nonprofit corporation. It operates hospitals and clinics in several states, including its original location and headquarters is in Rochester, Minnesota. Its registered office is located at 200 First Street Southwest, Rochester, Minnesota.

33. Defendant Mayo Clinic College of Medicine and Science (“MCCMS”) is the educational division of Mayo Clinic that offers graduate and postgraduate education through five related schools. MCCMS’ primary location is in Rochester, Minnesota.

34. Defendant Gianrico Farrugia, M.D. is the President and Chief Executive Officer of Mayo Clinic and the Chair of its Board of Governors. Farrugia works for Mayo in Rochester, Minnesota. In 2021 alone, Farrugia received compensation totaling \$3,485,174.

35. Defendant Carlos Mantilla, M.D. is the Chair of Mayo Clinic’s Department of Anesthesiology & Perioperative Medicine. Mantilla works for Mayo in Rochester.

JURISDICTION AND VENUE

36. This Court has personal jurisdiction over Defendants because they reside in Minnesota and transact business within Minnesota.

37. Venue is proper pursuant to Minn. Stat. § 542.09 because the causes of action below arose in Olmsted County.

FACTS

38. Mayo Clinic is the largest integrated, nonprofit medical group practice in the world. It has over 76,000 employees, including 42,000 in Rochester, Minnesota. Mayo reported \$16.3 billion in revenue in 2022. It has reported higher earnings in 2023.

39. Joyner holds undergraduate and medical degrees from the University of Arizona. He completed his residency and research training at Mayo Clinic, where he has worked for 36 years. He is currently an appointed faculty member in the MCCMS’s Alix School of Medicine and Science, where he is the Frank R. and Shari Caywood Professor of Anesthesiology.

40. Joyner is a physician-researcher and one of the world’s leading experts on human performance and exercise physiology. Using humans as his model system, he has made major contributions to understanding muscle and skin blood flow, blood pressure regulation, and human

athletic performance. His ideas about human performance are widely quoted in both the popular media and scientific publications. He has been a consultant to the National Institutes of Health (NIH) and NASA, and has held leadership positions with prestigious scientific journals. His research lab at Mayo Clinic has been continuously funded by the NIH since 1993. His research is focused on how humans respond to various forms of physical and mental stress during activities such as exercise, hypoxia, standing up, and blood loss.

41. Joyner has received numerous awards for his work. In 2023, Joyner was awarded the American College of Sports Medicine's 2023 Honor Award. This award is granted to an individual with a distinguished career of outstanding scientific and scholarly contributions to sports medicine and/or the exercise sciences.

I. MAYO'S RETALIATION AGAINST JOYNER FOR COMMENTS REGARDING HIS RESEARCH AND ATHLETIC PERFORMANCE

42. Joyner is one of the world's leading experts on human performance and exercise physiology. Through decades of research and study, he has made major contributions to understanding muscle and skin blood flow, blood pressure regulation, and human athletic performance.

43. For many years, Joyner's research regarding human performance has been widely quoted in both the mainstream media and scientific publications. He has participated in hundreds of media interviews during his tenure at Mayo.

44. Joyner is not an activist. When he speaks publicly or with the media, he offers factual information from his scientific and medical knowledge that is helpful to and informs the public conversation.

45. In the wake of transgender swimmer Lia Thomas' participation in the 2022 NCAA swimming championships, intense public interest surrounded the topic of sex differences in

athletic performance. On March 8, 2022, Mayo's Public Affairs department ("Mayo PA") approved an interview for Joyner with *New York Times* ("NYT") reporter Michael Powell about "transgender athletes and the relative advantage testosterone offers."

46. In an email to Mayo PA, Joyner provided his research including key papers on the topic of testosterone and sports performance. Mayo PA representative Terri Malloy replied, "Glad you can share your medical expertise on this topic!"

47. Powell interviewed Joyner on March 9, 2022. The NYT did not immediately publish Powell's article that referenced the interview.

48. In the Spring of 2022, Mayo was in the process of adding wealthy transgender entrepreneur and activist Martine Rothblatt to its board of trustees. An attorney who founded SiriusXM Satellite Radio and United Therapeutics, Rothblatt has donated millions of dollars to cultural and educational institutions promoting transgender issues and transhumanism.

49. On April 11, 2022, Drs. Caroline Davidge-Pitts and Cesar Gonzalez, directors of Mayo's Transgender and Intersex Specialty Care Clinic, contacted Joyner to discuss "media attention related to transgender athletes – in particular Lia Thomas."

50. Joyner's scientific research showed a distinct competitive advantage from testosterone for athletes who had completed male puberty. These individuals have a significant advantage in female athletics. This research has helped to inform legislative and rulemaking efforts aimed at promoting fair competition in women's sports.

51. There was concern within Mayo leadership that allowing Joyner to speak freely about his research could impact the political interests of board members like Rothblatt and other transgender advocates. Davidge-Pitts and Gonzalez sought to speak with Joyner to discuss their

concerns about “anti-trans sports bills,” which they viewed as “attacks” on transgender individuals. Joyner met with Davidge-Pitts and Gonzalez on April 21, 2022.

52. Four days later, Dr. Halena Gazelka, Mayo’s Chief Communications Officer and director of Mayo PA, sent Joyner an email informing him he should refrain from speaking about “sports physiology” and “transgender individuals and transgender athletes” due to the “significant political and personal sensitivity” of this topic. Joyner was informed that this was a new policy put in place by order of Farrugia.

53. Mayo admitted that “while individual physicians and scientists have expertise on the topic, the potential risks” *to Mayo* (not to patients or the public) “outweigh the benefits” of discussing Joyner’s research. Upon information and belief, Joyner’s research regarding athletic performance and testosterone was the only research topic that Mayo prohibited faculty from publicly discussing, and only after April 25, 2022.

54. Mayo’s new policy silencing faculty from discussing their research directly conflicted with MCCMS’ Freedom of Expression and Academic Freedom Policy (the “Academic Freedom Policy”). The Academic Freedom Policy applies to all faculty at Mayo and declares that MCCMS “is committed to the free and open discussion of ideas in both medical and non-medical areas.” A true and correct copy of Mayo’s Freedom of Expression and Academic Freedom Policy is attached hereto as Exhibit A.

55. The policy defines academic freedom as “the freedom to explore all avenues of scholarship, research, and creative expression, and to reach conclusions according to one’s own scholarly discernment.”

56. Through the Academic Freedom Policy, MCCMS declares itself to be “committed to freedom of expression, which include the right to discuss and present scholarly opinions and

conclusions without fear of retribution or retaliation if those opinions and conclusions conflict with those of the faculty or institution.”

57. The policy makes clear that faculty “are not required to advocate for policies or positions that represent the consensus of Mayo Clinic in their publications or communications,” provided they make clear the views expressed are the individual’s own views, and not the views of MCCMS.

58. Concerned about his ability to discuss his research under Mayo’s new policy prohibiting faculty from speaking about sports physiology and transgender individuals, Joyner replied to the head of Mayo PA, Halena Gazelka, on April 25, 2022, expressing his concerns:

[A]ll I ever discuss is areas where the science is very clear. In this context I am worried that by saying nothing Mayo will be perceived as anti-science.

1. T [testosterone] is performance enhancing.
2. T has legacy effects
3. It is possible to determine if these legacy effects give M-F TG athletes a relative performance advantage.
4. The regulators have to split the baby....

There is some evidence that some advocacy groups are in denial related to issues 1-3 and the NIH guidelines. If my collaborators and I continue to contribute to the scientific literature on related topics and Mayo does not let me comment more generally I worry Mayo will be seen as anti-science...

I would request we have a broader discussion of this...

59. The “broader discussion” proposed by Joyner never happened.

60. Powell’s NYT article, “*What Lia Thomas Could Mean for Women’s Elite Sports,*” was published on May 29, 2022, and contained quotes from Joyner’s March 9, 2022 interview. Joyner cited scientific data showing an immediate divergence in performance as testosterone surges in teenage boys. Joyner explained that this produces “dramatic differences in performances” between male and female athletes. Joyner commented, “Testosterone is the 800-pound gorilla.”

His comment was a mixed metaphor, intending to mean a large, but often overlooked issue, equivalent to “the elephant in the room.”

61. In the same NYT article, a Harvard University professor confirmed Joyner’s conclusions, stating, “There is a large performance gap between healthy normal populations of males and females, and that is driven by testosterone.”

62. As was his usual practice, Joyner made clear before the interview that he was speaking about his own research and not on behalf of the Mayo clinic. Joyner’s practice of confirming this with reporters was known to Mayo PA and Mayo leadership as far back as 2015 when they acknowledged that Joyner “made it clear that the views are his own and not Mayo’s.”

63. Shortly after the article’s publication, Joyner received complimentary notes from several Mayo staff, including Mayo department leaders.

64. Following all Mayo internal protocols, Joyner debriefed with Mayo PA after the interview and received a “this is helpful” note from the PA office. Joyner received no indication at that time that there were any concerns with his interview.

65. However, Joyner had serious ongoing concerns about Mayo’s attempt to silence him on his area of scientific expertise, particularly after the April 25, 2022, email informing him of Mayo’s ban on public discussion of transgenderism in sports physiology.

66. In a June 14, 2022, email exchange titled “academic freedom,” a colleague of Joyner’s shared that he had expressed a similar concern regarding Mayo’s promises of academic freedom and their “rather corporate code of conduct,” as well as inconsistencies regarding “what we said to our accrediting body about our position on academic freedom.”

67. In reply, Joyner wrote, “Public Affairs—after allowing it—is attempting to stop me from commenting to the media on the biology/physiology of male to female trans athletes and apparently this is coming from the CEO.”

68. Another colleague who had been involved in implementing the Academic Freedom Policy replied to the exchange sharing that “[i]t’s a blurry line, though, when your research is itself the topic of media interest” and admitted this “isn’t something that we thought through in the context of the [academic freedom] policy [] – ***which was pulled together quickly in response to an accreditation need.***” (Emphasis added.)

69. Mayo had promised something to faculty and the public—a commitment to scientific integrity as assured by academic freedom—to meet this “accreditation need.” Yet Mayo quickly abandoned this promise when it created tension with the desires of Mayo’s CEO and PR machine, and muzzled Joyner on the topic of sports physiology and transgender athletes, with months passing before Mayo provided any further information.

70. Unbeknownst to Joyner at the time, shortly after the May 29, 2022, NYT piece, Mayo had received a complaint from a transgender activist regarding Joyner’s “800-pound gorilla” quote.

71. Mayo did not inform Joyner of any concerns about the NYT article until October 11, 2022—the eve of his scheduled presentation at the Endocrine Grand Rounds titled “Sex Difference and Human Performance”—when Joyner received an urgent after-hours email from Dr. Abimbola Famuyide’s executive assistant. Famuyide is Chair of Mayo’s Personnel Committee.

72. It was unclear whether the message was from Famuyide or his assistant. However, the message questioned the “timing” of Joyner’s talk and stated it was intended

to remind [Joyner] of the concerns that we have addressed earlier this year in [sic] the unprofessional statements that you have made in the context of how physiology

affects athletes' performance in media interviews.... It is our expectation that you share [*sic*] evidenced based data and information and avoid the added commentary that could be perceived as offensive or disrespectful to this patient population.”

73. This was not actually a “reminder” of concerns about any such “unprofessional statements” since Joyner had *never been informed* of any such concerns, nor had he *made any unprofessional statements*.

74. The email also noted that Mayo “support[s] the LGBTQIA+ community” and that Joyner was expected to “share evidence-based data and information and avoid the added commentary that could be perceived as offensive or disrespectful to this patient population.”

75. In other words, Mayo’s promises of academic freedom and freedom of expression were limited by the perceptions and sensitivities of favored interest groups. In April 2022, these limitations were applied to media interviews. Now they were being applied even to presentations at academic conferences and grand rounds—core practices of academic medicine. Joyner was no longer free to discuss his scientific findings on sports performance if those findings “could be” perceived as offensive to a particular patient population.

76. On the eve of his lecture, Joyner felt sudden pressure to alter the lecture or even to cancel it entirely. He immediately sent his lecture slides for review and requested a meeting with Famuyide. However, Joyner received no response prior to his lecture.

77. In fact, despite having issued that alarming warning, Mayo seemed to have no interest in actually meeting with Joyner once his lecture proceeded without incident. Joyner did not meet with Famuyide until six weeks later, and only at Joyner’s initiative.

78. At that meeting, despite explicitly asking for more details about the “unprofessionalism” allegations referenced in the October 11, 2022, email, Joyner received no additional clarification beyond a vague admonition that if someone complained or was offended by his research or his opinions, he would be guilty of unprofessional behavior.

II. CNN INTERVIEWS JOYNER ABOUT COVID-19 CONVALESCENT PLASMA TREATMENT

79. On November 4, 2022, CNN's Elizabeth Cohen contacted Joyner for an interview related to another topic of his research: convalescent plasma treatments for treating COVID-19 in immunocompromised patients.

80. Joyner immediately contacted Mayo PA regarding the interview request. Kelley Luckstein from Mayo PA replied, giving Joyner permission to go ahead with the CNN interview on "VaxPlasma and *your* recent publications. Mayo is not an expert in the community space so *we* have nothing to share." (Emphasis added).

81. As with all his interviews, Joyner followed all internal protocols for approval from Mayo PA and made clear that he was not speaking on behalf of Mayo but was speaking about his own research and opinions.

82. Mayo PA gave Joyner no guidance on talking points, nor any instruction or coaching on interacting with Cohen. A reporter about whom Joyner later learned Mayo PA and Mayo Clinic leaders had concerns because she had written an article critical of Mayo.

83. During his interview with Cohen in November 2022 and a follow-up in January 2023, Joyner discussed his own research and opinions about convalescent plasma ("CP") use in immunocompromised patients, including the difficulties in getting CP treatments approved by the NIH panel.

84. Joyner was not alone in his concerns about the NIH guidelines for CP use in immunocompromised patients. Dr. Arturo Casadevall of Johns Hopkins University joined Joyner for his interview and expressed similar concerns. Over 50 physicians signed three petition-letters urging the NIH to change its guidelines and make CP more available to this patient population, but no changes in NIH guidelines occurred.

85. Frustrated with the effect the NIH guidelines were having on his patients' health, Joyner described the approval process as "bureaucratic rope-a-dope" and "the agency's guidelines [as] a 'wet blanket' that discourages doctors from trying convalescent plasma."

86. In January 2023, Cohen's article had not yet been published, but she reached out to Joyner with several follow-up questions. Joyner, always careful to follow all Mayo media protocols, again reached out to PA regarding Cohen's additional inquiries.

87. This time, however, Mayo PA employee Sharon Theimer responded that Cohen "appears to be going in another direction. We are treating this as a new inquiry and need time to assess.... By the way, I apologize for my ignorance, but is Mayo still treating COVID patients with convalescent plasma?"

88. Theimer's email highlighted the serious knowledge deficiencies in the Mayo PA department regarding Joyner's research and expertise. Joyner explained in response that Mayo had instituted outpatient plasma treatment in November 2022, and that about 65 patients had been offered the treatment, almost all of whom had leukemia/lymphoma. He also reminded her that updated information on this program had been shared with Mayo PA the prior week.

89. Despite her admitted "ignorance," Theimer denied permission for the follow-up and instructed Joyner to stop discussing his research in this area with Cohen, stating that if "Elizabeth seeks to engage in further interactions with you... simply forward those emails to Kelley for responses, rather than respond to Elizabeth, *even if Elizabeth's questions seem relevant to your research.*" (Emphasis added).

90. Joyner obeyed Theimer's request even though it was an obvious violation of Mayo's Academic Freedom Policy. Theimer's email made it clear that Joyner was expected to defer to the judgment of Mayo PA even on the question of what was relevant to his own research,

and despite that department's admitted ignorance about his research and about Mayo's own CP treatment programs.

91. On January 12, 2023, Cohen published her article, "Study shows convalescent plasma works for immune-compromised COVID-19 patients, but it can be hard to find." Cohen used quotes from Joyner's Mayo PA-approved interview in her article, including his comments critical of the NIH's approval process for his scientific research.

92. Cohen's article also featured interviews with other prominent researchers at various universities, including Oxford and Johns Hopkins, and highlighted the "dozens of doctors from Harvard, Stanford, Mayo, Columbia and other academic medical centers" who were critical of the NIH and who were "urging them to revise the guidelines." According to Cohen, patients found the NIH's "lack of response to the researchers ... infuriating."

93. In response to a link to Cohen's article, Joyner's Department Chair, Dr. Carlos Mantilla, reached out to Joyner that same day, writing, "Amazing impact, Mike Thank you!!!"

94. Mayo leaders, including upon information and belief its CEO Farrugia, were unhappy that a Mayo faculty member would dare to critique NIH.

95. NIH is the largest source of research funding in the United States and a major source of Mayo's funding. Mayo received \$320 million in funding from NIH in 2022 *alone* putting Mayo in the top 1% of recipients of NIH funding.

96. Millions of dollars in NIH grants flow to Mayo, including to cover its "indirect costs." Mayo relies on these dollars to pay staff salaries—including those of Mayo administrators who are not working on the actual NIH grants.

97. Despite its promises of free expression and academic freedom, Mayo wasted no time in targeting Joyner for his criticisms of the NIH in Cohen's January 12, 2023, piece.

98. The very next day, January 13, 2023, Mayo emailed Joyner, directing him to meet with Mayo HR representative Amber Manning and his Department Chair, Mantilla.

99. Joyner was in Las Vegas at the time, giving a talk at a major conference. Manning and Mantilla pressured him to meet with them via Zoom from Las Vegas, rather than waiting a few days until he returned to Mayo to hold the meeting in person. Joyner prevailed upon them to wait, however, and the meeting was scheduled for after his return, on January 16, 2023.

100. Sensing that Mayo administrators were seeking to punish him for his comments on his research, Joyner requested to bring legal counsel or an advisor to the meeting. Mayo denied this request.

101. On January 16, 2023, another faculty member at Mayo researching CP reached out to Joyner. He expressed surprise that Mayo had not provided Joyner with any coaching or instruction before the Elizabeth Cohen interview and shared that he (unlike Joyner) was given “explicit instructions from Mayo communications that any interactions with Ms. Cohen were carefully scrutinized after Ms. Cohen was associated with an article a few years ago that put Mayo Clinic in the national headline.” Unlike Joyner, this faculty member received both proactive and reactive feedback from Mayo PA regarding his interactions with Cohen.

102. Kelley Luckstein of Mayo PA specifically warned this faculty member that Mayo PA had a “touchy relationship” with Elizabeth Cohen at CNN and that Mayo “leaders have asked us not to work with her, so we need to vet all inquiries by her carefully.”

103. In other words, despite Mayo’s academic freedom promises to faculty, in practice, faculty did not have academic freedom to discuss their research openly with reporters that Mayo had secretly blacklisted for criticizing the institution.

104. Joyner met with Manning and Mantilla on January 16, 2023. Mantilla, who had initially praised the article and Joyner for his “amazing impact,” changed his tune. He and Manning expressed Mayo’s disapproval of Joyner’s statements in the CNN interview, but did not allege he had violated any policy.

105. Joyner explained that he had made it clear to Cohen he was not speaking on behalf of Mayo, that Casadevall from Johns Hopkins was also on the call with Cohen, and that both faculty members were clearly speaking about their own research. After the meeting, Joyner followed up with an email to Mantilla to express concern that he was being “silenced.”

106. Joyner also wrote to Casadevall regarding “the internal issues he was experiencing regarding the CNN article and my rope-a-dope comment about a specific NIH committee.” Casadevall offered to reach out to speak with Mayo and did have a call with Mantilla. He informed Mantilla that the interview with Cohen was actually a “3 way conversation” and that Joyner clearly was not speaking on behalf of Mayo.

107. One month later, on February 10, Joyner had heard nothing further regarding the CNN interview. Hopeful that Casadevall’s call had allayed Mayo’s concerns, he emailed Manning and Mantilla, writing “it has been a month since PA flagged my comments in the CNN piece...I am hoping the CNN issue is closed.”

108. Mantilla replied that the issue was not closed, stating, “It has taken longer than expected to meet with the various folks on the CNN article front. There is more to follow.”

109. In reply, Joyner continued to express concerns regarding Mayo PA preventing faculty from speaking about their research, writing as an example that he had a “30 year[] history of publications and professional interest on issues relevant” to “transgender sports related things”

but that “PA may not believe I am an expert and has never made an effort to understand what I do and don’t know.” He also noted, “I have asked for meetings and they don’t happen.”

110. Upon information and belief, Mayo PA denied multiple interview and speaking requests from outside parties that were relevant to Joyner’s research expertise.

111. In a follow-up meeting with Mantilla just a day after his February 10 email, Joyner was notified that the January 16, 2023, meeting was, in fact, the beginning of a formal disciplinary process, despite no mention of this at that meeting itself. Indeed, Joyner still had not received any formal notice regarding this disciplinary process or what policies he had allegedly violated. Yet Mantilla recommended Joyner not retain legal counsel for the disciplinary process, warning that “introducing legal counsel into the conversation...may not drive the results we want.”

112. Mantilla advised Joyner that failing to protect Mayo’s reputation while he communicated about his research would impact his freedom to communicate, telling him to “work deliberately to communicate in such a way that *your important work can be shared broadly while protecting Mayo’s reputation.*” (Emphasis added).

113. These instructions directly conflicted with Mayo’s Academic Freedom Policy, which promises that “MCCMSS is committed to freedom of expression, which includes the right to discuss and present scholarly opinions and conclusions without fear of retribution or retaliation if those opinions or conclusions conflict with those of the faculty or institution.” Mantilla did not cite or provide any Mayo policy that required faculty to discuss their own research in a manner that protected Mayo’s reputation.

114. Mantilla’s email further warned Joyner to “avoid making comments that can be construed as inflammatory,” emphasizing that “topics of your interest and expertise appeal to various audiences.”

115. Most bizarrely, Mantilla also wrote that Joyner’s “choice of idiomatic expressions leaves room for interpretation and creates an opportunity for misunderstanding.”

116. This warning to avoid “idiomatic expressions” was also at odds with Mayo’s Academic Freedom Policy, which specifically protected faculty “creative expression.”

117. Weeks later, during Joyner’s March annual review, Mantilla informed Joyner that discipline would be forthcoming for his interview statements. At that same meeting, Mantilla’s review also gave Joyner the highest possible grades on categories related to collegiality and professionalism.

118. Joyner *still* had not received any formal notice of what policies he had allegedly violated. Nor had he been granted any opportunity to present evidence in his defense, such as showing that Mayo PA had set up and approved both the NYT and the CNN interviews.

119. While Mantilla had suggested a simple reprimand be issued to Joyner for the CNN and NYT interview comments, Mayo CEO Dr. Gianrico Farrugia rejected this proposal and insisted that Joyner receive more serious discipline.

III. MAYO DISCIPLINES JOYNER FOR HIS RESEARCH CONCLUSIONS: THE FINAL WRITTEN WARNING LETTER

120. Despite his initial praise for Joyner’s CNN interview, Mantilla obliged Farrugia in issuing a more severe sanction. On March 13, 2023,³ Joyner received a “Final Written Warning” (the “Final Warning”) detailing various punishments for his comments in the NYT and CNN interviews.

³ The Final Written Warning letter was dated March 5, 2023 but was received by Dr. Joyner on March 13, 2023.

121. The Final Warning chastised Joyner for a “negative and unprofessional pattern of behavior exhibited by you for some time,” but offered no examples of this “pattern of behavior” other than his NYT and CNN interview comments.

122. The letter highlighted the “bureaucratic rope-a-dope” comment about NIH and “800-pound gorilla” comment about testosterone, scolding Joyner for his “use of idiomatic language” and for “fail[ing] to communicate in accordance with prescribed messaging.”

123. The Final Warning emphasized that Joyner’s use of idiomatic language was subjectively “viewed as inflammatory” and informed him that “[i]ndependent of [his] intentions,” his unspecified but allegedly bad behavior had impacted relationships with the PA office and the Mayo administration and so concluded he was in violation of multiple Mayo policies.

124. The Final Warning provided a laundry list of policies that Joyner’s unspecified actions had allegedly violated, including the Media Policy, The Mayo Clinic Values Policy, the Model of Professionalism Policy, the Unacceptable Conduct Policy, and the Mutual Respect Policy. It did not specify *how* he had violated any of these policies.

125. Unsurprisingly, the Final Warning failed to mention Mayo’s Academic Freedom Policy, which clearly promised that faculty had the “right to discuss and present scholarly opinions and conclusions without fear of retribution if those opinions and conclusions conflict with those of the faculty or institution.”

126. Joyner was punished with an unpaid suspension, financial penalties, and an effective ban on any communications outside of Mayo.

127. The Final Warning instructed Joyner to cease “engagement in offline conversations with reporters,” some of whom are his personal friends.

128. The Final Warning ordered Joyner to “discuss approved topics only” and “stick to “prescribed messaging.”

129. Yet the Final Warning again failed to specify what topics were “approved” and what messaging was “prescribed.”

130. In direct contradiction to Mayo’s promise to protect “creative expression,” the Final Warning further ordered him to “eliminate the use of idiomatic language.”

131. The Final Warning further authorized Mayo PA to dictate how and with whom Joyner could discuss his research, requiring him to “vet each individual media request through Public Affairs including follow-up requests,” which he had done, and “[i]f an interview request is declined, eliminate unnecessary push back or combative communications,” though no examples were provided.

132. Mayo condescendingly ordered Joyner to “Accept ‘no’ for an answer and move on.”

133. The letter further threatened that “[t]hese behavior changes must be immediate and sustained.”

134. Mayo’s Media Policy does not require that faculty seek guidance from the PA department on media communications discussing their own research. Restrictions apply only when faculty are speaking “*about Mayo Clinic*,” and the purpose of the policy is “[t]o ensure that accurate and appropriate information *about Mayo Clinic* is conveyed to the media and the public at large.” (emphasis added).

135. Requiring faculty to get permission or vet all media requests regarding their own research through Mayo PA conflicts with Mayo’s Academic Freedom Policy, which emphasizes this distinction between faculty speaking about the Mayo Clinic versus speaking about their own

research, instructing that faculty “should make it clear that the view expressed are the individual’s own views, and not the views of the MCCMS.”

136. Mayo’s Academic Freedom Policy commits Mayo to allowing “the free and open discussion of ideas in both medical and non-medical areas,” including the “freedom to explore all avenues of scholarship, research, *and creative expression*, and to reach conclusions according to one’s own scholarship and discernment.” (emphasis added)

137. Freedom of creative expression includes the ability to use common idiomatic language in discussing one’s own area of expertise, as common-sense dictates. For example, in a 2020 interview, CEO Farrugia used idiomatic language to promote the Mayo Clinic, saying that Mayo offered “bricks and mortar” services to patients, and promised to “sweep aside” barriers to patient care.⁴

138. Mayo’s Academic Freedom Policy also protects faculty members from “fear of retribution or retaliation if those opinions and conclusions conflict with those of the faculty or institution.” Yet Joyner received no such protection. Instead, he was explicitly told that his communications about his research could not conflict with the institution and that he must stick to “prescribed messaging.”

IV. MAYO’S MISREPRESENTATIONS REGARDING BEING AN EDUCATIONAL INSTITUTION

139. Mayo added its Academic Freedom Policy in 2018 as part of an effort to ensure that it was viewed as a primarily academic institution.

140. Mayo representatives responsible for developing the Academic Freedom Policy admit it was “pulled together quickly in response to an accreditation need”—that need being

⁴ <https://www.advisory.com/blog/2020/07/mayo-clinic-gianrico-farrugia>

Mayo's effort to receive the legal protections offered to educational institutions, including millions of dollars in tax breaks.

141. Mayo is accredited by the Association of American Medical Colleges ("AAMC"), which promotes institutional academic freedom policies.

142. The AAMC recently joined more than 90 higher education groups in a statement on the importance of preserving free and open inquiry and debate on campuses, writing –

To best serve American society, higher education institutions are committed to transparent intellectual inquiry and academic excellence, free speech, and civil discourse... [E]fforts to suppress inquiry, curb discussion, and limit what can be studied violate the basic principles of free speech and an open exchange of ideas, and undermine the very purpose of higher education.

143. AAMC accreditation helped ensure that Mayo could effectively argue for advantageous tax status as an educational institution.

144. The promises made in Mayo's Free Expression and Academic Freedom Policy are very similar to promises made by both public and private academic institutions across our nation. Courts have repeatedly made clear that such institutions may be held accountable for breaking these promises.

145. In 2022, Mayo successfully represented itself to a court of law as an educational institution and secured tax advantages. See *Mayo Clinic v. United States*, 2022 U.S. Dist. LEXIS 211800, at *3 (D. Minn. Nov. 22, 2022).

146. Relying on these representations by Mayo, *Mayo Clinic v. United States* held that Mayo was "organized and operated exclusively for educational purposes [having] no noneducational purpose that was substantial in the relevant sense." *3

147. By telling the public and its faculty that it is an educational institution organized solely for educational purposes, in part through AAMC accreditation and its adoption of academic

freedom policies, Mayo's representations have resulted in lucrative tax breaks as well as greater public trust in the scientific integrity of its faculty's statements.

148. Yet after making these promises to secure millions of dollars in tax breaks, Mayo administrators abandoned them as soon as they became inconvenient for its leaders (including CEO Farrugia) and PR flacks, exercising oversight and control over faculty communications regarding their own research and conclusions, vetting and declining media requests on their behalf, blacklisting reporters, and punishing those whose comments might offend powerful interests.

149. Upon information and belief, prior to March 5, 2023, the date of the Final Warning letter to Joyner, Mayo PA had received *no training at all* on the Academic Freedom Policy or the academic freedom rights of faculty at Mayo.

150. Free speech and academic freedom do not lose importance because of public disagreement or debate. To the contrary, it is precisely during times of intense disagreement that open and honest discussion of the research and expert opinions of faculty are most vital. That's why requiring faculty to obtain permission prior to speaking to the press about their own research is a prior restraint that is antithetical to the values of an educational institution.

151. The COVID-19 pandemic brought into sharp relief how Mayo's efforts to restrict the speech of medical faculty can result even in physical harm to members of public, as restrictions based on "branding" and public relations concerns can inhibit or delay the release of important information.

152. In Joyner's case, his research on convalescent plasma and the NIH guidelines for its use had a direct impact on immunocompromised patients and public health. Yet while Ms. Theimer from Mayo PA was admittedly "ignorant" on the topic, she was nevertheless free to prevent Joyner from sharing additional information about the topic with CNN's Elizabeth Cohen,

even going so far as to instruct Joyner to stop discussing his research in this area with Cohen and “simply forward those emails to [Mayo PA] for responses, rather than respond to Elizabeth, *even if Elizabeth’s questions seem relevant to your research.*” (Emphasis added).

153. That such parochial concerns—about Mayo Clinic’s brand management or pique about a reporter’s prior critical reporting—could stand in the way of disseminating potentially lifesaving information is a grievous violation of the public trust. It is also an important reason that accreditors of *bona fide* educational institutions require them to promise not to engage in such potentially destructive censorship.

154. In addition to ignoring policies fundamental to its recognition as an educational institution, Mayo continues to misrepresent itself to the NIH as a not-for-profit institution (“NFP”), rather than an educational institution (“EDU”).

155. Despite successfully representing itself in federal court as an EDU and subsequently receiving millions of dollars back in tax breaks, Mayo continued to file grants with the NIH as an NFP institution, and not an EDU institution. NFPs receive higher indirect cost reimbursement rates from NIH, so this misrepresentation results in millions of extra dollars for Mayo per year.

V. MAYO RETALIATES AGAINST JOYNER AGAIN AND REFUSES TO CLARIFY ITS POLICIES

156. On May 1, 2023, Joyner informed Mayo that he had received numerous interview requests regarding his research and that the Final Warning prohibited him from communicating about his research. This restraint on his speech was harmful to his career, to public health, and was in direct conflict with Mayo’s own promises of academic freedom. Because the Final Warning Mantilla issued to Joyner conflicted with the Academic Freedom Policy and the Media Policy, Joyner sought clarification on this issue.

157. In response, rather than clarify its policies, Mayo questioned whether Joyner was involved in sufficient educational activities to be protected by the Academic Freedom Policy.

158. Joyner sent his academic qualifications and a list of his many educational activities to Mayo on May 3, 2023, and requested confirmation that the Academic Freedom Policy applied to him.

159. There are four levels of academic rank at Mayo: instructor, assistant professor, associate professor, and professor. Mayo has explained that “[t]hese levels are similar to those used in a typical university setting.”

160. Since 1996, Joyner has held the highest academic rank at Mayo: Professor. To become a Mayo Professor, a person must have a national or international reputation for academic excellence, have made significant contributions to a particular field over a number of years, and have made significant contributions as a clinician, among other factors. Joyner has been a “Consultant” at Mayo since 1996. Mayo considers this status to be equivalent to tenure at other academic institutions.

161. Among other educational activities, Joyner has taught Mayo medical students in the classroom for over 20 years. He oversees Mayo and visiting medical students in his lab for their research rotations, with an estimated 100 students rotating through Joyner’s lab over the years. Joyner also has full faculty privileges for supervising graduate students, including current supervision of a PhD student. And he has supervised more than 30 post-doctoral fellows.

162. Even after receipt of this information, Mayo refused to confirm that the Academic Freedom Policy applied to Joyner.

163. Throughout May 2023, Joyner reiterated his concerns to Mayo about the loss of upcoming media and speaking engagements. He requested guidance from Mayo on why the

Academic Freedom Policy was not applied to his prior statements, and expressed concern that the Final Warning and its gag order was in direct conflict with Mayo's policies and had the ongoing effect of prohibiting communications about his research.

164. In response to these repeated inquiries and concerns, on May 26, 2023, the head of Mayo PA, Halena Gazelka, emailed Joyner with guidelines he must follow.

165. These guidelines reiterated the Final Warning's effective gag order, and further limited Joyner's communications with colleagues at other institutions if a journalist was involved in that conversation: "[I]f Joyner's colleagues at other institutions include him on conversations they are having with journalists, Dr. Joyner will share this correspondence with media relations prior to any response."

166. Mayo's wide-ranging efforts to control Joyner's communications severely inhibited his ability to discuss his research.

167. For example, on May 25, 2023, ABC News contacted Joyner for an interview about his research on sex differences and human performance. Joyner told Mayo PA that he would be "happy to visit with ABC folks" and that he would "make it clear that I would be speaking on the basis of my own expertise and research and not talking about Mayo or serving as an institutional spokesperson." Sharon Theimer from Mayo PA nevertheless declined the ABC interview on behalf of Joyner, saying she did so "per recent guidance" on interviews for Joyner.

168. In response, Joyner contacted Gazelka stating, "It seems to me that the Academic Freedom Policy applies and gives me pretty broad latitude to speak about controversial topics as long as it is clear that I am not acting as an institutional spokesperson or talking about a specific patient. If you could ask Sharon to re-contact the ABC people I will make sure they understand I

am not talking about Mayo or acting as an institutional spokesperson and we can take it from there.”

169. Gazelka still refused to allow Joyner to participate in the interview, writing, “The Academic Freedom Policy is not absolute and permits Mayo to place limitations on speech, whether you identify yourself as speaking on behalf of Mayo or not...We will not recontact the ABC people.”

170. Mayo PA extended its oversight and control of Joyner’s statements even beyond formal interviews, going so far as to prohibit him from speaking about his own research with a longtime friend.

171. On June 2, 2023, Joyner received an email from a friend who had read Joyner’s abstract presented at the ACSM conference on transgender athletes and hormone therapy. The friend wanted to discuss the abstract as this new research involved “more subjects and more years of follow up post hormone therapy than others have managed to pull together” in their studies. He wrote, “I wonder if you could discuss it more with me? No rush.”

172. In light of the Final Warning and in an abundance of caution, Joyner wrote to Gazelka, forwarding the email and explaining that this was “a longtime friend for 15-20 years and *former* editor of Runner’s World.” (Emphasis added.) Joyner explained that his friend was “requesting information on an abstract we are presenting at a major national meeting” and expressed that he wanted to discuss it with him. Joyner also confirmed that his friend was “not planning on writing anything at this time...he has scaled back and only does occasional freelance work. He always tells me when something is on/for the record.”

173. Gazelka replied that “if this is an inquiry that he is approaching with the intention of developing a piece that could be used in media; and ...if you are being asked to comment on

your research as a Mayo Clinic physician” then their conversation would first need to go through a Mayo PA “vet.”

VI. MAYO DELAYS APPEAL AND WITHHOLDS DOCUMENTATION

174. Joyner timely appealed the Final Warning discipline and Mayo’s gag order on April 14, 2023.

175. Mayo provides an "Appeals Procedure” for “Consulting Staff and executive level administrative voting staff” to appeal an adverse action taken by Mayo. In addition to procedural requirements for such appeals, Mayo mandates that “Retaliation against anyone who brings forward complaints or assists in investigating complaints is prohibited. Anyone participating in retaliatory actions will receive formal corrective action, including possible termination of employment.” A true and correct copy of Mayo’s Appeals Procedure is attached hereto as Exhibit C.

176. To prepare his appeal, Joyner requested his personnel record from Mayo Human Resources (“HR”) on March 12, 2023, as he had only until April 15, 2023, to file a timely appeal of the March Final Warning letter.

177. Minnesota Statute Section 181.961 requires an employer, such as Mayo, to provide an employee’s personnel record within 7 working days of the request.

178. Despite the time-sensitive nature of Joyner’s request, Mayo violated the statute and did not provide the record within 7 working days.

179. On March 27, 2023, Joyner sent a follow-up personnel record request to Mayo HR, reminding HR of Minn. Stat. §181.961 and the 7-day timeline. Mayo HR then finally sent Joyner his personnel record.

180. Strangely, Joyner’s personnel record contained no documentation of any of the accusations regarding the 2023 matter.

181. Joyner's personnel record contained many performance evaluations, none of which made any reference to unprofessionalism or unacceptable behavior, nor gave any indication that Joyner had engaged in the behaviors alluded to in the Final Warning letter. To the contrary, Joyner's annual reviews consistently highlighted his collegiality and overall excellence.

182. Joyner's file was, however, notably missing letters of commendation, awards, salary increases, and other documentation required to be in his file under Minn. Stat. §181.960.

183. And while the Final Warning also referenced the 2020 retaliation over Joyner's whistleblowing, Joyner's personnel record contained only three letters related to this matter, rather than the records that would be expected (and legally required) to be included.

184. With limited information regarding the vague and undocumented accusations of unprofessionalism in the Final Warning letter, Joyner filed his appeal based upon the 3-page Final Warning letter, the specific interview statements of concern in the Final Warning letter, Mayo's policies, and the limited information in his personnel record.

185. Mayo confirmed receipt of his appeal on April 15, 2023, and reiterated that its policies provided for a 60-day timeline for the appeal, "with the goal to have an appeal decision by June 15, 2023, or sooner."

186. A timely resolution of the appeal was particularly important to Joyner, as Mayo's Final Warning severely restricted his ability to communicate about his research and Joyner had already lost multiple opportunities to speak about important issues regarding his research and expertise, but more than three weeks passed without any further information from Mayo about the appeal panel, process, or timeline.

187. On May 8, 2023, Steffany Guidinger in Mayo human resources finally responded to Joyner's appeal and informed him of her role providing "administrative support and facilitat[ing] the appeal process."

188. Guidinger informed Joyner that Dr. John Caviness, Chair of the Mayo Clinic Personnel Committee, would be the designee for the appeal, and Drs. Eric Moore, Laura Raffals, and Vijay Shah would be assigned to the appeal panel. Guidinger then asked Joyner if "there [were] any conflicts with the potential members and what the conflict is."

189. Joyner responded with concerns about Dr. Vijay Shah noting that Shah was a departmental colleague and friend of Farrugia, whose actions are at issue in the appeal. In addition, Joyner noted Shah closely aligned with Farrugia on his research priorities, which Joyner felt were a "root cause of the issues related to both Public Affairs and the suppression of my academic freedom."

190. Joyner's reply also informed Guidinger that "[m]y HR file contains no relevant or detailed documentation of the events at issue in this matter, and in order to meaningfully prepare for the appeal panel, I request access to any material that will be used to evaluate the claims made in the letter of reprimand." He specifically requested "a copy of the materials that will be relied upon by the panel in making a determination of my matter, including any evidence supporting the assertions in the letter of reprimand."

191. The assertions in the Final Warning were of unspecified "disrespectful communications with colleagues who describe your tone as unpleasant and having a bullying quality to it" and of unspecified "unacceptable" and "unprofessional" behavior. These allegations were not documented in Joyner's personnel record.

192. Guidinger rejected the request to replace Shah. Apparently, it was up to Shah to determine if he had a conflict of interest, and because Shah “did not identify any issues that would affect his impartiality,” he would remain on the panel.

193. In response to Joyner’s request for the materials the appeals committee would rely upon in deciding his appeal, Guidinger refused to send any materials. As Guidinger and Mayo undoubtedly understood, this unfair and unlawful refusal to provide Joyner with evidence made it impossible for him to properly defend himself.

194. On May 18, 2023, Joyner reached out to Dr. Caviness, the Personnel Committee Chair of the appeal, to express multiple concerns. Joyner expressed concern that “Mayo is not acting in good faith,” and that its refusal to provide documentation of the allegations or clarification of their policies “raise[d] serious questions about the institution’s commitment to mutual respect and transparency.”

195. Joyner also pointed out that his personnel record was “remarkably free of any documentation of the general behaviors cited in the disciplinary action,” saying, “I therefore request access to any information not in my personnel file in order to prepare for the appeal. I have requested this information numerous times.”

196. Despite his position as Personnel Committee Chair of the appeal, Caviness replied that it would be “inappropriate” for him to address any of Joyner’s concerns. Rather, Caviness stated, “[t]he issues you raise below are in the purview of the appeals committee, per policy,” while failing to specify any such policy.

197. On June 6, 2023, 56 days after Joyner filed his appeal, Guidinger identified a meeting date of July 20 from 5pm-7pm. Joyner immediately notified her that he had a conflict with

the appeal date and expressed concern about an appeal hearing date more than 90 days after he filed the appeal -- far beyond the 60-day process provided for in Mayo's policies.

198. Joyner also reiterated his May 11, 2023 "request for a copy of all the materials that will be relied upon by the panel in making a determination of my matter. My personnel file contains no support for the allegations contained in the Final Written Warning," explaining again that "[t]he lack of documentation coupled with the lack of clarity regarding Mayo's policies and how they were or were not applied to my matter is making it difficult to meaningfully prepare for the appeal hearing."

199. Guidinger replied, that "July 20th was the earliest we could get the committee together for an extended period of time." She again refused to provide any documentation supporting the allegations of unprofessional or unacceptable behavior in the Final Warning, instead writing, "You can anticipate there may be questions about any assertions you have made in your appeal request and *historical events preceding to the most recent corrective action.*" (Emphasis added.)

VII. MAYO'S UNLAWFUL ACTIONS IN 2022 AND 2023 WERE A CONTINUATION OF MAYO CEO FARRUGIA'S RETALIATION AGAINST JOYNER BEGINNING IN 2020

200. Mayo's discipline and censorship of Joyner in 2022 and 2023 did not arise solely because Mayo wanted to please transgender activists. They were additional retaliation against Joyner by Mayo CEO Farrugia that began in 2020.

201. During the COVID-19 pandemic, Joyner repurposed his lab to conduct research into convalescent plasma ("CP") treatment for COVID-19 patients. Joyner was appointed Principal Investigator ("PI") on the Expanded Access Program for Convalescent Plasma, also referred to as the Convalescent Plasma Program or "CPP" at Mayo.

202. Joyner often worked 16-20 hours per day, often seven days per week for months to fulfill his normal duties as a Mayo faculty member in addition to his new work as PI for the CPP.

203. Because of the scope of the COVID-19 emergency, Joyner had worked on the CPP without any additional compensation for his time. Like many Mayo faculty members and doctors, his pay had been temporarily reduced by Mayo due to lost revenue during the COVID-19 pandemic.

204. CP treatment appeared to be promising and by June 2020 Mayo was looking to create a new for-profit business venture out of the CPP. As PI for the program, Joyner was engaged in discussions with Mayo leaders regarding this potential new business.

205. Mayo CEO Farrugia requested that Joyner work with other Mayo executives to develop a business plan to make a CPP derivative profitable for Mayo. This request involved Joyner taking on yet another new role in addition to his duties as PI on the CPP and his normal duties as a MCCMS faculty member.

206. Joyner requested increased compensation as a result of these substantial additional duties.

207. Farrugia responded by disingenuously misconstruing Joyner's request as a threat to quit leading the CPP. Joyner had not made this threat and other Mayo executives recognized that Joyner had not threatened to quit.

208. In 2020, MITRE Corporation and Mayo Clinic announced a "strategic relationship." MITRE attempted to pressure CPP researchers to allow MITRE to use protected health information from patients involved in Mayo research.

209. Joyner believed that MITRE's attempt to pressure researchers and MITER's planned improper use of protected health information from patients would violate state and federal

law. In the summer of 2020, Joyner reported this to Dr. R. Scott Wright, Chairman of the Mayo Clinic Institutional Review Board (“IRB”).

210. Farrugia became aware of Joyner’s report regarding MITRE. Mayo was attempting to develop a profitable commercial business relationship with MITRE. Farrugia was upset that Joyner’s report might impact Mayo’s business plans.

211. Joyner’s reports resulted in a formal complaint against MITRE. In September 2020, Mayo formally sanctioned MITRE. Mayo’s Human Research Protection Program oversight committee “made a finding of research Undue Influence on two individuals within MITRE.” A true and correct copy of an email message informing Joyner of this finding is attached hereto as Exhibit D.

212. In retaliation for Joyner’s reports, Farrugia initiated a pretextual disciplinary process against him. This process resulted in a letter of reprimand. Mayo labeled Joyner’s request for a raise and his whistleblowing “unprofessional.”

213. Knowing this retaliation was wrong, Joyner reported this to Mayo by appealing this discipline. This appeal was denied because Farrugia—the individual who retaliated against Joyner—was the ultimate decisionmaker in the appeal.

214. A true and correct copy of Mayo Clinic’s Anti-Retaliation Policy is attached hereto as Exhibit B. Through the policy, among other things, Mayo promises that:

- “Mayo Clinic does not tolerate retaliatory behavior against any individual who raises a compliance concern”;
- “Any employee, regardless of position or title, that has engaged in retaliation as determined by Human Resources, will be subject to discipline, up to and including termination of employment”; and

- “Any individual who knows of or reasonably suspects an incident of fraud, waste, or abuse regarding Medicare, Medicaid, or any other federal or state health care program, or a violation of any other law or policy, by any Mayo employee, contractor, or agent should immediately report such incidents by using one of the resources below.”

215. Farrugia’s demand that Joyner be labeled unprofessional was so obviously incorrect that in solidarity with Joyner, Mantilla (then, as now, Joyner’s department chair) refused to sign the 2020 reprimand letter.

216. In early 2021, Joyner filed an internal retaliation complaint against Farrugia for the 2020 reprimand. Despite Farrugia’s clear violation of Minnesota law and Mayo’s Anti-Retaliation policy, Mayo conducted another sham investigation so ridiculous that it culminated in further retaliation against *Joyner*. Mayo (as ultimately determined by Farrugia) reprimanded Joyner for filing his 2021 complaint.

217. This was memorialized in a 2021 letter from Dr. Chet Rihal, which reprimanded Joyner for his lack of “professionalism” in pursuing a retaliation complaint against Farrugia.

218. This reprimand letter, as well as all documentation of the complaint against Farrugia, including the evidence presented, was later removed from Joyner’s personnel record—an omission that was convenient for Mayo and Farrugia in 2023.

VIII. MEDIA COVERAGE AND MAYO RESPONDS WITH BASELESS CHARACTER ATTACKS

219. On June 7, 2023, several media outlets reported on Mayo’s punishment of Joyner for his comments to the press.

220. Mayo had previously informed Joyner that the earliest it could hold a hearing on his appeal was July 20. However, in response to media coverage and public criticism in early June, Mayo scheduled the appeal hearing on June 27, 2023.

221. In response to media criticism, on June 16 Mayo circulated an internal memo from the head of Mayo PA, Gazelka. The memo falsely characterized Joyner's personnel record, stating "Mayo disciplined Dr. Joyner for treating coworkers disrespectfully and for making unprofessional comments about the National Institute of Health's (NIH) regulation of convalescent plasma...Joyner's disrespectful treatment of coworkers involved a pattern of repeated behaviors that, among other serious issues, formed the basis of prior disciplinary action in 2020...."

222. Gazelka also falsely alleged that "Both the 2020 and 2023 disciplinary actions are included in the unredacted personnel records that can be obtained from Dr. Joyner's representatives." Yet details of both the 2020 and 2023 disciplinary matters, including any examples of a "pattern of repeated behaviors" or "treating coworkers disrespectfully," were never included in Joyner's personnel record. The file contains no documentation supporting the allegations regarding the 2023 disciplinary matter.

223. Mayo's false public allegations of unprofessionalism against Joyner were shocking to those who had worked closely with Joyner for many years.

224. Joyner's former long-time administrative assistant wrote to Mayo, "I would like to express my shock and dismay that Dr. Joyner's character and reputation have been severely tarnished by this inaccurate publication.... He has always acted in a professional and respectful manner [and treated others with] mutual respect and courtesy."

225. Joyner's former administrative assistant described his "delightful, fun, candid, and thought-provoking communication style" and explained, "In my 40 years at Mayo and working within ten departments, there is not a Mayo employee I respect more than Dr. Joyner."

226. Joyner's clinical supervisor for eight years wrote to Mayo, "I feel obligated to report to the Officers and Counselor that Dr. Joyner is an excellent physician and educator and

only has positive interactions with patients and the surgical and anesthesia clinical teams. I have never witnessed him to engage in unprofessional behavior...Such baseless public attacks on his character have a chilling effect on the faculty and further contributes to the erosion of morale in anesthesia department and the institution at large.”

227. Many other colleagues and Mayo staff members wrote letters of support to Mayo complimenting Joyner’s professionalism and expressing concerns about Mayo’s baseless attacks on Joyner’s character.

228. Mayo’s March 2023 allegations against Joyner were a complete reversal from Mantilla’s performance reviews of Joyner. Mantilla had written, “Joyner is an exceptional clinician investigator and leader in the department. He is enormously productive and has supported many of our junior faculty in their budding careers. The potential synergy across many clinical areas in expanding scholarship and research is tremendous. I thanked Dr. Joyner for all of his activities in the service of the department, the institution and the community.”

229. Mantilla’s consistently stellar reviews align with praise from Joyner’s prior department chair, who wrote of Joyner, “Always seeks to make things better for the world, mankind, the Department and patients. Dr. Joyner is doing this. I thanked him.”

230. Mayo’s attempt to mask decades of high praise for Joyner’s character, professionalism, and achievements by alleging a vague and unspecified pattern of unprofessional behavior, a pattern wholly unsupported in his record, is a clear effort to distract from Mayo administrators’ own bad faith and policy violations.

IX. THE APPEAL HEARING

231. On June 27, 2023, Joyner forwarded the letter of support from his long-time clinical supervisor to Raffals, Shah, Moore, and Guidinger.

232. Joyner also sent Raffals, Shah, and Moore documents, including performance evaluations, emails showing that Mayo PA had approved both his NYT and CNN interviews, emails supporting his appeal, as well as copies of Mayo policies.

233. In this June 23, 2023, email to the appeal panel he reiterated that his annual reviews “contain no documentation of mutual respect or professionalism issues. In fact, they are laudatory in all respects. I am still struggling to understand how Dr. Mantilla could give me such stellar annual reviews that are so clearly at odds with the [Final Warning] delivered under his name.”

234. Joyner also lamented that “Despite my repeated requests, Mayo has refused to provide any documentation to support the 2022-2023 allegations of unprofessionalism in the March 5 letter.”

235. In the June 23, 2023, email, Joyner also shared email documentation from the 2020 raise request regarding Mayo’s attempt to monetize his work on the CPP. He expressed concern that “Mayo continues to rehash this incident as a justification for their actions, and so I am sharing the documentation from 2020. That the email dialogue was with colleagues from Ventures/Business Development emphasizes that my request for increased compensation was about additional work for a commercial effort and not part of the US Convalescent Plasma Program. Despite unjust handling of this matter from 2020, it is of no relevance to Mayo’s refusal to abide by their academic freedom policy in 2023.”

236. In reply to Joyner’s email, which directly communicated his position and concerns, as well as provided additional documentation to the appeal panel members, Guidinger responded “Confirming receipt of the email and 9 documents you attached.” She did not express any concern with Joyner sending an email directly to the appeal panel members, nor did she instruct Joyner to email these types of communications to Caviness.

237. Mayo held Joyner’s appeal hearing on June 27, 2023.

238. At the appeal, Guidinger — whose prescribed role was to “provide administrative support and facilitate the appeal process” — interjected herself and was allowed to question Joyner as though she was a member of the appeal panel.

239. Guidinger questioned Joyner about an apparently eight-year-old email related to an op-ed Joyner authored for the NYT in 2015. Yet Joyner’s personnel record contains no reference to this 2015 op-ed and there was no connection between it and any issue in the hearing. Mayo administrators had apparently gone back through emails from 2015 in preparation for the appeal. They had intentionally withheld this information from Joyner despite his repeated requests for documents relevant to his appeal.

240. After he finally reviewed the 2015 email, its only relevance was he had been concerned about his academic freedom and he had followed protocols by informing reporters that his opinions about his research were his own and not those of the Mayo Clinic.

241. At the appeal, the panel also questioned Joyner about the 2020 disciplinary matter, referencing documents and allegations not in Joyner’s personnel record. For example, despite its irrelevance to the 2023 matter, the panel referenced the aforementioned 2021 “warning letter” from Chet Rihal regarding Joyner’s retaliation complaint that was omitted from Joyner’s personnel record.

242. During the appeal, the panel alleged that Joyner was “intimidating” to some in the PA department. When Joyner asked for examples of this alleged “intimidating” behavior, the panel asked *Joyner* to speculate about what he may have done to upset staff in the PA department.

243. Guidinger stated that the appeal decision could take time as the panel had 500 pages of documents to review, including documents related to media interviews from years before. These alleged documents and issues were not mentioned in the Final Warning.

244. Joyner does not have, and was never given, access to these alleged documents. To prepare for his appeal, Mayo only provided Joyner with the 3-page Final Warning letter and his personnel record, which is devoid of documents supporting the allegations related to the 2023 Final Warning.

245. After the appeal hearing, Joyner emailed Guidinger and the appeal panel expressing surprise and concern that he had not been given the alleged “500 pages” of documents from years earlier in response to his request for his personnel record pursuant to Minn. Stat. § 181.961 and for documents that would be considered in his hearing. Joyner explained, “I was assured by Ms. Guidinger that all relevant documents had been provided to us...How can I meaningfully prepare for an appeal when apparently relevant documents are withheld from me?”

246. In response to Joyner’s concerns, Caviness replied, “As the Personnel Committee Chair designee for this process, these communications should be sent to me, not panel members. Such communication to panel members risks improperly influencing the appeals committee...I respectfully request that you cease from any further communications with the appeals panel.”

247. No policy required Joyner to communicate only with Caviness. Joyner had previously emailed the panel directly and had never been told to communicate only with Caviness. In fact, Caviness had previously deferred Joyner’s concerns about lack of access to documents to the appeal panel, writing that addressing these concerns was “inappropriate for [his] role here” and instead were within “the purview of the appeals committee”

248. When it was inconvenient for Farrugia and Mayo to have the appeals panel know what they had done wrong, Caviness found he was the only person who could address the concerns. He then dismissed them, stating, “Our appeals process, as outlined in policy, is not a legal proceeding that entitled you to discovery of every document that appeals members are given.”

249. Mayo’s lawyers then threatened further retaliation against Joyner for his email to the panel. In a June 29 email, Mayo attorney Joe Copa declared that Joyner’s email “reflects an attempt by Dr. Joyner to evade normal processes and improperly influence the appeals committee.”

250. Copa then gratuitously criticized Joyner’s response to questions during the appeal, writing, “It is ironic that Dr. Joyner spent 45 minutes telling the committee he is a consummate professional and has never acted improperly with anyone and then demonstrated the exact opposite the following day.” At Mayo, it is apparently “improper” to express concerns about retaliation, basic due process, and compliance with Minnesota law.

251. Copa also falsely accused Joyner of lying, writing he must “refrain from making any more false or misleading statements.” Of course, Copa did not identify any statements by Joyner that were supposedly “false or misleading.”

252. Mayo had knowingly and in bad faith refused Joyner’s repeated requests for relevant and legally required documents and then retaliated against Joyner once again when he had the audacity to point out Mayo’s latest violation of the law. Copa implied that the panel would retaliate in response to Joyner’s email, stating “one has to wonder how this...will come across to the [appeal panel].”

X. THE APPEAL DECISION

253. On July 19, 2023, more than 90 days after Joyner filed his appeal, Mayo rejected Joyner’s appeal and retaliated by adding punishments beyond those outlined in the Final Warning.

254. In a calculated effort to decouple its actions from Joyner's comments to the media, Mayo alleged that Joyner's discipline was due to "the continuation of a pattern of unprofessional behavior by you that does not align with Mayo Clinic's policies and values."

255. The Appeal Committee made 12 "Key findings." Tellingly, the majority of these findings related to Joyner's whistleblowing in 2020, rather than the Final Warning that was the subject of the appeal.

256. The Final Warning alleged that Joyner's use of idiomatic language and the "800-pound gorilla" comment as "problematic." However, the appeal decision found that Joyner "[was] not disciplined for the May 2022 '800-pound gorilla' quote published in the media story."

257. The Appeal Committee now insisted Joyner's punishment was justified because he "did not coordinate the January 2023 CNN interview through Communications," ignoring the clear email evidence that Joyner's CNN interview was in fact coordinated through Communications.

258. The Appeal Committee ignored the fact that Joyner was speaking about his own research and expertise, for which prior approval from Mayo PA is not required under the Media Policy.

259. The Appeal Committee absurdly cited Joyner's concerns about his academic freedom—academic freedom promised to him by Mayo policies—as *evidence of unprofessionalism*. The Committee referenced a January 16, 2023, email to Mantilla where Joyner expressed concerns about his academic freedom and Mayo PA "silencing" him, stating that "[t]he Committee was troubled by this" and deemed Joyner's concern about his academic freedom to be a "threat." They then "noted that the making of subtle or direct threats was highly unprofessional."

260. The Appeal Committee falsely alleged that Joyner's concerns about academic freedom have "never been an issue until recently" — completely ignoring the 2015 evidence with which they attempted to ambush Joyner at the hearing.

261. The Committee also cited Joyner's criticisms of the NIH guidelines on CP as "venting of personal frustration with the NIH in a manner that was unprofessional..." However, Joyner's criticism of the NIH guidelines was not personal. It was based on his own research and desire to obtain approval on behalf of patients who needed CP treatment.

262. Joyner's critique was consistent with 50 other prominent research physicians and Casadevall who had participated in the CNN interview. Yet the Appeal Committee somehow found his comments to "reflect the continuation of a pattern of unprofessional behavior towards external partners that was previously mentioned in the first Final Written Warning in 2020."

263. The Appeal Committee cited unspecified 2023 allegations of "unprofessionalism," "badgering," "disrespectful," and even "bullying" behavior. These vague allegations, unsupported by evidence, were simply a pretext for Mayo's continued retaliation against Joyner and additional violations of Minnesota's personnel record statute, Minn. Stat. §§ 181.961 and 181.963.

XI. CONCLUSION

264. On July 27, 2023, Mayo followed up its appeal letter with an addendum by Mantilla. This addendum upheld the Final Warning, which places Joyner under a permanent gag order. Joyner's statements about his research are now permanently subject to the oversight and control of Mayo PA. The addendum also threatened further punishment, "including and up to termination of employment" if any of Joyner's actions run afoul of Mayo leaders.

265. Mayo's promises of Freedom of Expression and Academic Freedom no longer apply to Joyner, who risks termination for speaking truthfully about his own research.

266. Defendants' actions violated the law and have caused Joyner substantial harm, including, without limitation, by diminishing his professional reputation, reducing his ability to advance and discuss the subjects of his research, causing him to lose wages and pay increases, and diminished earning capacity in the future, and by causing Joyner substantial emotional distress.

COUNT I
BREACH OF CONTRACT
(Against Defendant Mayo Clinic)

267. Joyner repeats and realleges each of the foregoing allegations in this Complaint as if fully set forth herein.

268. An educational institution's policies and rules are part of faculty contracts.

269. Mayo's contract with Joyner requires it to follow its Academic Freedom Policy, its Anti-Retaliation Policy, and its Appeal Procedure.

270. Mayo offered its compliance with these policies in exchange for Joyner's agreement to perform research and teach through MCCMS. Joyner accepted Mayo's offer.

271. Mayo breached its contract with Joyner by violating its Academic Freedom Policy and its Anti-Retaliation Policy, and its Appeal Procedure.

272. Mayo repeatedly disciplined and retaliated against Joyner for his speech and conduct protected by its Academic Freedom Policy, including discussing subjects of his scientific research and for advocating on behalf of patients who needed treatment.

273. Mayo violated its Anti-Retaliation Policy by retaliating against Joyner for reporting MITRE's unlawful attempt to influence Mayo researchers and its planned unlawful use of patient data in 2020.

274. Mayo violated its Anti-Retaliation Policy by retaliating against Joyner for reporting Farrugia's unlawful retaliation through his appeal in response to Mayo's retaliatory discipline for his report regarding MITRE.

275. Mayo violated its Anti-Retaliation Policy by repeatedly retaliating against Joyner in response to his reports of Mayo's violations of its Academic Freedom Policy and in continuing retaliation for his 2020 report.

276. Mayo violated its Anti-Retaliation Policy by retaliating against Joyner for appealing Mayo's unlawful 2022 discipline of Joyner.

277. Mayo violated its Appeal Procedure, including by retaliating against Joyner for filing an appeal.

278. All of Joyner's reports were made in good faith.

279. Joyner has suffered damages as a result of Mayo's breaches of contract, including, without limitation, a diminished professional reputation, a reduction in his ability to advance scientific research and share his research publicly, lost wages and pay increases, and diminished earning capacity in the future, and by causing Joyner substantial emotional distress.

280. As a result of Mayo's breaches of contract, Joyner is entitled to equitable relief and money damages, including compensatory, general and per se damages, direct, consequential, and incidental damages, together with any other damages allowed by law or statute, costs and disbursements, and interest.

COUNT II
PROMISSORY ESTOPPEL
(Against Defendant Mayo Clinic)

281. Joyner incorporates the allegations in all preceding paragraphs as if set forth fully herein.

282. Regardless of any contractual obligations, Mayo made a clear and definite promise to Joyner and other faculty through its promises of academic freedom and non-retaliation, including through its Academic Freedom Policy, its Anti-Retaliation Policy, and its Appeal Procedure.

283. Mayo was aware, and expected, that Joyner and other faculty would rely on its promises.

284. Joyner reasonably relied on Mayo's promises. His reliance caused him harm.

285. Mayo failed to fulfill its promises to Joyner by violating its Academic Freedom Policy, its Anti-Retaliation Policy and its Appeal Procedure.

286. Mayo repeatedly disciplined and retaliated against Joyner for his speech and conduct protected by its Academic Freedom Policy, including discussing subjects of his scientific research and for advocating on behalf of patients who needed treatment.

287. Mayo violated its Anti-Retaliation Policy by retaliating against Joyner for reporting MITRE's unlawful attempt to influence Mayo researchers and its planned unlawful use of patient data in 2020.

288. Mayo violated its Anti-Retaliation Policy by retaliating against Joyner for reporting Farrugia's unlawful retaliation through his appeal in response to Mayo's retaliatory discipline for his report regarding MITRE.

289. Mayo violated its Anti-Retaliation Policy by repeatedly retaliating against Joyner in response to his reports of Mayo's violations of its Academic Freedom Policy and in continuing retaliation for his 2020 report.

290. Mayo violated its Anti-Retaliation Policy by retaliating against Joyner for appealing Mayo's unlawful 2022 discipline of Joyner.

291. Mayo violated its Appeal Procedure, including by retaliating against Joyner for filing an appeal.

292. All of Joyner's reports were made in good faith.

293. Joyner has suffered damages as a result of Mayo's breaches of its promises, including, without limitation, a diminished professional reputation, a reduction in his ability to advance scientific research and share his research publicly, lost wages and pay increases, and diminished earning capacity in the future, and by causing Joyner substantial emotional distress.

294. As a result of Mayo's breaches of its promises, Joyner is entitled to equitable relief and money damages, including compensatory, general and per se damages, direct, consequential, and incidental damages, together with any other damages allowed by law or statute, costs and disbursements, and interest.

COUNT III
VIOLATION OF MINNESOTA'S PERSONNEL RECORD STATUTE
Minn. Stat. § 181.960, et seq.
(Defendant Mayo Clinic)

295. Joyner repeats and realleges each of the foregoing allegations in this Complaint as if fully set forth herein.

296. Joyner is and was an employee of Mayo, as that term is defined in Minn. Stat. § 181.960, subd. 2.

297. Mayo is and was Joyner's employer, as that term is defined in Minn. Stat. § 181.960, subd. 3.

298. Joyner requested a copy of his personnel record pursuant to Minn. Stat. § 181.961.

299. Mayo violated Minn. Stat. § 181.961 by not providing his personnel record as that phrase is defined in Minn. Stat. § 181.960, subd. 4.

300. When Mayo purported to provide Joyner with a copy of his personnel record, Mayo omitted documents and records that fall within the definition of Joyner's personnel record.

301. Mayo violated Minn. Stat. § 181.963 by using documents and records that fall within the definition of Joyner's personnel record, but that were not provided to Joyner, in Joyner's 2023 appeal, an administrative, judicial, or quasi-judicial proceeding.

302. Mayo intentionally omitted these documents and records from Joyner's personnel record, and has not provided them despite repeated requests by Joyner.

303. Mayo retaliated against Joyner for asserting rights and remedies provided in Minn. Stat. §§ 181.960 to 181.965.

304. Joyner is entitled to equitable relief from the Court compelling Mayo's compliance with Minnesota's Personnel Record Statute.

305. Joyner has suffered damages as a result of Mayo's violation of Minnesota's Personnel Record Statute, including, without limitation, a diminished professional reputation, a reduction in his ability to advance scientific research and share his research publicly, lost wages and pay increases, and diminished earning capacity in the future, and by causing Joyner substantial emotional distress.

306. As a result of Mayo's violation of Minnesota's Personnel Record Statute, Joyner is entitled to equitable relief and money damages, including compensatory, general and per se damages, direct, consequential, and incidental damages, together with any other damages allowed by law or statute, costs and disbursements, and interest.

307. In addition, as a result of Mayo's violation of Minn. Stat. § 181.964, Joyner is also entitled to an award of his reasonable attorney fees.

COUNT IV
VIOLATION OF THE MINNESOTA'S WHISTLEBLOWER ACT,
Minn. Stat. §181.932
(Defendant Mayo Clinic)

308. Joyner repeats and realleges each of the foregoing allegations in this Complaint as if fully set forth herein.

309. Joyner is and was an employee of Mayo, as that term is defined in Minn. Stat. § 181.931, subd. 2.

310. Mayo is and was Joyner's employer, as that term is defined in Minn. Stat. § 181.931, subd. 3.

311. Mayo retaliated against Joyner for reporting MITRE's unlawful attempt to influence Mayo researchers and its planned unlawful use of patient data in 2020.

312. Mayo retaliated against Joyner for reporting Farrugia's unlawful retaliation through his appeal in response to Mayo's retaliatory discipline for his report regarding MITRE.

313. Mayo repeatedly retaliated against Joyner through its efforts to censor and sanction Joyner for speaking with the media and again in response to his reports of Mayo's violations of its Academic Freedom Policy and in continuing retaliation for his 2020 report.

314. Mayo retaliated against Joyner for appealing Mayo's unlawful 2022 discipline of Joyner.

315. Mayo's repeatedly disciplined and retaliated against Joyner for reporting violations of its contractual obligations under its Academic Freedom Policy and Anti-Retaliation Policy, set forth above.

316. All of Joyner's reports were made in good faith.

317. Mayo disciplined, threatened, discriminated against, and penalized Joyner regarding his compensation and other terms, conditions, and privileges of his employment because

Joyner made the foregoing reports of violations, suspected violations, and planned violations of federal and state law.

318. Mayo repeatedly violated Minn. Stat. § 181.932.

319. Joyner has suffered injuries from Mayo's violations of Minn. Stat. § 181.932, including, without limitation, a diminished professional reputation, a reduction in his ability to advance scientific research and share his research publicly, lost wages and pay increases, and diminished earning capacity in the future, and by causing Joyner substantial emotional distress.

320. As a result of violations of Minn. Stat. § 181.932, Joyner is entitled to equitable relief and money damages, including compensatory, general and per se damages, direct, consequential, and incidental damages, together with any other damages allowed by law or statute, costs and disbursements, and interest.

COUNT V
TORTIOUS INTERFERENCE WITH CONTRACT
(Defendants Gianrico Farrugia and Carlos Mantilla)

321. Joyner repeats and realleges each of the foregoing allegations in this Complaint as if fully set forth herein.

322. Joyner and Defendant Mayo had a valid and enforceable contract for employment, as well as Mayo's contractual obligation to follow its policies and procedures, including the Academic Freedom Policy, the Anti-Retaliation Policy, and the Appeal Procedure as well as Joyner's employment contract with Mayo.

323. Farrugia and Mantilla were aware of Joyner's contracts with Mayo.

324. Farrugia and Mantilla intentionally and willfully interfered with Joyner's contract and employment with Mayo. Farrugia and Mantilla had improper motives, including motives to unlawfully retaliate, to conceal unlawful retaliation, and to conceal Mayo's contractual violations.

325. Farrugia and Mantilla interfered with Joyner's contracts with Mayo in bad faith, due to personal ill-will, spite, hostility, or with a deliberate intent to harm Joyner.

326. Farrugia and Mantilla caused Mayo to breach its contractual obligations and violate the law as set forth above.

327. Joyner has suffered injuries from Farrugia's and Mantilla's tortious interference, including, without limitation, a diminished professional reputation, a reduction in his ability to advance scientific research and share his research publicly, lost wages and pay increases, and diminished earning capacity in the future, and by causing Joyner substantial emotional distress.

328. As a result of Farrugia's and Mantilla's tortious interference, Joyner is entitled to equitable relief and money damages, including compensatory, general and per se damages, direct, consequential, and incidental damages, together with any other damages allowed by law or statute, costs and disbursements, and interest.

JURY DEMAND

Joyner demands a trial by jury on all claims and issues for which he has a right to trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Joyner prays for judgment against Defendants and that this Court:

A. Adjudge, decree, and declare that Defendants are liable to Joyner for his damages in amounts to be proven at trial and award such damages to Joyner;

B. Order and enter an injunction mandating that Defendant Mayo Clinic abide by its Academic Freedom Policy, its Anti-Retaliation Policy, and its Appeal Procedure and that Defendants cease their retaliation and interference with Joyner's communication about his research.

C. Award Joyner his costs, reasonable attorneys' fees, prejudgment interest, and any other relief permitted by statute or law; and

D. Award such other or further relief as the Court may deem necessary, proper, just or equitable.

Dated: November 13, 2022

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⁵ Motions for admission *Pro Hac Vice* forthcoming.

ACKNOWLEDGEMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2, for the party against whom the allegations in this pleading are asserted.

Dated: November 13, 2023

s/Samuel W. Diehl
Samuel W. Diehl (#388371)

4867-7519-3482, v. 7

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Exhibit A

MINNESOTA
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[Shields](#)[EmployeeConnect](#)[Groups](#)[Policies](#)[Video](#)[Library](#)[Calendar](#)[Intranet](#)

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Freedom of Expression and Academic Freedom Policy

Scope

Applies to all learners and faculty when engaged in educational activities within the Mayo Clinic College of Medicine and Science.

Purpose

To communicate the Mayo Clinic College of Medicine and Science's (MCCMS) commitment to academic freedom and freedom of expression for all learners and faculty, with an expectation of mutual respect and absence of harassment, and while protecting the obligations, relationships, and reputation of Mayo Clinic by ensuring that only authorized individuals speak on behalf of the organization.

Policy

- MCCMS is committed to the free and open discussion of ideas in both medical and non-medical areas.
 - A professional and respectful exchange of views is integral to create a nurturing environment for learning, teaching, inquiry and research.
- MCCMS is committed to academic freedom, which includes the freedom to explore all avenues of scholarship, research, and creative expression, and to reach conclusions according to one's own scholarly discernment.
- MCCMS is committed to freedom of expression, which includes the right to discuss and present scholarly opinions and conclusions without fear of retribution or retaliation if those opinions and conclusions conflict with those of the faculty or institution.
- Learner and faculty freedom of expression comes with professional responsibilities.
 - Mutual respect is a fundamental principle of Mayo Clinic and all members of the community share the responsibility of cultivating and maintaining an environment of civility.
 - Learners and faculty have the responsibility to make clear when speaking on behalf of oneself, not the institution. Faculty, students and staff are not required to advocate for policies or positions that represent the consensus of Mayo Clinic in their publications or communications, but should make it clear that the views expressed are the individual's own views, and not the views of the MCCMS.
- MCCMS prohibits harassment in any form, as defined by Mayo policies.
 - MCCMS may restrict expression that violates the law or that is otherwise directly incompatible with Mayo Clinic values and policies.
- Each faculty member has the right to teach in an atmosphere of free intellectual inquiry and will not be subjected to restraints or harassment that would impair teaching.
 - In the exercise of academic freedom, the faculty member may, without limitation, discuss his/her own subject in the classroom.
 - The faculty member may not, however, claim as a right the privilege of persistently discussing in the classroom any matter that has no relation to the course subject. There is an obligation to respect the dignity of others, and to acknowledge their right to express differing opinions expressed with intellectual honesty within the limits of mutual respect.
- A faculty member must follow course outlines as developed by and with colleagues in the department(s) in the setting of accreditation requirements.
- A faculty member is entitled to freedom in research and in the publication of the results.
- Nothing in this policy prevents MCCMS from regulating speech or activity as allowed by law.

Policy Notes

N/A

Related Procedures

N/A

Related Documents

N/A

Definitions

Learner: an individual enrolled in the Mayo Clinic School of Health Sciences (MCSHS), Mayo Clinic Graduate School of Biomedical Science (MCGSBS), Mayo Clinic School of Medicine (MCSOM), or Mayo Clinic School of Graduate Medical Education (MCSGME).

References

N/A

Owner

David Dahlen

Contact

Exhibit A

3/19/2023

David Dahlen

Revision History

Date	Synopsis of Change
09/28/2020	New policy.
06/01/2018	Approval for need to establish document: HLC Exec Group June 1, 2018

Content Information

Notification Recipient: Fredricksen, Kimberly M.
 Content ID: DOCMAN12-0000413910
 Effective Date of Current Version: 09/28/2020
 Site(s): Arizona, Florida, Rochester, Albert Lea,
 Austin, Barron, Bloomer, Cannon Falls, Eau Claire,
 Fairmont, Faribault, La Crosse, Lake City, Mankato,
 Menomonie, New Prague, Osseo, Owatonna, Red
 Wing, Sparta, St. James, Waseca

Workflow Reviewer Name(s): Melissa A. Flom Murphy, J.D.
 Workflow Approver Name(s): Dahlen, David L.
 Scheduled Review Due Date: 09/28/2023

Comments: 1/10/23 updated NR to Kimberly Fredricksen.

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Exhibit B

MINNESOTA
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Compliance and Risk Management

Anti-Retaliation Policy

Scope

Applies to personnel when involved in possible retaliatory situations.

Purpose

To establish protections for individuals who report, internally or externally, violations or other wrongdoings including, but not limited to, privacy, revenue, finance, research, quality of care, patient safety, and employment related concerns.

Policy

- Mayo Clinic is committed to its institutional integrity and conducts business in a manner that complies with applicable federal and state laws and meets the highest standards of business and professional ethics.
 - In compliance with Section 6032 of the Federal Deficit Reduction Act of 2005 and research statutes, Mayo Clinic has summarized the role of various federal and state laws in preventing and detecting fraud, waste, and abuse in federal and state health care programs. See *Policy Notes*.
 - Mayo Clinic does not tolerate retaliatory behavior against any individual who raises a compliance concern.
 - Any employee, regardless of position or title, that has engaged in retaliation as determined by Human Resources, will be subject to discipline, up to and including termination of employment.
 - Any individual who knows of or reasonably suspects an incident of fraud, waste, or abuse regarding Medicare, Medicaid, or any other federal or state health care program, or a violation of any other law or policy, by any Mayo employee, contractor, or agent should immediately report such incidents by using one of the resources below.
 - Contact an immediate supervisor, administrator, division or department chair, or appropriate physician leader.
 - Contact the Integrity and Compliance Office directly: 507-266-6286
 - Call the toll-free Compliance Hotline: 1-888-721-5391
 - Calls are anonymous and confidential
 - Submit a report [online](#)
 - Reports are anonymous and confidential
 - Call the Mayo Clinic Chief Compliance Officer: 507-266-0457
 - Mayo Clinic will make this policy available to all employees, contractors and agents.
 - Mayo Clinic will maintain its internal systems and controls to monitor compliance with the laws outlined in this policy and accompanying addendum.
-

Policy Notes

Federal Laws Pertaining to Fraud, Waste, and Abuse

Mayo Clinic devotes many resources to preventing and correcting errors. The federal government and many states have enacted False Claims Act laws or other statutes to pursue fraud, waste, and abuse.

References:

Federal False Claims Act [31 U.S.C. §§ 3729 – 3733](#)

Federal Program Fraud Civil Remedies Act [31 U.S.C. §§ 3801 – 3812](#)

Research Statute

An employee of a contractor, subcontractor, or grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body, information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of

authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract or grant.

Reference: [41 U.S.C §4712](#)

State Laws

The following sections provide the key state laws that pertain to fraud, waste, and abuse across the six different states in which Mayo operates – Arizona, Florida, Iowa, Minnesota, and Wisconsin.

- **Arizona**

While Arizona does not have its own “False Claims Act,” several statutes apply to filing fraudulent claims with the government.

References:

- Arizona Health Care Cost Containment System, Prohibited Acts; Penalties; Subpoena power, [Ariz. Rev. Stat. § 36-2918](#).
- Arizona Health Care Cost Containment System, Duty to Report Fraud or Abuse; Immunity, [Ariz. Rev. Stat. § 36-2918.01](#).
- Severability of Employment Relationships, [Ariz. Rev. Stat. § 23-1501](#).
- Arizona Health Care Cost Containment System, Civil Monetary Penalties & Assessments, [Ariz. Admin. Code § R9-22-1101-1112](#).

- **Florida**

The Florida False Claims Act (“FFCA”) prohibits conduct similar to that addressed under the federal False Claims Act for claims paid from state government funds.

References:

- Florida False Claims Act, [Fla. Stat. § 68.081-.09](#)
- Oversight of the integrity of the Medicaid program, [Fla. Stat. § 409.913](#)
- Medicaid Provider Fraud, [Fla. Stat. § 409.920](#)
- Adverse Action Against Employee for Disclosing Information of Specified Nature, Employee Remedy & Relief, [Fla. Stat. § 112.3187](#)

- **Iowa**

The Iowa False Claims Act (“IFCA”) is designed to help the state government combat fraud and recover losses resulting from fraud against public agencies, much like the federal False Claims Act.

References:

- Iowa False Claims Act, [Iowa Code § 685.1-7](#)
- Fraudulent Practice – Investigations & Audits – Medicaid Fraud Account, [Iowa Code § 249A.50](#)
- Sanctions Against Provider of Care, [Iowa Admin. Code § 441-79.2](#)

- **Minnesota**

The Minnesota False Claims Against the State Act (“MFCASA”) is a civil statute to help combat fraud and recover losses resulting from fraud against Minnesota.

References:

- Minnesota False Claims Against the State Act, [Minn. Stat. §§ 15C.01-16](#)
- Theft, [Minn. Stat. § 609.52, Subd. 2](#)
- Medical Assistance Fraud, [Minn. Stat. § 609.466](#)
- Medical Assistance for Needy Persons, Sanctions, [Minn. Stat. § 256B.064](#)
- Medical Assistance for Needy Persons, Treble Damages, [Minn. Stat. § 256B.121](#)
- Surveillance & Integrity Review Program, [Minn. Rules § 9505.2200-2245](#)

- **Wisconsin**

The Wisconsin False Claims for Medical Assistance Act (“WFCMA”) is a civil statute to help combat fraud and recover losses resulting from fraud against the state’s Medical Assistance program.

References:

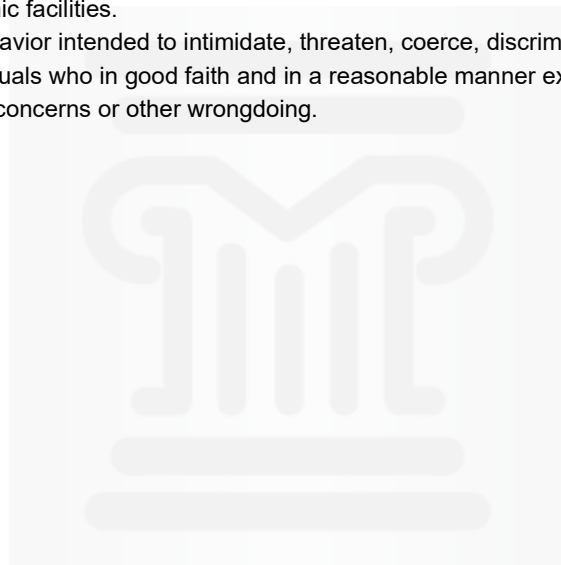
- Wisconsin False Claims for Medical Assistance, [Wis. Stat. § 20.931](#)
- Medical Assistance Offenses, [Wis. Stat. § 49.49](#)
- Medical Assistance Offenses, [Wis. Stat. § 49.95](#)
- Provider Rights & Responsibilities, [Wis. Admin. Code § DHS 106.06-12](#)
- Withholding of Payment Involving Fraud or Willful Misrepresentation, [Wis. Admin. Code § DHS 108.02\(9\)\(d\)](#)

Definitions

Individual: For the purposes of this policy, an individual includes employees, management, vendors, contractors, patients, volunteers, trainees, and other persons whose conduct is under the direct control of Mayo Clinic, whether or not they are paid.

Personnel: For the purpose of this policy, the term personnel includes staff physicians, scientists, research temporary professionals, residents, fellows, students, emeritus staff, volunteers, allied health staff, and contractors who regularly work in Mayo Clinic facilities.

Retaliatory Behavior: Any behavior intended to intimidate, threaten, coerce, discriminate against, or take other retaliatory action against individuals who in good faith and in a reasonable manner exercises their rights to report or otherwise disclose compliance concerns or other wrongdoing.



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Exhibit C

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Consulting/Voting Staff Policy Manual

Appeals Procedure - Arizona, Florida, Rochester

Scope

Applies to Consulting Staff and executive level administrative voting staff (as defined by Human Resources) when appealing an adverse action.

Purpose

To provide the steps for bringing an appeal to an adverse action.

Equipment/Supplies

N/A

Procedure

Request for appeal

Staff Member	<ol style="list-style-type: none"> 1. Write a request for appeal within 35 calendar days of the notification of the adverse action. 2. Limit the request to three typed pages and including the following: <ol style="list-style-type: none"> a. The staff member's description of the incident that initiated the request for appeal; b. Description of adverse action taken as a result of the incident; c. The reason the staff member considers the incident or action to be inappropriate, and d. The remedy being sought. 3. Deliver the written appeal to the site Personnel Committee chair. 4. If the staff member's privileges or job responsibilities are altered based on issues of quality of care or service, the staff member may be represented by an attorney or another person of his/her choice at the meeting with either the site Personnel Committee or the Appeals Committee. <ol style="list-style-type: none"> a. Give the site Personnel Committee chair sufficient notice to arrange for a member of the Mayo Legal Department also to be present at the meeting.
Appeal Reviewer(s)	<ol style="list-style-type: none"> 5. Attempt to resolve the appeal within 60 days from the site Personnel Committee chair's receipt of written notification of the appeal. <p style="text-align: right;">Exhibit C</p>

6. In some cases, a longer timeframe may be warranted. Circumstances which may justify a longer timeframe include (but are not limited to) the following:
- a. Lack of availability of staff members and other witnesses.
 - b. Incomplete medical records or other documentation.
 - c. Lack of availability of information necessary for the site Personnel Committee chair or Appeals Committee to review all sides of the dispute.

Appeals Heard by Site Personnel Committee Chair

The following adverse actions, if appealed, will be heard by the chair of the site Personnel Committee.

- Disputed application of Mayo policies and procedures
- Involuntary transfer or demotion
- Failure to advance or receive expected promotion
- Formal corrective action at Written Warning step (see Performance Improvement Policy)

Site Personnel Committee chair or designated member of Personnel Committee	<ol style="list-style-type: none"> 1. Provide a copy of the request for appeal to the staff member's department/division chair and to Mayo Legal. 2. If substantively involved with the decision which prompted the appeal, or if deemed appropriate for any other reason, delegate the appeal review and decision to another member of the site Personnel Committee who will carry out the remaining procedure steps. 3. If the staff member gives notice that an attorney or another person will be attending, invite a member of Mayo Legal to attend the meeting. 4. In situations where clinical practice issues are involved, bring in a knowledgeable resource person(s) to explain the practice and/or the standards of practices. 5. Hold meeting(s) with appellant and other appropriate attendees.
Mayo Legal Counsel	<ol style="list-style-type: none"> 6. Review documents forwarded by the site Personnel Committee chair and offer advice on identifying key issues, questions that may need to be answered, appropriateness of responding to the appeal without an Appeals Committee, and any other information deemed appropriate to the appeal process. 7. Attend the meeting scheduled by the site Personnel Committee chair when appellant attends with an attorney or other representative. <ol style="list-style-type: none"> a. Explain that the staff member must speak for themselves. b. The accompanying representative is an observer.
Department/division chair/leader	<ol style="list-style-type: none"> 8. Review documents forwarded by the site Personnel Committee chair and offer background concerning the adverse action, identify key issues, and discuss questions that may need to be answered. 9. Do not discuss the appeal with the staff member to avoid any perception of retaliation for bringing forward complaints.

	10. Do not attempt to direct the course of an investigation related to the appeal, and avoid discussion of the appeal with others assisting in investigating complaints.
Staff Member	11. Attend meetings as invited with the site Personnel Committee chair. 12. Prepare for the meeting by bringing related documentation. Preparation can be aided by using the SBAR outline: <ol style="list-style-type: none"> Situation: describe the adverse action and when it occurred. Background: explain what contributed to the situation. Assessment: why you think the adverse action should not have been taken or why the severity of the action does not fit the situation. Recommendation: what you think should be done, include other options considered.
Site Personnel Committee chair or designated member of Personnel Committee	13. Make the final decision to uphold, modify, or reverse (in whole or in part) the adverse decision. 14. Notify the staff member in writing of the specific reason for the appeal outcome decision.

Appeals Heard by an Appeals Committee

The following adverse actions, if appealed, will be heard by an Appeals Committee:

- Involuntary restrictions of privileges
- Formal corrective action at the final written warning with or without suspension step
- Termination of appointment/employment

Site Personnel Committee chair or designated member of Personnel Committee	<ol style="list-style-type: none"> 1. Provide a copy of the request for appeal to the staff member's department/division chair and to Mayo Legal. 2. Request appointment of an Appeals Committee by the chair of the site Executive Operations Team. <ol style="list-style-type: none"> a. Appeals Committees consist of peers who are members of the site Personnel Committee and/or site Executive Operations Team b. In situations where clinical practice issues are involved, ad hoc members may be brought in to serve as resource person(s) to explain the practice and/or the standards of practices. c. In Rochester and Florida, one member of Officers and Councilors will be included. 3. Assign a facilitator (with no voting rights) to train members of the Appeals Committee on the appeals process, and to provide support for the committee until they make their recommendation to the site Executive Operations Team chair.
Appeals Committee and facilitator	<ol style="list-style-type: none"> 4. Review the request for appeal, including information provided by the staff member and gather, via the facilitator, additional information as the committee collectively deems necessary. 5. If the staff member gives notice that an attorney or another person will be attending, invite a member of Mayo Legal to

	attend the meeting at which the staff member is invited. 6. Hold meeting(s) with appellant and other appropriate attendees.
Mayo Legal Counsel	7. Review documents forwarded by the site Personnel Committee chair and offer advice on identifying key issues, questions that may need to be answered, and any other information deemed appropriate to the appeal process. 8. Attend the meeting scheduled by the site Personnel Committee chair involving the appellant and an attorney or other representative. <ul style="list-style-type: none"> a. Explain that the staff member must speak for themselves. b. The accompanying representative is an observer.
Department/division chair/leader	9. Review documents forwarded by the site Personnel Committee chair and offer background concerning the adverse action, identify key issues, and discuss questions that may need to be answered. 10. Do not discuss the appeal with the staff member to avoid any perception of retaliation for bringing forward complaints. 11. Do not attempt to direct the course of an investigation related to the appeal, and avoid discussion of the appeal with others assisting in investigating complaints.
Staff Member	12. Provide additional information to the Appeals Committee during the course of the appeal process.
Appeals Committee	13. Recommend that the remedy, requested by the staff member in the appeal, be granted, denied, or modified. 14. Forward the committee's recommendation to the chair of the site Executive Operations Team.
Chair of the Site Executive Operations Team	15. Decide jointly with another member of the Executive Operations Team who was not a member of the Appeal Committee, to uphold, modify, or reverse (in whole or in part) the adverse decision. <ul style="list-style-type: none"> a. Seek input from the site Personnel Committee, site Executive Operations Team, Mayo Clinic Legal Department or other appropriate site committee or advisor they deem appropriate. 16. When the final decision is made, notify the site Personnel Committee chair of the final decision.
Site Personnel Committee chair or designated member of Personnel Committee	17. Once notified of the final decision by the chair of the site Executive Operations Team, notify the staff member in writing of the specific reason for the appeal outcome decision. 18. Notify the department/division chair of the appeal outcome decision. 19. Review documentation prepared by the Appeals Committee facilitator and the Executive Operations Team's decision along with written notifications sent to the staff member and department/division chair to complete the appeal file.

Troubleshooting

N/A

Procedural Notes

Retaliation against anyone who brings forward complaints or assists in investigating complaints is prohibited. Anyone participating in retaliatory actions will receive formal corrective action, including possible termination of employment

Related Documents

Performance Improvement Policy

Definitions

Adverse Action: an action taken by a department/division chair in response to a staff member's Performance or Behavior issue. The following adverse actions are appealable:

- Disputed application of Mayo policies and procedures
- Involuntary transfer or demotion
- Failure to advance or receive expected promotion
- A formal corrective action step
- Involuntary restrictions of privileges
- Involuntary termination of employment

References

N/A

Owner

Catherine F. Johnson on behave of the Mayo Clinic Personnel Committee (subcommittee of the People and Culture Committee)

Contact

Site Personnel Committee chair or secretary

Revision History

Date	Synopsis of Change
05/21/2019	Scheduled review of policy; revised as a procedure with edits to fit the procedure template.
08/27/2010	Approval for need to establish document: Original implementation date as approved by the Mayo Clinic Board of Governors

Content Information

Notification Recipient: Johnson, Catherine F., SPHR
Content ID: DOCMAN-0000092829
Effective Date of Current Version: 05/21/2019
Site(s): Rochester, Florida, Arizona

Workflow Reviewer Name(s): Flom Murphy, Melissa A., J.D.
Workflow Approver Name(s): Johnson, Catherine F. [RO
EMER]
Scheduled Review Due Date: 05/20/2022

Comments: August 27, 2010

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Exhibit D

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From: [Joyner, Michael J., M.D.](#)
To: [Mantilla, Carlos B., M.D., Ph.D.](#)
Subject: FW: Recent Issue with MITRE
Date: Wednesday, September 30, 2020 2:44:25 PM

FYI for your files.....

From: Wright, R. Scott, M.D.
Sent: Wednesday, September 30, 2020 2:40 PM
To: Wright, R. Scott, M.D.; Schmoll, Jeffrey A., M.B.A.
Subject: Recent Issue with MITRE

Dear colleague,

Recently, Jeff Schmoll and I interviewed you about interactions with the MITRE corporation. The Human Research Protection Program oversight committee has made a finding of research Undue Influence on two individuals within MITRE. We will be communicating those findings and developing management and corrective action plans for them moving forward.

On behalf of Mayo Clinic, I want to apologize to you for their behavior and any difficulty it created. Each person we interviewed handled it appropriately and professionally, despite pressure to compromise data and privacy. We appreciate your commitment to integrity and compliance within the Human Research Protection program, as well as the many hours of work you have done for the US Convalescent Plasma Study.

Please feel free to reach out to me and/or Jeff Schmoll with any questions or concerns.

The HRPP Oversight committee has asked us to follow-up routinely with you over the next year to ensure there is no further behavior or actions by MITRE which are of concern to you. As always, feel free to immediately reach out to me and/or Jeff should there be concerns or hints of concern; we will respond quickly to resolve things.

Thank you again for your hard work and professionalism.

Kind regards,

R. Scott Wright, MD
Professor of Medicine, Consultant in Cardiology
Director, Mayo Clinic Human Research Protection Program
Senior Chair and Medical Director, Mayo Clinic Institutional Review Board
Associate Editor, Mayo Clinic Proceedings

Office (Administrative): 1-507-284-8087 (Contact: Carin Minelli)

Office (IRB): 1-507-293-2907 (Contact: Kelli Anderson)

Office (Clinical): 1-507-284-0783 (Contact: Deborah Kanz)

Fax (Clinical and non-IRB Administrative): 1-507-266-0228

Fax (IRB and HRPP): 1-507-538-0051