

Dallis-Comentale”) as a defendant. Dean Dallis-Comentale was previously responsible for conducting and administering the elections for the alumni-elected members of the Board of Trustees under the now-repealed statutes. Vasel’s Complaint fails to state a claim upon which relief from Dean Dallis-Comentale can be granted. As such, the Complaint against Dean Dallis-Comentale should be dismissed pursuant to Rule 12(B)(6) of the Indiana Rules of Trial Procedure.

First, Vasel’s Complaint makes no allegations of wrongdoing against Dean Dallis-Comentale. Indeed, the only allegations against Dean Dallis-Comentale are that she *complied* with the laws in effect at the time, that she no longer has any responsibility for overseeing an election process that was repealed before the 2025 election could occur, and that she has no role whatsoever within the new statutory framework put in place by HEA 1001. The sole grievance underpinning the Complaint – the constitutionality of HEA 1001 – is a dispute between Vasel and the Governor that Dean Dallis-Comentale herself has no legal authority to remedy. Absent any facts showing that Dean Dallis-Comentale acted unlawfully, that she engaged in the conduct Vasel contends is void, or that Vasel has a right to relief from Dean Dallis-Comentale, the Complaint against her should be dismissed.

Second, Vasel’s declaratory judgment action is directed exclusively against the Governor. Vasel’s Complaint asserts no substantive underlying cause of action against Dean Dallis-Comentale and, on its face, requests only a permanent injunction against her. But a prayer for injunctive relief, in and of itself, cannot serve as the premise for a lawsuit against a defendant. A permanent injunction is a remedy, not a freestanding claim upon which relief can be granted. It is not surprising that Vasel did not assert a freestanding claim for declaratory relief against Dean Dallis-Comentale, because any such a speculative allegations would not be ripe for adjudication. The Complaint against Dean Dallis-Comentale should be dismissed on these additional grounds.

Finally, Vasel’s request for a permanent injunction, compelling Dean Dallis-Comentale to conduct and administer an election at her earliest opportunity if the statutory changes in HEA 1001 are held unconstitutional, violates the very law Vasel seeks to reinstate. Even if the former election process were to be resurrected by a successful constitutional challenge to HEA 1001, Dean Dallis-Comentale would have no authority to conduct and administer an election outside the strict timeframes set forth in the statutes. The Court cannot grant Vasel injunctive relief as to Dean Dallis-Comentale that is broader than what he would be entitled to under the law.

For all these reasons, the Court should dismiss Vasel’s Complaint against Dean Dallis-Comentale pursuant to Rule 12(B)(6).

FACTUAL ALLEGATIONS

IU’s Board of Trustees consists of nine members. (Am. Compl., ¶ 9) (citing Ind. Code § 21-20-3-2 (2007)). Prior to the passage of HEA 1001 effective May 6, 2025, IU alumni elected three members of the Board of Trustees for three-year terms beginning on July 1. (Am. Compl., ¶ 10) (citing Ind. Code § 21-20-3-4 (2020)). Under this previous framework, the Governor appointed five members of the Board of Trustees for three-year terms and appointed a full-time student member of the Board of Trustees for a two-year term. (Am. Compl., ¶ 15) (citing Ind. Code § 21-20-3-12 (2012) and Ind. Code § 21-20-3-13 (2007)).

Dean Dallis-Comentale served as the IU librarian under the former election process as it existed prior to May 6, 2025. (*See* Am. Compl., ¶ 7.) In that role, Dean Dallis-Comentale “was charged with the responsibility of conducting and administering . . . elections” of the alumni-elected members of the Board of Trustees. (Am. Compl., ¶¶ 2, 10, 25.) Ind. Code § 21-20-3-7(a) (2007) provided that any 100 or more IU alumni could “file with the librarian . . . on or before April 1 in each year a written nomination for a trustee to be elected by the alumni at the next

election.” (Am. Compl., ¶ 11.) Ind. Code § 21-20-3-7(b) (2007) required “the librarian” to then mail “a list of all candidates nominated . . . to each alumnus at the alumnus’s address” by June 1. (See also Am. Compl., ¶¶ 35-36.) Ind. Code § 21-20-3-9 (2012) directed “[t]he university librarian . . . [to] conduct the elections” to select the alumni-elected members of the Board of Trustees and to issue printed ballots upon request, and authorized the librarian to “adopt rules and regulations as necessary to carry out” these elections. (See also Am. Compl., ¶ 13.) Ind. Code § 21-20-3-10 (2007) further required “the librarian . . . [to] cast lots to determine” who should be declared the elected trustee in the event “two . . . or more persons receive[d] an equal and the greatest number of votes cast” in an election. (See also Am. Compl., ¶ 13.)

There is no allegation in Vasel’s Complaint that Dean Dallis-Comentale ever violated her statutory obligations under Ind. Code § 21-20-3-2, *et seq.*, at any time before the passage of HEA 1001. On the contrary, Dean Dallis-Comentale was doing all that was expected of her in conducting and administering the election that was to take place in 2025 – including receiving nominations in which a total of six candidates were running for an open seat on the Board of Trustees – until the passage of HEA 1001. (Am. Compl., ¶¶ 2, 30-36, 38-39, 42.)

HEA 1001, which became effective on May 6, 2025, repealed Indiana Code sections 21-20-3-4 through 21-20-3-11. (Am. Compl., ¶ 25; *see also* ¶¶ 1-2, 23.) HEA 1001 replaced the former process in which IU alumni elected three members of the Board of Trustees with a new framework in which the Governor now appoints all nine members of the Board of Trustees. (Am. Compl., ¶ 24) (citing Ind. Code § 21-20-3-2 (2025)). Alumni elections are no longer allowed. (Am. Compl., ¶ 4.) Dean Dallis-Comentale no longer has any responsibility for overseeing an election process that has since been repealed, and she has no role whatsoever within the new statutory framework put in place by HEA 1001. (Am. Compl., ¶¶ 24-25.)

The statutory changes in HEA 1001 became effective before the 2025 election could occur. (Am. Compl., ¶ 25; *see also* ¶¶ 2, 36, 42.) Hence, Dean Dallis-Comentale notified the candidates “that due to the newly enacted statutory provisions removing the alumni-elected trustee positions, the election that was to have commenced on June 1, 2025, had been cancelled.” (Am. Compl., ¶ 42.) The Governor subsequently replaced the three alumni-elected members of the Board of Trustees with his own appointees pursuant to the statutory changes in HEA 1001. (Am. Compl., ¶ 44.)

ARGUMENT

I. Standards Governing Rule 12(b)(6) Motions To Dismiss.

A motion to dismiss under Rule 12(B)(6) tests the legal sufficiency of the plaintiff’s claim, not the facts supporting it. *Bellwether Props., LLC v. Duke Energy Ind., Inc.*, 87 N.E.3d 462, 466 (Ind. 2017). “A complaint states a claim on which relief can be granted when it recounts sufficient facts that, if proved, would entitle the plaintiff to obtain relief from the defendant.” *Id.* If it appears to a certainty on the face of the complaint that the plaintiff is not entitled to any relief from the defendant, dismissal under Rule 12(B)(6) is proper. *Id.* In reviewing the complaint, the court takes the alleged facts to be true and considers the allegations in the light most favorable to the nonmoving party, drawing every reasonable inference in that party’s favor. *Id.*

Accepting Vasel’s allegations in the Complaint as true, he has not presented any facts that would entitle him to relief from Dean Dallis-Comentale. Accordingly, Vasel’s Complaint against Dean Dallis-Comentale should be dismissed pursuant to Rule 12(B)(6).

II. Vasel’s Complaint Makes No Allegations of Wrongdoing Against Dean Dallis-Comentale Upon Which Relief Can Be Granted.

Vasel maintains that the statutory changes in HEA 1001, as presently codified in Ind. Code § 21-20-3-2, *et seq.* (2025), are unconstitutional and void. (Am. Compl., ¶ 48.) Vasel requests a

declaration that the statutory changes in HEA 1001 are unconstitutional and void. (Am. Compl., WHEREFORE clause, ¶ 1.) Vasel also seeks a declaration that the Governor’s “actions to enforce the unconstitutional sections [of HEA 1001] by replacing the elected members of the Board of Trustees [with his own appointees] are void.” (Am. Compl., WHEREFORE clause, ¶ 1.) Thus, it is apparent from the face of Vasel’s Complaint that the source of his alleged injury is the passage and enforcement of HEA 1001. (*See, e.g.*, Am. Compl., ¶ 3 (“[t]he new legislation that targets Indiana University”); ¶ 4 (“[a] declaratory judgment that the new legislation is unconstitutional”); ¶ 42 (“the newly enacted statutory provisions removing the alumni-elected trustee positions”); ¶ 43 (“the challenged provisions of HEA 1001”).)

Vasel’s Complaint makes no allegations of wrongdoing against Dean Dallis-Comentale. Indeed, the only allegations against Dean Dallis-Comentale are that she *complied* with the laws in effect at the time. According to the Complaint, Dean Dallis-Comentale was doing all that was expected of her in terms of conducting and administering the election in 2025 until the passage of HEA 1001. When HEA 1001 became effective on May 6, 2025, all of the statutes under which Dean Dallis-Comentale had been operating – and which were the singular source of her ability to act – were repealed.

Therefore, the sole grievance underpinning the Complaint – the constitutionality of HEA 1001 – is a dispute between Vasel and Governor that Dean Dallis-Comentale herself has no legal authority to remedy. As of May 6, 2025, Dean Dallis-Comentale no longer has any responsibility for overseeing an election process that was repealed before the 2025 election could occur. Dean Dallis-Comentale has no role whatsoever within the new statutory framework put in place by HEA 1001, and Vasel makes no allegations to the contrary.

A complaint states a claim upon which relief can be granted only if it “recounts sufficient facts that, if proved, would entitle the plaintiff to obtain relief *from the defendant.*” *Bellwether Props*, 87 N.E.3d at 466 (emphasis added); *accord Stoffel v. Daniels*, 908 N.E.2d 1260, 1271 (Ind. 2009) (“The doctrine of standing requires a concrete adversity between the parties, that is, that *the defendant* caused plaintiff’s injury and therefore *the defendant* is the proper party from whom to seek redress.”) (emphases added). Vasel’s Complaint against Dean Dallis-Comentale falls short of this standard. The Complaint does not present any facts showing that Dean Dallis-Comentale acted unlawfully, that she engaged in the conduct Vasel contends is void, or that Vasel has a right to relief from Dean Dallis-Comentale. Having failed to state a claim upon which relief from Dean Dallis-Comentale can be granted, Vasel’s Complaint against her should be dismissed.

III. A Permanent Injunction Is a Remedy, Not a Freestanding Claim Upon Which Relief Can Be Granted.

The lack of any allegations of wrongdoing aside, Vasel’s Complaint against Dean Dallis-Comentale fails on other grounds. Vasel’s declaratory judgment action is directed exclusively against the Governor. The Complaint asserts no substantive underlying cause of action against Dean Dallis and, on its face, requests only a permanent injunction against her. But a prayer for injunctive relief, in and of itself, cannot serve as the premise for a lawsuit against a defendant.

It is well settled that “an injunction does not create rights. It merely protects existing rights from injurious interference.” *Ind. & Mich. Elec. Co. v. Whitley Cnty. Rural Elec. Memb. Corp.*, 316 N.E.2d 584, 586 (Ind. Ct. App. 1974). “An injunction is a remedy, not an independent cause of action.” 42 Am. Jur. 2d Injunctions § 1 (May 2025 Update); *see also* 16 Ind. Law. Encycl. § 1 Injunction (July 2025 Update) (“An injunction is an equitable remedy[.]”).

When a plaintiff seeks a permanent injunction, the question is not whether the plaintiff has demonstrated a reasonable likelihood of success on the merits of an underlying claim, but whether

he has in fact succeeded on the merits of that underlying claim. *Ferrell v. Dunescape Beach Club Condominiums Phase I, Inc.*, 751 N.E.2d 702, 713 (Ind. Ct. App. 2001). Consequently, there must be a substantive cause of action upon which the request for injunctive relief is predicated. *See* 42 Am. Jur. 2d § 1 at n.9 (“Any suit for a traditional injunction must be predicated upon a cause of action, regarding which a plaintiff must show a likelihood or actuality of success on the merits; there is no such thing as a suit for a traditional injunction in the abstract.”). In short, an injunction is “a form of relief to redress a plaintiff’s *other* claims” – “[i]njunctive relief is not a freestanding cause of action” 42 Am. Jur. 2d Injunctions § 1 at n.9 (emphasis added).

The permanent injunction Vasel requests in paragraph 2 of his WHEREFORE clause is a remedy, not a freestanding claim upon which relief can be granted. (Am. Compl., WHEREFORE clause, ¶ 2.) The only substantive cause of action presented in Vasel’s Complaint – a declaratory judgment action – was brought against the Governor stemming from the passage of HEA 1001 and the Governor’s alleged “actions to enforce the unconstitutional sections [of HEA 1001] by replacing the elected members of the Board of Trustees” with his own appointees. (Am. Compl., WHEREFORE clause, ¶ 1; *see also* ¶ 4 (seeking a “declaratory judgment that the new legislation is unconstitutional”).)

It is not surprising that Vasel did not attempt to assert a substantive claim for declaratory relief against Dean Dallis-Comentale, because no such claim against her exists. To obtain a declaration under the Declaratory Judgment Act (“DJA”), the plaintiff’s claim must be ripe. *Holcomb v. Bray*, 187 N.E.3d 1268, 1285 (Ind. 2022). A declaratory judgment action is ripe if there exists a “real or actual controversy, or at least the ripening seeds of such a controversy” between the parties – “not merely a theoretical question or controversy” *Id.* at 1287.

In the current statutory landscape, alumni elections at IU are no longer allowed. Dean Dallis-Comentale no longer has any responsibility for overseeing an election process that has since been repealed, and she has no role whatsoever within the new statutory framework put in place by HEA 1001. The only way Vasel could have an actual controversy with Dean Dallis-Comentale in the future is – *if* the statutory changes in HEA 1001 are declared unconstitutional and void; *if* the Governor’s actions thereunder are declared void; *if* the former election process in which IU alumni elected three members of the Board of Trustees is reinstated; and *if* Dean Dallis-Comentale fails to comply with her obligations under the previous statutory framework. None of these things have happened and it would be purely speculative to allege that Dean Dallis-Comentale may theoretically violate the law in the future if this chain of events were to unfold. According to the Complaint, Dean Dallis-Comentale was doing all that was expected of her in conducting and administering elections for the Board of Trustees up until the passage of HEA 1001.

Unless or until Dean Dallis-Comentale violates a statute, she has no conflict with Vasel requiring resolution under the DJA, and he has no viable claims against her. *See Holcomb*, 187 N.E.3d at 1287 (explaining that the DJA was “designed to allow parties to resolve conflicts” between them). Having failed to assert a substantive cause of action against Dean Dallis-Comentale upon which injunctive relief as to her can be predicated, Vasel’s Complaint against her should be dismissed.

IV. The Permanent Injunction Vasel Requests Violates the Very Law He Seeks to Reinstatement.

Finally, Vasel insists that Dean Dallis-Comentale “has the authority to conduct and administer an election” of alumni-elected members of the Board of Trustees even if that happens outside of the statutory timeframes. (Am. Compl., ¶ 43.) Vasel’s request for a permanent injunction, compelling Dean Dallis-Comentale to “take all steps necessary” to conduct an election

“at the earliest practical opportunity” if the statutory changes in HEA 1001 are held unconstitutional, violates the very law Vasel seeks to reinstate. (Am. Compl., WHEREFORE clause, ¶ 2.)

The plain language of Ind. Code § 21-20-3-2, *et seq.*, as it existed prior to HEA 1001, imposed strict deadlines for any elections overseen by Dean Dallis-Comentale. Ind. Code § 21-20-3-7 (2007) required her to receive nominations for alumni-elected members of the Board of Trustees “on or before April 1 in each year” and further required her to mail a list of all candidates nominated to serve on the Board of Trustees to IU alumni “[a]fter April 1, but not later than June 1” of the same calendar year. Ind. Code § 21-20-3-8 (2012), in turn, stated that the election of alumni-elected “members of the board of trustees *shall* be held at Indiana University on the secular day immediately preceding July 1” (Emphasis added).

Even if the former election process were to be resurrected by a successful constitutional challenge to HEA 1001, Dean Dallis-Comentale would have no authority to conduct and administer an election outside the strict timeframes set forth in the statutes. The Court cannot grant Vasel injunctive relief as to Dean Dallis-Comentale that is broader than what he would be entitled to under the law. An injunction must be narrowly tailored so that “its scope is never more extensive than is reasonably necessary to protect the interests of the party in whose favor it is granted.” *Boczar v. Meridian Street Found.*, 749 N.E.2d 87, 94 (2001) (internal quotations and citation omitted). Moreover, an injunction cannot be “so broad as to prevent the enjoined party from exercising his rights.” *Id.*

Vasel’s request for a permanent injunction against Dean Dallis-Comentale is contrary to law. Vasel is not entitled to relief from Dean Dallis-Comentale that is contrary to law. For this additional reason, Vasel’s Complaint against Dean Dallis-Comentale should be dismissed.

CONCLUSION

For the foregoing reasons, the Court should dismiss Vasel's Complaint against Dean Dallis-Comentale pursuant to Rule 12(b)(6).

Respectfully submitted,

/s/ Marc T. Quigley

Marc T. Quigley, Attorney No. 21054-53

KRIEG DEVAULT LLP

12800 N. Meridian Street, Suite 300

Carmel, Indiana 46032

Telephone: (317) 566-1110 (Main)

(317) 238-6262 (Direct)

Facsimile: (317) 636-1507

Email: mquigley@kdlegal.com

Libby Yin Goodknight, Attorney No. 20880-49

Michael A. Moffatt Jr., Attorney No. 36140-49

KRIEG DEVAULT LLP

One Indiana Square, Suite 2800

Indianapolis, Indiana 46204

Telephone: (317) 636-4341 (Main)

(317) 238-6315 (Goodknight Direct)

Facsimile: (317) 636-1507

Email: lgoodknight@kdlegal.com

mmoffatt@kdlegal.com

Attorneys for Defendant Diane Dallis-Comentale

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing has been served electronically upon all counsel of record through the Indiana E-Filing System (IEFS) on August 5, 2025.

James A. Barta (James.Barta@atg.in.gov)
Katelyn E. Doering (Katelyn.Doering@atg.in.gov)
Jenna M. Lorence (Jenna.Lorence@atg.in.gov)
OFFICE OF THE INDIANA ATTORNEY GENERAL

Kenneth J. Falk (kfalk@aclu-in.org)
Stevie J. Pactor (spactor@aclu-in.org)
Gavin M. Rose (grose@aclu-in.org)
ACLU OF INDIANA

/s/Marc T. Quigley

Marc T. Quigley

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