# UNITED STATES DISTRICT COURT — MIDDLE DISTRICT OF FLORIDA (OCALA DIVISION)

**CHAVON JENEA WRIGHT**, Plaintiff, v. **HERZING UNIVERSITY, INC.**, Defendant. | Case No.: 5:26-cv-_____-___-PRL

**Venue:** Ocala Division (Golden-Collum Memorial Federal Building, 207 NW Second St., Ocala, FL 34475) | **Alternative State Venue:** Fifth Judicial Circuit, Marion County, Florida (Rule 1.290)

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## PLAINTIFF'S EMERGENCY MOTION FOR AN ORDER COMPELLING PRESERVATION OF ELECTRONICALLY STORED INFORMATION (ESI), EXPEDITED PRODUCTION OF WITHHELD FERPA RECORDS AND AUDIT LOGS, AND PRELIMINARY INJUNCTIVE RELIEF

Pursuant to Federal Rules of Civil Procedure 26(d)(1), 34, 37(e), and 65, the inherent equitable authority of this Court, and Local Rules 3.01 and 6.02, Plaintiff Chavon Jenea Wright moves this Court for immediate entry of an Evidence Preservation and Anti-Spoliation Order and Order for Expedited Production of Withheld Educational Records against Defendant Herzing University, Inc. ("Herzing").

## I. PRELIMINARY STATEMENT & IMMINENT THREAT OF SPOLIATION

Prior to seeking judicial relief, Plaintiff exhausted every non-judicial avenue to preserve the evidentiary record and obtain her own statutory educational records under the Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g; 34 C.F.R. §§ 99.10, 99.20, 99.32). Between December 2025 and October 2026, Plaintiff served five written Litigation Hold Directives (Spoliation Hold, Claims Notice, Interim Demand) and repeated statutory FERPA demands (EthicsPoint Five, FERPA Filing). Rather than honor these holds, Defendant engaged in active record alteration, suppression, and concealment:

■ **Post-Submission Gradebook Mutation (NU 730 & NSG 523):** In NU 730 (Systems-Based Practice), after Plaintiff timely submitted coursework and received instructor acknowledgment earning an 81.27% Grade B, Defendant retroactively altered the score to 0.0 to manufacture a failure (Grade Screenshot). In Summer 2026 NSG 523, Defendant entered zeros on coursework submitted within Plaintiff's approved extension window, dropping her grade from 79.0% on August 24, 2026 to 73.0% on August 26, 2026 (Grade Appeal) despite ADA Coordinator Emilie Thompson's August 7, 2025 written admission that extension work "should be graded for credit" (Thompson Admission).

■ **Unannounced Retroactive Catalog Alterations:** Defendant silently modified its online Graduate Catalog across May 2025, September 2025, and January 2026—shortening student appeal windows from 30 days to 7 days mid-dispute (Catalog Audit).

■ **Suppression of 15 of 15 Internal Grievances:** Between March 2025 and September 2026, Defendant suppressed 15 out of 15 internal appeals and EthicsPoint compliance filings (Report Key 607735433401; EP-2025-1210; EP-2025-1219; EP-2026-0324; EP-2026-0728; EP-2026-0828; Case #00542344) with zero written findings (Ignored Filings).

■ **Refusal to Produce Mandatory FERPA 34 C.F.R. § 99.32 Logs & Withheld Transfer Evaluation:** Following the May 2–19, 2025 breach broadcasting 41 accommodation emails to ~35 unauthorized recipients, Defendant refused to produce the mandatory § 99.32 disclosure log (EthicsPoint Five). On September 14, 2026, Student Services Director Angie Zamecnik admitted in writing that Plaintiff's Transfer Credit Evaluation was completed, yet continues to withhold it while terminating student access (Injury Packet).

## II. CHRONOLOGICAL INVENTORY OF PRESERVATION & FERPA DEMANDS DEFIED BY DEFENDANT

| Date | Instrument | Recipients Served | Specific Preservation & FERPA Demands | Defendant Defiance |
|---|---|---|---|---|
| Dec 10–19, 2025 | Claims Notice | R. Herzing, K. Kautzer, E. Parks, N. Longworth, S. Black, E. Thompson | Preservation of May 2025 41-email ADA broadcast logs, July 17 Proctorio logs, July 24 Zoom exam recording (21:10:05), Nov 14–15 ProctorU lockout records. | Suppressed in EthicsPoint (EP-2025-1210 & EP-2025-1219); zero confirmation issued. |
| Aug 24–30, 2026 | Spoliation Hold | Herzing Admin, Meazure/ProctorU, DOJ (766398-JVT), OCR (05-26-2347) | Lockdown of Canvas SQL grade tables, Elsevier Sherpath/EAQ timestamps (145 modules), HESI logs, and ProctorU telemetry (Ticket #7407283). | Retaliated by dropping NSG 523 grade from 79% to 73% on Aug 26 and dismissing Plaintiff on Sept 9. |
| Sept 4–14, 2026 | Interim Demand | A. Zamecnik, S. Taubenheim, D. Steele, U.S. DOE OCR | Complete educational records under 20 U.S.C. § 1232g, Sept 4 Grade/SAP Appeal (#00542344) audit trails, and MS-HHS Transfer Credit Evaluation. | On Sept 14, Zamecnik cut off advisor access, withheld completed Transfer Evaluation, and refused appeal review. |
| Sept 18–28, 2026 | FERPA Filing & Teams Record | Herzing Compliance, R. Herzing, D. Laban, A. Zamecnik | Production of 34 C.F.R. § 99.32 disclosure log for 41 unauthorized emails and preservation of Zamecnik/Laban communications (27:15–27:41). | Suppressed without production of § 99.32 log or internal messages. |
| Oct 5–10, 2026 | EthicsPoint Five & Millard Witness | R. Herzing, D. Laban, A. Zamecnik, Compliance | Renewed demand for § 99.32 access logs, Canvas SQL audit trails showing NU 730 grade alteration (81.27% B to 0), and independent review. | Unresolved; student access restricted, creating imminent risk of routine LMS/vendor purging. |

## III. MEMORANDUM OF LAW SUPPORTING EMERGENCY PRESERVATION & EXPEDITED DISCOVERY

**A. Authority Under FRCP Rules 26(d)(1), 34, and 37(e):** Federal courts possess inherent equitable power and express authority under FRCP 26(b), 26(d)(1), 34, and 37(e) to issue preservation orders directing a party and its third-party vendors to preserve ESI whenever there is a demonstrated risk that digital evidence may be overwritten, altered, or purged (*Pueblo of Laguna v. United States*, 60 Fed. Cl. 133, 138 [2004]; *Treppel v. Biovail Corp.*, 233 F.R.D. 363, 370–72 [S.D.N.Y. 2006]). Plaintiff satisfies all three balancing factors: (1) specific documented concern of ESI alteration shown by the October 9, 2026 NU 730 grade mutation (Grade Screenshot) and 6–12 month ProctorU telemetry purge schedules; (2) irreparable harm because Canvas SQL logs, Exchange distribution lists, and Teams logs are uniquely in Defendant's custody and prove deliberate indifference under *Liese v. Indian River County Hosp. Dist.*, 701 F.3d 334 (11th Cir. 2012); and (3) minimal burden requiring under two hours of routine IT administration for a single student ID (W24672939).

## IV. SWORN DECLARATION OF CHAVON JENEA WRIGHT (28 U.S.C. § 1746)

I, **CHAVON JENEA WRIGHT**, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

■ 1. I am the Plaintiff/Petitioner in this matter, residing at 597 Marion Oaks Trail, Ocala, Marion County, Florida 34473, with personal knowledge of the facts stated herein.

■ 2. Between March 14, 2025 and October 18, 2026, I submitted more than fifteen (15) written appeals, FERPA record requests, and evidence-preservation notices to Defendant Herzing University, Inc., indexed in the Evidentiary Archive and Priority Index.

■ 3. Despite written preservation demands on Dec 10, 2025, Aug 24–30, 2026, Sept 4–14, 2026, Sept 28, 2026, and Oct 5, 2026, I captured screenshot proof on October 9, 2026 (Grade Screenshot) showing my timely, instructor-acknowledged submission in NU 730 (81.27% Grade B) was retroactively changed to 0.0.

■ 4. On a recorded Microsoft Teams call on September 18, 2026 (27:15–27:41, Teams Record), Student Services Director Angie Zamecnik admitted conferring with AVP Dr. Danielle Laban to pre-determine the outcome of my appeal, and on September 14, 2026 admitted in writing that my Transfer Credit Evaluation was completed while refusing to release it (Injury Packet).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 21, 2026, in Ocala, Florida. — */s/ Chavon Jenea Wright* (Student ID: W24672939)

## V. [PROPOSED] ORDER GRANTING MOTION FOR EVIDENCE PRESERVATION & EXPEDITED PRODUCTION

THIS CAUSE came before the Court upon Plaintiff Chavon Jenea Wright's Emergency Motion for an Order Compelling Preservation of ESI and Expedited Production of Withheld FERPA Records. Finding good cause under FRCP 26(d)(1), 34, and 37(e), the Court **ORDERS AND ADJUDGES**:

■ **1. Immediate Litigation Hold:** Defendant Herzing University, Inc. and its vendors (Instructure/Canvas LMS, Elsevier Sherpath/HESI, Meazure Learning/ProctorU, Proctorio, NAVEX Global/EthicsPoint) shall immediately preserve all ESI relating to Chavon Jenea Wright (W24672939) from August 1, 2024 to present, including Canvas SQL gradebook_history and submission_versions tables (NSG 523, NU 730, NU 725, NU 780, NSG 660, NSG 633, NSG 524, SC 154, SC 254), ProctorU/Proctorio/Zoom recordings and Ticket #7407283 telemetry, Microsoft 365 emails/Teams logs (including the May 2025 41-email broadcast), and EthicsPoint/SAP appeal audit trails (#00542344).

■ **2. Expedited Production Within 14 Days:** Within fourteen (14) calendar days of service, Defendant shall produce to Plaintiff: (a) her Official Transcript and completed Transfer Credit Evaluation; (b) the complete FERPA 34 C.F.R. § 99.32 accounting of disclosures for the May 2025 emails; and (c) the exported Canvas LMS gradebook_history audit log for NU 730 and NSG 523.

DONE AND ORDERED in Chambers at Ocala, Florida, this ____ day of October, 2026. —
_____ UNITED STATES DISTRICT / MAGISTRATE JUDGE