

25-1197

Dolce v. Connetquot Cent. Sch. Dist.

United States Court of Appeals For the Second Circuit

August Term 2025
Argued: March 9, 2026
Decided: August 31, 2026

No. 25-1197

CHRISTOPHER DOLCE, SHINAIDE MCALEAVEY-POLLEY, and SARAH
ECKE,

Plaintiffs-Appellants,

v.

CONNETQUOT CENTRAL SCHOOL DISTRICT, CONNETQUOT BOARD OF
EDUCATION, LYNDIA G. ADAMS, REZA KOLAHIFAR, JACLYN
NAPOLITANO-FURNO, LEE KENNEDY, and MICHAEL MORAN,

*Defendants-Appellees.**

* The Clerk of Court is respectfully directed to amend the caption as set forth above.

Appeal from the United States District Court
for the Eastern District of New York
No. 24-cv-622, Hector Gonzalez, *Judge*.

Before: PARK, NATHAN, and KAHN, *Circuit Judges*.

Plaintiffs-Appellants Christopher Dolce, Sarah Ecke, and Shinaide McAleavey-Polley allege that the Connetquot Central School District and its officials violated their First and Fourteenth Amendment rights and Title VII when it ordered them to remove the pride flags and stickers that decorated the walls of their public high school classrooms. The United States District Court for the Eastern District of New York (Gonzalez, *J.*) dismissed their complaint for failure to state a claim, and the teachers appealed. Applying *Garcetti v. Ceballos*, 547 U.S. 410 (2006), we conclude that the teachers' classroom wall decorations constituted speech pursuant to their official duties as Government employees. As a result, the District did not violate their First Amendment rights when it ordered the teachers to remove them. We also conclude that the teachers have not plausibly pled that the District selectively enforced its policies against them because of an impermissible motivation, or that they suffered any adverse employment actions. We therefore **AFFIRM** the judgment of the district court.

CHERYL L. BERGER, Lieb at
Law, P.C., Smithtown, NY, *for*
Plaintiffs-Appellants.

BRIAN S. SOKOLOFF (Blair Hendricks, *on the brief*), Sokoloff Stern LLP, Carle Place, NY, *for Defendants-Appellees Connetquot Central School District, Connetquot Board of Education, Lynda G. Adams, Reza Kolahifar, and Jaclyn Napolitano-Furno.*

Rondiene E. Novitz, Julissa M. Proana, Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, Farmingdale, NY, *for Defendants-Appellees Lee Kennedy and Michael Moran.*

NATHAN, *Circuit Judge*:

Under *Garcetti v. Ceballos*, 547 U.S. 410 (2006), and its progeny, when public employees’ speech “owes its existence” to their “professional responsibilities,” the Government—their employer—can control the content of that speech without implicating their First Amendment rights. *Id.* at 421–22.

The question in this case is whether that same principle applies to displays hung on the walls of a public high school teacher’s math classroom. We hold that it does.

* * *

Christopher Dolce, Sarah Ecke, and Shinaide McAleavey-Polley are teachers at Connetquot Central High School and “open members of the LGBTQ+ community.” App’x 24. In 2022, Connetquot Central School District officials ordered Ecke to take down two pride flags that hung on the walls of her math classroom. They also told Dolce and McAleavey-Polley that they could not place pride flag stickers on their classroom doors. In response, Ecke, Dolce, and McAleavey-Polley sued the District, the Board of Education, and various District officials under Section 1983, Title VII, Title IX, the New York State Human Rights Law, and the Suffolk County Human Rights Law.

The district court dismissed the teachers’ complaint under Rule 12(b)(6). On appeal, the teachers contend that it should not have. Specifically, they claim that when the District ordered them to take down their flags and stickers but did not require the same of others, it violated their First Amendment rights, denied them equal protection of the laws, and discriminated against them because of sex and sexual orientation.

We disagree. Applying *Garcetti*, we conclude that a public high school teacher’s classroom wall decorations are speech that “owes its existence” to their “professional responsibilities.” 547 U.S. at 421. After all, teachers decorate their classroom walls as part of their duty to create physical classroom spaces conducive to the curricula they are assigned to teach. Those decorations are thus the Government’s speech, and the First Amendment does not apply to them. We also hold that the teachers did not plausibly plead that the District

selectively enforced its policies against them because of anti-LGBTQ+¹ animus, or that they suffered any adverse employment actions at the hands of District officials. We therefore **AFFIRM** the dismissal of the teachers' complaint. But on the teachers' First Amendment claim in particular, we do so on a different basis than that relied upon by the district court.

BACKGROUND

I. Factual Background²

Sarah Ecke is a math teacher at Connetquot Central High School. She is also an “open member[] of the LGBTQ+ community” and the Gay Straight Alliance (GSA) club advisor. App'x 24. For years, Ecke hung two large pride flags on the walls of her math classroom: a progress pride flag,³ which was “at least twice the size of” the American flag that hung next to it, and a traditional pride flag, which covered the white board.⁴ App'x 73.

Then something changed. Toward the beginning of the 2022–2023 academic year, some students “reported feeling uncomfortable”

¹ We adopt the acronyms used in the complaint throughout this opinion unless otherwise noted.

² We draw the following facts from the teachers' complaint and the exhibits attached to it. For purposes of this opinion, we assume that they are true. See *Buon v. Spindler*, 65 F.4th 64, 76 (2d Cir. 2023).

³ A progress pride flag is an “updated version” of the traditional pride flag. App'x 28. It contains additional stripes representing transgender individuals and racial minorities within the LGBTQ+ community.

⁴ A photo of the pride flags is available in the Appendix to this opinion.

having the progress pride flag displayed in their math classroom. *Id.* In response, three Connetquot Central School District officials—Lynda Adams, the Superintendent; Jaclyn Napolitano-Furno, the Board of Education President; and Lee Kennedy, the Board Trustee—went to Ecke’s classroom and told her to take down the flag. They also offered her a sign that she could hang in its place. The sign said: “This is a safe space to be who you are.” *Id.*

Ecke did not take down the progress pride flag. But she did tell two other LGBTQ+ teachers—Christopher Dolce and Shinaide McAleavey-Polley—about the District officials’ directive. A few weeks later, Ecke and Dolce emailed the Connetquot Board of Education to request a meeting about it. In that email, Ecke and Dolce warned that restricting the teachers’ ability to hang pride flags on their classroom walls would harm both the students and the School District.

More emails soon followed. Hours after Ecke and Dolce’s warning, Reza Kolahifar, the Assistant Superintendent, sent a message to all District employees explaining that “District policy” forbid them from engaging in “political practices” on school premises. App’x 71. And under that policy, only two kinds of flags could be hung in classrooms or offices throughout the District: the American flag and the New York State flag.

Superintendent Adams followed up two days later. She told the District that, thanks to one teacher’s “continued refusal” to take down a progress pride flag, the District would have to “fully implement Policy 1310”—the “political activities” ban that Assistant Superintendent Kolahifar mentioned two days earlier. App’x 73.

“[A]dhering to the letter of [that] Policy,” Adams explained, would help all students, “regardless of what race, gender, religion, sexual orientation, or political affiliation they espouse to,” feel “safe, comfortable[,] and respected” in their learning environments. *Id.* Michael Moran, the Connetquot High School Principal, thus ordered the high school faculty to take down any unauthorized flags from their classrooms by the end of the school day. Ecke, for her part, complied.

One week after the flag policy took effect, Dolce and McAleavey-Polley discovered that the pride flag stickers adorning the doors of their classrooms had been covered with American flag stickers. A student was to blame. After the teachers reported the incident to Principal Moran, however, he followed up with a related directive. He told the high school faculty that no flag stickers could be placed on the doors or windows of their classrooms, either.

The District’s flag and sticker policies remained in effect throughout that school year. But according to Ecke, Dolce, and McAleavey-Polley, the policies did not impact all flags and stickers equally. For example: Principal Moran made an exception for flags that supported the high school’s curriculum, like the French flag that hung in the French classroom. Assistant Superintendent Kolahifar told another teacher that, while the “sports flags” hanging in his social studies classroom fell within the ambit of the removal policies, he “highly doubt[ed]” that anyone would ask him to remove them. App’x 158. Painted renditions of flags continued to occupy spaces in the high school parking lot. And stickers supporting organizations

like “Students Against Drunk Driving” and the “Anti-Bullying Club” continued to decorate school doors and bulletin boards. App’x 35.

The flag and sticker incidents also were not the only differential treatment the teachers claim to have endured during that school year. In May, for example, Principal Moran ordered Ecke to change the permission slips she had planned to use for the GSA’s annual field trip to the LGBT Youth Conference. The goal was to give students’ parents “more specific information” about the purpose and content of the field trip. App’x 90. Ecke complied with that directive, too—even as “non-LGBT teachers and clubs were not required to make the same modifications.” App’x 38.

II. Procedural History

Ecke, Dolce, and McAleavey-Polley sued the District, the Board of Education, and the aforementioned District officials under Section 1983, Title VII, Title IX, the New York State Human Rights Law, and the Suffolk County Human Rights Law. As relevant here, they alleged that the District and its officials violated their free speech rights, denied them equal protection of the laws, and discriminated against them because of their sex and sexual orientation. Specifically, they claimed that the pride flags and stickers were their “constitutionally protected . . . symbolic speech.” App’x 47. So when the District revived its “political activities” ban in response to Ecke’s progress pride flag, and then enforced that ban against Ecke, Dolce, and McAleavey-Polley’s flags and stickers but not others’, they discriminated against those teachers based on their pro-LGBTQ+ views and their LGBTQ+ identities. And they violated their First and

Fourteenth Amendment rights in the process. They violated federal, state, and local employment discrimination laws, too.

The district court dismissed the teachers' complaint in its entirety. *See generally Dolce v. Connetquot Cent. Sch. Dist.*, No. 24-cv-622, 2025 WL 1070079 (E.D.N.Y. Apr. 9, 2025). According to the court, the individual District officials were entitled to qualified immunity on the teachers' First Amendment viewpoint discrimination claims because this Circuit had not "clearly established" which First Amendment test governs teachers' expressive activity inside of their classrooms. *Id.* at *10. The teachers' equal protection claims failed because, even assuming that a District policy had been selectively enforced against them, they had not plausibly alleged an impermissible motive for that disparate treatment. *Id.* at *12–13. *Monell* liability for the District and the Board of Education on those constitutional claims was unwarranted because, after dismissing the teachers' First Amendment claims against the individual officials on qualified immunity grounds and the equal protection claims on their merits, there was no "underlying constitutional violation" to support municipal liability. *Id.* at *13.⁵ And the teachers' Title VII

⁵ We pause to note that the district court should not have disposed of the *Monell* claim against the municipality based on its grant of qualified immunity as to the individual defendants on the First Amendment claim. "Qualified immunity is a defense available only to individuals sued in their individual capacity." *Askins v. Doe No. 1*, 727 F.3d 248, 254 (2d Cir. 2013). To that end, a finding that an individual defendant is entitled to qualified immunity due to a lack of "clear law or precedent" is "irrelevant to the liability of the municipality." *Id.* However, because we find that the teachers have failed to plausibly allege a First Amendment violation, we

discrimination claims failed because they had not suffered any adverse employment actions. *Id.* at *4.

Having dismissed the teachers' federal law claims, the district court declined to exercise supplemental jurisdiction over their state and local law claims. *Id.* at *13–14. It also denied them leave to amend their complaint. *Id.* at *14.

This appeal followed.⁶

STANDARD OF REVIEW

We review the dismissal of a complaint under Rule 12(b)(6) *de novo*. *Emilee Carpenter, LLC v. James*, 107 F.4th 92, 99 (2d Cir. 2024). In so doing, we take the complaint's factual allegations as true and draw all reasonable inferences in favor of the plaintiffs. *Id.* But we are not required to credit "allegations that are wholly conclusory." *Krys v. Pigott*, 749 F.3d 117, 128 (2d Cir. 2014). And we may affirm on any grounds supported by the record, "including grounds upon which the district court did not rely." *Jusino v. Fed'n of Cath. Tchrs., Inc.*, 54 F.4th 95, 100 (2d Cir. 2022) (quotation marks omitted).

affirm dismissal of the *Monell* claim.

⁶ The district court also dismissed the teachers' Title VII, Title IX, and First Amendment retaliation claims, their Title VII claim for publishing discriminatory notices, and their Title IX claim for sex-based harassment in education. But the teachers do not raise any non-perfunctory arguments challenging the dismissal of those claims in their appellate briefing; we therefore consider them waived. See *Norton v. Sam's Club*, 145 F.3d 114, 117 (2d Cir. 1998); *Tolbert v. Queens Coll.*, 242 F.3d 58, 75 (2d Cir. 2001).

DISCUSSION

The teachers challenge the district court's dismissal of their complaint on multiple grounds. On the constitutional side of things, the teachers contend that the District selectively enforced its policies against their pride flags, their pride stickers, and, by extension, the LGBTQ+ teachers who displayed them. And in so doing, it violated their First and Fourteenth Amendment rights. As to their statutory claims, the teachers assert that the same selective enforcement constituted employment discrimination because of their sex and sexual orientation. Finally, they argue that the district court should have exercised supplemental jurisdiction over their state and local law claims, and that it should have granted them leave to amend their complaint before dismissing it. We disagree on all fronts, and we address each in turn.

I. First Amendment Claims

Public school teachers do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969); *see also Cioffi v. Averill Park Cent. Sch. Dist. Bd. of Educ.*, 444 F.3d 158, 162 (2d Cir. 2006). But when teachers, like other “public employees,” “make statements pursuant to their official duties,” they “are not speaking as citizens for First Amendment purposes[.]” *Garcetti*, 547 U.S. at 421. They are providing hired speech for the Government. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 527 (2022). And when speech “owes its existence to a public employee’s professional responsibilities,” the Government gets to control the content of that speech—or restrict it altogether. *Garcetti*, 547 U.S. at 421–22.

Of course, not everything teachers say on school grounds or even in view of their students is “government speech subject to government control.” *Kennedy*, 597 U.S. at 530–31; cf. *Barber v. Rounds*, 169 F.4th 577, 583 (5th Cir. 2026). Instead, *Garcetti*’s scope-of-official-duties inquiry is a “practical” one. *Long v. Byrne*, 146 F.4th 282, 292 (2d Cir. 2025) (quotation marks omitted). It asks whether, given the “timing and circumstances” of the speech itself, the speech at issue is speech “the employee [is] expected to deliver in the course of carrying out his job.” *Kennedy*, 597 U.S. at 529–30. That is why, in *Kennedy*, a high school football coach’s private prayers on the field after a game were not speech pursuant to his official duties. The coach was not “instructing players, discussing strategy, [or] encouraging better on-field performance” while he prayed. *Id.*

The same practical analysis leads to the opposite conclusion here. Public school teachers are hired to teach a particular curriculum. See *Ward v. Hickey*, 996 F.2d 448, 453 (1st Cir. 1993). They are “expected” to create classroom learning environments and materials to support that curriculum. Cf. *Kennedy*, 597 U.S. at 529; see *Weintraub v. Bd. of Educ.*, 593 F.3d 196, 203 (2d Cir. 2010). And “in the course of” creating those learning environments, they decorate their classroom walls and doors. Cf. *Kennedy*, 597 U.S. at 529. The “timing and circumstances,” *id.* at 530, of Ecke, Dolce, and McAleavey-Polley’s classroom wall decorations therefore demonstrate that the decorations are speech that “owes its existence” to their core “professional responsibilities,” and the District may ask them to remove those decorations without implicating their First Amendment

rights. Cf. *Garcetti*, 547 U.S. at 421–22; *Weintraub*, 593 F.3d at 203; App’x 67.

That analysis holds true even though Ecke, Dolce, and McAleavey-Polley were not ultimately disciplined for their wall decorations. Although *Garcetti* arose in the First Amendment retaliation context, and the teachers here bring a viewpoint discrimination claim, it would be odd to hold that the Government can control its own speech when it disciplines or fires employees for making that speech but not when it tells them to stop speaking and they comply. More importantly, the teachers cannot state a viewpoint discrimination claim for speech that belongs to the Government, because when the Government itself is speaking, it “is entitled to favor certain views over others.” *Wandering Dago, Inc. v. Destito*, 879 F.3d 20, 34 (2d Cir. 2018). It does that all the time. See *Matal v. Tam*, 582 U.S. 218, 234 (2017).

Nor does that analysis conflict with *Garcetti*’s carveout for “academic scholarship or classroom instruction.” *Garcetti*, 547 U.S. at 425. To be sure, the *Garcetti* Court reserved for another day whether the public-employee speech doctrine “would apply in the same manner to a case involving speech related to scholarship or teaching.” *Id.* That carveout resulted from concerns that applying *Garcetti*’s “official duties” rule in cases involving public university professors would “exil[e] all public-university faculty scholarship and instruction from the shelter of the First Amendment.” *Heim v. Daniel*, 81 F.4th 212, 227 (2d Cir. 2023). But public university professors “are paid . . . to speak, and to speak freely, guided by their own professional expertise” in ways that public school teachers are not. *Id.*

As a result, when this Court declined to apply *Garcetti* to a public university professor's "teaching and academic writing," *id.* at 228 (quotation marks omitted), we left open whether *Garcetti* might nevertheless apply to a public school teacher's curricular speech, *id.* at 228 n.13; *see also Panse v. Eastwood*, 303 F. App'x 933, 934–35 (2d Cir. 2008) (summary order). Like many of our sister circuits, we now conclude that it does. *See, e.g., Mayer v. Monroe Cnty. Cmty. Sch. Corp.*, 474 F.3d 477, 480 (7th Cir. 2007); *Evans-Marshall v. Bd. of Educ.*, 624 F.3d 332, 342 (6th Cir. 2010); *see also Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 970 (9th Cir. 2011).

The District, for its part, offers another First Amendment theory. It insists that "speech in the traditional classroom to a captive audience during . . . instructional time is speech that a reasonable person would perceive to be school-sponsored[.]" District Appellees' Br. 16 (citing *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988)). And as a result, the District claims that it can reasonably restrict Ecke's classroom speech under *Hazelwood*.

That framing misses the mark. The problem is not that the students in Ecke's math classroom are a "captive audience" to her messages, or that her speech took place in a classroom. Otherwise, anything a teacher says or does in view of her students might be placed beyond the ambit of the First Amendment—an application of *Garcetti* that the Supreme Court rejected in *Kennedy*. *See* 597 U.S. at 530–31. For example, just as *Kennedy* made clear that a school district may not use *Garcetti* to "fire a Muslim teacher for wearing a headscarf in the classroom," *Garcetti* may not "transform" something like a progress pride flag pin on a teacher's blazer or a picture of their same-

sex spouse “into government speech” simply because the teacher wears that pin or displays that photo in their classroom.⁷ *Cf. id.* at 531. But here, Ecke, Dolce, and McAleavey-Polley’s particular speech at issue—the displays covering the walls and doors of their classrooms—is speech that they are “expected to deliver in the course of carrying out” their jobs. *Kennedy*, 597 U.S. at 529. And that speech thus falls directly into *Garcetti*’s heartland—whether or not they had a “captive audience” when making it.

* * *

In short: the teachers cannot state a First Amendment viewpoint discrimination claim against the District, the Board of Education, or individual District officials because the pride flags and stickers they displayed on their classroom walls and doors were speech that “owes its existence” to their “professional responsibilities.” *Garcetti*, 547 U.S. at 421. As a result, their First Amendment rights were not violated when they were ordered to remove them.

II. Equal Protection Claims

In the alternative, the teachers contend that the District targeted their flags and stickers but not others’ because of anti-LGBTQ+ “animus” or “malice.” Appellants’ Br. 35–36. And in so doing, it

⁷ The District’s approach to its own policy is consistent with this understanding. At oral argument, counsel for the District conceded that the policy would not prohibit a flag pin on the teacher’s person or a photo of a teacher’s same-sex spouse. *See* Oral Argument at 17:32–18:05, 19:29–20:02. Counsel also conceded that the policy would not prohibit Ecke from hanging the progress pride flag on her classroom wall during Gay Straight Alliance meetings. *Id.* at 15:08–16:18.

violated their right to equal protection of the laws. Again, we disagree.

To plead an equal protection violation predicated on selective enforcement, the teachers must allege two things: that they, “compared with others similarly situated,” were “selectively treated,” and that the “motivation” for that selective treatment was an “impermissible” one. *Hu v. City of New York*, 927 F.3d 81, 91 (2d Cir. 2019) (quotation marks omitted). Discrimination based on a “protected status” is an impermissible motivation. *Id.* A “malicious or bad faith intent to injure” someone is, too. *Id.* (quotation marks omitted).

Like the district court below, we need not decide whether Ecke, Dolce, and McAleavey-Polley plausibly alleged that the District selectively enforced its “political activities” ban against their flags and stickers but not others’. See *Dolce*, 2025 WL 1070079, at *12. Even assuming that the teachers have made a showing of disparate treatment, and that discrimination based on sexual orientation is an impermissible motivation under the Equal Protection Clause, see *Naumovski v. Norris*, 934 F.3d 200, 218–19 (2d Cir. 2019), Ecke, Dolce, and McAleavey-Polley need to plausibly allege that any disparate treatment they suffered was “caused by [that] impermissible motivation,” cf. *Bizzarro v. Miranda*, 394 F.3d 82, 87 (2d Cir. 2005). And they have not done so here.

Mostly, the teachers’ complaint alleges that the District’s acts “were undertaken with discriminatory animus,” that they were “motivated by discriminatory intent and purpose,” and that the basis for that animus was Dolce, Ecke, and McAleavey-Polley’s “sexual

orientation status.” App’x 35, 52. But those allegations are conclusory. Cf. *Krys*, 749 F.3d at 128. And as a result, they are not enough to plausibly allege the impermissible motivation that the teachers’ selective enforcement claim requires. See *Bizzarro*, 394 F.3d at 87.

The factual allegations in the complaint that do speak to the District and its officials’ motivations fare no better. When the District officials first visited Ecke’s classroom, they told her to take down the progress pride flag—but not the traditional pride flag. They also offered her a replacement sign that said: “This is a safe space to be who you are.” App’x 73. And when Superintendent Adams announced that the District would be “fully implementing” its ban on political activity on school premises, she emphasized that all of the District’s students “deserve a school environment where they are safe, comfortable[,] and respected, regardless of [their] . . . sexual orientation[.]” *Id.* On those facts, and absent any non-conclusory allegations to the contrary, it is not plausible that the District officials harbored discriminatory intent or animus or malice toward Dolce, Ecke, and McAleavey-Polley because of their sexual orientation. And the district court was right to dismiss the teachers’ equal protection claims accordingly.

III. Title VII Claims

Taking a different tack, the teachers reframe the flag, sticker, and permission slip incidents as discrete acts of employment discrimination. And they argue that the district court erred when it applied the *McDonnell Douglas* burden-shifting framework to conclude that they were not.

The teachers are right in one limited respect: Title VII plaintiffs are not required to plead *McDonnell Douglas*'s four-part *prima facie* case for employment discrimination at the motion-to-dismiss stage, and the district court was wrong to the extent it suggested that they were. See *Vega v. Hempstead Union Free Sch. Dist.*, 801 F.3d 72, 84 (2d Cir. 2015); *Buon v. Spindler*, 65 F.4th 64, 78–79 (2d Cir. 2023). But see *Dolce*, 2025 WL 1070079, at *3–4. Instead, to survive a motion to dismiss, Title VII plaintiffs need only plead facts sufficient to allege two things: that their employer “discriminated against” them, and that a protected characteristic—here, sex—was “a ‘substantial’ or ‘motivating’ factor contributing to” that discrimination. *Vega*, 801 F.3d at 85; *Buon*, 65 F.4th at 82–83.

Nevertheless, because they lack “direct evidence” of that alleged discrimination, Ecke, Dolce, and McAleavey-Polley still needed to plead facts sufficient to allege four (smaller) elements—(1) they are “member[s] of a protected class;” (2) they were “qualified” for their positions as high school teachers; (3) their employer—the District—took an “adverse employment action” against them; and (4) there is “at least minimal support for the proposition” that the District “was motivated by discriminatory intent” when it took that adverse action. *Buon*, 65 F.4th at 79 (quoting *Littlejohn v. City of New York*, 795 F.3d 297, 311 (2d Cir. 2015)). The teachers have not done so here.

An “adverse employment action” is a “‘disadvantageous’ change in an employment term or condition.” *Muldrow v. City of St. Louis*, 601 U.S. 346, 354 (2024) (quoting *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 80 (1998)). To plead one, a plaintiff must show “some harm respecting an identifiable term or condition of

employment.” *Id.* at 355. Being fired or demoted, losing benefits or responsibilities, or even being assigned “a disproportionately heavy workload” are all adverse employment actions. *Feingold v. New York*, 366 F.3d 138, 152–53 (2d Cir. 2004). A “mere inconvenience” or an “alteration of job responsibilities” without any accompanying showing of harm is not. *See Terry v. Ashcroft*, 336 F.3d 128, 138 (2d Cir. 2003) (quotation marks omitted).

To be sure, after *Muldrow*, Title VII plaintiffs no longer need to show that an adverse employment action caused them a “significant,” “serious,” or “substantial” disadvantage. 601 U.S. at 350, 355. But they do need to plead that the action caused “some injury respecting [their] employment terms or conditions” — they must be “worse off,” even if not “significantly so.” *Id.* at 359 (emphasis added). And that requirement is fatal to the teachers’ Title VII claims here. Ecke, Dolce, and McAleavey-Polley were not fired or otherwise disciplined for their advocacy. Their pay did not change. Their working hours, job titles, and job responsibilities did not, either. The most they can allege is that they used to display particular flags or stickers on the walls or doors of their classrooms and now cannot, or that they were required to remake a permission slip for an extracurricular field trip. And those changes do not in any way impact “an identifiable term or condition of [their] employment,” nor do they reflect “some injury respecting” one. *Id.* at 355, 359. They are therefore not enough to state a claim under Title VII.

IV. State and Local Law Claims

Having dismissed all of the teachers’ federal law claims, the district court declined to exercise supplemental jurisdiction over their

state and local law ones. We review that decision for abuse of discretion. *See Motorola Credit Corp. v. Uzan*, 388 F.3d 39, 56 (2d Cir. 2004). None exists here. As discussed above, the district court did not err when it dismissed the teachers' Section 1983, Title VII, and Title IX claims. And when all federal claims are dismissed before trial, the remaining state and local law claims should typically be dismissed, too. *Kolari v. N.Y.-Presbyterian Hosp.*, 455 F.3d 118, 119 (2d Cir. 2006).

V. Leave to Amend

Finally, the teachers contend that the district court erred when it denied them leave to amend. But the court did so because the teachers did not ask for leave to amend, nor did they explain how they would amend their complaint if given the opportunity. On those grounds, that decision also was not an abuse of discretion. *See TechnoMarine SA v. Giftports, Inc.*, 758 F.3d 493, 505–06 (2d Cir. 2014).

CONCLUSION

For the foregoing reasons, the judgment of the United States District Court for the Eastern District of New York is **AFFIRMED**.

APPENDIX



App'x 128 n.2.