REGULAR CALENDAR

March 8, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Education to which was referred HB 516-FN, relative to freedom of speech and association at public institutions of higher education.

WITHOUT RECOMMENDATION

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Education**
Bill Number:	**HB 516-FN**
Title:	**relative to freedom of speech and association at public institutions of higher education.**
Date:	**March 8, 2023**
Consent Calendar:	**Regular Calendar**
Recommendation:	**WITHOUT RECOMMENDATION**

Statement in support of Ought to Pass with Amendment: Proponents of this bill, as amended, believe that this bill is critical to ensuring that first amendment rights of students are not limited to specified zones of exercise. In addition, proponents believe this bill is needed to prevent discrimination based upon ideological differences. Differing viewpoints on particular issues need to be presented respectfully and received in the same manner. The bill encourages open-minded discussion and study. By creating a clear standard as proposed by this legislation, this bill protects this important goal, avoids needless litigation, and makes it certain that university administrators cannot decide who is entitled to recognition as a student organization based upon which beliefs those administrators favor or disfavor.

Amendment: 2023-0728h

Rep. Valerie McDonnell

Statement in support of Inexpedient to Legislate: The bill establishes a policy for free speech and expression at our state colleges and universities. While the bill has many good aspects, they are already being done throughout the state's university and community college systems and are included in free speech policies at the institutions of UNH, Plymouth, Keene, and the community colleges. Apart from the area of free speech and expression, the bill includes a "right to discriminate" for student organizations. This "right to discriminate" allows any student organization that receives the benefits of a recognized organization, including financial support from the institution, to exclude others from membership based on race, gender identity, sexual orientation, or any other discriminatory beliefs established by the student group. This provision fuels a divisive environment on campus and could lead to violence. And it violates our state's own non-discrimination laws and federal law such as title IX. Bills like this promote discrimination and hate speech and should be resoundingly rejected.

Amendment:

Rep. David Luneau

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Education

HB 516-FN, relative to freedom of speech and association at public institutions of higher education.

WITHOUT RECOMMENDATION

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Rep. David Luneau

Original: House Clerk

Cc: Committee Bill File

Rep. Popovici-Muller, Rock. 17
March 1, 2023
2023-0728h
07/05

Amendment to HB 516-FN

Amend RSA 188-J:4 as inserted by section 1 of the bill by replacing it with the following:

188-J:4 Remedies. Any person or student organization aggrieved by a violation of this chapter may bring an action against the public institution of higher education and its employees acting in their official capacities, responsible for the violation and seek appropriate relief, including, but not limited to, injunctive relief, monetary damages, reasonable attorneys' fees, and court costs. Any person or student organization aggrieved by a violation of this chapter may assert such violation as a defense or counter claim in any disciplinary action or in any civil or administrative proceedings brought against such student or student organization. Nothing in this section shall be interpreted to limit any other remedies available to any person or student organization.

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 516-FN

BILL TITLE: relative to freedom of speech and association at public institutions of higher education.

DATE: March 8, 2023

LOB ROOM: 207

MOTIONS: OUGHT TO PASS

Moved by Rep. McDonnell | Seconded by Rep. O. Ford | Vote: 10-10

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. McDonnell | Seconded by Rep. O. Ford | AM Vote: 10-10

Amendment # 2023-0728h

MOTIONS: RETAINED

Moved by Rep. Myler | Seconded by Rep. Damon | Vote: 10-10

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Luneau | Seconded by Rep. Tanner | Vote: 10-10

Respectfully submitted,

Rep Arlene Quaratiello, Clerk

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on Bill # HB 516

BILL TITLE: ... Freedom of Expression in Higher Ed

DATE: 3/8/23

LOB ROOM: 205-207

MOTION: (Please check one box)

☑ OTP ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. McDonnell Seconded by Rep. Ford Vote: 10-10

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☑ Adoption of Amendment # 2023 0728h *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. McDonnell Seconded by Rep. Ford Vote: 10-10

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☑ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. Myler Seconded by Rep. Damon Vote: 10-10

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☑ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # _____ *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. Luneau Seconded by Rep. Tanner Vote: 10-10

CONSENT CALENDAR: ____ YES ____ NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: Arlene Tamarkin

OFFICE OF THE HOUSE CLERK

1/6/2023 12:35:36 PM
Roll Call Committee Registers Report

2023 SESSION

Education

Bill #: 516 **Motion:** ITL **AM #:** _____ **Exec Session Date:** 3/8/23

Members	YEAS	Nays	NV
Ladd, Rick M. Chairman		10	
Cordelli, Glenn Vice Chairman		1	
Lekas, Alicia D.		2	
Ford, Oliver J. Clerk		3	
Belcher, Mike S.		4	
Drye, Margaret M.		5	
McDonnell, Valerie E.		6	
Noble, Kristin		7	
Peternel, Katy		8	
Quaratiello, Arlene		9	
Myler, Mel	1		
Cornell, Patricia	2		
Tanner, Linda L.	3		
Luneau, David J.	4		
Ellison, Arthur S.	5		
Woodcock, Stephen L.	6		
Hall, Muriel C.	7		
Balboni, Peggy	8		
S Cascadden, Corinne E.	9		
Damon, Hope	10		
TOTAL VOTE:	10	10	

OFFICE OF THE HOUSE CLERK

1/6/2023 12:35:36 PM
Roll Call Committee Registers Report

2023 SESSION

Education

Bill #: HB516 Motion: OTP AM #: _____ Exec Session Date: 3/8/23

Members	YEAS	Nays	NV
Ladd, Rick M. Chairman	10		
Cordelli, Glenn Vice Chairman	1		
Lekas, Alicia D.	2		
Ford, Oliver J. Clerk	3		
Belcher, Mike S.	4		
Drye, Margaret M.	5		
McDonnell, Valerie E.	6		
Noble, Kristin	7		
Peternel, Katy	8		
Quaratiello, Arlene	9		
Myler, Mel		1	
Cornell, Patricia		2	
Tanner, Linda L.		3	
Luneau, David J.		4	
Ellison, Arthur S.		5	
Woodcock, Stephen L.		6	
Hall, Muriel C.		7	
Balboni, Peggy		8	
S Cascadden, Corinne E.		9	
Damon, Hope		10	
TOTAL VOTE:	10	10	

OFFICE OF THE HOUSE CLERK

1/6/2023 12:35:36 PM
Roll Call Committee Registers Report

2023 SESSION

Education

Bill #: HB 516 **Motion:** Adopt **AM #:** 2023 0728h **Exec Session Date:** 3/8/23

Members	YEAS	Nays	NV
Ladd, Rick M. Chairman	10		
Cordelli, Glenn Vice Chairman	1		
Lekas, Alicia D.	2		
Ford, Oliver J. Clerk	3		
Belcher, Mike S.	4		
Drye, Margaret M.	5		
McDonnell, Valerie E.	6		
Noble, Kristin	7		
Peternel, Katy	8		
Quaratiello, Arlene	9		
Myler, Mel		1	
Cornell, Patricia		2	
Tanner, Linda L.		3	
Luneau, David J.		4	
Ellison, Arthur S.		5	
Woodcock, Stephen L.		6	
Hall, Muriel C.		7	
Balboni, Peggy		8	
S Cascadden, Corinne E.		9	
Damon, Hope		10	
TOTAL VOTE:	10	10	

OFFICE OF THE HOUSE CLERK

1/6/2023 12:35:36 PM
Roll Call Committee Registers Report

2023 SESSION

Education

Bill #: HB516 Motion: Retain AM #: _____ Exec Session Date: 3/8/23

Members	YEAS	Nays	NV
Ladd, Rick M. Chairman		10	
Cordelli, Glenn Vice Chairman		1	
Lekas, Alicia D.		2	
Ford, Oliver J. Clerk		3	
Belcher, Mike S.		4	
Drye, Margaret M.		5	
McDonnell, Valerie E.		6	
Noble, Kristin		7	
Peternel, Katy		8	
Quaratiello, Arlene		9	
Myler, Mel	1		
Cornell, Patricia	2		
Tanner, Linda L.	3		
Luneau, David J.	4		
Ellison, Arthur S.	5		
Woodcock, Stephen L.	6		
Hall, Muriel C.	7		
Balboni, Peggy	8		
S Cascadden, Corinne E.	9		
Damon, Hope	10		
TOTAL VOTE:	10	10	

Rep. Popovici-Muller, Rock. 17
March 1, 2023
2023-0728h
07/05

Amendment to HB 516-FN

Amend RSA 188-J:4 as inserted by section 1 of the bill by replacing it with the following:

188-J:4 Remedies. Any person or student organization aggrieved by a violation of this chapter may bring an action against the public institution of higher education and its employees acting in their official capacities, responsible for the violation and seek appropriate relief, including, but not limited to, injunctive relief, monetary damages, reasonable attorneys' fees, and court costs. Any person or student organization aggrieved by a violation of this chapter may assert such violation as a defense or counter claim in any disciplinary action or in any civil or administrative proceedings brought against such student or student organization. Nothing in this section shall be interpreted to limit any other remedies available to any person or student organization.

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 516-FN

BILL TITLE: **relative to freedom of speech and association at public institutions of higher education.**

DATE: **February 24, 2023**

LOB ROOM: **205-207** **Time Public Hearing Called to Order:** **1:30 pm**

Time Adjourned: **4:00 pm**

Committee Members: Reps. Ladd, Cordelli, A.Lekas, O. Ford, Belcher, Drye, McDonnell, Noble, Peternel, Myler, Luneau, Woodcock, Hall, Balboni, Cascadden and Damon

Bill Sponsors:

Rep. Popovici-Muller	**Rep. Hynes**	**Rep. Alexander Jr.**
Rep. L. Turcotte	**Rep. Lynn**	**Rep. Read**
Rep. Soti	**Sen. Murphy**	

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Popovici-Muller - Prime Sponsor
- This bill is being proposed because there is uncertainty around the boundaries of free speech and freedom of association at public institutions of higher education.
- This bill attempts to protect the rights of all, equally, without undue restrictions. (The ACLU also support this bill.)

Rep. Bob Lynn
- Supports
- This is a worthwhile bill that fulfills a certain purpose and doesn't seem to have any constitutional issues.

Greg Gonzalez - FIRE
- Supports
- This bill is crucial for protecting free speech on campus.
- This bill defines a careful lines between speakers' rights and heckler vetoes!
- It also protects students from harassment, while passing constitutional muster.

***Tim Chevalier - Christian Legal Society**
- Supports
- This bill is a common sense measure that would protect students who wish to meet on college campuses for religious, political or ideological speech.
- Submitted written testimony

***Chad Pimental - USNH**
- Opposes
- Existing public higher education institutions in NH already addresses these issues and UNH , PSU and KSC all have 'green light' ratings from FIRE.
- These institutions are in full compliance with the 1st. Amendment.
- Submitted written testimony

Brian Muh - InterVarsity at UNH

- Supports
- It is important that religious groups have leaders that share the beliefs of the organization.

Rep. Ellen Read

- Supports
- Free speech isn't a right - leaning concept. It is a principle about fairness and making sure one side doesn't have undue power over another, and that's not a partisan issue.

Ross Connolly - AFP-NH

- Supports
- Free speech is the cornerstone of any free society and should be encouraged and upheld.
- This bill would put in statute rights of students while defining obligations of the educational institutions.

J. Caleb Dalton - Alliance Defending Freedom

- Supports
- By eliminating free speech zones and putting a few of the policies into statute, this job would codify important issues.
- Changes in administration mean changes on policies.

***Kelley McLeau - First Liberty Institute**

- Supports
- A law school religious group at UNH. Law needed a 'demand letter' to get recognition because of questioning the sincerity of their religious beliefs.
- Submitted written testimony

***Jeff Dzanne - Free Exercise Coalition**

- Supports
- Described the trouble his religious group faced on the UNH Law campus and how it had to reach out to First Liberty Institute to get the right to affiliate.
- Submitted written testimony

***Gabriella Ospina - Free Exercise Coalition**

- Supports
- Described the ill treatment she and fellow students had when attempting to set up a religious group at UNH Law and the need for this bill.
- Submitted written testimony

Lance Kinzer - First Amendment Partnership

- Supports
- Described some similar legislation in town and a case resulting in monetary damages paid based on 'viewpoint' discrimination. The clarity of this bill will be conflict reducing.

Respectfully submitted,

Rep. Margaret Drye, Clerk

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: HB516-FN Date: 2/24/23

Committee: EDUCATION

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Rep Timothy Horrigan	Stratford 10				✓
Rep Heath Howard	Strafford 4				X
Chad Pimentel	5 Chantell Dr Concord		USNH		✓
Rep DANIEL POPOVICI-MULLER		6032674142	Rock. 17	X	

House Remote Testify

Education Committee Testify List for Bill HB516 on 2023-02-24

Support: 11 Oppose: 107 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	Signed Up
Davis, Tod	Nashua, NH todc.18@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/18/2023 4:54 AM
Holstein, Susanne	Bedford, NH srholstein@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/18/2023 4:11 PM
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Support	No	No	2/19/2023 5:05 PM
Guven, Taci	Windham, NH taci.guven@yahoo.com	A Member of the Public	Myself	Support	No	No	2/19/2023 6:18 PM
Mercer, Jennifer	Loudon, NH jenannmercer@gmail.com	A Member of the Public	Myself	Support	No	No	2/19/2023 7:10 PM
Willing, Maura	Concord, NH Maura.Willing@Comcast.net	A Member of the Public	Myself	Oppose	No	No	2/19/2023 10:09 PM
Jorgensen, Patricia	NORTHFIELD, NH yellaboat@aol.com	A Member of the Public	Myself	Support	No	No	2/19/2023 10:16 PM
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/19/2023 10:30 PM
Gage, Elizabeth	Cornish, NH lizgagenh@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 7:25 AM
Straiton, Marie	Pembroke, NH m.straiton@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/20/2023 7:29 AM
Satterfield, Peter	Pembroke, NH psatterfield@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/20/2023 7:35 AM
Reed, Barbara	North Swanzey, NH BDReed74@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 8:38 AM
Torpey, Jeanne	Concord, NH jtorp51@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/20/2023 9:14 AM

Casino, Joanne	Concord, NH joannecasino@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/20/2023 9:15 AM
hatch, sally	concord, NH sallyhatch@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/20/2023 9:22 AM
Liscord, Barbara McKusick	Mont Vernon, NH barbmcklis@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 9:47 AM
Istel, Claudia	Acworth, NH cistel79@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 9:59 AM
Walker, Deborah Klein	Meredith, NH deb.publichealth@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 10:37 AM
Jones, Andrew	Pembroke, NH arj11718@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 10:43 AM
Devore, Gary	Pembroke, NH torin_asheron@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 10:50 AM
Englund, Alfrieda	Stoddard, NH ditaenglund43@gmail.com	An Elected Official	Myself	Oppose	No	No	2/20/2023 11:20 AM
Monsein, Marilyn	Sugar Hill, NH msquared3@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 12:43 PM
Keeler, Margaret	New London, NH peg5keeler@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 1:06 PM
Redmond-Scura, Maureen	Concord, NH mscura@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/20/2023 1:07 PM
Wessels, Susan	RINDGE, NH slwessels2010@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 1:36 PM
Keegan, John	BOscawen, NH peoresnada@tds.net	A Member of the Public	Myself	Oppose	No	No	2/20/2023 1:59 PM
Ciatto, Susan	Mont Vernon, NH susan.ciatto@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 2:03 PM
MacGregor, Leslie	Grantham, NH lsmacgregor@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 2:22 PM
Hatcher, Phil	Dover, NH phil.hatcher@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 2:39 PM
Santoro, Margo	Stoddard, NH margosan99@aol.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 2:47 PM
Liebowitz, Susan	Plainfield, NH supawali@hotmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 2:50 PM

Merlone, Lynn	Rindge, NH prulone@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 3:27 PM
Hershey, Jane	Rindge, NH janelhershey@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 3:27 PM
Moore, Susan	Franconia, NH susan.moore.franconia@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 3:42 PM
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Oppose	No	No	2/20/2023 3:46 PM
Bracy, Sue	Dunbarton, NH marysuebracy@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 5:44 PM
Phillips, Betsey	Bethlehem, NH bphill36@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 6:02 PM
MESERVE, BARBARA	JACKSON, NH ALLSNOWDAYS@YAHOO.COM	A Member of the Public	Myself	Oppose	No	No	2/20/2023 6:20 PM
Taylor, Gale	Concord, NH galeforcefacilitators@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 6:41 PM
Shanks, Penelope	Keene, NH Penelope.shanks@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 6:50 PM
Benham, Beth	Nottingham, NH deeppeace296@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/20/2023 6:56 PM
Laker-Phelps, Gail	Chichester, NH lpsart@tds.net	A Member of the Public	Myself	Oppose	No	No	2/20/2023 7:54 PM
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/20/2023 9:29 PM
Bishop, Nancy	Plaistow, NH nanbis71@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 2:09 AM
Ellermann, Maureen	Concord, NH ellermannf@aol.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 6:50 AM
Prohl, Maureen F.	Elkins, NH rmprohl@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/21/2023 6:55 AM
DeMark, Richard	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 7:09 AM
DeMark, Harriet	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 7:09 AM
Nardino, Marie	Andover, NH mdnardino@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 7:22 AM

Bergevin, Leslie	Loudon, NH Leslie.bergevin@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 7:35 AM
Lenz, Elaine	Meriden, NH eglenz@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/21/2023 8:17 AM
Benevides, Eric	Gilford, NH ericbenevides@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 8:28 AM
Black, Matthew	Mont Vernon, NH immsb1138@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 9:56 AM
Brown, Nancy	Hopkinton, NH wcbnpb@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/21/2023 10:06 AM
Bundy, Linda	Antrim, NH n_bundy@mcttelecom.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 10:45 AM
Johnson, Dawn	Laconia, NH staterep@dawnjohnson4nh.com	A Member of the Public	Myself	Support	No	No	2/21/2023 11:44 AM
Corell, Elizabeth	Concord, NH Elizabeth.j.corell@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 12:46 PM
Blanchard, Sandra	Loudon, NH sandyblanchard3@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 1:20 PM
Rettew, Ann	Concord, NH abrettew@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 2:11 PM
RHOADES, CHARLES	Dover, NH chuckrhoades@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/21/2023 4:24 PM
Smith, Sara	Pembroke, NH sara.rose.ssmith@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 5:19 PM
Baucom, Pam	Walpole, NH ptubridybaucom@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 5:23 PM
Liberman, Sheryl	Merrimack, NH saml54@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/21/2023 5:32 PM
Scura, Christa	Hopkinton, NH john08son@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 5:33 PM
Clifford, Virginia	Candia, NH vstmartin@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/21/2023 6:27 PM
Staples, Monica	Nashua, NH monica.staples@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/21/2023 11:00 PM
Davis, Johnna	Gilford, NH jdavis@metrocast.net	A Member of the Public	Myself	Oppose	No	No	2/22/2023 5:11 AM

Westlake, jane	Center Barnstead, NH janewestlake57@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/22/2023 8:10 AM
Campbell, Leonard	Meredith, NH lsoup03@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/22/2023 12:01 PM
Lindpaintner, Lyn	Concord, NH lynlin@bluewin.ch	A Member of the Public	Myself	Oppose	No	No	2/22/2023 12:18 PM
Clark, Martha	Canterbury, NH mctraveler1@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/22/2023 2:32 PM
Oxenham, Lee	PLainfield, NH leeoxenham@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/22/2023 2:39 PM
Nartowicz, Nikolas	Washington, DC nartowicz@au.org	A Lobbyist	Americans United for Separation of Church and State	Oppose	No	No	2/22/2023 4:27 PM
Bushueff, Catherine	Sunapee, NH agawamdesigns@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/22/2023 8:57 PM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Support	No	No	2/22/2023 10:50 PM
Verschueren, James	Dover, NH jd.verschueren@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 9:03 AM
Weber, Jill	Mont Vernon, NH jill@frajilfarms.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 10:16 AM
Jao, Greg	ELMHURST, IL greg.jao@intervarsity.org	A Member of the Public	InterVarsity Christian Fellowship/USA	Support	No	No	2/23/2023 10:22 AM
Fuentes, Sebastian	Thornton, NH sebastian@radnh.org	A Lobbyist	Rights & Democracy NH	Oppose	No	No	2/23/2023 10:39 AM
Malmberg, Jane	Walpole, NH Jamalmberg033@gmail.con	A Member of the Public	Myself	Oppose	No	No	2/23/2023 11:47 AM
Fudge, Kim Marie	NORTH CONWAY, NH kimfudge20@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 3:14 PM
Richards, Martha	HOLDERNESS, NH maplerichards@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 3:20 PM
Kepner, Lori	Orlando, FL lori.kepner@cru.org	A Member of the Public	The National Organization of Cru, with student chapters in NH	Support	No	No	2/23/2023 7:14 PM
Robertson-Souter, Catherine	Windham, NH catsout@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/23/2023 7:50 PM
Cevasco, Karin	Milford, NH Karin.Cevasco@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 7:54 PM

Nelson, Deborah	Hanover, NH dbaconnelson@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 8:49 PM
jakubowski, dennis	Loudon, NH dendeb146@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 8:52 PM
Jakubowski, Deborah	Loudon, NH dendeb146@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 8:52 PM
Spencer, Louise	Concord, NH lpskentstreet@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 9:04 PM
Bowles, Margaret	Lyme, NH mcb2885@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 9:20 PM
Soti, Julius	Windham, NH juliusfsoti@gmail.com	An Elected Official	Myself	Support	No	No	2/23/2023 9:21 PM
Koch, Helmut	Concord, NH helmut.koch.2001@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/23/2023 10:04 PM
Doherty, David	Pembroke, NH, NH ddoherty0845@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 6:44 AM
Mack, Melissa	Milford, NH mackmelissa23@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 7:03 AM
FRIEDRICH, ED	Loudon, NH erfriedrich@yahoo.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 7:20 AM
Taylor, Susan	Plainfield, NH sueetaylor158@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 7:53 AM
Evans, Anne	Hanover, NH anne.m.evans4@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 7:54 AM
Brennan, Nancy	Weare, NH burningnan14@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 7:56 AM
Taylor, David	Plainfield, NH dstaylor342@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 7:58 AM
Brennan, Arthur	Weare, NH arete201314@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 8:06 AM
Brennan, Jane	Weare, NH janelb@gsinet.net	A Member of the Public	Myself	Oppose	No	No	2/24/2023 8:09 AM
Ufford, Letitia	Hanover, NH letitia.ufford@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 8:46 AM
Chase, Karen	Hanover, NH kpchase@verizon.net	A Member of the Public	Myself	Oppose	No	No	2/24/2023 9:07 AM

morgan, meredith	hanover, NH meredithm@kahres.org	A Member of the Public	Myself	Oppose	No	No	2/24/2023 9:45 AM
Howes, Debrah	Bow, NH president@aft-nh.org	A Lobbyist	American Federation of Teachers - NH	Oppose	No	No	2/24/2023 9:47 AM
Racusin, Sharon	Hanover, NH sdracusin@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 9:58 AM
Nammo, Laura	Springfield, VA laura@clsnet.org	A Member of the Public	Christian Legal Society	Support	No	No	2/24/2023 10:48 AM
Garland, Leane	Hanover, NH leanepage@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 10:53 AM
Townsend, Charles	Canaan, NH chucktownsend@me.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 11:40 AM
Knaack, Frank	Concord, NH fknaack@aclu-nh.org	A Lobbyist	ACLU-NH	Support	No	No	2/24/2023 11:57 AM
Williams, Janet	Lyme, NH jlwlyme@icloud.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 11:59 AM
Anastasia, Patricia	Londonderry, NH patti.anastasia@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 12:22 PM
Reid, CCSNH, Shannon	Concord, NH sreid@ccsnh.edu	State Agency Staff	CCSNH	Oppose	No	No	2/24/2023 12:44 PM
Weingeist, Carol	Hanover, NH carol.weingeist@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 1:24 PM
Wilke, Mary	CONCORD, NH wilke.mary@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 3:42 PM
Bass, Patricia	Concord, NH pattybass@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/24/2023 8:35 PM
Holcombe, Susan	Hanover, NH shholcombe@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 9:07 PM
Grearson, Arlynne Faye	Lebanon, NH faye.grearson@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/24/2023 11:49 PM

I Oppose HB516

Hon Representatives,

I oppose HB516

Public Education in NH has been attacked and watered down through defunding and attempted requirements. The irony of “woke” and its many iterations is certainly made more obvious by a law that is redundant.

This is another attempt to bring more legislation to public education with a statute disguised as ensuring free speech yet allowing more disruption through civil action.

This bill breaks a barrier between free speech and public good; and this would make education more partisan and would do nothing to protect public education policies already in place.

NH should be trying to promote Public Education, not legislate it!!

How does this bill follow the NH Constitutional vision that “all government of right originates from the people, is founded in consent, and instituted for the general good.”?

Please do not recommend HB516l.

Respectfully,

Len

Leonard Campbell
Meredith, NH
603-455-1105

AMERICANS UNITED
FOR SEPARATION OF CHURCH AND STATE

1310 L Street NW Suite 200, Washington, DC 20005
(202) 466-3234 | americansunited@au.org | au.org

February 22, 2023

The Honorable Rick Ladd
Chair
Education Committee
New Hampshire House of Representatives
107 North Main Street
Concord, NH 03301

The Honorable Glenn Cordelli
Vice Chair
Education Committee
New Hampshire House of Representatives
107 North Main Street
Concord, NH 03301

Re: HB 516 – Don't Sanction Discrimination in Public Institutions of Higher Learning

Dear Chair Ladd and Vice Chair Cordelli:

On behalf of the New Hampshire members and supporters of Americans United for Separation of Church and State, we write to urge you to oppose HB 516 insofar as it would exempt religious student organizations from nondiscrimination policies at public institutions of higher education. The bill should be rejected because it could sanction discrimination.

Student organizations are an important part of campus life. Research shows that they contribute to overall student satisfaction and success. Having robust non-discrimination policies in place ensures that all students are able to access various organizations and explore different ideas and identities. To prevent discrimination on campus, promote equality and fairness, and foster inclusionary practices for student organizations, many public colleges and universities have "accept-all-comers" policies. These nondiscrimination policies generally withhold funding[1] and official recognition from student groups that are not open to all students. This bill, in contrast, would undermine these policies.

HB 516 actually allows clubs to discriminate. For example, a Christian student group could turn away a student because he is gay or she is a single mom. This bill could even allow a white supremacist group to demand university funding and recognition.

The bill is also not required by the First Amendment. Any student club can become a recognized group and access funds if it adheres to its school's nondiscrimination policy. And if a club decides it wants to impose requirements for membership and leadership

[1] The revenue stream for such funding, which is common at universities throughout the country, is created by a mandatory student activity fee imposed on students.

that conflict with the school policy, it will not be silenced or driven off campus; instead, it, like any other club, simply will not receive official recognition and funding. In fact, the Supreme Court upheld an "accept-all-comers" policy in *Christian Legal Society v. Martinez*[2] against claims that it violated the religious freedom of Christian student groups. The Court explained that the policies do not violate the First Amendment because the denial of benefits is based on the group's *conduct*, not their *views*.[3]

The New Hampshire legislature should not support divisive legislation that fosters discrimination in the state's public institutions of higher learning. It should not undermine the power of these institutions to safeguard their students from discrimination and mandate that student activity fees paid by all students only support those groups that are open to all students. Thank you for your consideration on this important matter.

Sincerely,



Nikolas Nartowicz
State Policy Counsel

cc: Members of the House Education Committee

[2] 561 U.S. 661 (2010).

[3] *Id.* at 696-7.

February 24, 2023

Chairman Rick Ladd
Higher Education Committee
The New Hampshire House of Representatives
107 North Main Street
Concord, NH 03301

Re: Hearing on HB 516 regarding belief-based student associations, on February 24, 2023

Dear Chairman Ladd and Members of the Committee:

Cru supports HB 516. As legal counsel for Cru, I write today to offer Cru's perspective as an organization with many religious student chapters all over the country. In New Hampshire alone, Cru has had hundreds of students involved in our chapters at public universities and colleges over the years, providing support and bringing depth to their college experience.

Cru has long respected the campus environment as a place where students can have robust discussion and hear and dialogue about diverse opinions and perspectives on life and learning. Religious groups contribute to campus life at universities in important ways. They help meet students' spiritual needs, provide needed emotional support, and regularly participate in service activities on campus and in the community. Cru supports nondiscrimination policies and welcomes any student to participate in and become a member of its chapters. Yet, for religious groups to authentically pursue their purposes, they must be allowed to be religious by ensuring that their leaders can authentically teach and live out the faiths they represent.

We especially appreciate that this bill includes language about the associational rights of student organizations, particularly in the area of protecting leadership selection.[1] An organization needs to be able to pursue its mission and maintain its identity. Every organization, therefore, expects

[1] 188-J:3 Freedom of Association and Nondiscrimination Against Students and Student Organizations. No public institution of higher education shall deny a religious, political, or ideological student organization any benefit or privilege available to any other student organization, or otherwise discriminate against such an organization, based on the expression of the organization, including any requirement that the leaders or members of such organization:
I. Affirm and adhere to the organization's sincerely held beliefs;
II. Comply with the organization's standards of conduct; or
III. Further the organization's mission or purpose, as defined by the student organization

General Counsel's Office
100 Lake Hart Drive – 3500 Orlando, FL 32832
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its leaders to agree with and pursue its goals, as the leaders are tasked with carrying out the organization's mission. Leadership qualifications are often especially important for religious groups, because for many religious adherents, religious understanding and the ability to teach religious tenets and practices involves more than intellect and knowledge; it also involves religious belief and experience. To prohibit religious leadership criteria for religious student groups, just because it is religious in nature, instead leads to fundamental unfairness for religious groups, and results in discrimination against religious groups, rather than preventing it.

No group should be forced to choose between following its faith and losing student organization status *or* compromising the integrity of its religious identity in order to remain on campus. Diversity is beautiful and essential on the college campus, including ideological and religious diversity. HB 516 will help to preserve diversity on New Hampshire campuses by allowing religious groups to be religious, thereby contributing to dialogue, tolerance, and understanding of perspectives different from one's own.

The principles underlying HB 516 are also consistent with Supreme Court precedent. The Supreme Court has long recognized the importance of religious groups not being treated differently because they are religious. *See, e.g., Widmar v. Vincent*, 454 U.S. 263 (1981); *Rosenberger v. Rector and Visitors of the University of Virginia*, 515 U.S. 819 (1995); *Board of Regents of the University of Wisconsin System v. Southworth*, 529 U.S. 217 (2000); *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2019-2021 (2017).

The Supreme Court made clear in both *Trinity Lutheran*, 137 S.Ct. at 2021, and in *Espinoza v. Montana Dep't of Revenue*, 140 S. Ct. 2246 (2020), that government policies and laws may not "impose special disabilities on the basis of religious status." *Espinoza*, 140 S.Ct. at 2254. The *Espinoza* court further clarified that the government may not disqualify "otherwise eligible recipients from a public benefit solely because of their religious character." *Id.* The benefits of being officially recognized as a student organization on a public university are significant. It is in the government's interest to ensure that religious groups are given the same opportunities given to other student organizations.

In fact, it is particularly important to preserve the internal religious autonomy of religious groups so that the government is not entangling itself in religious affairs. *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2060 (2020); *see also Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 132 S. Ct. 694 (2012).

The 8th Circuit has even more recently noted that it is clearly established law that it violates First Amendment law when a public university derecognizes religious student groups because they have religious leadership requirements, while treating other groups differently. *InterVarsity Christian Fellowship/USA v. University of Iowa*, 5 F.4th 855 (8th Cir. 2021). The University of Iowa deregistered almost every religious group on their campus, including Sikh, Muslim,

Protestant, and more, simply due to their requirement that their leaders agree with their religious beliefs. In a similar situation, Wayne State University derecognized a religious group because of its leadership standards, applying its policy inconsistently. *InterVarsity Christian Fellowship/USA v. Bd. of Governors of Wayne State Univ.*, 534 F. Supp. 3d 785 (E.D. Mich. 2021). The First Circuit also has a long history of standing by the importance of applying the First Amendment in the university setting. *See, e.g., Gay Students Organization of University of New Hampshire v. Bonner*, 509 F.2d 652, 659 (1st Circuit, 1974) (Emphasizing the importance of associational rights and stating that "While a university may have some latitude in regulating organizations such as fraternities or sororities which can be purely social, its efforts to restrict the activities of a cause-oriented group like the GSO stand on a different footing").

Students involved in many religious organizations all over the country have personal stories of being treated differently as religious groups. These challenges do not always result in formal court proceedings, but are extremely disruptive to students' college experiences. Cru Chapters have faced such challenges, both along the coasts and in the heartland of this nation. Cru has found that when universities target religious groups and treat them as suspicious because they expect leaders to agree with their beliefs, it greatly harms those student associations, causing them to lose momentum, the credibility that an official status brings, and the opportunity to serve the campus' needs. It can be difficult to recover and often takes years to rebuild. In addition, when resolution does occur, it can feel ambiguous because students don't always know if they have achieved a temporary or a permanent fix. Students may then have anxiety each time they seek to register their group, wondering if their common sense desire to have spiritually qualified leaders will be flagged or seen as problematic next time.

Cru believes that the leadership selection principle in section 188-J:3 of HB 516 is important for all religious faiths. Diverse religious groups are in agreement that protecting religious groups is crucial to preserve religious diversity and expression—including many Jewish, Christian, Muslim, and Catholic groups, among others. *See, e.g.*, Slugh, Howard, "Religious Groups Led by Co-Religionists—It Shouldn't Be Controversial," Nov 23, 2018, https://www.nationalreview.com/2018/11/religious-groups-government-must-not-dictate-leaders/.

State legislation upholding student speech and association rights will help to ensure that religious student organizations are treated fairly. Please act to protect religious students in New Hampshire, preserving their ability to form and find authentic faith-based communities where they can belong, live out their various faiths, and contribute to the rich diversity of viewpoints on the college campus.

Sincerely,

General Counsel's Office
100 Lake Hart Drive – 3500 Orlando, FL 32832
407-826-2047 Main Number / 407-854-1218 Fax

/s/ Lori D. Kepner
Ms. Lori D. Kepner
Legal Counsel
Cru—General Counsel's Office
Lori.Kepner@cru.org

cc: Dennis Kasper, of Lewis, Brisbois, Bisgaard& Smith, LLP, General Counsel to Cru

CHRISTIAN LEGAL SOCIETY

Seeking Justice with the Love of God

February 24, 2023

Re: Hearing on HB 516 to protect religious student associations at New Hampshire's public institutions of higher education

Christian Legal Society (CLS) supports HB 516, which will provide much needed protection for the ability of religious students to meet on college/university campuses. By passing HB 516, the New Hampshire Legislature will conserve taxpayer dollars by preventing costly litigation that has resulted in other states when public universities adopted policies to exclude religious student groups because the groups require their leaders to share their core religious beliefs. This problem has arisen on many college campuses nationwide and, in 2022, at a public university in New Hampshire.

Attached to this statement are actual letters from university officials or student government representatives to religious groups threatening to exclude religious groups from campus because of the religious groups' requirement that their leaders agree with the groups' religious beliefs. (Attachments B, C, D, E, G, I, and K). These letters exemplify the problem that HB 516 will prevent in New Hampshire. **I respectfully request that this letter and its attachments be included in the record for the hearing on HB 516 before the House Committee on Education scheduled for February 24, 2023**. As this letter will explain:

- HB 516 is a commonsense measure to protect religious students who wish to meet on New Hampshire college campuses.
- HB 516 allows New Hampshire public universities to maintain whatever policies they choose so long as their policies permit religious student organizations to choose their leaders according to their religious beliefs.
- HB 516 conserves scarce tax dollars by preventing costly litigation against colleges that adopt policies that exclude religious groups.
- HB 516 would add New Hampshire to the expanding list of 17 states – Alabama, Arizona, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Montana, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, and Virginia – that have enacted similar protections for religious or belief-based student groups.[1] (Attachment AA lists the key provisions of these states' laws.)

[1] Ala. Code 1975 § 1-68-3(a)(8) (all student groups); Ariz. Rev. Stat. § 15-1863 (religious and political student groups); Ark. Code Ann. § 6-60-1006 (all student groups); Idaho Code § 33-107D (religious student groups); Ind. Code 21-39-8-1 et seq. (religious, political, and ideological student groups); Iowa Code § 261H.3(3) (all student groups); Kan. Stat. Ann. §§ 60-5311-5313 (religious student groups); Ky. Rev. Stat. Ann. § 164.348(2)(h) (religious and political student groups); La. Stat. Ann.-Rev. Stat. § 17.:3399.33 (belief-based student groups); Mont. Code Ann. § 20-25-518 (religious, political, or ideological); N.C. Gen. Stat. Ann. § 116-40.12 (religious and political student groups); N.D. § 15-10.4-02(h) (student organizations' beliefs); Ohio Rev. Code § 3345.023 (religious student groups); Okla. St. Ann. § 70-2119.1 (religious student groups); S.D. Ch. § 13-53-52 (ideological, political, and religious student

The need for HB 516 was demonstrated just this academic school year in New Hampshire when the Student Bar Association (SBA) at the University of New Hampshire Franklin Pierce School of Law threatened to deny recognition to the Christian Legal Society Law Student chapter (CLS-NH) there. At a public hearing, the SBA threatened to deny CLS's request for recognition because the SBA claimed that CLS-NH's statement of faith requirement violated the school's diversity, equity, and inclusion policies. CLS-NH student leaders were subjected to an unseemly inquisition regarding their religious beliefs. CLS's Center for Law & Religious Freedom sent a letter to university administrators explaining that failure to recognize CLS-NH was unconstitutional viewpoint discrimination and that both federal regulations and caselaw reinforced the right of religious student organizations to have religious leadership requirements. The administration agreed and directed the SBA to recognize CLS-NH. Had HB 516 been law, the process would have been clearer, shorter, and less traumatic for the CLS-NH students.[2]

HB 516 allows New Hampshire's public universities and colleges to have whatever policies they wish. HB 516 only requires that whatever policy a college chooses to have must respect religious student groups' right to choose their leaders according to their religious beliefs. HB 516 thereby protects New Hampshire public colleges/universities, and the taxpayers that fund them, from costly litigation. Equally importantly, HB 516 protects religious students from discrimination on New Hampshire campuses and secures their basic freedoms of speech and religion.

I. For Four Decades, Christian Legal Society Has Defended Religious Student Organizations' Access to College Campuses.

Christian Legal Society is a national association of Christian attorneys, law students, and law professors. CLS has attorney chapters located throughout the country, including a New England chapter that encompasses New Hampshire. CLS has student chapters at law schools nationwide, including at the University of New Hampshire Franklin Pierce School of Law. CLS law student chapters typically are small groups of students who meet for weekly prayer, Bible study, and worship at a time and place convenient to the students. All students are welcome at CLS meetings. As Christian churches have done for nearly two millennia, CLS requires its leaders to agree with a statement of faith, signifying agreement with the traditional Christian beliefs that define CLS.

CLS has long believed that pluralism, essential to a free society, prospers only when the First Amendment rights of all Americans are protected regardless of the current popularity of their speech or religious beliefs. For that reason, CLS was instrumental in the passage of the federal

groups); Tenn. Code Ann. § 49-7-156 (religious student groups); Va. Code Ann. § 23.1-400 (religious and political student groups).

[2] The University of New Hampshire website currently lists 327 student organizations. https://wildcatlink.unh.edu/organizations. The School of Law website lists 28 student organizations, covering a wide array of interests, including Secular Student Alliance, Diversity Coalition, Lambda, The Federalist Society, UNH Law Democrats, and If/When/How-Lawyering for Reproductive Justice. https://law.unh.edu/student-life/student-organizations.

Equal Access Act of 1984, 20 U.S.C. §§ 4071 *et seq.*, that protects the right of all students, including religious student groups and LGBT student groups, to meet for "religious, political, philosophical or other" speech on public secondary school campuses.[3]

Christian Legal Society's religious liberty advocacy arm, the Center for Law & Religious Freedom, has worked for over forty years to secure equal access for religious student groups in the public education context, including higher education. Its staff has testified twice before the Subcommittee on the Constitution and Civil Justice of the Judiciary Committee of the United States House of Representatives on the issue of protecting religious student organizations on college campuses.[4]

II. Religious Student Associations Need the Protection that HB 516 Will Provide.

HB 516 is a commonsense measure intended to protect religious student associations' meetings on college campuses by prohibiting public college administrators from denying them meeting space because a religious student association requires its leaders or members to:

- adhere to the association's sincerely held religious beliefs;
- comply with the association's sincere religious standards of conduct; or
- be committed to furthering the association's religious mission.

Of course, it is common sense – and basic religious freedom – for a religious association to expect its leaders to agree with the association's religious beliefs, practices, standards of conduct, and mission. It should be common ground that *government officials,* including college administrators, should not interfere with the religious beliefs, practices, standards of conduct, or mission of religious associations.

Unfortunately, this is a recurrent problem on many college campuses across the country, from California to Idaho, from Oklahoma to Ohio. HB 516 would prevent such problems from recurring in New Hampshire by protecting New Hampshire students' basic religious freedom. In so doing, New Hampshire would join a growing list of states (Alabama, Arizona, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Montana, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, and Virginia) that have adopted similar protections for religious student associations.

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[3] *See, e.g.*, 128 Cong. Rec. 11784-85 (1982) (Sen. Hatfield statement). *See, e.g., Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (requiring access for religious student group); *Straights and Gays for Equality v. Osseo Area School No. 279*, 540 F.3d 911 (8th Cir. 2008) (requiring access for LGBT student group).

[4] Hearing Before the Subcomm. on the Constitution and Civil Justice of the Comm. on the Judiciary, House of Representatives: *First Amendment Protections on Public College and University Campuses*, Rep. No. 114-31 (June 2, 2015) at 39-48 (statement of Kimberlee Wood Colby); Hearing Before the Subcomm. on the Constitution and Civil Justice of the Comm. on the Judiciary, House of Representatives: *State of Religious Liberty in the United States,* Rep. No. 113-75 (June 10, 2014) at 49-76 (statement of Kimberlee Wood Colby).

A. In its landmark decision in *Widmar v. Vincent,* the U.S. Supreme Court held that the University of Missouri - Kansas City could not condition campus access on religious groups' promise not to engage in religious speech.

In the late 1970s, some university administrators began to claim that the Establishment Clause would be violated if religious student groups were allowed to meet in empty classrooms to discuss their religious beliefs on the same basis as other student groups were allowed to meet to discuss their political, social, or philosophical beliefs. The administrators claimed that merely providing heat and light in these unused classrooms gave impermissible financial support to the students' religious beliefs, even though free heat and light were provided to all student groups. The administrators also claimed that college students were "impressionable" and would believe that the university endorsed religious student groups' beliefs, despite the fact that hundreds of student groups with diverse and contradictory ideological beliefs were allowed to meet.

In the landmark case of *Widmar v. Vincent*, the Supreme Court rejected these arguments by the University of Missouri - Kansas City (UMKC).[5] In an 8-1 ruling, the Court held that UMKC violated the religious student associations' speech and association rights by "discriminat[ing] against student groups and speakers based on their desire to use a generally open forum to engage in religious worship and discussion. These are forms of speech and association protected by the First Amendment."[6] In other words, religious student groups have a First Amendment right to meet on public university campuses for religious speech and association.

The Court then held that the federal and state establishment clauses were not violated by allowing religious student associations access to public college campuses.[7] The Court ruled that college students understand that simply *allowing* a student group to meet on campus does not mean that the University *endorses or promotes* the students' religious speech, teaching, worship, or beliefs. As the Court observed in a subsequent equal access case that protected high school students' religious meetings, "the proposition that schools do not endorse everything they fail to censor is not complicated."[8]

The Supreme Court has reaffirmed the *Widmar* reasoning in numerous cases.[9] In each case, the Court ruled that an educational institution did not endorse a religious association's beliefs

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[5] 454 U.S. 263 (1981).
[6] *Id.* at 269.
[7] *Id.* at 270-76.
[8] *Bd. of Educ. v. Mergens,* 496 U.S. 226, 250 (1990) (holding that the federal Equal Access Act protects high school students' right to meet for religious speech in public secondary schools and extensively citing *Widmar*).
[9] *Rosenberger v. Rectors and Visitors of the University of Virginia*, 515 U.S. 819 (1995) (University of Virginia violated the free speech and association rights of a religious student group when it denied a religious student publication the same funding available to sixteen other nonreligious student publications); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (applying *Widmar* analysis to public secondary schools); *Lamb's Chapel v. Center Moriches Union Free School Dist.*,508 U.S. 384 (1993) (requiring school district to allow a religious community group access to a school auditorium in the evening); *Good News Club v. Milford Central School*, 533 U.S. 98 (2001) (requiring school district to allow a religious community group access to elementary school after school). In 1984, Congress applied *Widmar*'s reasoning to public secondary schools when it enacted the Equal Access Act, 20 U.S.C. §§ 4071-74.

simply because it provided the religious association with meeting space. Access does not equal endorsement.

B. Discrimination against religious student groups continues.

After the Supreme Court made clear that the Establishment Clause could not justify exclusion of religious student groups, some university administrators began to claim that university nondiscrimination policies were violated if the religious student groups required their leaders to agree with their religious beliefs. These administrators began to threaten religious student groups with exclusion from campus if they required their leaders to agree with the groups' religious beliefs.[10]

It is common sense and basic religious freedom – not discrimination – for religious groups to expect their leaders to share the groups' religious beliefs. Nondiscrimination policies serve valuable and important purposes. Ironically, one of the most important purposes of a college's nondiscrimination policy is to protect *religious* students on campus. Something has gone seriously wrong when college administrators use nondiscrimination policies to punish religious student groups *for being religious*. Exclusion of religious student groups actually undermines the purpose of a nondiscrimination policy and the good it serves.

Such misuse of nondiscrimination policies is unnecessary. Nondiscrimination policies and students' religious freedom are eminently compatible, as shown by the many universities with nondiscrimination policies that explicitly recognize the right of religious groups to require that their leaders share the groups' religious beliefs.[11]

Unfortunately, some universities have chosen to misuse their nondiscrimination policies to exclude religious student associations from campus. Alternatively, some universities have excluded religious student associations by claiming to have what they call "all-comers" policies, which purport to prohibit all student associations from requiring their leaders to agree with the

[10] *See* Michael Stokes Paulsen, *A Funny Thing Happened on the Way to the Limited Public Forum: Unconstitutional Conditions on "Equal Access" for Religious Speakers and Groups*, 29 U.C. Davis L. Rev. 653, 668-72 (1996) (detailing University of Minnesota's threat to derecognize CLS chapter because of its religious requirements); Stephen M. Bainbridge, *Student Religious Organizations and University Policies Against Discrimination on the Basis of Sexual Orientation: Implications of the Religious Freedom Restoration Act*, 21 J.C. & U.L. 369 (1994) (detailing University of Illinois's threat to derecognize CLS chapter).

[11] For example, the University of Florida has an excellent policy that embeds protection for religious student groups in its nondiscrimination policy: "A student organization whose primary purpose is religious will not be denied registration as a Registered Student Organization on the ground that it limits membership or leadership positions to students who share the religious beliefs of the organization. The University has determined that this accommodation of religious belief does not violate its nondiscrimination policy." Similarly, the University of Texas provides: "[A]n organization created primarily for religious purposes may restrict the right to vote or hold office to persons who subscribe to the organization's statement of faith." The University of Houston likewise provides: "Religious student organizations may limit officers to those members who subscribe to the religious tenets of the organization where the organization's activities center on a set of core beliefs." The University of Minnesota provides: "Religious student groups may require their voting members and officers to adhere to the organization's statement of faith and its rules of conduct." These policies are in Attachment A.

associations' political, philosophical, religious, or other beliefs. However, a true "all-comers" policy rarely, if ever, actually exists.

By way of example, in the 2015-2016 academic year, Indiana University announced that it intended to change its policy. Under the new policy, the university specifically stated that a religious student group "would not be permitted to forbid someone of a different religion, or someone non-religious, from running for a leadership position within the [religious group]."[12] Only after months of criticism from alumni and political leaders, as well as the threat of litigation, did Indiana University revert to its prior policy of allowing religious student groups to choose their leaders according to their religious beliefs.

Also in the 2015-2016 academic year, a religious student organization at Southeast Missouri State University had its recognition revoked by the student government because it refused to insert a newly required nondiscrimination statement into its constitution. The group tried to persuade the student government to allow religious groups to have religious leadership requirements; however, the student government voted *against* adding language to its bylaws to protect religious groups' right to have religious leadership requirements.[13] After this vote, additional religious groups communicated to the administration that they would not remove their religious leadership requirements from their constitutions. After several months, the administration sent the religious organizations letters stating that the student government had voted to "abandon their non-discrimination statement and to replace it with the University's non-discrimination statement." However, university policies still lack written protection for the right of religious groups to have religious leadership requirements.

In 2021, student governments at the University of Idaho and the University of Virginia similarly tried to penalize religious student groups because they required their leaders to agree with their religious beliefs. Because the Idaho and Virginia legislatures had the foresight to pass laws to protect religious student groups on public university campuses, the university administrators expeditiously reversed the student governments' discriminatory actions against the religious student organizations in both instances. The universities not only avoided needless litigation, but also sent religious students (and their parents) the reassuring message that they were welcome on their campuses.

Just this academic school year, in New Hampshire, the Student Bar Association (SBA) at the University of New Hampshire Franklin Pierce School of Law threatened to deny recognition to the Christian Legal Society Law Student chapter (CLS-NH) there. At a public hearing, the SBA threatened to deny CLS's request for recognition because the SBA claimed that CLS-NH's statement of faith requirement violated the school's diversity, equity, and inclusion policies. CLS-NH student leaders were subjected to an unseemly inquisition regarding their religious beliefs. CLS's Center for Law & Religious Freedom sent a letter to university administrators explaining

[12] Indiana University's statement is Attachment B.
[13] The student government voted not to add the following language to its bylaws: "A student organization which has been formed to further or affirm the religious beliefs of its members may consider affirmation of those beliefs to be a part of the criteria for the selection of the organization's leadership."

that failure to recognize CLS-NH was unconstitutional viewpoint discrimination and that both federal regulations and caselaw reinforced the right of religious student organizations to have religious leadership requirements. The administration agreed and directed the SBA to recognize CLS-NH. Had HB 516 been law, the process would have been clearer, shorter, and less traumatic for the CLS-NH students.

C. HB 516 would avoid the problems that other states have experienced and that some states have addressed through similar legislation.

1. California State University excluded religious student associations with religious leadership requirements from its 23 campuses, including religious groups that had met on its campuses for over forty years.

The California State University comprises 23 campuses with 437,000 students. In 2014, Cal State denied recognition to several religious student associations, including Chi Alpha, InterVarsity, and Cru. For example, the student president of a religious student association that had met on the Cal State Northridge campus for forty years received a letter that read:

> This correspondence is to inform you that effective immediately, your student organization, Rejoyce in Jesus Campus Fellowship, will no longer be recognized by California State University, Northridge.[14]

The letter then listed seven basic benefits that the religious student association had lost because it required its student leaders to agree with its religious beliefs, including: (1) free access to a room on campus for its meetings; (2) the ability to recruit new student members through club fairs; and (3) access to a university-issued email account or website. As the letter explained, "[g]roups of students not recognized by the university . . . will be charged the off-campus rate and will not be eligible to receive two free meetings per week in [university] rooms." As a result, some religious student groups faced paying thousands of dollars for room reservations and insurance coverage that were otherwise free to other student groups.

The problem arose because Cal State re-interpreted its nondiscrimination policy to prohibit religious student groups from having religious leadership requirements. But in announcing that religious student groups could not have religious leadership requirements, Cal State explicitly and unfairly allowed fraternities and sororities to continue to engage in sex discrimination in selecting their leaders and members.

[14] The letter is Attachment C.

2. The Tennessee General Assembly passed legislation similar to HB 516 after Vanderbilt University excluded fourteen Catholic and evangelical Christian organizations from campus, including a Christian group because it required its leaders to have a "personal commitment to Jesus Christ."

In 2011, Vanderbilt University administrators informed the CLS student chapter at Vanderbilt Law School that the *mere expectation* that its leaders would lead its Bible studies, prayer, and worship was "religious discrimination." CLS's requirement that its leaders agree with its core religious beliefs was also deemed to be "religious discrimination."[15]

Vanderbilt told another Christian student group that it could remain a recognized student organization only if it deleted five words from its constitution: that its leaders have a "personal commitment to Jesus Christ." The students left campus rather than recant their commitment to Jesus Christ.[16]

Catholic and evangelical Christian students patiently explained to the Vanderbilt administration that nondiscrimination policies should protect, not exclude, religious organizations from campus.[17] But in April 2012, Vanderbilt denied recognition to fourteen Christian organizations.[18] While religious organizations could not keep their religious leadership requirements, Vanderbilt permitted fraternities and sororities to engage in sex discrimination in selecting leaders and members. After Vanderbilt adopted its new policy, the University of Tennessee reportedly claimed to have a similar policy. In response, the Tennessee General Assembly enacted T.C.A. § 49-7-156 to protect the right of a religious student association on a public college campus to "require[] that only persons professing the faith of the group and comporting themselves in conformity with it qualify to serve as members or leaders."[19]

3. The Kansas Legislature passed legislation similar to HB 516 in order to protect religious student associations at Kansas public universities.

In 2016, the Kansas Legislature enacted K.S.A. §§ 60-5311 – 60-5313 in order to ensure that Kansas taxpayers' money would not be spent on unnecessary litigation resulting from its public universities misinterpreting existing policies – or adopting future policies – to exclude religious groups from campus because they had religious leadership requirements. In 2004, the CLS student chapter at Washburn School of Law had allowed an individual student to lead a Bible study. But it became clear that the student did not hold CLS's traditional Christian

[15] Vanderbilt's email to CLS is Attachment D.
[16] Vanderbilt's email is Attachment E.
[17] New York Times columnist, Tish Harrison Warren, describes her experience at Vanderbilt during the controversy in her article "The Wrong Kind of Christian," *Christianity Today*, Aug. 27, 2014, https://www.christianitytoday.com/ct/2014/september/wrong-kind-of-christian-vanderbilt-university.html. The article is Attachment FF.
[18] The excluded groups are as follows: Asian-American Christian Fellowship; Baptist Campus Ministry; Beta Upsilon Chi; Bridges International; Campus Crusade for Christ (Cru); Christian Legal Society; Fellowship of Christian Athletes; Graduate Christian Fellowship; Lutheran Student Fellowship; Medical Christian Fellowship; Midnight Worship; The Navigators; St. Thomas More Society; and Vanderbilt Catholic.
[19] T.C.A. § 49-7-156 is Attachment F.

beliefs. CLS told the student he was welcome to attend future CLS Bible studies, but that he would not be allowed to lead them. Even though the student admitted he disagreed with CLS's religious beliefs, he filed a "religious discrimination" complaint with the Washburn Student Bar Association, which threatened to penalize CLS for its refusal to allow a student who disagreed with its religious beliefs to lead its Bible study. Only after CLS filed a federal lawsuit did the Student Bar Association reverse course.

4. The Oklahoma Legislature passed legislation similar to HB 516 in order to protect religious student associations at Oklahoma public universities.

In 2011, the University of Oklahoma Student Association sent a memorandum to all registered student organizations that would prohibit religious student associations' religious leadership and membership criteria.[20] After unwelcome publicity, the university disavowed the student government's memorandum. In 2014, the Oklahoma Legislature enacted language similar to HB 516. The "Exercise of Religion by Higher Education Students Act," 70 Okl. St. Ann. § 2119, protects students' religious expression at Oklahoma universities and colleges. It protects religious student organizations from exclusion from state college campuses because of their religious expression or because they require their leaders to agree with the organizations' core religious beliefs.[21]

5. The Idaho Legislature passed legislation similar to HB 516 after Boise State University threatened religious student associations with exclusion.

In 2008, the Boise State University (BSU) student government threatened to exclude several religious organizations from campus, claiming that their religious leadership requirements were discriminatory. The BSU student government informed one religious group that its requirement that its leaders "be in good moral standing, exhibiting a lifestyle that is worthy of a Christian as outlined in the Bible" violated the student government's policy. The student government also found that the group's citation in its constitution of Matthew 18:15-17 violated the policy. The student government informed a religious group that "not allowing members to serve as officers due to their religious beliefs" conflicted with BSU's policy.[22] In response to a threatened lawsuit, BSU agreed to allow religious organizations to maintain religious leadership criteria.

In 2012, however, BSU informed the religious organizations that it intended to adopt a new policy, which would exclude religious organizations with religious leadership requirements. In response, the Idaho Legislature enacted Idaho Code § 33-107D to prohibit colleges from "tak[ing] any action or enforc[ing] any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders adhere to its sincerely held religious beliefs or standards of conduct."[23]

[20] The memorandum is Attachment G.
[21] 70 Okl. St. § 2119 is Attachment H.
[22] The letters are Attachment I.
[23] Idaho Code § 33-107D is Attachment J.

In 2021, the University of Idaho College of Law student government delayed recognizing the CLS student organization because of its religious leadership requirements. After CLS's counsel wrote a letter to the University administration noting the Idaho law, the University administration granted recognition to the CLS students as an official student organization.

6. The Ohio Legislature passed legislation like HB 516 after The Ohio State University (OSU) threatened to exclude religious student associations if they required their leaders to share the associations' religious beliefs.

In 2003-2004, the CLS student chapter at the OSU College of Law was threatened with exclusion because of its religious beliefs. After months of trying to reason with OSU administrators, a lawsuit was filed, which was dismissed after OSU revised its policy "to allow student organizations formed to foster or affirm sincerely held religious beliefs to adopt a nondiscrimination statement consistent with those beliefs in lieu of adopting the University's nondiscrimination policy." Religious groups then met without problem from 2005-2010. In 2010, however, OSU asked the student government whether it should change its policy to no longer allow religious groups to have religious leadership and membership requirements. The undergraduate and graduate student governments voted to remove protection for religious student groups.[24]

In response, in 2011, the Ohio Legislature prohibited public universities from "tak[ing] any action or enforc[ing] any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct." Ohio Rev. Code § 3345.023.[25]

7. The Arizona Legislature passed legislation to protect religious student associations and students' religious expression.

In 2011, Arizona enacted A.R.S. § 15-1863, which protects religious student associations' choice of their leaders and members.[26] In 2004, Arizona State University College of Law had threatened to deny recognition to a CLS student chapter because it limited leadership and voting membership to students who shared its religious beliefs. A lawsuit was dismissed when the University agreed to allow religious student groups to have religious leadership and membership requirements.[27]

8. The Arkansas, Indiana, Iowa, Kentucky, Louisiana, Montana, North Carolina, North Dakota, South Dakota, and Virginia Legislatures also have passed legislation to protect religious student associations' religious freedom.

To protect religious student organizations that had sometimes been threatened with exclusion from various University of North Carolina campuses, the North Carolina General Assembly

[24] The student government resolutions are Attachment K.
[25] Ohio Rev. Code § 3345.023 is Attachment L.
[26] A.R.S. §§ 15-1862-64 is Attachment M.
[27] *Christian Legal Society Chapter at Arizona State University v. Crow*, No. 04-2572 (D. Ariz. Nov. 17, 2004).

enacted N.C.G.S.A. §§ 115D-20.1 & 116-40.12. The law prohibits colleges from denying recognition to a student organization because it "determine[s] that only persons professing the faith or mission of the group, and comporting themselves in conformity with, are qualified to serve as leaders of the organization." N.C.G.S.A. § 116-40.12. The Virginia General Assembly passed a similar law in 2013 (Va. Code Ann. § 23-9.2:12), as did the Kentucky Legislature in 2017 (Ky. Rev. Stat. Ann. § 164.348 (4)), and the Louisiana State Legislature in 2018 (LSA-R.S. 17:3399.33).The Iowa Legislature, the Arkansas General Assembly, and the South Dakota Legislature passed protections in 2019 (2019 (A.C.A. § 6-60-1006); Iowa Code § 261H.3(3); S.D.C.L. § 13-53-52). The North Dakota Legislative Branch and the Montana State Legislature passed protections in 2021 (N.D.C.C. § 15-10.4-02(h) and M.C.A. § 20-25-518). In 2022, the Indiana General Assembly enacted legislation to protect student groups (I.C. § 21-39-8-11).

D. HB 516 aligns with federal and state nondiscrimination laws that typically protect religious organizations' ability to choose their leadership on the basis of religious belief.

No federal or state law, regulation, or court ruling requires a college to adopt a policy that prohibits religious groups from having religious criteria for their leaders and members. To the contrary, federal and state nondiscrimination laws typically *protect* religious organizations' ability to choose their leaders on the basis of their religious beliefs.

The leading example, of course, is the federal Title VII, which explicitly provides that religious associations' use of religious criteria in their employment decisions does not violate the Civil Rights Act of 1964 and its prohibition on religious discrimination in employment. In three separate provisions, Title VII exempts religious associations from its general prohibition on religious discrimination in employment. 42 U.S.C. § 2000e-1(a) (does not apply to religious associations "with respect to the employment of individuals of a particular religion to perform work connected with the carrying on" of the associations' activities); 42 U.S.C. § 2000e-2(e)(2) (educational institution may "employ employees of a particular religion" if it is controlled by a religious association or if its curriculum "is directed toward the propagation of a particular religion"); 42 U.S.C. § 2000e-2(e)(1) (any employer may hire on the basis of religion "in those certain instances where religion … is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.").

In 1987, the Supreme Court upheld the constitutionality of Title VII's exemption against an Establishment Clause challenge.[28] Concurring in the opinion with Justice Marshall, Justice Brennan insisted that "religious organizations have an interest in autonomy in ordering their internal affairs, so that they may be free to … select their own leaders, define their own doctrines, resolve their own disputes, and run their own institutions."[29]

In 2012, in *Hosanna-Tabor Evangelical Lutheran Church and Sch. v. EEOC*,[30] the Supreme Court *unanimously* rejected the federal government's argument that federal nondiscrimination laws

[28] *Corp. of the Presiding Bishop v. Amos*, 483 U.S. 327 (1987).
[29] *Id.* at 342-43 (Brennan, J., concurring).
[30] 132 S. Ct. 694 (2012).

could be used to trump religious associations' leadership decisions. The Court acknowledged that nondiscrimination laws are "undoubtedly important. But so too is the interest of religious groups in choosing who will preach their beliefs, teach their faith, and carry out their mission."[31] In their concurrence, Justice Alito and Justice Kagan stressed that "[r]eligious groups are the archetype of associations formed for expressive purposes, and their fundamental rights surely include the freedom to choose who is qualified to serve as a voice for their faith."[32]

E. HB 516 will conserve taxpayers' dollars by preempting costly lawsuits.

HB 516 will help New Hampshire's colleges avoid costly litigation for which the taxpayers and students foot the bill.[33] HB 516 protects colleges from adopting policies that are highly problematic. Such policies expose colleges – and state taxpayers – to costly lawsuits. As seen in Section C, sometimes the impetus for policies that harm religious groups comes from student government rather than university administrators. HB 516 provides administrators with a substantive reason for resisting student government's potential harassment of, and discrimination against, religious student associations.

Judge Kenneth Ripple of the Federal Court of Appeals for the Seventh Circuit has explained why misinterpretation of nondiscrimination policies places a particular burden on religious groups:

> For many groups, the intrusive burden established by this requirement can be assuaged partially by defining the group or membership to include those who, although they do not share the dominant, immutable characteristic, otherwise sympathize with the group's views. Most groups dedicated to forwarding the rights of a "protected" group are able to couch their membership requirements in terms of shared beliefs, as opposed to shared status.
>
> *Religious students, however, do not have this luxury—their shared beliefs coincide with their shared status.* They cannot otherwise define themselves and not run afoul of the nondiscrimination policy…. The Catholic Newman Center cannot restrict its leadership—those who organize and lead weekly worship services—to members in good standing of the Catholic Church without violating the policy. Groups whose main purpose is to engage in the exercise of religious freedoms do not possess the same means of accommodating the heavy hand of the State.
>
> *The net result of this selective policy is therefore to marginalize in the life of the institution those activities, practices and discourses that are religiously*

[31] *Id*. at 710.
[32] *Id*. at 713 (Alito, J., concurring).
[33] Prof. John D. Inazu, "*The Perverse Effects of the 'All Comers' Requirement,"* Sept. 15, 2014, Library of Law and Liberty Blog, *available at* http://www.libertylawsite.org/2014/09/15/the-perverse-effects-of-the-all-comers-requirement/.

> *based.* While those who espouse other causes may control their membership and come together for mutual support, others, including those exercising one of our most fundamental liberties—the right to free exercise of one's religion—cannot, at least on equal terms.[34]

Conclusion

HB 516 is needed to ensure that religious students continue to be welcome and respected on New Hampshire campuses. If university students are taught that the government can dictate to religious groups what religious beliefs their leaders may or may not hold, religious freedom will be diminished not just for the religious students on campus, but eventually for all residents of New Hampshire whose religious freedom will be at risk if their fellow citizens hold such an impoverished understanding of this most basic human right.

Yours truly,

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[34] *Alpha Delta Chi v. Reed*, 648 F.3d 790, 805-806 (9th Cir. 2011) (Ripple, J., concurring) (emphasis added).

ATTACHMENT AA

State Laws Protecting Religious Student Groups on Public College Campuses
(last updated March 2022)

Note: This compilation does not replicate the entire statute but only the relevant provision. The entire statute can be found at the citation given.

Ohio—Ohio Rev. Code § 3345.023 – Denial of benefits to religious student group prohibited
No state institution of higher education shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct.
http://codes.ohio.gov/orc/3345.023

Tennessee—T.C.A. § 49-7-156 – No discrimination or denial or recognition to student organization on basis of religious content of organization's speech – Restricting membership to persons professing the faith of the group is allowed
(a) No state higher education institution that grants recognition to any student organization shall discriminate against or deny a recognition to a student organization, or deny to a student organization access to programs, funding, or facilities otherwise available to another student organization, on the basis of: (1) The religious content of the organization's speech including, but not limited to, worship; or (2) The organization's exercise of its rights pursuant to subsection (b). (b) A religious student organization may determine that the organization's religious mission requires that only persons professing the faith of the group and comporting themselves in conformity with it qualify to serve as members or leaders. (c) As used in this section, "state higher education institution" means any higher education institution governed by chapter 8 or 9 of this title.
http://search.mleesmith.com/tca/49-07-0156.html

Idaho—Idaho Code § 33-107D – Campus Access for Religious Students
No state postsecondary educational institution shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders adhere to its sincerely held religious beliefs or standards of conduct.
https://legislature.idaho.gov/statutesrules/idstat/title33/t33ch1/sect33-107d/

Arizona—A.R.S. § 15-1863 – Student organizations; recognition; rights
A. A university or community college that grants recognition to any student organization or group may not discriminate against or deny recognition, equal access or a fair opportunity to any student organization or group on the basis of the religious, political, philosophical or other content of the organization's or group's speech including worship. B. A religious or political student organization may determine that order the organization's internal affairs, selecting the organization's leaders and members, defining the organization's doctrines and resolving the organization's disputes are in furtherance of the organization's religious or political mission and that only persons committed to that mission should conduct such activities. C. A university or community college may not deny recognition or any privilege or benefit to a student organization or group that exercises its rights pursuant to subsection B.
http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/15/01863.htm

Virginia—Va. Code. Ann. § 23-9.2:12 – Student organizations; rights and recognitions
To the extent allowed by state and federal law: 1. A religious or political student organization may determine that ordering the organization's internal affairs, selecting the organization's

leaders and members, defining the organization's doctrines, and resolving the organization's disputes are in furtherance of the organization's religious or political mission and that only persons committed to that mission should conduct such activities. 2. No public institution of higher education that has granted recognition of and access to any student organization or group shall discriminate against any such student organization or group that exercises its rights pursuant to subdivision 1.
http://law.lis.virginia.gov/vacode/title23/chapter1/section23-9.2:12/

Kansas—K.S.A. § 60-5311 – Exercise of religion by religious student associations; definitions
(a) "Benefit" means the following: (1) Recognition; (2) registration; (3) the use of facilities of the postsecondary educational institution for meetings or speaking purposes; (4) the use of channels of communication of the postsecondary education institution; and (5) funding sources that are otherwise available to other student associations in the postsecondary educational institution; (b) "Postsecondary education institution" shall have the same meaning as that term is defined in K.S.A. 74-3201b. and amendments thereto. (c) "Student" means any person who is enrolled on a full-time or part-time basis in a postsecondary educational institution. (d) "Religious student association" means an association of students organized around shared religious beliefs.
http://www.ksrevisor.org/statutes/chapters/ch60/060_053_0011.html

K.S.A. § 60-5312 – Same; prohibition on certain actions by postsecondary educational institutions
No postsecondary educational institution may take any action or enforce any policy that would deny a religious student association any benefit available to any other student association, or discriminate against a religious student association with respect to such benefit, based on such association's requirement that the leaders or members of such association: (a) Adhere to the association's sincerely held religious beliefs; (b) comply with the association's sincerely held religious beliefs; (c) comply with the association's sincere religious standards of conduct; or (d) be committed to furthering the association's religious missions, as such religious beliefs, observance requirements, standards of conduct or missions are defined by the religious student association, or the religion on which the association is based.
http://www.ksrevisor.org/statutes/chapters/ch60/060_053_0012.html

K.S.A. § 60-5313 – Same; cause of action
Any student or religious student association aggrieved by a violation of K.S.A. 2016 Supp. 60-5312. and amendments thereto, may bring a cause of action against the postsecondary educational institution for such violation and seek appropriate relief, including but not limited to, monetary damages. Any student or religious student association aggrieved by a violation of K.S.A. 2016 Supp. 60-5312. and amendments thereto, also may assert such violation as a defense or counterclaim in any civil or administrative proceedings brought against such student or religious student association.
http://www.ksrevisor.org/statutes/chapters/ch60/060_053_0013.html

Oklahoma—Okl. St. Ann. § 70-2119.1 – Protection for Religious student associations
(A) No public institution of higher education may take any action or enforce any policy that would deny a religious student association any benefit available to any other student association, or discriminate against a religious student association with respect to such benefit, based on that association's requirement that its leaders or members: (1) Adhere to the association's sincerely held religious beliefs; (2) Comply with the association's sincere religious observance requirements; (3) Comply with the association's sincere religious standards of conduct; or (4) Be committed to furthering the association's religious missions, as such religious beliefs, observance requirements, standards of conduct or missions are defined by the religious student association, or the religion upon which the assertion is based. (B) The legal standard provided in subsection B of Section 3 of this act shall not apply to this

section.
http://law.justia.com/codes/oklahoma/2014/title-70/section-70-2119.1/

North Carolina—N.C.G.S.A. § 115D-20.2 – Student organizations; rights and recognition
(a) No community college that grants recognition to any student organization shall deny recognition to a student organization or deny to a student organization access to programs, funding, facilities, or other privileges associated with official recognition otherwise available to another student organization, on the basis of the organization's exercise of its rights pursuant to subsection (b) of this section. (b) To the extent allowed by State and federal law, a religious or political student organization may, in conformity with organization's established written doctrines expressing the organization's faith or mission, (i) determine that only persons professing the faith or mission of the group, and comporting themselves in conformity with, are qualified to serve as leaders of that organization; (ii) order its internal affairs according to the established written doctrines, and (iii) resolve the organization's disputes according to the established written doctrines.
http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_115D/GS_115D-20.2.pdf

N.C.G.S.A. § 116-40.12 – Student organizations; rights and recognition
(a) No constituent institution that grants recognition to any student organization shall deny recognition to a student organization or deny to a student organization access to programs, funding, facilities, or other privileges associated with official recognition otherwise available to another student organization, on the basis of the organization's exercise of its rights pursuant to subsection (b) of this section. (b) To the extent allowed by State and federal law, a religious or political student organization may, in conformity with organization's established written doctrines expressing the organization's faith or mission, (i) determine that only persons professing the faith or mission of the group, and comporting themselves in conformity with, are qualified to serve as leaders of that organization; (ii) order its internal affairs according to the established written doctrines, and (iii) resolve the organization's disputes according to the established written doctrines.
http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_116/GS_116-40.12.pdf

Kentucky—Ky. Rev. Stat. Ann. § 164.348 (2)(h)
No recognized religious or political student organization is hindered or discriminated against in the ordering of its internal affairs, selection of leaders and members, defining of doctrines and principles, and resolving of organizational disputes in the furtherance of its mission, or in its determination that only persons committed to its mission should conduct such activities. https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=49294

Louisiana—LSA-R.S. § 17:3399.33
No public postsecondary education institution shall deny a belief-based student organization any benefit or privilege available to any other student organization, or otherwise discriminate against a belief-based organization, based on the expression of the organization, including any requirement that the leaders or members of the organization: 1) Affirm and adhere to the organization's sincerely held beliefs; 2) Comply with the organization's standards of conduct; and 3) Further the organization's mission or purpose, as defined by the organization.
https://legis.la.gov/Legis/Law.aspx?d=1108429

Arkansas—A.C.A. § 6-60-1006. Freedom of association – Nondiscrimination against students and student organizations

A state-supported institution of higher education shall not deny a student organization any benefit or privilege available to any other student organization or otherwise discriminate against an organization based on the expression of the organization, including any requirement that the leaders or members of an organization: (1) Affirm and adhere to the organization's sincerely held beliefs or statement of principles; (2) Comply with the organization's standards of conduct; and (3) Further the organization's mission or purpose, as defined by the student organization.

Iowa—Iowa Code § 261H.3(3)
A public institution of higher education shall not deny benefits or privileges available to student organizations based on the viewpoint of a student organization or the expression of the viewpoint of a student organization by the student organization or its members protected by the first amendment to the Constitution of the United States. In addition, a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission.
https://www.legis.iowa.gov/docs/code/2020/261H.pdf

South Dakota—South Dakota § 13-53-52
A public institution of higher education, its faculty, administrators, and other employees, may not discriminate against any student or student organization based on the content or viewpoint of their expressive activity. Funds allocated to student organizations shall be distributed in a nondiscriminatory manner in accordance with applicable state and federal authority. Access to, and use of, facilities at a public institution of higher education shall be equally available to all student organizations, regardless of the ideological, political, or religious beliefs of the organization. An institution may not prohibit an ideological, political, or religious student organization from requiring that its leaders or members of the organization affirm and adhere to the organization's sincerely held beliefs, comply with the organization's standards of conduct, or further the organization's mission or purpose, as defined by the organization.
https://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?
-T5y3p-e5=2Statute&Statute=13

Alabama— § 16-68-3(a)(8) (signed into law June 7, 2019)
§ 3(a)(8): That the public institution of higher education shall support free association and shall not deny a student organization any benefit or privilege available to any other student organization or otherwise discriminate against an organization based on the expression of the organization, including any requirement of the organization that the leaders or members of the organization affirm and adhere to an organization's sincerely held beliefs or statement of principles, comply with the organization's standard of conduct, or further the organization's mission or purpose, as defined by the student organization.
http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2019RS/PrintFiles/
HB498-enr.pdf

Montana—HB 349 (signed into law April 15, 2021; eventually Montana Code Title 20, Chapter 25, Part 5)
Section 1. Discrimination against student organizations prohibited.
(1) A public postsecondary institution may not deny a religious, political, or ideological student organization a benefit or privilege available to other student organizations or otherwise discriminate against a student organization based on the student organization's expressive activity, including any requirement of the student organization that a leader or member:
(a) affirm and adhere to the student organization's sincerely held beliefs;

(b) comply with the student organization's standards of conduct; or
(c) further the student organization's mission or purpose, as defined by the student organization.

(2) As used in [section 2] and this section, the following definitions apply:
(a) "Benefit or privilege" means any type of advantage, including but not limited to:
(i) recognition;
(ii) registration;
(iii) the use of facilities of the public postsecondary institution for meetings or speaking purposes;
(iv) the use of channels of communication; and
(v) funding sources that are otherwise available to other student organizations at the public postsecondary institution.
(b) "Public postsecondary institution" means:
(i) a unit of the Montana university system as defined in 20–25–201; or
(ii) a Montana community college, defined and organized as provided in 20–15–101.
(c) "Student organization" means an officially recognized group or a group seeking official recognition at a public postsecondary institution that is comprised of students who receive or are seeking to receive a benefit through the public postsecondary institution.

https://leg.mt.gov/bills/2021/billpdf/HB0349.pdf

North Dakota—N.D. Code § 15-10.4-02(h) (signed into law April 19, 2021)

(h) An institution may not discriminate against a student organization with respect to a benefit available to any other student organization based on a requirement of the organization that leaders or voting members of the organization: (1) Adhere to the organization's viewpoints or sincerely held beliefs; or (2) Be committed to furthering the organization's beliefs or religious missions.

https://www.legis.nd.gov/assembly/67-2021/documents/21-0929-04000.pdf

Indiana—House Enrolled Act No. 1190; IC 21-39-8-1 et seq (signed in law March 15, 2022)

Chapter 8. Speech and Expression on Campus

Sec. 1. As used in this chapter, "benefit" means any of the following:
(1) Recognition by a state educational institution.
(2) Registration by a state educational institution.
(3) The use of a state educational institution facility for a meeting or speaking purposes.
(4) The use of communication channels.
(5) Funding sources that are otherwise available to other student organizations at the state educational institution.

Sec. 8. As used in this chapter, "student organization" means a group that is:
(1) officially recognized, or seeking official recognition, by a state educational institution; and
(2) comprised of students that receive, or are seeking to receive, benefits from the state educational institution.

Sec. 11. (a) A state educational institution may not:
(1) deny any benefit or privilege that is available to any student organization to; or
(2) discriminate against a religious, political, or ideological student organization on the basis of protected expressive activity of the student organization.

(b) A state educational institution may not deny a benefit to or discriminate against a religious, political, or ideological student organization based on protected expressive activity or a requirement of the student organization, including a requirement that a leader or member of a student organization do any of the following:
(1) Affirm or adhere to the sincerely held beliefs of the student organization.
(2) Comply with a standard of conduct of the student organization.

(3) Further the mission or purpose of the student organization.
https://iga.in.gov/legislative/laws/2022/ic/titles/021#21-39-8

ATTACHMENT A

Student Activities • Office of the Dean of Students • *Division of Student Affairs* • The University of Texas at Austin • Student Services Building, 4.400 • 512-471-3065 • **deanofstudents.utexas.edu/sa/**

Student Activities
WHAT STARTS HERE CHANGES THE WORLD

New Student Organization Registration Application

Submit completed forms to Student Activities, along with required $10 non-refundable fee.

A student organization that wishes to use university facilities must be registered with Student Activities. A group of three (3) or more enrolled students is eligible under the university's *Institutional Rules*, Section 6-202, if:

1) its membership is limited to enrolled students, staff and faculty of The University of Texas at Austin;

2) it does not deny membership on the basis of race, color, religion, national origin, gender, age, disability, citizenship, veteran status, sexual orientation, gender identity or gender expression, except that *a)* an organization created primarily for religious purposes may restrict the right to vote or hold office to persons who subscribe to the organization's statement of faith; and *b)* an organization may restrict membership based on the provisions of Title IX of the Education Amendments of 1972;

3) it is not under disciplinary penalty prohibiting registration; and

4) it conducts its affairs in accordance with the Regents' *Rules and Regulations,* university regulations and administrative rules.

Please Note: If the registered student organization is approved, the following information (1–6) will be posted on the Student Activities Web site.

1. Name of proposed registered student organization _____

2. Type of organization: *(Check one only)*

- q Political
- q Student Governanace
- q Recreational
- q International/Cultural
- q Educational/Departmental
- q Professional
- q Religious
- q Special Interest
- q Honorary
- q Social
- q Service

3. State the registered student organization's official purpose _____

_____

_____

_____

4. Indicate any membership requirements* beyond those stated in the *Institutional Rules* above _____

_____

_____

_____

* Does your registered student organization intend to limit membership to a single gender? q Yes q No

For Office Use Only

Receipt Number _____

Staff Signature _____ Date _____

August 2011

ORGANIZATIONS POLICY

1. General Statement of Purpose

The University recognizes:

1. the importance of organized student activities as an integral part of the total educational program of the University;
2. that college learning experiences are enriched by student organizational activity; and
3. that organizations provide a framework for students within which they may develop their own special talents and interests.

Inherent in the relationship between the University and organized student groups is the understanding that the purposes and activities of such groups should be consistent with the main objectives of the University.

All student organizations must register annually with the Department of Campus Activities and must then comply with the procedures and policies regarding registration as set forth.

The Dean of Students Office recognizes the role of Greek Coordinating Councils in establishing and upholding policies for member groups. However, membership in said councils does not exempt fraternities and sororities from judicial referrals to the Dean of Students Office for violations of Student Life Policies, including Organizations Policies.

The University Hearing Board, with the approval of the Dean of Students, delegates to Greek coordinating councils general supervision over those chapters of social sororities and fraternities which choose to be members of these councils.

The term "general supervision" shall include all the duties, powers and responsibilities exercised by the Greek coordinating council prior to the adoption of this policy, with the provision that membership in the Greek coordinating councils is optional with the local chapter.

It is understood that the Greek coordinating councils and their member groups will operate under the provisions of the Student Life Policies, including the Organizations Policy.

2. Procedure for Registration of New Organizations

2.1 Permanent Organizations

a. The group will file its name, statement of purpose, constitution or statement regarding its method of operation, faculty/staff advisor (if applicable), and the names of its officers or contact persons with the Department of Campus Activities.

b. In cases where a potential faculty/staff advisor is unknown to the group, the Campus Activities staff will assist in identifying a university faculty or staff member who may wish to serve as an advisor. Organizations are encouraged to have a faculty/staff advisor.

c. Should the group not have elected its officers or completed other work connected with its formation at the time they initially see the Campus Activities staff, the Campus Activities staff shall make arrangements for them to use university facilities for organizational purposes on a meeting-to-meeting basis until the organizational process is completed and the required information can be filed.

d. At the time of filing, three officers or contact persons for the organization will sign a statement indicating that they are familiar with and will abide by the aforementioned responsibilities of student organizations. They will also sign the standard hazing and discrimination disclaimer required of all student organizations.

e. Having ascertained that the group's purpose is law- ful and within university regulations and that the group has filed the required forms and disclaimers, the Director of Campus Activities, or designate, will sign the application. Appropriate university personnel are notified by Campus Activities that the group is then eligible for all of the rights of student organizations.

f. Should the staff feel that the organization does not meet the requirements for registration, a written copy of the decision and reasons will be furnished to the applying organization. The group may appeal the decision to the Dean of Students.

g. The Campus Activities staff shall make arrangements for the group to use university facilities on a meeting- to-meeting basis until the appeals process is completed.

h. Decisions of the University Hearing Board may be appealed to the Dean of Students.

2.2 Registration for a Limited Purpose: Temporary Status In some cases, groups will organize with some short-term (one which can be accomplished in less than one academic year) goal in mind such as the passage of some particular piece of legislation or the holding of some particular event. The organization's structure will expire on the date indi- cated on the registration form. Requests for extension of Temporary Status may be made to the Director of Campus Activities.

2.3 Membership Regulations

a. Registered student organizations have freedom of choice in the selection of members, provided that there is no discrimination on the basis of race, color, religion, national origin, sex, age, disability, veteran status, or sexual orientation.

b. Membership in registered student organizations is restricted to currently enrolled University of Houston students, faculty, staff and alumni.

c. Hazing-type activities of any kind are prohibited.

2.4 Officers Regulations

a. Student organizations are free to set qualifications and procedures for election and holding office, with the following provisions:

1. All officers must be regular members of the organization.
2. There is no discrimination on the basis of race, color, religion, national origin, sex, age, disability, veteran status, or sexual orientation except where such discrimination is allowed by law.
3. Religious student organizations may limit officers to those members who subscribe to the religious tenets of the organization where the organization's activities center on a set of core beliefs.

b. Persons not currently enrolled at the University of Houston may not hold office or direct organizational activities.

2.5 Records

All registered student organizations must maintain the following records in the Campus Activities Office:

a. An organizational information form listing the current officers and faculty/staff advisor (if appli- cable) is due at the beginning of each school year. Any changes during the year, other than member- ship, are to be recorded within 10 days with the Department of Campus Activities.

University of Florida's Policy
(https://www.union.ufl.edu/involvement/index.asp)

Student Organization Registration Policy Update

The University of Florida has modified its policies relating to the registration of religious student groups as Registered Student Organizations (RSOs). The modification was made to accommodate any student group whose religious mission requires its membership to share the organization's religious beliefs, while at the same time continuing to protect the University's nondiscriminatory educational program.

More than 760 student organizations covering a wide variety of interests are registered at the University. UF has always welcomed registration of religious organizations. More than 60 religious student organizations, of which about 48 are Christian, are registered as RSOs at UF.

The University considers participation in registered student organizations to be an important educational opportunity for all of our students. The University applies its nondiscrimination in membership policy to registered student organizations to ensure that these important learning opportunities are not denied to any student due to discrimination based on race, sex, religion or certain other prohibited bases.

A small number of religious student groups have expressed a religious need to ensure that all of their members share the religious beliefs of the organization.

To the greatest extent possible-while fulfilling our nondiscriminatory educational mission and complying with the law-the University wants to be sure that a full range of religious student organizations feel just as free to register as any other type of student organization. This ensures that all of our students will find meaningful educational opportunities to participate in registered student organizations.

As we are committed to serving all of our students well, the University has carefully considered how to address the concerns expressed by some religious student groups and individuals without compromising our educational program. After doing so, the University has made the decision to modify its nondiscrimination policy as follows:

"Student organizations that wish to register with the Center for Student Activities and Involvement (CSAI) must agree that they will not discriminate on the basis of race, creed, color, religion, age, disability, sex, sexual orientation, marital status, national origin, political opinions or affiliations, or veteran status as protected under the Vietnam Era Veterans' Readjustment Assistance Act.

A student organization whose primary purpose is religious will not be denied registration as a Registered Student Organization on the ground that it limits membership or

leadership positions to students who share the religious beliefs of the organization. The University has determined that this accommodation of religious belief does not violate its nondiscrimination policy."

This modification of the University's registration policy recognizes a meaningful distinction between sincerely held current religious beliefs (which may be considered in selecting members or leaders of religious RSOs)-and religious or other status (e.g., religion of birth or historical affiliation). The modification takes effect immediately and is now reflected in the CSAl's Handbook of Student Activities as well as its registration and constitution guidelines and Web site. A letter has been sent to each religious student group that has recently sought and not received registration to ensure that it is aware of the modification and to invite its registration.

University of Minnesota's "Constitution and By-Laws Instructions" in *Student Groups Official Handbook*, available at http://sua.umn.edu/groups/handbook/constitution.php (last visited December 7, 2012)

3. University of Minnesota Policy: Student groups must comply with all University policies and procedures, as well as local, state, and federal laws and regulations. This includes, but is not limited to, the Board of Regents Policy on Diversity, Equal Opportunity and Affirmative Action as they relate to group membership and access to programs. Religious student groups may require their voting membership and officers to adhere to the group's statement of faith and its rules of conduct. Your constitution needs to include a statement about your group's responsibility to operate in accordance with these policies.

ATTACHMENT B

Frequently Asked Questions about SGSOs and Indiana University's Non-Discrimination Policy:
[prepared by Indiana University administration, August 2015, available at http://policies.iu.edu/docs/academic-policy-docs/student-orgs-faqs.pdf]

a. **What are the benefits of registering with the University as a Self-Governed Student Organization (SGSO)?**
The benefits of registering an organization as an SGSO include:
- being able to reserve space on campus and often for free;
- applying for a Student Organization Account;
- applying for funding;
- applying for office space in the IMU;
- using the "SGSO at IU" trademark;
- reserving a table for the Student Involvement Fair.

b. **Can student groups who elect not to register as SGSOs still meet on campus?**
Yes, but they will not receive the benefits of being an SGSO. Non-registered groups of students are welcome to assemble and associate in areas of the campus that are open to them as students of Indiana University. Furthermore, they are welcome to reserve campus space for their events under the same terms and conditions as other third-party groups.

c. **What non-discrimination requirements does the University have in place for SGSOs?**
The University requires all SGSOs to accept "all comers." SGSOs cannot reject students seeking to participate in, become members of, or serve as leaders of the organization because of their age, color, disability, ethnicity, gender, marital status, national origin, race, religion, sexual orientation, or veteran status. The University requires each SGSO to include the University's non-discrimination statement in its SGSO constitution.

d. **May an SGSO establish eligibility requirements for membership or leadership positions that are not tied to an individual being a member of a protected class?**
Yes. SGSOs may impose eligibility requirements for membership and service in leadership positions as long as the requirements are not based on a student belonging to any of the protected classes listed above. Examples of acceptable requirements include:
- requiring members to pay dues;
- requiring members to attend group meetings consistently;
- establishing that leadership positions within the group are open only to those members who have been in good standing with the group for a certain period of time;
- honor societies establishing a minimum GPA threshold.

e. **Are single-sex fraternities and sororities allowed under the University's non-discrimination statement?**
Yes. The University abides by Title IX of the Education Amendments Act of 1972, which recognizes that differentiated treatment based on sex for purposes of membership in a social fraternity or sorority is not unlawful. An organization in this category may remove "gender" from the non-discrimination statement in its SGSO constitution.

f. **May SGSOs require students seeking to serve in leadership positions to be members of a particular religion?**
No. As mentioned above, eligibility for leadership in the SGSO cannot be based on any categories that are included in the University's non-discrimination statement. The requirement is that all students be eligible to join the SGSO and seek leadership positions within it. However, the SGSO is not required to elect or appoint any particular leadership candidate and may establish a process for electing or appointing leaders that does not exclude candidates based on their membership in a protected class. For example, a chapter of a religious student alliance would not be permitted to forbid someone of a different religion, or someone non-religious, from running for a leadership position within the SGSO.

g. **What are the consequences of an SGSO failing to comply with the University's non-discrimination statement?**
If, after registering, an SGSO fails to comply with the statement by excluding a student due to his or her membership in one of the protected classes listed above, a complaint may be made under the IU Student Code of Rights, Responsibilities and Conduct and the campus judicial process for student organizations. If sanctions result from that process, they may include the SGSO losing SGSO status.

ATTACHMENT C

California State University
Northridge

Office of Student Involvement & Development

January 20, 2015

Cinnamon M cCellen
Rejoyce in Jesus Campus Fellowship

Cc: Vicki Allen, Advisor

Dear Cinnamon:

This correspondence is to inform you that effective immediately, your student organization, Rejoyce in Jesus Campus Fellowship, will no longer be recognized by California State University, Northridge.

Withdrawing or withholding of official recognition can occur when an organization has failed to meet the standards required for official recognition in a given year. The Rejoyce in Jesus Campus Fellowship organization will no longer be recognized given failure to submit an organizational constitution that is in compliance with non-discrimination and open membership requirements as outlined in California State University Executive Order 1068.

In withdrawing University recognition, your organization is no longer afforded the privileges of University recognition Clubs and Organizations. Those include:

- Recruiting California State University, Northridge students through official campus recruitment programs (such as Meet the Clubs, Matafest, AS Fair, etc.).
- Utilizing the university name as a designation for your organization.
- Have a university issued email account and or website. If your club or organization has a current email or website, a request to suspend your email and website will be sent to the University's IT department and will be deactivated within a week.
- Eligibility for Associated Students, Inc. (A.S.) funding and utilization of AS financial and marketing resources and services.
- Eligibility for University Student Union (USU) facility use at a discounted rate. Only University recognized clubs or organizations are eligible for the discounted rates and fee waivers on room reservations in the USU. Groups of students not recognized by the university who reserve rooms through USU Reservations and Events Services will be charged the off-campus rate and will not be eligible to receive two free meetings per week in USU rooms. Rate information can be found at the following website : www.csun.edu/usu.
- Eligibility for USU co-sponsorship support. Any organization applying for co-sponsorship must be a University recognized club or organization, auxil iary or university department. Therefore, any group of students not officially recognized by the University would not be eligible to receive any USU Co-Sponsorship funding including, but not limited to, funding for costs of room reservations, event production costs, performer fees, food, or Performance Hall usage.
- Ability to have a mailbox and receive mail at the University. If you currently have a mailbox at the MIC it will be closed (all current contents , if any, will be kept for you by the Club and Organization Advisor.

This loss of University recognition is effective immediately and notification has been sent to both the Associated Students and the University Student Union.

If your organization determines that it would again like to be officially recognized by the University, please contact the Matador Involvement Center (MIC} located on the first floor of the USU to discuss how your organization can come into compliance with non-discrimination and open membership guidelines as outlined in E01068. Assistant Director Vicki Allen or Activities Coordinator Jennifer Villarreal are both available to assist you and can be reached at 818-677-5111 or via email at micleadership@csun.edu.

If you have any questions or additional concerns please contact me at 818.677.2393 or via email at p.atr/4iley@csun.edu

Sm ereJ/,

Patrick H. Bailey
Director, Office of Student Involvement and Development
California State University, Northridge

CC: Associated Students
University Student Union
Matador Involvement Center
University Advisor for Rejoyce in Jesus Campus Fellowship

ATTACHMENT D

---------- Forwarded message ----------
From: [redacted]
Date: Tue, Aug 9, 2011 at 10:40 PM
Subject: RE: Christian Legal Society status
To: [redacted]
Cc: [redacted]

Dear [redacted],

Thank you for submitting your new Constitution for the Christian Legal Society. In reviewing it, there are some parts of it that are in violation of Vanderbilt University's policies regarding student organizations; they will need to be addressed before the Office of Religious Life can endorse CLS's approval.

Article III states that, "All officers of this Chapter must subscribe to the Christian Legal Society Statement of Faith." Vanderbilt's policies do not allow any student organization to preclude someone from a leadership position based on religious belief. Only performance-based criteria may be used. This section will need to be rewritten reflecting this policy.

The last paragraph of Section 5.2 states that "Each officer is expected to lead Bible studies, prayer and worship at Chapter meetings as tasked by the President." This would seem to indicate that officers are expected to hold certain beliefs. Again, Vanderbilt policies do not allow this expectation/qualification for officers.

Section 9.1 regarding Amendments to the Constitution should include language stating that any amendment must also be in keeping with Vanderbilt University's policies on student organizations and must be approved by the University before taking effect.

Please make these few changes and submit a copy of the amended Constitution to me so we can proceed with the approval process.

Also, we do not have in hand a copy of the revised Officer and Advisor Affirmation Form, as requested in the initial deferral. Specifically, we need a clean document without the handwritten text that seems to be an exclusionary clause advocating for partial exemption from the University's non-discrimination policy. Please forward us a copy of this as well.

Thank you. Please let me know of any questions you may have.

Best,

[redacted]

[redacted]

ATTACHMENT E

---------- Forwarded message ----------
From: vanderbiltcollegiatelink
<noreply@collegiatelink.net<mailto:noreply@collegiatelink.net><mailto:noreply@collegiatelink.net<mailto:noreply@collegiatelink.net>>>
Date: Tue, Apr 17, 2012 at 11:53 AM
Subject: Registration Status Update: [redacted name of Christian student group]
To: [redacted name of student]

The registration application that you submitted on behalf of [redacted name of Christian student group] <https://vanderbilt.collegiatelink.net/organization/[redacted]> has not been approved and may require further action on your part. Please see the reviewer's comments below or access your submission now<https://vanderbilt.collegiatelink.net/organization/[redacted]/register/Review/650475>.

Thank you for submitting your registration application. Vanderbilt appreciates the value of its student organizations. Your submission was incomplete or requires changes, thus we are not able to approve your application at this time. Please re-submit your application including the following items or changes: - Please change the following statement in your constitution:
"Article IV. OFFICERS
Officers will be Vanderbilt students selected from among active participants in [redacted name of Christian student group]. Criteria for officer selection will include level and quality of past involvement, personal commitment to Jesus Christ, commitment to the organization, and demonstrated leadership ability."

CHANGE TO:
Officers will be Vanderbilt students selected from among active participants in [redacted name of Christian student group]. Criteria for officer selection will include level and quality of past involvement, commitment to the organization, and demonstrated leadership ability.

We are committed to a timely review of every complete application received and to letting you know the status of your application as soon as possible.

ATTACHMENT FF

Send to printer | Close window

February 20, 2018

The following article is located at: http://www.christianitytoday.com/ct/2014/september/wrong-kind-of-christian-vanderbilt-university.html

Christianity Today, August, 2014
HIGHER EDUCATION | CT MAGAZINE

The Wrong Kind of Christian

I thought a winsome faith would win Christians a place at Vanderbilt's table. I was wrong.

TISH HARRISON WARREN / POSTED AUGUST 27, 2014



Image: Kevin Vandiver / Genesis

I thought I was an acceptable kind of evangelical.

I'm not a fundamentalist. My friends and I enjoy art, alcohol, and cultural engagement. We avoid spiritual clichés and buzzwords. We value authenticity, study, racial reconciliation, and social and environmental justice.

Being a Christian made me somewhat weird in my urban, progressive context, but despite some clear differences, I held a lot in common with unbelieving friends. We could disagree about truth, spirituality, and morality, and remain on the best of terms. The failures of the church often made me more uncomfortable than those in the broader culture.

Then, two years ago, the student organization I worked for at Vanderbilt University got kicked off campus for being the wrong kind of Christians.

In May 2011, Vanderbilt's director of religious life told me that the group I'd helped lead for two years, Graduate Christian Fellowship—a chapter of InterVarsity Christian Fellowship—was on probation. We had to drop the requirement that student leaders affirm our doctrinal and purpose statement, or we would lose our status as a registered student organization.

I met with him to understand the change. During the previous school year, a Christian fraternity had expelled several students for violating their behavior policy. One student said he was ousted because he is gay. Vanderbilt responded by forbidding any belief standards for those wanting to join or lead any campus group.

In writing, the new policy refers only to constitutionally protected classes (race, religion, sexual identity, and so on), but Vanderbilt publicly adopted an "all comers policy," which meant that no student could be excluded from a leadership post on ideological grounds. College Republicans must allow Democrats to seek office; the environmental group had to welcome climate-change skeptics; and a leader of a religious group could not be dismissed if she renounced faith midyear. (The administration granted an exception to sororities and fraternities.)

Like most campus groups, InterVarsity welcomes anyone as a member. But it asks key student leaders—the executive council and small group leaders—to affirm its doctrinal statement, which outlines broad Christian orthodoxy and does not mention sexual conduct specifically. But the university saw belief statements themselves as suspect. Any belief—particularly those about the authority of Scripture or the church—could potentially constrain sexual activity or identity. So what began as a concern about sexuality and pluralism quickly became a conversation about whether robustly religious communities would be allowed on campus.

In effect, the new policy privileged certain belief groups and forbade all others. Religious organizations were welcome as long as they were malleable: as long as their leaders didn't need to profess anything in particular; as long as they could be governed by sheer democracy and adjust to popular mores or trends; as long as they didn't prioritize theological stability. Creedal statements were allowed, but as an accessory, a historic document, or a suggested guideline. They could not have binding authority to shape or govern the teaching and practices of a campus religious community.

At first I thought this was all a misunderstanding that could be sorted out between reasonable parties. If I could explain to the administration that doctrinal statements are an important part of religious expression—an ancient, enduring practice that would be a given for respected thinkers like Thomas Aquinas—then surely they'd see that creedal communities are intellectually valid and permissible. If we could show that we weren't homophobic culture warriors but friendly, thoughtful evangelicals committed to a diverse, flourishing campus, then the administration and religious groups could find common ground.

When I met with the assistant dean of students, she welcomed me warmly and seemed surprised that my group would be affected by the new policy. I told her I was a woman in the ordination process, that my husband was a PhD candidate in Vanderbilt's religion department, and that we loved the university. There was an air of hope that we could work things out.

Line in the Sand

But as I met with other administrators, the tone began to change. The word *discrimination* began to be used—a lot—specifically in regard to creedal requirements. It was lobbed like a grenade to end all argument. Administrators compared Christian students to 1960s segregationists. I once mustered courage to ask them if they truly thought it was fair to equate racial prejudice with asking Bible study leaders to affirm the Resurrection. The vice chancellor replied, "Creedal discrimination is still discrimination."

Feeling battered, I talked with my InterVarsity supervisor. He responded with a wry smile, "But we're moderates!" We thought we were nuanced and reasonable. The university seemed to think of us as a threat.

For me, it was revolutionary, a reorientation of my place in the university and in culture.

I began to realize that inside the church, the territory between Augustine of Hippo and Jerry Falwell seems vast, and miles lie between Ron Sider and Pat Robertson. But in the eyes of the university (and much of the press), subscribers to broad Christian orthodoxy occupy the same square foot of cultural space.

The line between good and evil was drawn by two issues: creedal belief and sexual expression. If religious groups required set truths or limited sexual autonomy, they were bad—not just wrong but evil, narrow-minded, and too dangerous to be tolerated on campus.

It didn't matter to them if we were politically or racially diverse, if we cared about the environment or built Habitat homes. It didn't matter if our students were top in their fields and some of the kindest, most thoughtful, most compassionate leaders on campus. There was a line in the sand, and we fell on the wrong side of it.

We liked being in pluralistic settings, mining for truth in Nietzsche and St. Benedict alike. But if Christian orthodoxy was anathema in a purportedly broad-minded university, where did that leave us?

My husband and I love the idea of the university, a place of libraries and lawns, a space set aside to grapple with the most vital questions of truth, where many different voices gather to engage in respectful conversation. Both of us had invested considerable time and money into pursuing advanced degrees. He was preparing to be a professor.

We liked being in pluralistic settings, mining for truth in Nietzsche and St. Benedict alike. But if Christian orthodoxy was anathema in this purportedly broad-minded university, where did that leave us? What did that mean for our place in the world and how we interacted with culture?

And what did that mean for all the PhD candidates in my student group who were preparing for a life of service in the secular university? Did we need to take a slightly more Amish route of cultural engagement?

And what did all this mean for the university?

Facing an Impasse

A culture of fear seemed to be growing on campus. There were power plays and spin. A group of professors penned a thoughtful critique of the new policy, but remained silent when sympathetic department heads warned that going public could be "career damaging."

As a private university, Vanderbilt had the right to adopt particular beliefs and exclude certain religious groups. What bothered me was that they didn't own up to what they were doing. I wanted them to be truthful, to say in their brochure, "If you are a creedal religious person, don't expect to find a campus group here." I wanted intellectual honesty and transparency about their presuppositions.

Instead, top officials seemed blind to their assumptions, insisting all religious groups were welcome while gutting our ability to preserve defining beliefs and practices.

Those of us opposed to the new policy met with everyone we could to plead our case and seek compromise. We published essays and held silent protests with signs calling for pluralism and religious liberty. Hundreds of students and some faculty respectfully objected to the new policy. Catholic and Protestant students, low-church and high-church, met together daily in front of the administration building to pray.

As a writer and pastor, I value words, love careful argument, and believe good ideas prevail. I believed that if we cast a vision of principled pluralism, showed how value-laden presuppositions are inherent in any worldview, and reiterated our commitment to Vanderbilt and avoided the culture wars, the administration would relent.

But as spring semester ended, 14 campus religious communities—comprising about 1,400 Catholic, evangelical, and Mormon students—lost their organizational status.

A year later, my family and I moved to a different state to plant a new InterVarsity chapter. It was painful to leave beloved faculty, students, and ministry colleagues with the campus conflict unresolved. There was no happy ending, no triumphant reconciling moment. After that long and disorienting year, I left not in confident, defiant protest, but in sadness. What I thought was a misunderstanding turned out to be an impasse.

We Are Here

What's happening at Vanderbilt is happening at other universities. Increasingly, orthodox beliefs and practices are forbidden as those in power forfeit a robust understanding of religious pluralism.

Our task moving forward is to resist bitterness, cynicism, or retaliation, demonizing the university or the culture. As Aleksandr Solzhenitsyn said, the line between good and evil runs through every human heart, a reality that makes everything more complex. We have to forgive and to look squarely at places in our own heart that require repentance. In community, we must develop the craft of being both bold and irenic, truthful and humble.

And while we grieve rejection, we should not be shocked or ashamed by it. That probationary year unearthed a hidden assumption that I could be nuanced or articulate or culturally engaged or compassionate enough to make the gospel more acceptable to my neighbors. But that belief is prideful. From its earliest days, the gospel has been both a comfort and an offense.

We need not be afraid; the gospel is as unstoppable as it is unacceptable.

N. T. Wright points out in *Paul: In Fresh Perspective* that the unlikely message of a crucified Jew raised from the dead "was bound to cause hoots of derision, and, if Acts is to be believed, sometimes did." Throughout history and even now, Christians in many parts of the world face not only rejection but violent brutality. What they face is

incomparably worse than anything we experience on U.S. college campuses, yet they tutor us in compassion, courage, and subversive faithfulness.

We need not be afraid; the gospel is as unstoppable as it is unacceptable. Paul persisted, proclaiming that Jesus was, in fact, the world's true Lord. And, as Wright notes, "people (to their great surprise, no doubt) found this announcement making itself at home in their minds and hearts, generating the belief that it was true, and transforming their lives with a strange new presence and power."

After we lost our registered status, our organization was excluded from new student activity fairs. So our student leaders decided to make T-shirts to let others know about our group. Because we were no longer allowed to use Vanderbilt's name, we struggled to convey that we were a community of Vanderbilt students who met near campus. So the students decided to write a simple phrase on the shirts: WE ARE HERE.

And they are. They're still there in labs and classrooms, researching languages and robotics, reflecting God's creativity through the arts and seeking cures for cancer. They are still loving their neighbors, praying, struggling, and rejoicing. You can find them proclaiming the gospel in word and deed, in daily ordinariness. And though it is more difficult than it was a few years ago, ministry continues on campus, often on the margins and just outside the gates. God is still beautifully at work. And his mercy is relentless.

Tish Harrison Warren is a priest in the Anglican Church in North America and works with InterVarsity at the University of Texas–Austin. For more, see TishHarrisonWarren.com.

CHRISTIANITY TODAY

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ATTACHMENT F

West's Tennessee Code Annotated
Title 49. Education
Chapter 7. Postsecondary and Higher Education Generally
Part 1. Miscellaneous Provisions

T. C. A. § 49-7-156

§ 49-7-156. Religious student organizations; discrimination

Effective: July 1, 2013
Currentness

(a) No state higher education institution that grants recognition to any student organization shall discriminate against or deny recognition to a student organization, or deny to a student organization access to programs, funding, or facilities otherwise available to another student organization, on the basis of:

(1) The religious content of the organization's speech including, but not limited to, worship; or

(2) The organization's exercise of its rights pursuant to subsection (b).

(b) A religious student organization may determine that the organization's religious mission requires that only persons professing the faith of the group and comporting themselves in conformity with it qualify to serve as members or leaders.

(c) As used in this section, “state higher education institution” means any higher education institution governed by chapter 8 or 9 of this title.

Credits
2013 Pub.Acts, c. 283, § 1, eff. July 1, 2013.

T. C. A. § 49-7-156, TN ST § 49-7-156
Current with laws from the 2014 Second Reg. Sess., eff. through Feb. 28, 2014

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ATTACHMENT G

U.O.S.A
UNIVERSITY OF OKLAHOMA STUDENT ASSOCIATION
GENERAL COUNSEL

August 22, 2011

Registered Student Organization:

Recent court decisions have clarified the law regarding the application of anti--discrimination policies to Registered Student Organizations ("RSOs") at institutions of higher education. To ensure compliance with the clarified law and University policy, our office is verifying that each RSO constitution contains the following anti--discrimination policy:

> "Membership in, association with, and benefits emanating from this student organizations and its related activities shall be based upon such considerations as performance, educational achievement, and other criteria related to the goals of this organization and purposes of its activities. Judgments in this regard based solely on an individual's race, color, religion, national origin, age, gender, sexual orientation, disability, veteran status, marital status, or political belief are not judgments based on such considerations. Further, the purpose of this organization shall be consistent with public policy as established by prevailing University Community standards."

In addition to including the exact language above in your RSO's constitution, no provisions of your constitution and none of your organization's practices may contradict or create exceptions to this policy. You should carefully review your constitution and practices to ensure your organization adheres to the letter and spirit of the University's anti--discrimination policy.

In order to remain eligible for use of University facilities and funding, your organization must electronically submit a constitution that complies with the University's anti--discrimination policy as soon as possible, but no later than September 16, 2011. Please send your constitution to gc@ou.edu. If your constitution is in compliance, your organization will NOT have to re--submit its constitution for review next fall.

If you have any questions regarding this letter do not hesitate to contact my office, either by email at gc@ou.edu, or by phone at 325--5474.

Sincerely,
Matt Zellner, General Counsel
University of Oklahoma Student Association
[p] (405) 325--5474
[f] (405) 325--6529
[e] gc@ou.edu
www.ou.edu/uosagc

ATTACHMENT H

70 Okl.St.Ann. § 2119

§ 2119. Definitions

Currentness

As used in Sections 1 through 5 of this act: [1]

1. “Benefit” includes, without limitation:

a. recognition,

b. registration,

c. the use of facilities of the public institution of higher education for meetings or speaking purposes,

d. the use of channels of communication of the public institution of higher education, and

e. funding sources that are otherwise available to other student associations in the public institution of higher education;

2. “Exercise of religion” includes without limitation the practice or observance of religion as interpreted under state law or the First Amendment of the United States Constitution, whichever interpretation is broader;

3. “Public institution of higher education” includes any institution that is a member of The Oklahoma State System of Higher Education or of a technology center school district;

4. “Substantially burdens” includes without limitation an action by a public institution of higher education which directly or indirectly:

a. constrains or inhibits conduct or expression that reflects a student's sincerely held religious beliefs,

b. denies a student an opportunity to engage in religious activities, or

c. pressures a student either:

(1) to not engage in conduct or expression motivated by a sincerely held religious belief, or

(2) to engage in conduct or expression contrary to a sincerely held religious belief;

5. “Student” means a person who is enrolled full-time or part-time in a public institution of higher education; and

6. “Religious student association” means an association of students organized around shared religious beliefs.

Credits

Laws 2014, c. 350, § 1, eff. Nov. 1, 2014.

Footnotes

1 Title 70, §§ 2119 to 2119.4.

70 Okl. St. Ann. § 2119, OK ST T. 70 § 2119

Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

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70 Okl.St.Ann. § 2119.1

§ 2119.1. Protection for religious student organizations

Currentness

A. No public institution of higher education may take any action or enforce any policy that would deny a religious student association any benefit available to any other student association, or discriminate against a religious student association with respect to such benefit, based on that association's requirement that its leaders or members:

1. Adhere to the association's sincerely held religious beliefs;

2. Comply with the association's sincere religious observance requirements;

3. Comply with the association's sincere religious standards of conduct; or

4. Be committed to furthering the association's religious missions,

as such religious beliefs, observance requirements, standards of conduct or missions are defined by the religious student association, or the religion upon which the association is based.

B. The legal standard provided in subsection B of Section 3 of this act [1] shall not apply to this section.

Credits
Laws 2014, c. 350, § 2, eff. Nov. 1, 2014.

Footnotes
1 Title 70, § 2119.2.
70 Okl. St. Ann. § 2119.1, OK ST T. 70 § 2119.1
Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

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Oklahoma Statutes Annotated
Title 70. Schools (Refs & Annos)
Division IV. Universities, Colleges, and Schools of Special Character
Chapter 45. General and Miscellaneous Provisions
Exercise of Religion by Higher Education Students

70 Okl.St.Ann. § 2119.2

§ 2119.2. Protections for students' exercise of religion

Currentness

A. In addition to the protections provided in Section 2 of this act, no public institution of higher education may substantially burden a student's exercise of religion, even if the burden results from a rule of general applicability, except as provided in subsection B of this section.

B. A public institution of higher education may substantially burden a student's exercise of religion only if that institution demonstrates that application of the burden to the student:

1. Is in furtherance of a compelling interest of the public institution of higher education;

2. Actually furthers that interest; and

3. Is the least restrictive means of furthering that interest.

Credits

Laws 2014, c. 350, § 3, eff. Nov. 1, 2014.

70 Okl. St. Ann. § 2119.2, OK ST T. 70 § 2119.2
Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

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70 Okl.St.Ann. § 2119.3

§ 2119.3. Claims and defenses

Currentness

A student or religious student association aggrieved by a violation of Section 2 or 3 of this act [1] may assert that violation as a claim or defense in a judicial or administrative proceeding against the public institution of higher education and obtain appropriate relief, including damages, against that institution from a court or administrative body.

Credits

Laws 2014, c. 350, § 4, eff. Nov. 1, 2014.

Footnotes

1 Title 70, §§ 2119.1, 2119.2.

70 Okl. St. Ann. § 2119.3, OK ST T. 70 § 2119.3

Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

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Oklahoma Statutes Annotated
Title 70. Schools (Refs & Annos)
Division IV. Universities, Colleges, and Schools of Special Character
Chapter 45. General and Miscellaneous Provisions
Exercise of Religion by Higher Education Students

70 Okl.St.Ann. § 2119.4

§ 2119.4. Construction

Currentness

These provisions shall be construed in favor of a broad protection of religious freedom, to the maximum extent permitted by their terms and by the Constitutions of this state and the United States of America.

Credits

Laws 2014, c. 350, § 5, eff. Nov. 1, 2014.

70 Okl. St. Ann. § 2119.4, OK ST T. 70 § 2119.4
Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

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ATTACHMENT I

♦ BOISE TATE UNIVERSITY
Associated Students of Boise Stole University
Judkiory

1910 Unive_nity Dd:v l3oi'$e, Idaho 83725-1335
phono 208,42&1440
lo, 208-426-42,3
hllp://o:sbsu,,org

March .30. 2008

Cornerstone Ministry Officers:

In **accordance with the require1nents outlined in The Source** #I, **ASBSU Judiciary is ofiically requesting that you update your clubs constitution in order to comply with the ASBSU nondiscrimination clause. ASBSU Judiciary found the following sections ofyour constitution to be in conflict with the nondiscrimination clause.**

Article V, Section :l, subsect:i<>n 3:

"Be in good moral standing, exhibiting *a* lifestyle that is worthy of• Chrtstlan"

This.phrase was found to.be in conflict with the nondisoimination clause. Both "good moral standing" and "lifestyle that is worthy of a Christian" are vague and can be discnminator(against people based on things listed In the **nonOlscrimlnation daure,**

Article V, Section 2, subsection 4:

"Have passed the cornerstone Ministry Equipping course (or equivalent)."

Judiciary would like to know if tinythlng in this course·In ari.y way conmets-with the nOndiscrimination daU5e.

Article V, Section 3., subsection *3:*

"Be in good moral standing, exhibiting a lifestyle that is worthy of a Christian as outlined in the Bible"

This phrase was found to be in conflict WIU1 the nondiscrimination dause. Both "good moral standing" and "llf<lstyle that is worthy of a Chrts\ian".are vague and can be discriminator(against people based on things listed in the **nondiscrimination clause.**

Artide V, Section 3, subsedion 4!

"Have passed the Cornerstone Ministry Equipping Course"

Judiciary would like to know if anything In this course in any way conflicts with the nondiscrimination dause,

ArticiEfV, Section 5, subsed.iQn·1:

"A Biblically compatible lifestyle"

Judiciary found thls phrase t:o conflict with the nondiscritriination dause

Artidti VI, Section 2t

Specifically referencing Matthew rn:i5•17. The final line of this passage is: "and If he refuses to listen even to the **church, .treat him** LS **you-would a pagan** or_a **tax conector.**[1]
Judiciary found· this in conflict with the nondlsoimination dause.

BOISE STATE UNIVERSITY
Associated Students of Boise State University
1910 University Drive Boise, Idaho 83725-1335
phone 208-426-4233
fax 208-426-4233
http://asbsu.org

Artide X, Settion *21* subsection C.1:

"Abide by a Biblically compatible lifestyle'

Juditfofry found thls·phn3se to conflict With the nOndiscriminatlon dause

Artide X, Seciion 2, subsection C 4:

"Have passed .l:hf:! Cornerstone. Mini$)' Equipping courset'

Judiciary would like. ta know if anythln In ttils course In any way conflicts with the nondlsoimination dause.

Article XI, Section 2:

Specifically referencing Matthew 18:15-17. The firial line of this passage is: "and if he refuses to listen even to the church tr:eat him as: you would a pagan or a tax collector."
Judiciary found thls in conflict with the nondisctimin.ation dause.

As th1s ·is the official notification of a. request. io update your constitution, your du!, has 2 months to update your constitution and submit it for judicial review. However, seeing as ASBSU Ji.!diciary does not conduct business during the sui11mcr months, your club will have until September 2, 2008 to submit your cm)stitution for review. If yoμ have any further questions or concerns, you may direct them to Kara: Fink, Student Activities Program Coordinator, at 426-595l.

Sincerely,

Rus

Chief Justice
ASBSU Judiciary

1910 University Drive Boise, Idaho 83725-1935
phone 208-426-1469
fax 208-426-4333
http://asbsu.org

27, 2009

BSUCRU Off

In accordance with the requirements outlined in The Source 4.L, ASBSU Judiciary is formally requesting that you update your club's constitution in order to comply with the ASBSU nondiscrimination clause. ASBSU Judiciary found the following sections of your constitution to be in conflict with the nondiscrimination clause.

Article IX Section 1
"All officers must exemplify the application of Scriptural life principles in accordance with the national standards of Campus Crusade for Christ." Judiciary finds that the passage "Scriptural life principles may be in conflict with the ASBSU Non-discrimination policy. Please further define "Scriptural life principles" and the process used to determine whether an officer is exemplifying those principles.

Article X Section 4
"The qualifications for executive council (servant team) shall include, but are not limited to: a personal relationship with Jesus; a Spirit-filled servant attitude; agreement with BSUCRU goals of reaching students for Christ through personal and group evangelism using tools like the Four Spiritual Laws and the Holy Spirit booklet etc.; to go through our basic follow up materials; willingness to be in a small discipleship/Bible study group and to be trained (in time) to lead one; to come to BSUCRU events like prayer and the weekly meeting, retreats, fun times, etc; to share Christ intentionally (goal: once weekly); to prepare a 3 minute testimony and share it with a staff person; to take on a ministry or service in one of the four committees of inward, upward, outward, and stewardship; To be part of a Bible-based, Jesus-centered church; commit to at least 8-9 hours of active involvement." Not allowing members to serve as officers due to their religious beliefs is in conflict with the ASBSU Non-discrimination policy.

In addition to the above request ASBSU Judiciary is requesting you submit a copy of the constitution of the national organization Campus Crusade for Christ. In your constitution you claim affiliation with the above mentioned organization and it is ASBSU policy that we have a copy of the national organization's constitution in our files.

As this is the official notification of a request to update your constitution, your club has 2 months to update your constitution and submit it for judicial review. If you have any further questions or concerns, you may direct them to Kara Fink, Student Activities Program Coordinator, at 426-5951.

Sincerely,

Russell O'Leary
Chief Justice
ASBSU Judiciary

ATTACHMENT J

West's Idaho Code Annotated
Title 33. Education
Chapter 1. State Board of Education

I.C. § 33-107D

§ 33-107D. Campus access for religious students

Currentness

(1) No state postsecondary educational institution shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders adhere to its sincerely held religious beliefs or standards of conduct.

(2) As used in this section:

(a) “Benefits” include without limitation:

(i) Recognition;

(ii) Registration;

(iii) The use of facilities at the state postsecondary educational institution for meetings or speaking purposes;

(iv) The use of channels of communication of the state postsecondary educational institution; and

(v) Funding sources that are otherwise available to any other student group through the state postsecondary educational institution.

(b) “State postsecondary educational institution” means a public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of chapter 21, title 33, Idaho Code, or the state board for professional-technical education.

Credits
Added by S.L. 2013, ch. 190, § 1, eff. July 1, 2013.

I.C. § 33-107D, ID ST § 33-107D
Current through (2013) Chs. 1-354 (End)

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ATTACHMENT K

Resolution 1011-AU-006

Supporting the Repeal of the Registered Student Organization Exemption

Author: Jonathan Nutt(.19), President
Sponsor: The Executive Committee
Inh·oduced: November 12, 2010

WHEREAS, new legal precedence set by the U.S. Supreme Court case Christian Legal Society Chapter of the University of California, Hastings College of Law v. Maiiinez Et al. brings reason to review the current Registered Student Organization exemption that enables "a student organization formed to foster or affirm the sincerely held religious beliefs of its members may adopt a nondiscrimination statement that is consistent with those beliefs;" and

WHEREAS, the President of the United States of America recently committed to a nationwide effo1i ending discrimination in all its forms in schools and communities; and

WHEREAS, the University has fostered a culture of inclusion for over 40-years and the exemption is in direct conflict with the vision and goals of the University set forth in the Academic Plan, Diversity Action Plan and motto *disciplina in civitatem* (education for citizenship); and

WHEREAS, the exemption is counte1intuitive to the Philosophies and Guiding Principles outlined in the Registration Guidelines for Student Organizations at Ohio State and without intelligible principle and therefore difficult to interpret, enforce, and adjudicate; and

WHEREAS, the Council of Graduate Students has previously taken positions affinning mutual respect and fair h·eatment of all individuals at The Ohio State University to support an environment of diversity that enriches the community and enhances the educational process; and

THEREFORE LET IT BE RESOLVED, that the Council of Graduate Students urges The Ohio State University to repeal the exemption outlined in the Registration Guidelines for Student Organizations at Ohio State that states "A student organization formed to foster or affinn the sincerely held religious beliefs of its members may adopt a nondiscrimination statement that is consistent with those beliefs;" and

LET IT BE FURTHER RESOLVED, that the Council of Graduate Students charges its Graduate Student Representatives in University committees to vote in accordance with this resolutions; and

LET IT BE FURTHER RESOLVED, that the Council of Graduate Students charges its President to communicate to the Ohio State University President, the Executive Vice President and Provost, the Vice Provost and Chief Diversity Officer, the Vice President of Student Life, the Dean of the Graduate School, the Undergraduate Student Government, the Inter-Professional Council and all other appropriate groups the Council's position as established by this resolution.

Date Approved: Hov5i:M S.(. 12.) 2,.o o

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President | Council of Graduate Students

Council on Student Affairs Recommendation
Religious Student Organization Carve-Out

January 18th, 2011

Submitted by Bryan Ashton
On behalf of The Council on Student Affairs

CHARGE:

Recommend a course of action in regards to the religious student organization carve-out to the non discrimination clause in the Student Organization Registration guidelines at The Ohio State University.

RESEARCH:

The Council began the process of reviewing the carve-out in the beginning of November through an Ad-Hoc committee. This committee finished their work at the end of November and produced a recommendation in favor of a blanket removal of the carve-out (attached). On November 30th, CSA hosted an open forum, in which we heard opinions from student organization leaders and university community members about the issue. During the quarter both Undergraduate Student Government and the Council of Graduate Students passed resolutions in favor of the removal of the Carve Out (attached). Voting CSA members were also provided with numerous reading materials and encouraged to engage in constituency outreach.

FINDINGS:

The Council voted (12-1) in favor of accepting the Ad-Hoc committee's recommendation of a blanket removal of the carve-out. The Council recommends that this change be placed into effect for the next student organization registration year and that appropriate University resources be allocated to help organizations transition and maintain their compliance and registration status.

The Council, in accepting this recommendation, endorses the position that every student, regardless of religious belief, should have the opportunity to participate in student organizations as well as have the opportunity to apply or run for a leadership position within those organizations. The Council believes that the Office of Student Life in conjunction with the Office of Legal Affairs should address acceptable officer selection procedures with groups who request such assistance.

Attached to this recommendation is the report of the Ad-Hoc committee as well as the Student Government resolutions that were introduced. Much debate and strong feelings were drawn from these resolutions and reports, so they are included in the recommendation.

Council on Student Affairs Recommendation
Religious Student Organization Carve-Out

November 29, 2010

Submitted by Bryan Ashton
On behalf of Student Organization Carve Out Ad-Hoc

CHARGE: Recommendation a course of action in regards to the religious student organization carve-out to the non discrimination clause in the Student Organization Registration guidelines.

MAKE UP: The Ad-Hoc Committee consisted of representatives from Residence Life, the Law School, IPC, USG, CGS, Muslim Student Association, Staff, and Faculty. Ex-Officio members included representatives from Legal Affairs and Student Activities.

RESEARCH:

The group heard from Michael Layish of Legal Affairs, as well as Kerry Hodak from Student Activities in regards to their experiences with the carve-out and the history of its implementation. The group also discussed the implications of the removal of the carve-out or continuing with the carve-out in place for religious student organizations. Each student government was asked to do constituency outreach and in the process CGS passed a resolution regarding the issue. The committee then spent three meetings debating the merit of the removal of the carve-out, upholding the carve-out, and the examination of a leadership exemption.

FINDINGS:

The Ad-Hoc Committee voted unanimously (8-0) in favor of recommending that the carve-out, in relation to its application to general members, be removed. There was discussion and dissent to the idea of a blanket removal, with three members of the committee voting in favor of adopting a carve-out, similar to current carve-out, however applied only to leadership positions in the organization. The recommendation of the Ad-Hoc Committee was (5-3) in favor of a blanket removal of the current carve-out. Below are opinions in favor of a blanket carve-out (Brandon Edwards) and opinions in favor of a leadership position carve-out (Maria Ahmad).

OPINIONS:

<u>Blanket Removal</u>

Put simply, the debate placed before the Council on Student Affairs regarding carve out language for religious-based Student Organizations requires a choice of the lesser of two evils. By removing the carve-out for religious-based Student Organizations, Ohio State runs the risk of diminishing the voice of student organizations built upon a sincerely held religious belief. By denying these organizations the privileges associated with registration, we threaten discrimination against those groups that are organized around a certain interpretation of religious doctrine. However, by keeping the religious Student Organization exemption currently in place,

Council on Student Affairs Recommendation
Religious Student Organization Carve-Out

Ohio State's Office of Student Activities leaves open the option of groups discriminating against members of the student body interested in membership. Keeping the carve out institutionalizes the ability of Student Organization members to openly discriminate against students with opinions and behaviors different than their own. The question is: should we potentially discriminate against Student Organizations or should we allow those Student Organizations to discriminate against individual students. It is my opinion, and the unanimous opinion of the CSA Student Organization Guideline Review Ad-Hoc Committee, that the former is a preferred action in lieu of the potential ramifications of the latter. We must protect the rights of students to join the organizations of their choosing instead of tolerating the discriminatory tendencies of individual Student Organizations.

As a public University entrusted with the stewardship of taxpayers dollars, we must not allow Student Organizations to discriminate against federally mandated protected classes. Additionally, we must consider where the funding comes from for the benefits bestowed to Registered Student Organizations. Each student pays a $25 Student Activity Fee, and this money allows Registered Student Organizations access to a number of benefits. It is irresponsible to require this fund of every student but not allow individual students the right to join any Student Organization of their choosing due to discriminatory rules put in place by those groups.

It is the opinion of some that carve out language still be included in governing the selection of Student Organization Officers. In response to that, I advocate that we allow democracy to run its course. It is entirely rational to impose voting membership requirements relating to attendance at meetings and fulfillment of other membership characteristics. By restricting membership to those dedicated to its mission through demonstrated participation, each Student Organization has the ability to create an electorate as devoted to the organization as possible. It is in that spirit that we should allow voting members to install the leadership of their choosing, free from institutionalized guidelines precluding certain members the privilege of seeking officer status. We must trust the capacity of each Student Organization member to vote for the candidate most in line with his or her values and goals for the organization. Democracy should decide that someone is unfit for officership rather than guidelines that allow precautionary discrimination.

Justice Anthony Kennedy summed up the spirit of the need for carveout removal in his concurring opinion on *CLS v. Martinez:* "a vibrant dialogue is not possible if students wall themselves off from opposing points of view."

--Brandon N. Edwards, November 28, 2010

<u>Leadership Position Carve Out</u>

Student Life is made up of students for students. Student groups are run by students. Any student is able to create a new group on campus with any mission or purpose that they desire. But once the group is started, it is crucial for the group to have some rights that will keep them stable and active. Religious student groups are created for two main purposes. The first purpose is to foster the beliefs and maintain the identity of those who follow that faith on campus. The second purpose is to let others on campus know about the faith through various means. Seeing the second purpose, it is obvious that groups that want to affiliate their self as an official OSU group, will plan events that would be open to all students and fulfilling their purpose, and using the student's activity fee.

However the first purpose cannot be fulfilled without having a leader who shares the basic beliefs and concepts of the religious thought that the group was founded upon. One cannot help instill faith in another unless the former also believes. To have a leader who does not believe in the basics of that faith become the face of the group, and that religion, is deceitful and unfair to those who join. This partiality can be more readily applied to religious groups over others such as ethnic ones because religion is something one can choose to follow, not something one is born with. We do not even have to look at the degrees of religiosity but to have someone who claims and seems to be believing in and following the group's mission is not only ideal but necessary.

It may be true that groups should use their own wisdom in choosing their leaders through having a criteria and elections. However, student groups come in all sizes and to do this may be difficult for smaller and new groups. These student groups should have some rights as to who can and cannot be the representative of their group. If a group sees it necessary to not let that individual become the leader, the latter has the ability to start his or her own group which is simple to do at this University. This will also foster more diversity and give scope to larger group of students who may not have wanted to be part of another group's mission. Having a carve out for leadership does not have to be used by those who do not want to, but it should be there for those groups who want it. If about 23 of 900 student groups are using the carve out presently, and need to, then they should be able to.

-Maria Ahmad

ATTACHMENT L

Baldwin's Ohio Revised Code Annotated
Title XXXIII. Education--Libraries
Chapter 3345. State Universities--General Powers (Refs & Annos)
Students and General Provisions

R.C. § 3345.023

3345.023 Religious student group benefits

Effective: September 29, 2011
Currentness

(A) No state institution of higher education shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct.

(B) As used in this section:

(1) “Benefits” include, without limitation:

(a) Recognition;

(b) Registration;

(c) The use of facilities of the state institution of higher education for meetings or speaking purposes, subject to section 3345.021 of the Revised Code;

(d) The use of channels of communication of the state institution of higher education;

(e) Funding sources that are otherwise available to any other student group in the state institution of higher education.

(2) “State institution of higher education” has the same meaning as in section 3345.011 of the Revised Code.

Credits
(2011 H 153, eff. 9-29-11)

R.C. § 3345.023, OH ST § 3345.023
Current through 2013 File 11 of the 130th GA (2013-2014).

End of Document

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ATTACHMENT M

Arizona Revised Statutes Annotated

Title 15. Education (Refs & Annos)

Chapter 14. Provisions Relating to Community Colleges, Universities and Private Postsecondary Institutions (Refs & Annos)

Article 6. Students' Rights (Refs & Annos)

A.R.S. § 15-1861

§ 15-1861.

Definitions

Currentness

In this article, unless the context otherwise requires,

1. "Community college" has the same meaning prescribed in § 15-1401.

2. "Public forum" includes any open, outdoor area on the campus of a university or community college and any facilities, buildings or parts of buildings that the university or community college has opened to students or student organizations for expression.

3. "University" means a university under the jurisdiction of the Arizona board of regents.

Credits
Added by Laws 2011, Ch. 337, § 1.

Current through the First Regular Session and Third Special Session of the Fiftieth Legislature (2011)

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Arizona Revised Statutes Annotated

Title 15. Education (Refs & Annos)

Chapter 14. Provisions Relating to Community Colleges, Universities and Private Postsecondary Institutions (Refs & Annos)

Article 6. Students' Rights (Refs & Annos)

A.R.S. § 15-1862

§ 15-1862. Rights of students at universities and community colleges

Currentness

A. A university or community college shall not discriminate against a student on the basis of the student's religious viewpoint, expression or belief.

B. A university or community college shall not adopt any policy that penalizes or punishes a student based on the student's religious viewpoint, expression or beliefs.

C. If an assignment or classroom discussion requests a student's viewpoint in coursework, artwork or other written or oral assignments, a university or community college shall not penalize or reward a student on the basis of religious content or a religious viewpoint. In such an assignment, a student's academic work that expresses a religious viewpoint shall be evaluated based on ordinary academic standards such as grammar, style, analysis and adherence to the instructions for the assignment.

D. A university or community college shall not withhold any certificate or degree on the basis of a student's religious viewpoint or religious expression.

E. A university or community college shall not discipline or discriminate against a student in a counseling, social work or psychology program because the student refuses to counsel a client about goals that conflict with the student's sincerely held religious belief if the student consults with the supervising instructor or professor to determine the proper course of action to avoid harm to the client.

Credits
Added by Laws 2011, Ch. 337, § 1.

Current through the First Regular Session and Third Special Session of the Fiftieth Legislature (2011)

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Arizona Revised Statutes Annotated

Title 15. Education (Refs & Annos)

Chapter 14. Provisions Relating to Community Colleges, Universities and Private Postsecondary Institutions (Refs & Annos)

Article 6. Students' Rights (Refs & Annos)

A.R.S. § 15-1863

§ 15-1863. Student organizations; recognition; rights

Currentness

A. A university or community college that grants recognition to any student organization or group may not discriminate against or deny recognition, equal access or a fair opportunity to any student organization or group on the basis of the religious, political, philosophical or other content of the organization's or group's speech including worship.

B. A religious or political student organization may determine that ordering the organization's internal affairs, selecting the organization's leaders and members, defining the organization's doctrines and resolving the organization's disputes are in furtherance of the organization's religious or political mission and that only persons committed to that mission should conduct such activities.

C. A university or community college may not deny recognition or any privilege or benefit to a student organization or group that exercises its rights pursuant to subsection B.

Credits
Added by Laws 2011, Ch. 337, § 1.

Current through the First Regular Session and Third Special Session of the Fiftieth Legislature (2011)

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Arizona Revised Statutes Annotated

Title 15. Education (Refs & Annos)

Chapter 14. Provisions Relating to Community Colleges, Universities and Private Postsecondary Institutions (Refs & Annos)

Article 6. Students' Rights (Refs & Annos)

A.R.S. § 15-1864

§ 15-1864. Students' right to speak in a public forum

Currentness

A. A university or community college shall not restrict a student's right to speak, including verbal speech, holding a sign or distributing fliers or other materials, in a public forum.

B. A university or community college may restrict a student's speech in a public forum only if it demonstrates that application of the burden to the student is both:

1. In furtherance of a compelling governmental interest.

2. The least restrictive means of furthering that compelling governmental interest.

Credits
Added by Laws 2011, Ch. 337, § 1.

Current through the First Regular Session and Third Special Session of the Fiftieth Legislature (2011)

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COMMUNITY COLLEGE
system of New Hampshire

Testimony for HB516, *relative to freedom of speech and association at public institutions of higher education*
House Committee on Education
February 24, 2023
Community College System of New Hampshire (CCSNH)

House Bill 516, *relative to freedom of speech and association at public institutions of higher education,* and current CCSNH policies both protect expressive activity. Like HB516, CCSNH policies explicitly state that nothing in policy or practice shall limit expressive activity based on subject matter or content. However, CCSNH policies are also designed to protect students and property and to recognize campus-specific circumstances such as staffing and college schedules. While we appreciate the sponsor's good intent, we believe that the enactment of HB516 as written would leave campuses unsure of their authority, less able to be prepared for events and therefore open to greater liability. We respectfully cannot support this bill as written. Amendments may clarify areas of concern such as those below.

Our policies protect and support individuals' and groups' rights to expressive activity while enabling the institution to be prepared for events that could become disruptive. CCSNH policies, such as for advance notice, allow our colleges to take into account such considerations as:

- Times of the day, week, semester and year when the colleges are not positioned to safely be the site of large gatherings, for example semester break periods and evening hours when maintenance and security staffing is reduced.
- The ability to work with campus groups on specifics of a gathering that could be disruptive such as a plan to use amplification, which should be coordinated with the college so as not to occur, for example, near buildings during exam times or in proximity to on-campus childcare centers.
- The need to plan staffing sufficient to protect property and safety and address any risk management considerations the institution may have, as we have liability for what happens on our campuses.

CCSNH policy expressly states that regulation of expressive activity shall be subject matter neutral, and our colleges are broadly welcoming and supportive as venues for expressive activity. CCSNH policy is also consistent with recognizing an allowable distinction between a true unrestricted public forum and a place such as a college, with a different and specific primary purpose and accountability. We are not aware of any problem that has been raised by a person or group about how New Hampshire's community colleges support free expression. Based on CCSNH's experience, we believe that HB516 is not needed.

Thank you.

Contact: Shannon Reid, CCSNH, sreid@ccsnh.edu, 603-568-5599

Gail Laker-Phelps

Maureen F. Prohl

Academic performance of all EFA students, whose education is funded by tax dollars, should be assessed on the measure used by the Pubic Schools, Statewide testing. Until this is done, there should be no program expansion.

Leslie Bergevin

Public funds should go to public schools, and separation of church and state should be maintained.

Sara Smith

,,,,,,

Monica Staples

This bill is first, nearly in it's entirety, a violation of the First Amendment of the Constitution. Second, there are already other laws in place intended to remedy the violations referred to in the bill.

Sebastian Fuentes

This is the right step to take in order to create more fair and robust legislation related to meals provided in schools. The main idea of no child left behind should also apply to nutritional meals. This bill empowers all of us to get more informed. This will lead us in the right direction.

Catherine Robertson-Souter

Stop trying to restrict freedom of speech - this is how totalitarian and communist governments operate. They fear free speech because they know that it will eventually find the truth and they do not represent the truth. This should not be how we operate.

Julius Soti

Honorable Education Committee Members,

Many of our institutions of higher education are in an intellectual crisis. Free speech is vital to the exchange of ideas, growth of knowledge, and understanding of our world. Freedom of speech is also freedom of thought. Sheltering students from ideas they may find offensive is counterproductive and the antithesis of education. To quote the philosopher, Aristotle, “It is the mark of an educated mind to be able to entertain a thought without accepting it.”
Please vote OTP on HB 516.

Rep. Julius F. Soti

My name is Tim Chevalier. I am a New Hampshire citizen and attorney who is a member of Christian Legal Society and speak on its behalf today in support of HB 516. I respectfully request that the letter to Chairman Ladd from Christian Legal Society and its attachments be included in the record.

Christian Legal Society ("CLS") is an association of Christian attorneys, law students, and law professors, with student chapters at approximately 121 law schools nationwide. CLS student chapters typically are small groups of students who meet for weekly prayer, Bible study, and worship at a time and place convenient for the students. All students are welcome to participate in CLS meetings as chapter members. As Christian groups have done for nearly two millennia, CLS requires its chapter leaders to agree with a statement of faith, the traditional Christian beliefs that define CLS's message and mission.

HB 516 is a commonsense measure that would protect students who wish to meet on college campuses in New Hampshire for religious, political, or ideological speech. I will focus my remarks on religious students' need for the protection that HB 516 would provide. Specifically, Section 118-J:3 is intended to protect religious students who want to meet on a public college campus by prohibiting public college administrators from denying them meeting space because a religious student association requires its leaders or members to:

- adhere to the association's sincerely held religious beliefs;
- comply with the association's sincere religious standards of conduct; or
- be committed to furthering the association's religious mission.

Too often CLS has seen college administrators threaten to exclude religious groups because the groups require their leaders to share the groups' core religious beliefs. The need for HB 516 was demonstrated just this academic school year when the Student Bar Association (SBA) at the University of New Hampshire Franklin Pierce School of Law threatened to deny recognition to the Christian Legal Society Law Student chapter there.

The University of New Hampshire website currently lists 327 student organizations.[1] The School of Law website lists 28 student organizations, covering a wide array of interests, including the Secular Student Alliance, the Diversity Coalition, Lambda, The Federalist Society, UNH Law Democrats, and If/When/How-Lawyering for Reproductive Justice.[2]

But last fall, at a public hearing, the SBA threatened to deny CLS's request for recognition because the SBA claimed that CLS's requirement that its leaders agree with its religious beliefs violated the school's diversity, equity, and inclusion policies. The CLS student leaders were subjected to an unseemly inquisition by the SBA into their religious beliefs. The SBA made clear its hostility to CLS's religious beliefs.

To defend its students, CLS sent a letter to University of New Hampshire administrators, explaining that failure to recognize the CLS chapter was unconstitutional viewpoint discrimi-

[1] https://wildcatlink.unh.edu/organizations.
[2] https://law.unh.edu/student-life/student-organizations.

nation. The administration agreed and directed the SBA to recognize CLS, which it did. But CLS remains concerned that the student chapter may face a similar attack from the SBA next fall when it reapplies for recognition. If HB 516 were law, the student chapter would not have to worry. The law would be clearer, and the recognition process shorter and less traumatic for the CLS students.

Of course, it is common sense – and basic religious freedom – for a religious association to expect its leaders to agree with the association's religious beliefs, practices, standards of conduct, and mission. It should be common ground that *government officials,* including college administrators, should not interfere with the religious beliefs, practices, standards of conduct, or mission of religious associations. That is basic separation of church and state.

Furthermore, please note that HB 516 allows public colleges to adopt whatever policies they wish. It only requires that their policies be applied in a way that ensures that religious student groups are not excluded from campus because of their speech, including a requirement that their leaders should agree with their beliefs.

HB 516 also conserves scarce taxpayers' dollars by preventing costly litigation against public colleges and their administrators. For example, the University of Iowa had to pay half-a-million dollars in attorneys fees to a religious student group when it denied recognition to that group because of its religious requirements for its leaders.[3] And the federal court of appeals found that university officials could be *personally liable* for damages to the students.[4] HB 516 protects college administrators as well as religious students.

Finally, by passing HB 516, New Hampshire would join the expanding list of 17 states – Alabama, Arizona, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Montana, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, and Virginia – that have enacted similar protections for religious or belief-based student groups.[5]

Thank you for your consideration and please pass HB 516.

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[3] *See InterVarsity Christian Fellowship, et al. v. The University of Iowa, et al.,* Case No. 3:18-cv-00080 (S.D. Iowa Nov. 18, 2021) (Order).

[4] *InterVarsity Christian Fellowship/USA v. University of Iowa,* 5 F.4th 855 (8th Cir. 2021).

[5] Ala. Code 1975 § 1-68-3(a)(8) (all student groups); Ariz. Rev. Stat. § 15-1863 (religious and political student groups); Ark. Code Ann. § 6-60-1006 (all student groups); Idaho Code § 33-107D (religious student groups); Ind. Code 21-39-8-1 et seq. (religious, political, and ideological student groups); Iowa Code § 261H.3(3) (all student groups); Kan. Stat. Ann. §§ 60-5311-5313 (religious student groups); Ky. Rev. Stat. Ann. § 164.348(2)(h) (religious and political student groups); La. Stat. Ann.-Rev. Stat. § 17.:3399.33 (belief-based student groups); Mont. Code Ann. § 20-25-518 (religious, political, or ideological); N.C. Gen. Stat. Ann. § 116-40.12 (religious and political student groups); N.D. § 15-10.4-02(h) (student organizations' beliefs); Ohio Rev. Code § 3345.023 (religious student groups); Okla. St. Ann. § 70-2119.1 (religious student groups); S.D. Ch. § 13-53-52 (ideological, political, and religious student groups); Tenn. Code Ann. § 49-7-156 (religious student groups); Va. Code Ann. § 23.1-400 (religious and political student groups).

Keene STATE COLLEGE | Plymouth State UNIVERSITY | University of New Hampshire

University System of New Hampshire

House Education Committee
February 24, 2023

HB 516, relative to freedom of speech and association at public institutions of higher education.

Testimony of Chad Pimentel, General Counsel
University System of New Hampshire (USNH)

Good afternoon and thank you for this opportunity to testify on HB 516. I offer this testimony on behalf of the University System of New Hampshire (USNH), its Board of Trustees, and its component institutions: The University of New Hampshire (UNH), Keene State College (KSC), and Plymouth State University (PSU).

USNH is committed to ensuring all students, employees, and members of the public fully enjoy the rights to free speech, assembly, and association guaranteed by the First Amendment to the United States Constitution and Articles 2, 4, 5, and 22 of the New Hampshire State Constitution. Each of the USNH institutions has policies fully compliant with each of those provisions and the substantial body of caselaw decided under them. These policies recognize the centrality of the First Amendment to campus life—see, for instance, the UNH policy on outside speakers, which states that the basis underlying the policy is "the Bill of Rights and the United States Constitution. The rights of freedom of speech and peaceable assembly are [to be] fully protected."

Each of our institutions have earned a "green light" rating from the Foundation for Individual Rights in Education (FIRE) for free speech policies that appropriately balance the educational missions of our institutions with opportunities for the free and robust exchange of ideas. Of the 647 colleges and universities rated by FIRE this year, only 60—approximately 1 in 10—were awarded a "green light" rating. Three of those institutions were UNH, PSU, and KSC.

This demonstrates that HB 516 is unnecessary because existing campus policies already comply with the extensive body of federal and state constitutional law on these issues. Enacting a new state law is likely to cause confusion and ambiguity by replacing that existing, well-developed body of law—which is rooted directly in the First Amendment—with new language whose requirements and limits cannot not be known with certainty. Ambiguity invariably leads to lawsuits and the waste of limited public resources appropriated for the provision of public higher education in New Hampshire.

Permitting processes for outdoor assemblies at each of our institutions establish reasonable time, place and manner restrictions and are administered in a viewpoint-neutral way. Those processes work well and are responsive to the unique challenges of ensuring safety on each campus. The historical lack of legal challenges to these outdoor event policies shows the existing procedures work and are flexible enough to address the myriad of events that occur on campuses. As an example, at UNH, current policies allow for spontaneous student gatherings of less than 25 people, without a permit, provided the event or assembly does not disrupt normal operations. Students are also allowed to distribute literature and/or solicit contributions on an individual basis at any time, without a permit. The permitting process for larger events ensures that public safety and facilities management considerations can be addressed in advance, and individuals or organizations can be held accountable for things like property damage and cleanup of litter. Permit applications are evaluated based on specified criteria that are viewpoint neutral and provide an appeal process in the event of a denial.

HB 516 would impose additional financial and administrative burdens on USNH institutions, particularly by increasing the need for campus safety officers, at a time when every effort is being made to reduce overhead and costs in order to keep tuition down. In addition, HB 516, if passed, will provide plaintiffs and their lawyers incentives, in the form of both potential financial penalties and the promise of attorney's fees, for suing the USNH institutions. This would increase the costs incurred by USNH in defending litigation—even though our policies are in full compliance with the First Amendment.

For these reasons, USNH respectfully urges the committee to vote HB 516 inexpedient to legislate. Thank you for the opportunity to offer this testimony.

Contact: Chad Pimentel, General Counsel
chad.pimentel@usnh.edu

FIRST LIBERTY

To: Committee on Education
From: Kelley McLean
Date: 02/24/2023
Re: Testimony for First Liberty Institute

Good afternoon Mr. Chair and members of the committee. My name is Kelley McLean. I am presenting on behalf of First Liberty Institute -- the nation's largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. We represent Jeff Ozanne, Gabby Ospina and the other student leaders of the Free Exercise Coalition, or FEC, at the University of New Hampshire Franklin Pierce School of Law, also known as UNH Law.

As Jeff explained, last November, the group applied to establish its inaugural campus location. However, instead of administratively approving the student group, the law school's Student Bar Association tabled its application after publicly questioning the sincerity of its members' religious beliefs. First Liberty sent a demand letter explaining why the school's decision was unconstitutional. Almost two months after the SBA meeting, our clients, the FEC, were granted official recognition as a student group, but not by the SBA. The SBA refused to act and "deferred" to the UNH Law administration instead. This is not the type of tolerance or free inquiry anyone should expect at one our nation's law schools.

Like our Senior Counsel Jeremy Dys said, "it is simply inexcusable and unconstitutional for any university to hold itself out as tolerant, diverse and welcoming, but then exclude students because of their religious viewpoint." Federal law makes clear that its unlawful to discriminate against organizations and individuals on the basis of religion. UNH Law failed its duty to the Constitution in protecting the civil rights of the FEC and, instead, treated their religious beliefs with contempt, public scorn, and hostility.

It is settled law, that "the First Amendment rights of speech and association extend to the campuses of state universities," *Widmar v. Vincent*. In this case and several others, the courts upheld that students at America's universities are entitled to express their beliefs on campus, as well as by associating with students that share those beliefs. It is the responsibility of a state university to ensure that students wishing to so associate receive evenhanded treatment by university leadership.

School's like UNH too often fail to understand the seriousness of their actions and refuse to recognize the liability these actions place on the school, faculty and staff. Just within the past two years, two federal circuit courts of appeal and one federal district court rejected qualified immunity defenses and imposed personal liability upon university officials whose actions affirmed the same level of intolerance and hostility toward religion on display at UNH Law.

It should not take a demand letter for the UNH Law SBA to comply with the obligations of the U.S. Constitution to respect a religious organization's presence, and its speech, on campus.

In conclusion, public colleges and universities are bound by the Free Exercise Clause of the First Amendment and cannot base their policy decisions on hostility towards religion or a desire to exclude a religious viewpoint with which they disagree. While the law is clear, cases like FEC's keep happening. I hope you will carefully consider HB516 and any bill that points back to the protections of free speech and association laid out in the First Amendment. I will submit my written testimony for the record along with our letter to UNH Law, which includes all the settled law I referenced in my testimony and more. Thank you for your time and attention. I am happy to try to answer any questions you may have.

FIRST LIBERTY

December 12, 2022

Dean Shane Cooper
University of New Hampshire
Franklin Pierce School of Law
2 White Street
Concord, NH 03301

Sent via email (Shane.Cooper@law.unh.edu) and U.S. Mail

RE: Unconstitutional Denial of Free Exercise Coalition Student Group

Dean Cooper:

First Liberty Institute is the nation's largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. We represent the student leaders of the Free Exercise Coalition at the University of New Hampshire Franklin Pierce School of Law ("UNH Law"). Please direct all communications concerning this matter to my attention.

Students at UNH Law formed the Free Exercise Coalition to equip religious students in their free exercise of religion, both on and off campus. The organization is an open member coalition of religious students and their allies, all with a passion to see America's foundational religious freedoms restored and respected. Through scholarship, service, and education, coalition members will have the opportunity to support religious liberty causes on their campus and in their communities.

Rarely, if ever, has a student organization been more aptly named or, as the actions of your students and faculty make clear, needed at UNH Law. Despite the Free Exercise Coalition meeting all the requirements for recognition as an official student organization and completing its application, UNH Law's Student Bar Association ("SBA") refuses to grant formal recognition to Free Exercise Coalition at UNH Law. Rather than faithfully serving its administrative function of approving student organizations that meet—as the Free Exercise Coalition does—the objective criteria set by UNH Law, SBA so maligned the members and beliefs of Free Exercise Coalition, leading its faculty advisor to withdraw. There can be no excuse for such open hostility to the religious beliefs of our clients.

We write to demand that UNH Law immediately recognize the Free Exercise Coalition as an official student organization with all the rights, responsibilities, and privileges appertaining thereto. Further, because this is the second time in a single semester that UNH Law's SBA has engaged in open hostility to religious students and organizations, we must ask that UNH Law (1) require SBA members to receive training in the laws protecting student expression conducted by the Foundation of Individual Rights and Expression by February 1, 2023, (2) investigate the SBA's actions to determine

whether its members have engaged in malfeasance necessitating the removal of individual members of SBA or disbanding of the whole, (3) apprise the student body of these efforts, taken by the administration and in collaboration with the Free Exercise Coalition, to ensure religious animus has no home at UNH Law, and (4) since UNH Law's hostility drove off the Free Exercise Coalition's faculty advisor, UNH Law must appoint you, Dean Cooper, to serve as its faculty advisory.

Should UNH Law fail to meet these demands in writing by January 2, 2023, we have advised our clients of their right to seek redress of these open violations of their civil and constitutional rights in federal court, which they are prepared to assert.

UNH Law's SBA is engaging in unconstitutional viewpoint discrimination.

It is settled law that "the First Amendment rights of speech and association extend to the campuses of state universities." *Widmar v. Vincent*, 454 U.S. 263, 268–69 (1981); *see also Healy v. James*, 408 U.S. 169, 180 (1972); *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503 (1969); *Shelton v. Tucker*, 364 U.S. 479, 487 (1960). Students at America's universities are entitled to express their beliefs on campus, as well as by associating with students that share those beliefs. It is the responsibility of a state university—as you should know as a dean of one of the nation's law schools—to ensure that students wishing to so associate receive evenhanded treatment by university leadership.

When university officials—including student leadership like SBA under your direction—question, criticize, or censor student expression and association, the university fails the promise of the First Amendment by promoting viewpoints it favors and regulating speech it disfavors. *See Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 394 (1993) ("The principle that has emerged from our cases 'is that the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others.'" (quoting *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 804 (1984))).

Rather than provide routine, administrative approval to the Free Exercise Coalition's application, SBA took upon itself the role of inquisitor. It viewed with suspicion the student group's mission, fomented public discussion that labeled the group as bigoted, subversive, oppressive, and a general "problem" for UNH. Further, this shocking, knives-out inquisition of the Free Exercise Coalition's religious beliefs by the SBA led the Free Exercise Coalition's faculty advisor to withdraw.

It is difficult to understand why you, as a dean of the law school, did not undertake your supervisory role of SBA to immediately educate the SBA as to their open violation of the U.S. Constitution. Rather, by your inaction, you have given tacit approval to the actions of SBA. We remind you of how the U.S. Supreme Court characterized the actions of the University of Virginia:

> Religion may be a vast area of inquiry, but it also provides, as it did here, a specific premise, a perspective, a standpoint from which a variety of subjects

> may be discussed and considered. The prohibited perspective, not the general subject matter, resulted in the refusal to make third-party payments, for the subjects discussed were otherwise within the approved category of publications.

Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819 (1995).

So too did UNH Law—by the actions of its SBA and your inaction—engage in viewpoint discrimination toward the student leaders of the Free Exercise Coalition. "Discrimination against speech because of its message is presumed to be unconstitutional." *Id.* at 828. To be perfectly clear, the unmistakable holding of the Supreme Court is that UNH Law may not withhold—as it has here—recognition of a student organization "because it finds the views expressed by any group to be abhorrent." *Healy*, 408 U.S. at 187-88.

UNH Law must correct this constitutional violation by immediately recognizing Free Exercise Coalition as one of its student groups.

UNH Law leaders are liable for SBA's unconstitutional actions.

The actions of its SBA bear the imprimatur, and ratification, of UNH Law. Indeed, the university officials are responsible for the SBA's decisions. *See, e.g., Bd. of Regents of Univ. of Wisconsin v. Southworth*, 529 U.S. 217, 233 (2000); *Rosenberger*, 515 U.S. at 832. University leadership cannot claim ignorance. Just this semester, the Christian Legal Society ("CLS") sought recognition as a student group at UNH Law. The SBA also subjected the CLS student leaders to examination into their beliefs, openly criticizing those with which they disagreed. Only after attorneys representing CLS wrote to you did UNH Law formally recognize this student group. Yet, UNH Law clearly failed any effort to correct SBA's behavior, despite the warning it received less than two months ago.

SBA fails to grasp the seriousness of its actions. More precisely, SBA fails to recognize the liability its actions personally attaches to you and your faculty and staff. Within just the past two years, two federal circuit courts of appeal and one federal district court rejected qualified immunity defenses and imposed personal liability upon university officials whose actions affirmed the same level of intolerance and hostility toward religion on display at UNH Law. *InterVarsity Christian Fellowship/USA v. University of Iowa*, 5 F.4th 855 (8th Cir. 2021); *Business Leaders in Christ ("BLinC") v. University of Iowa*, 991 F.3d 969 (8th Cir. 2021); *InterVarsity Christian Fellowship/USA v. Bd. of Governors of Wayne State Univ.*, 534 F. Supp.3d 785 (E.D. Mich. 2021). Universities make costly errors by allowing open hostility toward religious groups on campus.

As such, should you fail to meet the demands of this letter, we will seek the full recourse of relief available to our clients, which includes seeking to hold you and your faculty personally liable for the actions of SBA.

Conclusion

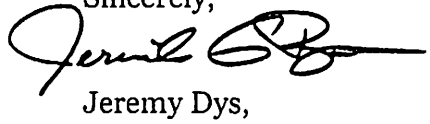
SBA's decision to subject the Free Exercise Coalition's beliefs to an inquisition and drive off their faculty advisor fails UNH Law's "duty under the First Amendment not to base [its policy decisions] on hostility to a religion or religious viewpoint." *Masterpiece Cakeshop, Ltd. v. Colo. C.R. Comm'n*, 138 S. Ct. 1719, 1731 (2018). UNH Law, and its SBA, is bound by the Free Exercise Clause of the First Amendment to the U.S. Constitution which binds SBA "to religious tolerance, and upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own high duty to the Constitution and to the rights it secures." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 547 (1993).

Inasmuch as UNH Law failed its duty to the Constitution in protecting the civil rights of the Free Exercise Coalition and treated their religious beliefs with hostility, we require the following:

1. Formal recognition of the Free Exercise Coalition as a student group at UNH Law, including the attendant benefits student groups receive, no later than January 2, 2023.
2. SBA at UNH Law must receive training in the laws protecting student expression conducted by the Foundation of Individual Rights and Expression by February 1, 2023.
3. UNH Law must investigate SBA's actions concerning its treatment of religious student groups on campus to determine whether its members engaged in malfeasance necessitating the removal of individual members of SBA or disbanding of the whole.
4. UNH Law will apprise the student body of these efforts, taken by the administration and in collaboration with the Free Exercise Coalition, to ensure religious animus has no home at UNH Law
5. UNH Law must appoint Dean Cooper to serve as Free Exercise Coalition's faculty advisor.

We request your response to these demands in writing no later than December 23, 2022. You are welcome to direct your response to me at jdys@firstliberty.org. Should you have questions related to this matter, you may reach me at 469-440-7585.

Sincerely,



Jeremy Dys,
Senior Counsel

Free Exercise Coalition

A Religious Liberty Project

TO: Committee on Education

FROM: Jeff Ozanne

DATE: 02/24/23

RE: Testimony of Free Exercise Coalition

Introduction

Hello Chairman Ladd, Vice Chairman Cordelli and the Members of the committee, my name is Jeff Ozanne, and I am currently a Hybrid JD student at UNH Law and the President of the Free Exercise Coalition or "FEC." Last year, a group of law school students and myself started FEC so that our religious beliefs, and those of other students, may be better represented on campus.

We built our organization with one goal, to equip and enable the religious student in sharing their beliefs in this melting pot we call law school. We believe that a public law school should have a healthy balance of perspectives, something we thought was missing on our campus. To do so, we created FEC to be run by like-minded Believers, unashamed of sharing our beliefs and willing to equip religious students, of all creeds, to do the same. These student-leaders of FEC created and publicly subscribed to a Statement of our beliefs that ensure the organization is run consistent with its founding and certain canons of interpretation. This Statement embodies the very expression of religion we thought could be better exercised on campus.

The FEC board believes that it is ok for law school students to have traditional Christian values. And we believe that it is legal, and yes necessary, to share these values during our law school experience. For instance, I personally believe that our Creator wishes to spend eternity with each and every person. I believe that our sin separates us from our Creator. So, our Creator sent His one and only Son to die and atone for our sins. Through faith in this Love, that the Son of God, Jesus Christ, died and rose again for our sins; we may be granted the free gift of eternal life with our Creator.

FEC Affiliation

Now, for the Free Exercise Coalition to be a working student organization on campus, we had to pursue affiliation through the Student Board Association or the "SBA." Prior to the SBA meeting to recognize our affiliation, we submitted an application which included information about our organization, including the Statement of our beliefs.

From the start of the SBA affiliation meeting, it was clear that our Statement of beliefs was an issue for the SBA. The SBA spent nearly an hour inquiring about the specifics of our beliefs. This SBA, in concert with our fellow law school students, didn't stop at maligning just our beliefs and organization. They went so far as to personally attack us for holding those beliefs. For instance, we were publicly shamed and labeled "hateful bigots" and "oppressors" for sharing what we believe about God's Truth.

Even after the Christian Legal Society had admonished this same SBA, just a couple months prior, for attacking their religious beliefs; the SBA still used the content of our religious beliefs as basis to refuse the affiliation of our Free Exercise Coalition. It even appears that in the wake of religious student organizations, our own law school has been seeking to implement an "all-comers" policy which would

pretextually ban any student organization that requires its leadership to subscribe to a Statement of beliefs- like every faith-based group. These actions by the law school, and its SBA, show a fundamental disregard for the First Amendment and the policies at play in every public university.

FEC knew that our religious beliefs would not be widely accepted in the halls of modern academia. That is exactly why we believe our organization is important. However, what FEC did not expect, is that a law school, and its students, could be so uninformed on the protections of the First Amendment.

Not knowing where to turn, the Free Exercise Coalition reached out to the First Liberty Institute, a non-profit law firm concerned with religious liberty for all. Charging nothing, First Liberty came in and defended our right to exist and be a useful contributor to the ideas on campus. At our next affiliation meeting, the SBA, our peers, once again refused to vote on our affiliation, a continued and tacit disapproval of our existence. Instead, the law school administration, now informed of the First Amendment by First Liberty, took over and did what the SBA refused to do: approved the Free Exercise Coalition as a UNH Law student organization.

I wish I could end this testimony here. However, it seems every step forward by FEC is resisted. For instance, during the turmoil of our affiliation, we inexplicably lost our faculty advisor -- a necessary prerequisite to affiliation. UNH Law has not yet appointed a faculty advisor for FEC that is willing to assist and advocate for our group. Moreover, the Free Exercise Coalition and the Christian Legal Society has joined together to offer the Christian students a symbol that they are indeed accepted as an important part of campus life. We have requested to hang the Christian Flag on campus, just as other student and civic groups have hung flags supporting their causes. For instance, cultural art displays, black history displays, and the Pride flag have hung on campus for years. Yet, when we request to display this religious symbol,

the law school continues to delay and informs us that, "[t]his request provides an opportunity for our school to formalize a policy with respect to the display of flags at the law school." While numerous displays of other social and civic groups are exhibited, ours is slow-walked, ignored, and sidelined. We're simply asking that we be treated like other students—and student groups—on campus.

Conclusion

To conclude, intentionally or not, UNH Law has made us feel marginalized as students, censoring religious viewpoints from even entering student conversation. If you are a traditional Christian on campus, you must not share your beliefs, let alone operate a student organization consistent with those beliefs, lest you be viciously attacked and ostracized. And potentially worse, maybe your existence as a religious student on campus will spur the law school to create new "general application" policies to limit your freedom of expression.

There is much work to be done to educate New Hampshire's law school and students about the extent of the First Amendment, this marketplace of ideas, and religion's place in the conversation. The Free Exercise Coalition exists for such a purpose. We hope the New Hampshire legislature will carefully consider the free speech and association protections HB516 could offer to FEC and future students at UNH Law. Thank you for your time and attention to this important matter. I am happy to try and answer any questions you may have, a representative from First Liberty Institute is also here to testify and can help address any questions the committee may have.

Free Exercise Coalition

A Religious Liberty Project

TO: Committee on Education
FROM: Gabriella Ospina
DATE: February 24, 2023
RE: Testimony of the Free Exercise Coalition

Good afternoon, Mr. Chair and members of the committee. My name is Gabby Ospina. I am a second year Hybrid JD student at UNH Law, the Treasurer of the Free Exercise Coalition, and a devout Catholic. Last November, Jeff approached me with the idea of starting a group at the law school with the mission of advocating for and protecting religious liberties on campus. Jeff and I had only met just a few weeks before at an event with the Federalist Society, and we had connected over a shared love of Christ and a desire to improve the culture at our law school for religious students. So I thought, why not? Our law school could really use a group like this. In fact, I could have used a group like this during spring semester of my 1L year. As a Catholic, Holy Week is the most important week of the year. Even more so than the Christmas season. Every day has a purpose and a religious practice to participate in in preparation for Easter Sunday. That week is the culmination of 40 days of intentional fasting, praying, and almsgiving. It is a beautiful and spiritually transformative week that I missed out on my first year of law school because I didn't know who or how to ask for a religious accommodation in my classes, or if I even could. I was scared of anyone knowing who I am and what I believe in. I was scared of being judged for my beliefs. And because of that fear and isolation I struggled during Holy Week to balance my religious practices with my academic responsibilities.

So, when Jeff approached me with the idea of forming this religious liberties group, I saw very clearly a space in our law school where this group could serve its students, where we could help someone like me avoid that fear and isolation. Within a week we had a name: The Free Exercise Coalition; a mission, to protect and defend religious liberties; and a method, educating, advocating, and providing financial assistance through scholarships. We also included a statement of faith for board members, an essential component to ensure that the leadership of the group will truly protect even the most unpopular religious beliefs. We submitted all necessary documents to the Student Board Association to be reviewed at the next meeting.

I am aware that my religious beliefs are bold, and that people disagree with me, as is their right to. But I never imagined we would be treated the way we were at the SBA affiliation meeting, both by fellow law students and the faculty of the law school. We were interrogated about our statement of faith, called bigots, oppressors, and a "problem the University needs to deal with." A problem. That's what I am. All they knew about us was a short list of our shared religious beliefs. That was sufficient evidence for them to label me a "problem." What truly hurt, what felt like a gut punch, was at the end of the meeting when my Associate Dean apologized to the students that had just spent the past 30 minutes disparaging us. Up until that moment, I had experienced an abundance of kindness and support from the faculty and staff at UNH law school. They were understanding while I experienced medical issues that affected my attendance, they were supportive when my grandfather passed away during finals week. But the moment I expressed my religious beliefs that support pulled was out from under me.

Thank you for considering this bill and anything that clarifies and points back to the first amendment and freedom of religious expression. Thank you for your time.

I was born and raised in a communist country and am a naturalized citizen. My mother was a lifelong elementary school teacher, and I taught for a living for over a decade. I served on the Windham School Board. I probably value freedom of speech and association more than most, and I have a lot of knowledge on educational systems.

Bills on college freedom of speech/association have been presented in past terms, but this is a very clean bill - the language was significantly modified to address past concerns.

HB516 is bipartisan - I do not consider such basic constitutional rights a partisan topic, and I will continue building a bipartisan coalition to support this bill. Let me note for the record that both my bills are bipartisan, and that other sponsors on the bills I co-sponsored range from all Democrat to all Republican - I support the right ideas regardless of who came up with them.

HB516 continues to have support from FIRE, and for the first time, the support of the ACLU.

I try to work on legislation in a cooperative, rather than adversarial manner, so as the prime sponsor for the bill, I started engaging with CCSNH and UNH on these topics, and regardless of the outcome of this bill, I will continue to do so going forward.

During those meetings, it became clear that we are all committed to freedom of speech and freedom of association on public college campuses. There are concerns over the bill's potential impact on the policies and operations of the schools involved, but not on what our goals should be, and that is a great place to be when proposing legislation.

One of the questions that was asked during those meetings was what exactly did this bill do that is not already covered by the federal and state constitutions. That question deserves a clear answer : in the absence of the proposed Chapter 188-J, there is a lot of uncertainty on what the correct boundaries are around free speech and freedom of association.

A clear area of legal uncertainty is whether "free speech zones" are acceptable as a policy. This bill would make it clear they are not - freedom of speech is meaningless if it can be only exercised in a tiny area of the campus and banned everywhere else.

Another area of legal uncertainty addressed by this bill is whether student organizations can be treated differently based on the nature of their beliefs or on requirements that members of those organizations agree to the organization's beliefs, comply with codes of conduct and further the organization's mission.

The Feb. 10 NHPR story on secret recordings of a UNH law school meeting - is an example of the pressure that our public universities and colleges are under because of the absence of this proposed statute.

According to the NHPR article, the group met on Nov. 15 to discuss whether UNH should adopt what's known as an "all-comers" policy, which would mandate that clubs allow anyone to join, regardless of background or beliefs.

In Windham, both Democratic and Republican town committees restrict their membership to residents registered as their respective party. Would you suggest their freedom of association is respected if we passed a law mandating an all-comers policy for every association? Should a climate change advocacy organization be required to admit climate change deniers? Should the American legion be required to admit as members known draft evaders? The freedom to associate is meaningless if we require every association to include everyone who applies, regardless of what the beliefs of the organization are.

Please consider the amount of time, effort and money spent by the school, the student organizations and outside advocacy groups over this one matter. All those resources would no longer be needed if HB516 becomes law.

One last point - most students do not have the resources or the appetite for a legal challenge if their rights are infringed. There is a significant chilling effect extending way beyond what we can observe through formal complaints or threats of a lawsuit.

I trust the commitment of our public colleges and universities to these goals, but I believe that passing HB516 will help ensure that our institutions of higher education operate in the most effective way possible while respecting the freedoms of our students, so I am asking for your support.

Best regards,

Daniel Popovici-Muller
Representative for Windham
Rockingham District 17

COMMUNITY COLLEGE
system of New Hampshire

Testimony for HB516, *relative to freedom of speech and association at public institutions of higher education*
House Committee on Education
February 24, 2023
Community College System of New Hampshire (CCSNH)

House Bill 516, *relative to freedom of speech and association at public institutions of higher education,* and current CCSNH policies both protect expressive activity. Like HB516, CCSNH policies explicitly state that nothing in policy or practice shall limit expressive activity based on subject matter or content. However, CCSNH policies are also designed to protect students and property and to recognize campus-specific circumstances such as staffing and college schedules. While we appreciate the sponsor's good intent, we believe that the enactment of HB516 as written would leave campuses unsure of their authority, less able to be prepared for events and therefore open to greater liability. We respectfully cannot support this bill as written. Amendments may clarify areas of concern such as those below.

Our policies protect and support individuals' and groups' rights to expressive activity while enabling the institution to be prepared for events that could become disruptive. CCSNH policies, such as for advance notice, allow our colleges to take into account such considerations as:

- Times of the day, week, semester and year when the colleges are not positioned to safely be the site of large gatherings, for example semester break periods and evening hours when maintenance and security staffing is reduced.
- The ability to work with campus groups on specifics of a gathering that could be disruptive such as a plan to use amplification, which should be coordinated with the college so as not to occur, for example, near buildings during exam times or in proximity to on-campus childcare centers.
- The need to plan staffing sufficient to protect property and safety and address any risk management considerations the institution may have, as we have liability for what happens on our campuses.

CCSNH policy expressly states that regulation of expressive activity shall be subject matter neutral, and our colleges are broadly welcoming and supportive as venues for expressive activity. CCSNH policy is also consistent with recognizing an allowable distinction between a true unrestricted public forum and a place such as a college, with a different and specific primary purpose and accountability. We are not aware of any problem that has been raised by a person or group about how New Hampshire's community colleges support free expression. Based on CCSNH's experience, we believe that HB516 is not needed.

Thank you.

Contact: Shannon Reid, CCSNH, sreid@ccsnh.edu, 603-568-5599

1st Amendment PARTNERSHIP
Faiths united for religious freedom

February 24, 2023

Hon. Rick Ladd , Chair
House Education Committee
New Hampshire House of Representatives

SUBJECT: HB 516

Dear Chair Ladd & Members of the Committee:

My name is Lance Kinzer, and I am the Policy Director for 1st Amendment Partnership where we are privileged to work with some of the nation's largest faith communities with respect to their common commitment to First Amendment freedoms.

Across the country, public universities have attempted to prohibit student organizations from requiring that students who wish to lead a student club actually share that club's beliefs. Universities have almost exclusively enforced such limitations against belief-based groups, but not against other groups with selective leadership criteria, like sororities and fraternities. Unfortunately, as happened in Iowa before they passed a protective statute, this often results in divisive and expensive litigation between students and their own universities. **Indeed, in Iowa the taxpayers ended up bearing the cost of an almost $2 million dollar judgement due to discrimination against faith-based groups by the University of Iowa.**[1]

In that instance the United States Court of Appeal for the Eight Circuit ruled in favor of the students because: "Employees of the University of Iowa **targeted religious student organizations**...", and because "There is no dispute that the University of Iowa created a limited public forum by granting RSOs official recognition and access to a variety of benefits. See *BLinC II*, 991 F.3d at 981. And when a university does, it may restrict access to that limited public forum so long as the "access barrier [is] reasonable and viewpoint neutral." *Martinez*, 561 U.S. at 679. **"If a state university creates a limited public forum for speech, it may not 'discriminate against speech on the basis of its viewpoint.'"** *Gerlich*, 861 F.3d at 704–05." *InterVaristy Christian Fellowship/USA v. University of Iowa*, No. 19-3389 (8th Cir. 2021)[2]

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[1] https://www.becketlaw.org/case/blinc-v-university-iowa/;
https://www.becketlaw.org/case/intervarsity-christian-fellowship-v-university-iowa/

[2] https://becketnewsite.s3.amazonaws.com/2021-07-16_IVCF-Iowa_Opinion.pdf

Even when student groups win in court, much of the harm to the educational experience of the impacted students is already done. No judicial remedy can adequately address the harms that universities inflict when they target student organizations, and thus their members, based upon their religious beliefs. **In the current academic year both the Christian Legal Society and Free Exercise Coalition student groups at the University of New Hampshire Franklin Pierce School of Law were forced to engage legal counsel to defend against attempts by the Student Bar Association to exclude them from campus based upon their religious beliefs.** While these cases ultimately resolved favorably for the student groups, the fact that they occurred at all is evidence of why clear statutory protections are needed.

Simply put, among the many important things passing HB 516 would do is prevent such conflicts in the first place by providing a clear legal standard that simply preserves the right of belief-based student groups to choose leaders who agree with their purpose and mission.

It is commonplace for belief-based organizations to require that their leaders affirm and live consistently with the principles around which the group was formed. For decades, the right of student organizations to do just this was clear as a matter of constitutional law. **A long line of United States Supreme Court cases held: that student groups can't be denied recognition by a public university merely because of their beliefs (*Healy v. James*, 1972); that belief-based student groups must be provided access to facilities under the same standards as other groups (*Widmar v. Vincent*, 1981), and; that student activity fee funds cannot be withheld from a group merely because they promote or manifest a particular belief system (*Rosenberger v. University of Virginia*, 1995).**

Unfortunately, in more recent years many universities have attempted to take advantage of an ambiguity in the case law created by another US Supreme Court case, *Christian Legal Society v. Martinez, (2010)*. That case dealt with the very uncommon situation where a university adopts a policy that says student groups cannot have any standards whatsoever for who may serve as their leaders. For obvious reasons, such a standard is unworkable and so almost no university has adopted and applied a true "all-comers" policy. But attempts by universities to expand the scope of *Martinez*, have resulted in needless litigation that harms the very students that universities exist to serve. Students at New Hampshire's public universities should never be forced to litigate against their own schools in order to exercise basic constitutional rights.

Fortunately, the *Martinez* case itself was clear that universities and state legislatures are free to adopt policies that safeguard the right of belief-based student organizations to choose leaders who agree with the group's mission and beliefs. **Seventeen states have already passed laws that provide this kind of protection to students attending public colleges and universities.** Increasingly, support for such legislation has been bi-partisan. Indeed, last year in Indiana similar protective legislation passed with unanimously support in both legislative chambers. Moreover, Louisiana Governor John Bell Edwards (D), signed such protections into law in 2018.

The kind of protection offered to belief-based student organizations by HB 516 is commonplace in analogous provisions of both federal and state law. The basic reasoning of the U.S. Supreme

Court in the *Widmar* case referenced above was statutorily codified for public secondary schools in 1984 when Congress adopted the *Equal Access Act, 20 U.S.C. 4071*, which protects the right of public high school students to develop associations based on shared values and core convictions.

The U.S. Supreme Court upheld the *Equal Access Act* in a 9-0 decision in *Westside Community Schools v. Mergens, (1990).* **In that opinion, the Court was clear that in granting equal access for student associations to use school facilities, the state does not establish religion (nor endorse any viewpoint an organization may hold) – it merely upholds freedom. HB 516 extends this basic idea, codified for public secondary schools for the last 39 years under the *Equal Access Act*, to public university campuses in New Hampshire.** In another analogous context, federal and state nondiscrimination law both typically recognize the right of religious organizations to choose leaders on the basis of their religious beliefs.[3] At the federal level, by way of example, *Title VII* explicitly provides that religious associations may use religious criteria in hiring decisions. In three separate provisions, it exempts religious associations from its general provisions on religious discrimination:

1) *42. U.S.C. 2000e-1(a)* (Act does not apply to a religious association with respect to employment of an individual to perform work connected with carrying on the associations' activities);

2) *42 U.S.C. 2000e-2(e)2)* (Act does not apply to a religious educational institution with respect the employment of employees that share that institutions religious convictions, where the institution is directed toward the propagation of a particular religion);

3) *42 U.S.C. 2000e-2(e)(1)* (Any employer may hire on the basis of religion where religion is a bona fide occupational qualification).

These accommodations were upheld by the U.S. Supreme Court in *Corporation of Presiding Bishop v. Amos (1987).* Moreover, in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC (2012),* the Court unanimously rejected the argument that federal nondiscrimination laws could be used to trump religious association leadership decisions. **As Justice Alito and Justice Kagan stressed, while nondiscrimination laws are "undoubtable important", "religious groups are the archetype of associations formed for expressive purposes, and their fundamental rights surely include the freedom to choose who is qualified to serve as a voice for their faith."** This same basic point was more recently affirmed by the Court in *Our Lady of Guadalupe School v. Morrissey-Berru (2020).*

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[3] Under the New Hampshire Law Against Discrimination a religious association or corporation is exempted from the definition of employer, and the entire act is required to be interpreted to allow religious organizations to give preference to persons based upon religion, and to establish religious based selection criteria. NHRSA § 354-A:2VII & 354-A:18

HB 516, merely seeks to codify these same kind of common sense accommodations for belief based student organizations at public colleges and universities. Such institutions should welcome diverse student groups as part of vibrant campus life. **By creating a clear standard, HB 516 promotes this important goal, avoids needless litigation, and makes it certain that university administrators cannot decide who is entitled to recognition as a student organization based upon which beliefs those administrators favor or disfavor.**

Respectfully,

Lance Y. Kinzer
Director of Policy & Government Relations
1st Amendment Partnership

2023 SESSION

23-0724
04/05

HOUSE BILL ***516-FN***

AN ACT relative to freedom of speech and association at public institutions of higher education.

SPONSORS: Rep. Popovici-Muller, Rock. 17; Rep. Hynes, Hills. 2; Rep. Alexander Jr., Hills. 29; Rep. L. Turcotte, Straf. 4; Rep. Lynn, Rock. 17; Rep. Read, Rock. 10; Rep. Soti, Rock. 35; Sen. Murphy, Dist 16

COMMITTEE: Education

ANALYSIS

This bill establishes procedures governing freedom of speech and association at public institutions of higher education.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
23-0724
04/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to freedom of speech and association at public institutions of higher education.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Freedom of Speech and Association in Institutions of Higher Education. Amend RSA by inserting after chapter 188-I the following new chapter:

CHAPTER 188-J

FREEDOM OF SPEECH AND ASSOCIATION IN INSTITUTIONS OF HIGHER EDUCATION

188-J:1 Definitions:

I. "Benefit" means the recognition, registration, or use of facilities of the institution of higher education for meetings or speaking purposes; or the use of channels of communication of the same; or funding sources that are otherwise available to other student organizations at the public institution of higher education.

II. "Campus community" includes students, administrators, faculty and staff at the institution of higher education, and their invited

guests.

III. "Materially and substantially disrupts" means when a person, with the intent to or with knowledge of doing so, significantly hinders another person's or group's expressive activity which occurs in a campus space reserved for such activity under the exclusive use or control of that particular person or group, prevents the communication of the message, or prevents the transaction of the business of a lawful meeting, gathering or procession by:

(a) Engaging in fighting, violent, or other unlawful behavior; or

(b) Physically blocking or using threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in an expressive activity. Conduct that "materially disrupts" shall not include conduct that is protected under the First Amendment to the United States Constitution or Part I, Article 22 of the New Hampshire constitution. Such protected conduct includes, but is not limited to, lawful protests in the outdoor areas of campus generally accessible to the members of the public, except during times when those areas have been reserved in advance for other events, or minor, brief, or fleeting nonviolent disruptions of events that are isolated and short in duration.

IV. "Outdoor areas of campus" means the generally accessible outside areas of campus where members of the campus community are commonly allowed, such as grassy areas, walkways, or other similar common areas and shall not include outdoor areas where access is restricted from a majority of the campus community.

V. "Public institution of higher education" means any public technical institute, public junior college, public senior college or university, law school, medical, or dental school, public state college, or other agency of higher education as defined in state law.

VI. "Harassment" shall mean only that expression that is unwelcome, so severe, pervasive, and subjectively and objectively offensive, that a student is effectively denied equal access to educational opportunities or benefits provided by the public institution of higher education.

VII. "Student" means any person who is enrolled on a full-time or part-time basis in a public institution of higher education.

VIII. "Student organization" means an officially recognized group at a public institution of higher education, or a group seeking official recognition, comprised of admitted students that receive, or are seeking to receive, benefits through the public institution of higher education.

188-J:2 Freedom of Speech and Association at Public Institutions of Higher Education.

I. Expressive activities protected under the provisions of this chapter include, but are not limited to, any lawful verbal, written, audio-visual, or electronic means by which individuals may communicate ideas to one another, including all forms of peaceful assembly, protests, speeches and guest speakers, distribution of literature, carrying signs, and circulating petitions.

II. The outdoor areas of campuses of public institutions of higher education in this state shall be deemed public forums for the campus community, and public institutions of higher education shall not create "free speech zones" or other designated areas of campus outside of which expressive activities are prohibited. A public institution of higher education may maintain and enforce reasonable time, place, and manner restrictions applicable to traditional public forums and designated public forums created by a public institution of higher education, provided those restrictions are narrowly tailored in service of a significant institutional interest only when such restrictions employ clear, published, content- and viewpoint-neutral criteria, and provide for ample alternative means of expression. Any such restrictions shall allow for members of the campus community to spontaneously and contemporaneously assemble and distribute literature. Nothing in this section shall be interpreted as limiting the right of student expression elsewhere on campus.

III. Any person who wishes to engage in non-commercial expressive activity on campus shall be permitted to do so freely, as long as the person's conduct is not unlawful and does not materially and substantially disrupt the functioning of the public institution of higher

education, subject only to the requirements of this chapter.

IV. Nothing in this section shall be interpreted as preventing public institutions of higher education from prohibiting, limiting, or restricting expression that the First Amendment does not protect such as true threats, expression directed to provoke imminent lawless actions and likely to produce it, or prohibiting harassment as defined in RSA 188-J:1, VI.

188-J:3 Freedom of Association and Nondiscrimination Against Students and Student Organizations. No public institution of higher education shall deny a religious, political, or ideological student organization any benefit or privilege available to any other student organization, or otherwise discriminate against such an organization, based on the expression of the organization, including any requirement that the leaders or members of such organization:

I. Affirm and adhere to the organization's sincerely held beliefs;

II. Comply with the organization's standards of conduct; or

III. Further the organization's mission or purpose, as defined by the student organization

188-J:4 Remedies. Any person or student association aggrieved by a violation of this chapter may bring an action against the public institution of higher education and its employees acting in their official capacities, responsible for the violation and seek appropriate relief, including, but not limited to, injunctive relief, monetary damages, reasonable attorneys' fees, and court costs. Any person or student organization aggrieved by a violation of this chapter may assert such violation as a defense or counter claim in any disciplinary action or in any civil or administrative proceedings brought against such student or student organization. Nothing in this section shall be interpreted to limit any other remedies available to any person or student organization.

188-J:5 Statute of Limitations. Notwithstanding RSA 508, a person shall be required to bring suit for violation of this chapter not later than one year after the day the cause of action accrues. For purposes of calculating the one-year limitation period, each day that the violation persists, and each day that a policy in violation of this chapter remains in effect, shall constitute a new day that the cause of action has accrued.

188-J:6 Immunity. The state hereby waives immunity under the Eleventh Amendment of the United States Constitution and consents to suit in a federal court for lawsuits arising out of this chapter. A public institution of higher education that violates this chapter shall not be immune from suit or liability for the violation.

188-J:7 Severability. If any provision of this chapter or any application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this chapter and the application of the provision to any other person or circumstance shall not be affected.

2 Effective Date. This act shall take effect 60 days after its passage.

LBA
23-0724
1/5/23

HB 516-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to freedom of speech and association at public institutions of higher education.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[ ] General [ ] Education [ ] Highway [X] Other - University System of NH / Community College System of NH			

METHODOLOGY:

This bill, assumed to be effective in FY 2024, establishes procedures governing freedom of speech and association at public institutions of higher education. The University System of New Hampshire (USNH) states its operating expense may increase to defend violation complaints and to ensure campus safety in a climate of spontaneous assembly for expressive activity occurring any time and at any outdoor space on campus.

The Community College System of New Hampshire (CCSNH) states it is not fully clear what an institution's authority or responsibility would be under this bill and therefore cannot estimate this bill's impact on CCSNH expenditures. However, CCSNH has identified the following areas where additional costs could arise:

- Increased institutional costs from potentially having to defend against instances where a person or group feels they have been aggrieved by the institution relative to the requirements in the bill.
- A student or student organization could assert a violation of this section (and seek damages, attorney's fees, and costs) as a defense or counter claim in a disciplinary or administrative proceeding.
- If this bill affects institutions' ability to limit expressive activity outside of regular operating hours, it could increase staffing costs through the need to pay overtime.
- In any instance where an expressive activity or event presents a public safety concern there could be an additional need to draw upon local law enforcement services.

AGENCIES CONTACTED:

University System of New Hampshire and Community College System of New Hampshire

CHRISTIAN LEGAL SOCIETY
CENTER FOR LAW AND RELIGIOUS FREEDOM

November 15, 2022

Dear Lance,

We appreciate your crucial work to protect religious student groups' access to public university campuses. Christian Legal Society (CLS) has law student chapters at law schools nationwide. These chapters provide vital support to the law students who choose to join, by helping inform their thinking about their law school studies and their future practice of law from a spiritual perspective. Providing spiritual support during the stressful law school years is an important function of CLS.

I wanted to let you know about a situation that arose this fall for the CLS chapter (CLS-UNH) at the University of New Hampshire Franklin Pierce School of Law. The Student Bar Association (SBA) at the law school initially delayed approval of CLS-UNH's application to become an affiliated student organization. Affiliation provides diverse student groups with access to free meeting space and other benefits critical to a student organization's ability to exist on campus.

During an SBA meeting in October 2022, the SBA Board interrogated the CLS-UNH student president about CLS's religious beliefs for nearly 90 minutes. The Board then postponed its decision whether to approve CLS-UNH as an affiliated student organization.

This action distressed the CLS-UNH student leaders who then engaged with law school administrators. National CLS staff sent two letters to the administrators explaining why the chapter should be granted affiliation, relying on the 2020 federal regulation that protects religious groups' ability to select leaders who agree with the groups' core beliefs.

At the next SBA meeting, because of the administration's input, the Board changed course and voted to recognize CLS-UNH as an affiliated student organization. CLS is very grateful that the UNH administration was clear that CLS-UNH should be granted affiliation status. But it would have been very helpful if CLS-UNH could have relied upon a state law making clear that public universities must respect religious student groups' right to full recognition and access to benefits enjoyed by other student groups.

Because the current Administration has signaled that the federal regulation may be rescinded, state laws are essential if religious student groups are to remain on public university campuses. Seventeen states already have such laws. When this situation has occurred in other states, such as Virginia and Idaho, it has been helpful to be able to point to the state law protecting campus access for religious student organizations. CLS, Cru, InterVarsity, and other national religious student organizations too often face discrimination on public campuses and need state laws to protect them from exclusion because of their religious beliefs. These laws benefit university administrators as well by providing clarity and support for enforcing the right legal decision to recognize religious student groups.

Again, thank you for your efforts to protect fair treatment of religious student organizations.

Sincerely,

/s/ Laura Nammo

Interim Director
Center for Law & Religious Freedom
Christian Legal Society

FIRST LIBERTY

December 12, 2022

Dean Shane Cooper
University of New Hampshire
Franklin Pierce School of Law
2 White Street
Concord, NH 03301

Sent via email (Shane.Cooper@law.unh.edu) and U.S. Mail

RE: Unconstitutional Denial of Free Exercise Coalition Student Group

Dean Cooper:

First Liberty Institute is the nation's largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. We represent the student leaders of the Free Exercise Coalition at the University of New Hampshire Franklin Pierce School of Law ("UNH Law"). Please direct all communications concerning this matter to my attention.

Students at UNH Law formed the Free Exercise Coalition to equip religious students in their free exercise of religion, both on and off campus. The organization is an open member coalition of religious students and their allies, all with a passion to see America's foundational religious freedoms restored and respected. Through scholarship, service, and education, coalition members will have the opportunity to support religious liberty causes on their campus and in their communities.

Rarely, if ever, has a student organization been more aptly named or, as the actions of your students and faculty make clear, needed at UNH Law. Despite the Free Exercise Coalition meeting all the requirements for recognition as an official student organization and completing its application, UNH Law's Student Bar Association ("SBA") refuses to grant formal recognition to Free Exercise Coalition at UNH Law. Rather than faithfully serving its administrative function of approving student organizations that meet—as the Free Exercise Coalition does—the objective criteria set by UNH Law, SBA so maligned the members and beliefs of Free Exercise Coalition, leading its faculty advisor to withdraw. There can be no excuse for such open hostility to the religious beliefs of our clients.

We write to demand that UNH Law immediately recognize the Free Exercise Coalition as an official student organization with all the rights, responsibilities, and privileges appertaining thereto. Further, because this is the second time in a single semester that UNH Law's SBA has engaged in open hostility to religious students and organizations, we must ask that UNH Law (1) require SBA members to receive training in the laws protecting student expression conducted by the Foundation of Individual Rights and Expression by February 1, 2023, (2) investigate the SBA's actions to determine

whether its members have engaged in malfeasance necessitating the removal of individual members of SBA or disbanding of the whole, (3) apprise the student body of these efforts, taken by the administration and in collaboration with the Free Exercise Coalition, to ensure religious animus has no home at UNH Law, and (4) since UNH Law's hostility drove off the Free Exercise Coalition's faculty advisor, UNH Law must appoint you, Dean Cooper, to serve as its faculty advisory.

Should UNH Law fail to meet these demands in writing by January 2, 2023, we have advised our clients of their right to seek redress of these open violations of their civil and constitutional rights in federal court, which they are prepared to assert.

UNH Law's SBA is engaging in unconstitutional viewpoint discrimination.

It is settled law that "the First Amendment rights of speech and association extend to the campuses of state universities." *Widmar v. Vincent*, 454 U.S. 263, 268–69 (1981); *see also Healy v. James*, 408 U.S. 169, 180 (1972); *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503 (1969); *Shelton v. Tucker*, 364 U.S. 479, 487 (1960). Students at America's universities are entitled to express their beliefs on campus, as well as by associating with students that share those beliefs. It is the responsibility of a state university—as you should know as a dean of one of the nation's law schools—to ensure that students wishing to so associate receive evenhanded treatment by university leadership.

When university officials—including student leadership like SBA under your direction—question, criticize, or censor student expression and association, the university fails the promise of the First Amendment by promoting viewpoints it favors and regulating speech it disfavors. *See Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 394 (1993) ("The principle that has emerged from our cases 'is that the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others.'" (quoting *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 804 (1984))).

Rather than provide routine, administrative approval to the Free Exercise Coalition's application, SBA took upon itself the role of inquisitor. It viewed with suspicion the student group's mission, fomented public discussion that labeled the group as bigoted, subversive, oppressive, and a general "problem" for UNH. Further, this shocking, knives-out inquisition of the Free Exercise Coalition's religious beliefs by the SBA led the Free Exercise Coalition's faculty advisor to withdraw.

It is difficult to understand why you, as a dean of the law school, did not undertake your supervisory role of SBA to immediately educate the SBA as to their open violation of the U.S. Constitution. Rather, by your inaction, you have given tacit approval to the actions of SBA. We remind you of how the U.S. Supreme Court characterized the actions of the University of Virginia:

> Religion may be a vast area of inquiry, but it also provides, as it did here, a specific premise, a perspective, a standpoint from which a variety of subjects

> may be discussed and considered. The prohibited perspective, not the general subject matter, resulted in the refusal to make third-party payments, for the subjects discussed were otherwise within the approved category of publications.

Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819 (1995).

So too did UNH Law—by the actions of its SBA and your inaction—engage in viewpoint discrimination toward the student leaders of the Free Exercise Coalition. "Discrimination against speech because of its message is presumed to be unconstitutional." *Id.* at 828. To be perfectly clear, the unmistakable holding of the Supreme Court is that UNH Law may not withhold—as it has here—recognition of a student organization "because it finds the views expressed by any group to be abhorrent." *Healy*, 408 U.S. at 187-88.

UNH Law must correct this constitutional violation by immediately recognizing Free Exercise Coalition as one of its student groups.

UNH Law leaders are liable for SBA's unconstitutional actions.

The actions of its SBA bear the imprimatur, and ratification, of UNH Law. Indeed, the university officials are responsible for the SBA's decisions. *See, e.g., Bd. of Regents of Univ. of Wisconsin v. Southworth*, 529 U.S. 217, 233 (2000); *Rosenberger*, 515 U.S. at 832. University leadership cannot claim ignorance. Just this semester, the Christian Legal Society ("CLS") sought recognition as a student group at UNH Law. The SBA also subjected the CLS student leaders to examination into their beliefs, openly criticizing those with which they disagreed. Only after attorneys representing CLS wrote to you did UNH Law formally recognize this student group. Yet, UNH Law clearly failed any effort to correct SBA's behavior, despite the warning it received less than two months ago.

SBA fails to grasp the seriousness of its actions. More precisely, SBA fails to recognize the liability its actions personally attaches to you and your faculty and staff. Within just the past two years, two federal circuit courts of appeal and one federal district court rejected qualified immunity defenses and imposed personal liability upon university officials whose actions affirmed the same level of intolerance and hostility toward religion on display at UNH Law. *InterVarsity Christian Fellowship/USA v. University of Iowa*, 5 F.4th 855 (8th Cir. 2021); *Business Leaders in Christ ("BLinC") v. University of Iowa*, 991 F.3d 969 (8th Cir. 2021); *InterVarsity Christian Fellowship/USA v. Bd. of Governors of Wayne State Univ.*, 534 F. Supp.3d 785 (E.D. Mich. 2021). Universities make costly errors by allowing open hostility toward religious groups on campus.

As such, should you fail to meet the demands of this letter, we will seek the full recourse of relief available to our clients, which includes seeking to hold you and your faculty personally liable for the actions of SBA.

Conclusion

SBA's decision to subject the Free Exercise Coalition's beliefs to an inquisition and drive off their faculty advisor fails UNH Law's "duty under the First Amendment not to base [its policy decisions] on hostility to a religion or religious viewpoint." *Masterpiece Cakeshop, Ltd. v. Colo. C.R. Comm'n*, 138 S. Ct. 1719, 1731 (2018). UNH Law, and its SBA, is bound by the Free Exercise Clause of the First Amendment to the U.S. Constitution which binds SBA "to religious tolerance, and upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own high duty to the Constitution and to the rights it secures." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 547 (1993).

Inasmuch as UNH Law failed its duty to the Constitution in protecting the civil rights of the Free Exercise Coalition and treated their religious beliefs with hostility, we require the following:

1. Formal recognition of the Free Exercise Coalition as a student group at UNH Law, including the attendant benefits student groups receive, no later than January 2, 2023.
2. SBA at UNH Law must receive training in the laws protecting student expression conducted by the Foundation of Individual Rights and Expression by February 1, 2023.
3. UNH Law must investigate SBA's actions concerning its treatment of religious student groups on campus to determine whether its members engaged in malfeasance necessitating the removal of individual members of SBA or disbanding of the whole.
4. UNH Law will apprise the student body of these efforts, taken by the administration and in collaboration with the Free Exercise Coalition, to ensure religious animus has no home at UNH Law
5. UNH Law must appoint Dean Cooper to serve as Free Exercise Coalition's faculty advisor.

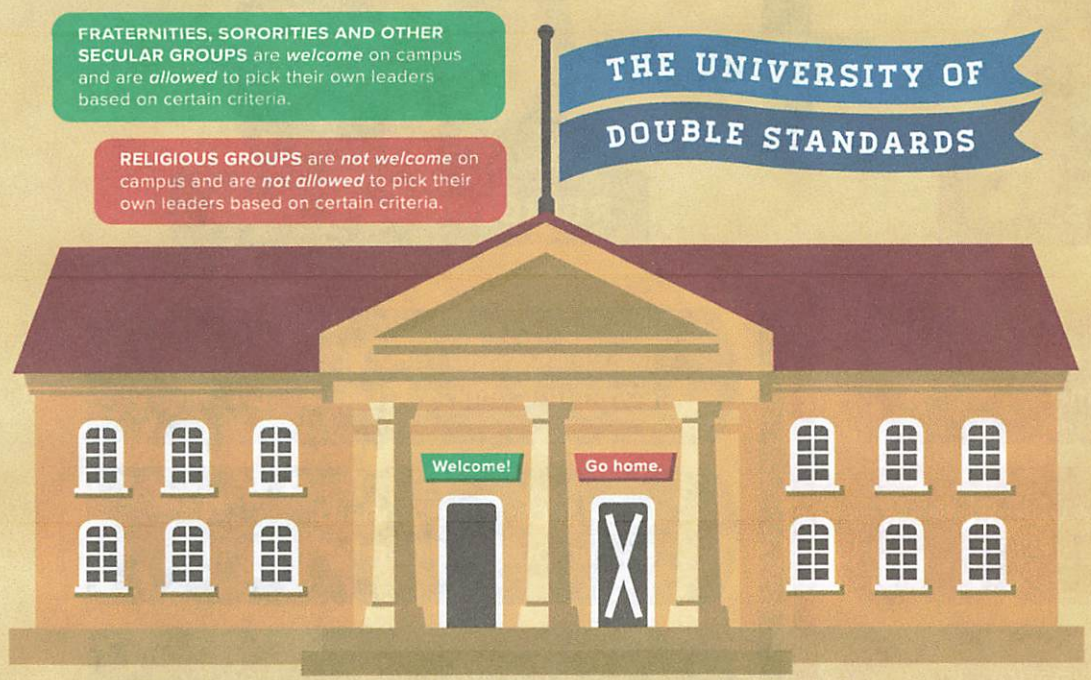
We request your response to these demands in writing no later than December 23, 2022. You are welcome to direct your response to me at jdys@firstliberty.org. Should you have questions related to this matter, you may reach me at 469-440-7585.

Sincerely,

Jeremy Dys,
Senior Counsel

CAMPUS RELIGIOUS FREEDOM

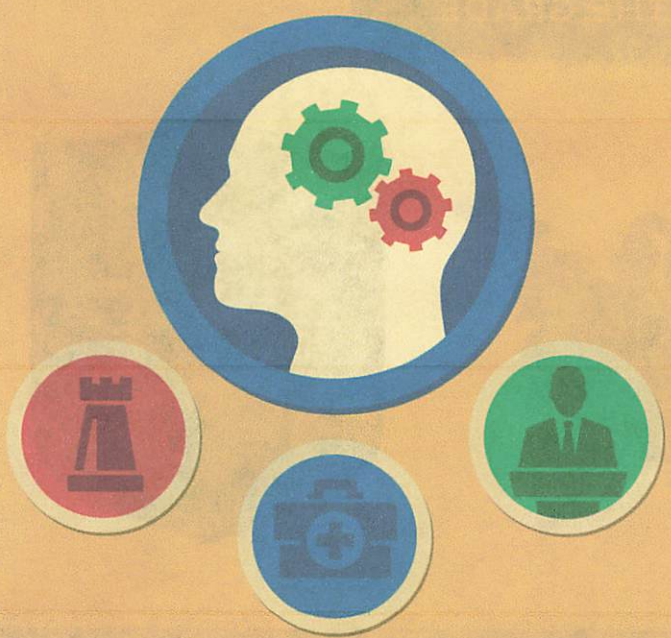
THE PROBLEM



Colleges are discriminating against religious students groups, kicking them off campus with polices than prohibit common sense criteria for selecting group leaders. So, a Jewish faith group cannot require that its president be Jewish or even agree with core Jewish teachings.

Student religious groups provide a much-needed sense of belonging for young people at a time when many feel all alone and are struggling to find their place in the world. Colleges should embrace these welcoming communities, not turn them away.

COMMON SENSE, PLEASE!



To be the president of the Chess Club, you must know the rules of the game.

To be the head of the American Medical Association, you must be a physician.

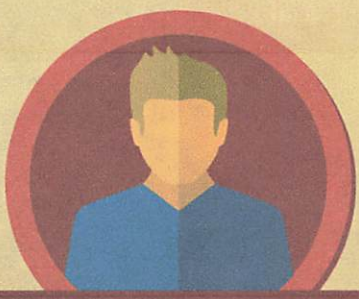
To be the President of the United States, you must be at least 35 years old.

It's standard to have criteria for leadership: it's common sense!

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CONTINUED FROM FRONT

WHO LOSES OUT?



STUDENTS

+



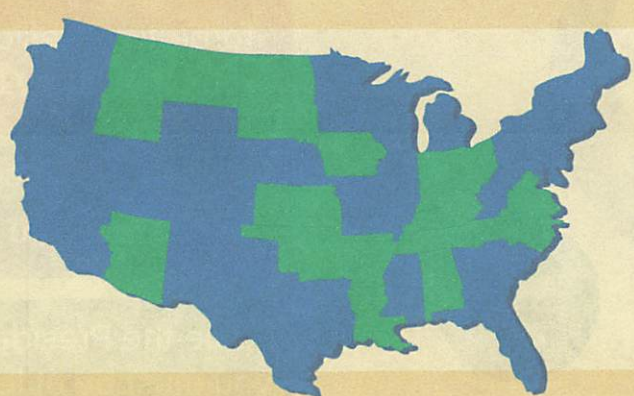
RELIGIOUS GROUPS

- Lose opportunities for community and a sense of belonging
- Lose opportunities for volunteer work and charity outreach
- Lose benefit of participation in a campus where pluralism is respected

- Lose access to resources for communicating with students
- Lose access to standard on-campus membership recruiting
- Lose access to low-cost university spaces for meetings and fellowship

STATES THAT MAKE THE GRADE

Many states have addressed the problem by proactively passing smart bipartisan campus religious freedom legislation.



34%
OF STATES PROTECT BELIEF BASED GROUPS

1st Amendment PARTNERSHIP
Faiths united for religious freedom

For more info: @1APonline
1stAmendmentPartnership.org

CAMPUS FREEDOM OF ASSOCIATION

TALKING POINTS

1. Across the county, universities have enforced discriminatory policies that deny belief based student groups the ability to select leaders who agree with the group's beliefs. Some universities are even attempting to deny recognition all together to religious student groups they disagree with.

2. These university policies may be drafted to appear view-point neutral, but they are almost exclusively enforced against faith-based student groups with traditional views regarding marriage.

3. No one thinks that sororities choosing female leaders or chess clubs requiring officers to agree on the rules of the game is discrimination. Similarly, it is not discriminatory for a Baptist student group to require its bible study leaders to be Baptist.

4. Restricting the ability of student clubs to establish criteria for leaders doesn't make sense—a group cannot function unless its leaders share its mission and beliefs.

5. Universities typically choose to offer resources, like meeting space and access to student activity fee funds. Having made that choice they cannot apply different standards to groups they disagree with. Belief based student groups deserve equal treatment.

6. During the current academic year two belief-based student groups at the University of New Hampshire Franklin Pierce School of Law had to retain legal counsel in order to overcome efforts by the school's Student Bar Association to deny them recognition due to their religious view points.

7. Both instances were ultimately resolved in favor of the student groups, but only after costly delays that placed significant burdens on them. Clear statutory protections would help prevent needless controversies like these.

8. In 2021 the 8th Circuit Court of Appeals found that University of Iowa administrators could be held personally liable for denying recognition to belief based student groups they disagreed with. Two such student groups were awarded almost $2 million dollars in damages and attorney fees against the state.

9. There is a better solution to this problem than students having to sue for their rights. Instead, the New Hampshire legislature can pass a law clearly guaranteeing fair treatment of all students.

10. Seventeen states have already eliminated unequal treatment of campus groups by passing legislation explicitly protecting student freedom of association. In 2022 such protections passed the Indiana House and Senate unanimously, and were signed into law by the Governor.

11. If the legislature fails to act, students at New Hampshire's public colleges and universities will be left vulnerable to discrimination. A protective statute would dramatically decrease the likelihood of lengthy and expensive litigation, the cost of which is likely to fall on New Hampshire taxpayers.

FREEDOM TO BELIEVE

The history of campus religious freedom is marked by two major Supreme Court Rulings:

1981: WIDMAR V. VINCENT

WHAT HAPPENED?

In the late 1970's, Cornerstone, a Christian student group at University of Missouri-Kansas City (UMKC), was prohibited from using university space to meet solely because it was a religious group.

WHO WAS KICKED OFF CAMPUS?

Christian student groups like Cornerstone.

WHO WAS NOT KICKED OFF?

Atheist and humanist student groups, and all other campus clubs.

SCOTUS RESPONSE

The Supreme Court ruled that UMKC could not discriminate against religious groups and that campus space must be open to all registered clubs.

2010: CHRISTIAN LEGAL SOCIETY V. MARTINEZ

WHAT HAPPENED?

In 2005, UC-Hastings refused to recognize Christian Legal Society because it required student leaders to agree to a faith statement.

WHO WAS KICKED OFF CAMPUS?

Christian groups, including CLS, InterVarsity, Chi Alpha, and Cru, which require their leaders to sign faith statements.

WHO WAS NOT KICKED OFF?

Any other campus groups, including groups with clearly restrictive membership requirements, like sororities and fraternities.

SCOTUS RESPONSE

The Supreme Court ruled that the school could enforce an "all-comers" policy that prohibits groups from having any established criteria for leaders.

THE END RESULTS?

1. Colleges across the county have adopted restrictive student organization policies, but only enforce them against belief-based groups.
2. It is up to the states to proactively prevent this discrimination against belief-based groups. Seventeen states have successfully passed campus equal access legislation.

WHO HAS BEEN HARMED?

Despite being written in viewpoint-neutral language, "all-comer" policies have only been enforced against belief-based groups. When groups are targeted, they lose access to vital resources, including meeting space, publications, use of name and logo, mail, email, and website hosting, club fair booths, and tech equipment. These are just a few examples:

KANSAS

Washburn University's Christian Legal Society chapter lost recognized status after a student was asked to resign as Bible study leader because his teaching did not align with the group's faith statement. He was welcome to remain a member, but CLS was punished anyway. Kansas passed a bill to ensure this never happens again.

CALIFORNIA

The California State System passed a system-wide "all-comers" policy, then derecognized CLS, InterVarsity, Chi Alpha, and Cru across all 23 campuses. Members of other minority religious groups, including the Muslim Student Association at Cal State Long Beach, spoke out in support of the Christian groups, despite not being targeted themselves.

This discriminatory policy remains in place.

MICHIGAN

InterVarsity's national membership is 55% people of color. Chapters like Asian Intervaristy provide stability and religious foundations for students away from home for the first time. The Wayne State group started in the 1940's, but in 2017 they were not allowed to renew because the school said it was "discriminatory" to require their leaders to follow the group's statement of faith. Wanye State ultimately reversed its decision, but costly and time consuming litigation has been ongoing since 2018.

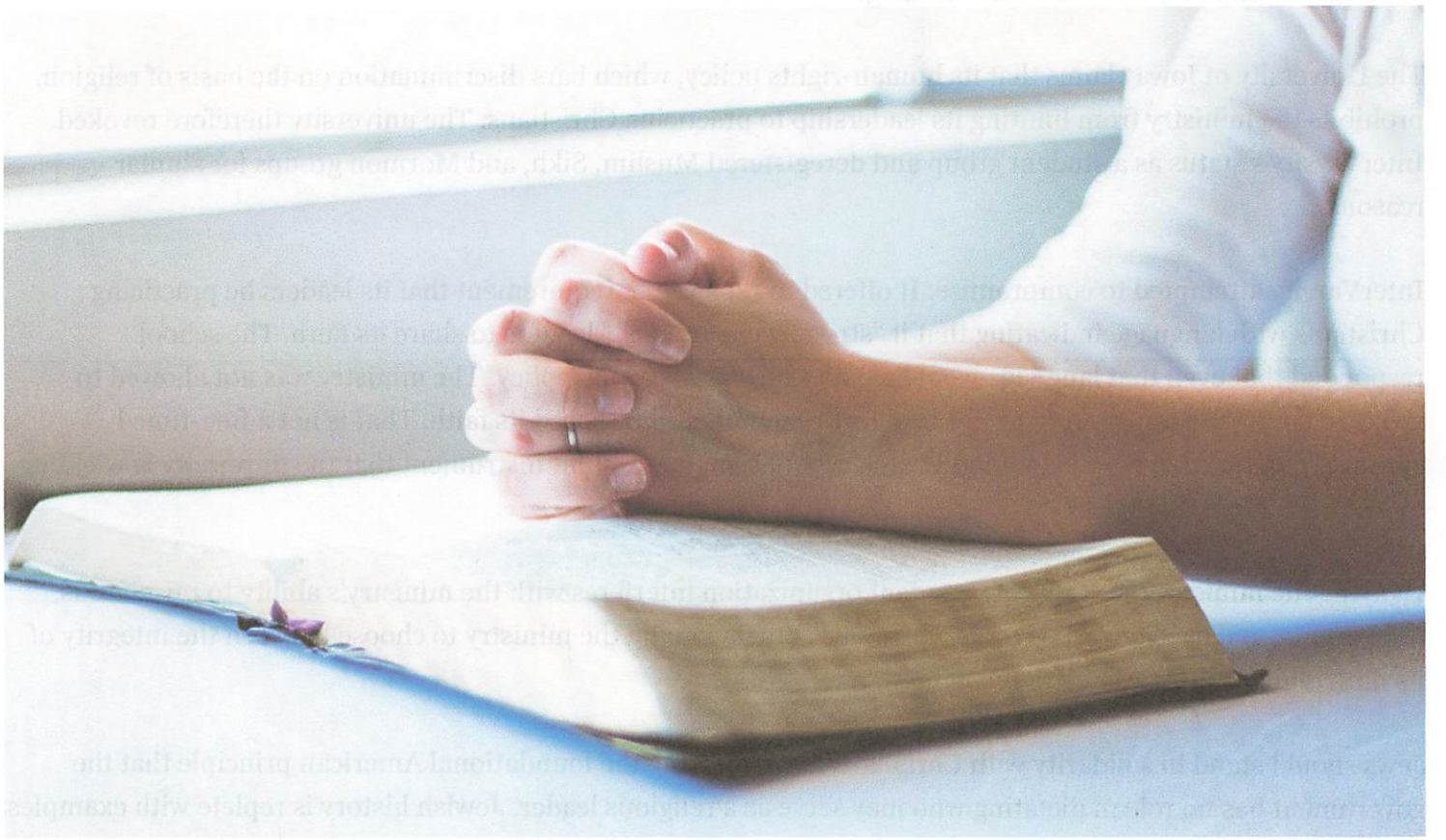
IOWA

Dozens of student groups from a broad range of faith traditions were de-registered by the University of Iowa for using faith statements as criteria for leadership roles. Litigation resulted in these groups being restored and the Iowa legislate passed a new law in 2019 to prevent this in the future.

In 2021 the 8th Circuit Court of Appeals found that University of Iowa administrators could be held personally liable for their treatment of these groups. Two belief-based groups were awarded almost $2 million dollars in damages and attorney fees against the state of Iowa.

NATIONAL REVIEW | RELIGION

Religious Groups Led by Co-Religionists — It Shouldn't Be Controversial



(Pixabay)

By **HOWARD SLUGH**
November 23, 2018 6:30 AM

The University of Iowa says that InterVarsity discriminates. Observant Jews should defend the Christian student group.

Religious groups must be allowed to choose their leaders without government interference. America's founders recognized the harms caused by the British government's meddling in religious leadership. They adopted the First Amendment in part to prevent such usurpations. Unfortunately, some governmental entities have lost sight of the founders' wisdom. Driven by an egalitarian desire to eliminate alleged discrimination, the University of Iowa is meddling in the internal leadership decisions of religious groups. Members of all faiths must come together to rebuff this threat to religious liberty.

The InterVarsity Christian Fellowship/USA is a campus ministry that operates on American college campuses. Its mission, which is expressly religious, includes helping "graduate and professional students and faculty learn more about Christ, grow spiritually, and live faithfully." The organization's activities include prayer, worship, and Bible study and are unambiguously religious. InterVarsity also participates in charitable drives motivated by their faith. People of all faiths and no faith can join it and participate in its events. Ministry leaders, however, must affirm that they share and model the group's Christian faith.

The University of Iowa claims that its human-rights policy, which bars discrimination on the basis of religion, prohibits the ministry from limiting its leadership to practicing Christians. The university therefore revoked InterVarsity's status as a student group and deregistered Muslim, Sikh, and Mormon groups for similar reasons.

InterVarsity attempted to compromise. It offered to replace the requirement that its leaders be practicing Christians with language indicating that it "strongly encouraged" leaders to share its faith. The school responded that even that language would violate the human-rights policy. The ministry was not allowed to indicate that it had any preference for leaders or members who shared its faith. That is not a fine-tuned requirement aimed at rooting out hidden discrimination; it is a blunt instrument that the university is wielding to bring the ministry to heel.

Denying the ministry the status of a student organization interferes with the ministry's ability to raise funds, hold events, and even advertise on campus. The state is forcing the ministry to choose between the integrity of its faith and its ability to function efficiently.

Jews should stand in solidarity with Christians in reaffirming the foundational American principle that the government has no role in dictating who may serve as a religious leader. Jewish history is replete with examples of Jews pressured to abandon Judaism and conform to the religion or ideology of groups that were persecuting them. Jews have suffered from religiously motivated persecution — during the Crusades and the Inquisition, for example — as well as from attempts by irreligious groups such as the Soviets and the Jacobins to secularize them. America has, for the most part, resisted such tendencies, allowing Jews to flourish and maintain their distinctiveness. If left unchecked, the action by the University of Iowa would establish a dangerous precedent.

The constitutionally protected right of religious minorities to select their own leaders is a buffer that protects them from meddling by their neighbors and the government. Their neighbors cannot join a religious organization en masse and vote for leaders who do not share its religious purpose. The government cannot force it to select leaders more in line with the zeitgeist. Weakening that barrier would leave the fate of religious minorities to the whim of people who do not share their views. Jews and members of other minority religions

have an interest in speaking out against the university's policy.

In addition to creating the potential for abuse, the university's policy is counterproductive. For a religious group to restrict leadership positions to individuals who share its faith is not a human-rights abuse. It evinces a practical desire to choose leaders best suited to advance the group's religious mission. When a religious Jewish organization appoints observant Jewish leaders, it is not committing a hate crime.

Examining why observant Jews are best suited to lead religious Jewish organizations can help us better understand why the university's policy is a mistake. To appreciate Judaism fully, one must experience it firsthand. One could read a book about Sabbath observance, repenting on the holiday of Yom Kippur, or reenacting the Jewish national origin story on Passover, but that would pale in comparison with personal participation in those practices. Living them out helps a person internalize them, as a member of the community with a shared sense of history, obligation, and belonging.

The Passover service, or seder, emphasizes that every participant should see himself as if he were personally taken out of Egypt. Services on Tisha B'Av, the ninth day of the Hebrew month of Av, include mourning rituals to commemorate the destruction of the Jewish temples and the exile from Israel. Jews fast and spend the day acting as if a close family member had recently died. There is simply no substitute for having experienced these activities "on the inside" as a member of the community.

The university discounts the benefits of this unique perspective when it prohibits religious organizations from preferring leaders who share their faith. It is entirely sensible for a religious Jewish organization to expect that its leaders will share a particular set of communal experiences. Ironically, in their quest for egalitarian leveling, the university has lost sight of the value of diverse experiences and backgrounds.

The university's policy would create pragmatic challenges as well for religious Jewish organizations. A Jewish organization has reason to prefer leaders who are observant and have shown that they have the knowledge and dedication to help the group comply with laws such as those related to the Sabbath and keeping kosher, which are more complicated and demanding than many people realize. In its zeal to root out discrimination, the university ignores those practical considerations and makes it more difficult for religious organizations to act religiously.

Kosher food preparation requires an extensive knowledge of Jewish law and a willingness to adhere to it strictly despite the difficulties that entails. Kosher laws apply not only to the food that is served at an event; they govern every aspect of the food's preparation. For example, many religious Jews go through a rigorous process of washing vegetables and checking to make sure that they do not contain bugs, because bugs are not kosher. Many religious Jews would not eat vegetables unless they were certain that the processes had been strictly followed.

Observant Jews often experience disappointment when well-meaning friends and colleagues attempt and fail to prepare kosher food for a dinner or holiday party. Even a seemingly inconsequential oversight or mistake can render food not-kosher. There are even a number of kosher certifications that most Orthodox Jews would not consider reliable. The university's position would multiply such problems for students. Observant Jews who are familiar with keeping Kosher are in the best position to avoid such mistakes and to provide food that other

religious Jews will be willing to eat. At best, the university's policy would make religious organizations less effective at fulfilling their missions.

Combating discrimination is noble, but the University of Iowa has taken its pursuit of that cause to an absurd degree. When a Christian group sued the university, claiming, in part, that other groups were allowed to violate the human-rights policy, the school responded by deregistering 38 groups that limit their membership or leaders to those who meet cultural or ideological qualifications. To judge from the list of deregistered groups, the school simply could not abide a Chinese dance society whose members were Chinese dancers, a German club made up of German students, or a Malaysian student society populated by Malaysians. The fact that this policy has descended into farce makes it no less dangerous to religious groups.

The founders had it right. Governmental entities must not dictate who may serve as a religious leader. Such interference threatens the missions of those groups and, in fact, their existence. There is nothing discriminatory about religious groups wanting their coreligionists to serve as leaders. It is time for the university to admit that it was overzealous and took things too far. The school can serve as an example of integrity to its students by admitting that it made a mistake and restoring the deregulated groups.

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The Washington Post Democracy Dies in Darkness

Opinion: Academia's hostility to intellectual diversity suffers a courtroom setback

Opinion by George F. Will

Columnist

July 28, 2021 at 7:00 a.m. EDT

571

It is not surprising when a compound of moral arrogance and political authoritarianism — e.g., the culture of today's academia — produces intolerance of intellectual diversity and disdain for the law. Nevertheless, a three-judge panel of the U.S. Court of Appeals for the 8th Circuit was startled by the behavior of the University of Iowa: "We are hard-pressed to find a clearer example of viewpoint discrimination."

The university's policy pertaining to Registered Student Organizations (RSOs) forbids "differences in the treatment of persons because of race, creed, color, religion," etc., "or any other classification that deprives the person of consideration as an individual." But the university also believes, or used to believe, that students should have the right to "organize and associate with like-minded students." So, all RSOs may "exercise free choice of members on the basis of their merits as individuals" and "any individual who subscribes to the goals and beliefs of a student organization may participate in and become a member of the organization." As the 8th Circuit notes, "This is not an 'all-comers policy,' which would require RSOs to accept any student as a member or leader of the group."

In 2017, a gay student filed a complaint against Business Leaders in Christ (BLinC), claiming he was denied a leadership position because he refused to subscribe to the group's conviction that same-sex marriage is biblically forbidden. The university deregistered BLinC, saying it violated the university's Human Rights Policy by disqualifying individuals from leadership positions "on the basis of sexual orientation and gender identity."

BLinC sued, asserting violations of First Amendment guarantees of free speech, free association and free exercise of religion. A district court supported BLinC with an injunction, but granted the university representatives qualified immunity from personal liability because they supposedly acted where there was not "clearly established law."

InterVarsity Christian Fellowship which has been active at the university for more than 25 years

InterVarsity Christian Fellowship, which has been active at the university for more than 25 years, accepts members, but not leaders, who reject the group's faith. In 2018, the university said InterVarsity violated school policy. InterVarsity's leader asked whether the university would be satisfied if the group said leaders would be "requested" or "strongly encouraged" to subscribe to the group's faith. The university said no.

After the district court's injunction for BLinC, the university reinstated InterVarsity and other deregistered religious groups. But rather than obeying that court's order to treat RSOs equally, the university intensified its unconstitutional viewpoint discrimination. The university's compliance review targeted religious organizations and, the 8th Circuit tartly says, the university's fervor "dissipated" when it finished with religious RSOs.

As for equal treatment, the university had no objection, for example, to Love Works. This RSO, founded by the student who complained about BLinC, requires all members to sign a "gay-affirming statement of Christian faith."

When the district court judge (a President Barack Obama appointee) who had dealt with the BLinC case ruled in the InterVarsity case, her exasperation was obvious: "The court would never have expected the university to respond to that order [for equal treatment of RSOs] by homing in on religious groups' compliance with the policy while at the same time carving out explicit exemptions for other groups. But here we are."

In ruling for InterVarsity, the 8th Circuit said that when the district court extended qualified immunity to the university representatives regarding BLinC, that court did not have the benefit of the 8th Circuit's later ruling in BLinC, where the appeals court reversed the circuit court to hold that "the law was clearly established" that universities cannot use "nondiscrimination policy" as an excuse for "viewpoint discrimination against RSOs."

The university's contempt for the district court's order in the BLinC case indicates that the university officials felt their political high-mindedness entitled them to disregard the law in order to enforce conformity to progressive opinions that hardly need such buttressing on today's intellectually monochrome campuses. The 8th Circuit concluded:

"What the University did here was clearly unconstitutional. It targeted religious groups for differential treatment under the Human Rights Policy — while carving out exemptions and ignoring other violative groups with missions they presumably supported. The University and individual defendants turned a blind eye to decades of First Amendment jurisprudence or they proceeded full speed ahead knowing they were violating the law. Either way, qualified immunity provides no safe haven."

So, they can be sued. And they will be. Which should be an educational experience for them, and a teachable moment for the many others like them in today's academia.

Read more:

HB 516-FN - AS INTRODUCED

2023 SESSION

23-0724
04/05

HOUSE BILL ***516-FN***

AN ACT relative to freedom of speech and association at public institutions of higher education.

SPONSORS: Rep. Popovici-Muller, Rock. 17; Rep. Hynes, Hills. 2; Rep. Alexander Jr., Hills. 29; Rep. L. Turcotte, Straf. 4; Rep. Lynn, Rock. 17; Rep. Read, Rock. 10; Rep. Soti, Rock. 35; Sen. Murphy, Dist 16

COMMITTEE: Education

ANALYSIS

This bill establishes procedures governing freedom of speech and association at public institutions of higher education.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0724
04/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to freedom of speech and association at public institutions of higher education.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Freedom of Speech and Association in Institutions of Higher Education. Amend RSA by inserting after chapter 188-I the following new chapter:

CHAPTER 188-J

FREEDOM OF SPEECH AND ASSOCIATION IN INSTITUTIONS OF HIGHER EDUCATION

188-J:1 Definitions:

I. "Benefit" means the recognition, registration, or use of facilities of the institution of higher education for meetings or speaking purposes; or the use of channels of communication of the same; or funding sources that are otherwise available to other student organizations at the public institution of higher education.

II. "Campus community" includes students, administrators, faculty and staff at the institution of higher education, and their invited guests.

III. "Materially and substantially disrupts" means when a person, with the intent to or with knowledge of doing so, significantly hinders another person's or group's expressive activity which occurs in a campus space reserved for such activity under the exclusive use or control of that particular person or group, prevents the communication of the message, or prevents the transaction of the business of a lawful meeting, gathering or procession by:

(a) Engaging in fighting, violent, or other unlawful behavior; or

(b) Physically blocking or using threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in an expressive activity. Conduct that "materially disrupts" shall not include conduct that is protected under the First Amendment to the United States Constitution or Part I, Article 22 of the New Hampshire constitution. Such protected conduct includes, but is not limited to, lawful protests in the outdoor areas of campus generally accessible to the members of the public, except during times when those areas have been reserved in advance for other events, or minor, brief, or fleeting nonviolent disruptions of events that are isolated and short in duration.

IV. "Outdoor areas of campus" means the generally accessible outside areas of campus where members of the campus community are commonly allowed, such as grassy areas, walkways, or other similar common areas and shall not include outdoor areas where access is restricted from a majority of the campus community.

V. "Public institution of higher education" means any public technical institute, public junior college, public senior college or university, law school, medical, or dental school, public state college, or other agency of higher education as defined in state law.

VI. "Harassment" shall mean only that expression that is unwelcome, so severe, pervasive, and subjectively and objectively offensive, that a student is effectively denied equal access to educational opportunities or benefits provided by the public institution of higher education.

VII. "Student" means any person who is enrolled on a full-time or part-time basis in a public institution of higher education.

VIII. "Student organization" means an officially recognized group at a public institution of higher education, or a group seeking official recognition, comprised of admitted students that receive, or are seeking to receive, benefits through the public institution of higher education.

188-J:2 Freedom of Speech and Association at Public Institutions of Higher Education.

I. Expressive activities protected under the provisions of this chapter include, but are not limited to, any lawful verbal, written, audio-visual, or electronic means by which individuals may communicate ideas to one another, including all forms of peaceful assembly, protests, speeches and guest speakers, distribution of literature, carrying signs, and circulating petitions.

II. The outdoor areas of campuses of public institutions of higher education in this state shall be deemed public forums for the campus community, and public institutions of higher education shall not create "free speech zones" or other designated areas of campus outside of which expressive activities are prohibited. A public institution of higher education may maintain and enforce reasonable time, place, and manner restrictions applicable to traditional public forums and designated public forums created by a public institution of higher education, provided those restrictions are narrowly tailored in service of a significant institutional interest only when such restrictions employ clear, published, content- and viewpoint-neutral criteria, and provide for ample alternative means of expression. Any such restrictions shall allow for members of the campus community to spontaneously and contemporaneously assemble and distribute literature. Nothing in this section shall be interpreted as limiting the right of student expression elsewhere on campus.

III. Any person who wishes to engage in non-commercial expressive activity on campus shall be permitted to do so freely, as long as the person's conduct is not unlawful and does not materially and substantially disrupt the functioning of the public institution of higher education, subject only to the requirements of this chapter.

IV. Nothing in this section shall be interpreted as preventing public institutions of higher education from prohibiting, limiting, or restricting expression that the First Amendment does not protect such as true threats, expression directed to provoke imminent lawless actions and likely to produce it, or prohibiting harassment as defined in RSA 188-J:1, VI.

188-J:3 Freedom of Association and Nondiscrimination Against Students and Student Organizations. No public institution of higher education shall deny a religious, political, or

ideological student organization any benefit or privilege available to any other student organization, or otherwise discriminate against such an organization, based on the expression of the organization, including any requirement that the leaders or members of such organization:

I. Affirm and adhere to the organization's sincerely held beliefs;

II. Comply with the organization's standards of conduct; or

III. Further the organization's mission or purpose, as defined by the student organization

188-J:4 Remedies. Any person or student association aggrieved by a violation of this chapter may bring an action against the public institution of higher education and its employees acting in their official capacities, responsible for the violation and seek appropriate relief, including, but not limited to, injunctive relief, monetary damages, reasonable attorneys' fees, and court costs. Any person or student organization aggrieved by a violation of this chapter may assert such violation as a defense or counter claim in any disciplinary action or in any civil or administrative proceedings brought against such student or student organization. Nothing in this section shall be interpreted to limit any other remedies available to any person or student organization.

188-J:5 Statute of Limitations. Notwithstanding RSA 508, a person shall be required to bring suit for violation of this chapter not later than one year after the day the cause of action accrues. For purposes of calculating the one-year limitation period, each day that the violation persists, and each day that a policy in violation of this chapter remains in effect, shall constitute a new day that the cause of action has accrued.

188-J:6 Immunity. The state hereby waives immunity under the Eleventh Amendment of the United States Constitution and consents to suit in a federal court for lawsuits arising out of this chapter. A public institution of higher education that violates this chapter shall not be immune from suit or liability for the violation.

188-J:7 Severability. If any provision of this chapter or any application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this chapter and the application of the provision to any other person or circumstance shall not be affected.

2 Effective Date. This act shall take effect 60 days after its passage.

LBA
23-0724
1/5/23

HB 516-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to freedom of speech and association at public institutions of higher education.

FISCAL IMPACT: [X] State [ ] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[ ] General [ ] Education [ ] Highway [X] Other - University System of NH / Community College System of NH			

METHODOLOGY:

This bill, assumed to be effective in FY 2024, establishes procedures governing freedom of speech and association at public institutions of higher education. The University System of New Hampshire (USNH) states its operating expense may increase to defend violation complaints and to ensure campus safety in a climate of spontaneous assembly for expressive activity occurring any time and at any outdoor space on campus.

The Community College System of New Hampshire (CCSNH) states it is not fully clear what an institution's authority or responsibility would be under this bill and therefore cannot estimate this bill's impact on CCSNH expenditures. However, CCSNH has identified the following areas where additional costs could arise:

- Increased institutional costs from potentially having to defend against instances where a person or group feels they have been aggrieved by the institution relative to the requirements in the bill.
- A student or student organization could assert a violation of this section (and seek damages, attorney's fees, and costs) as a defense or counter claim in a disciplinary or administrative proceeding.
- If this bill affects institutions' ability to limit expressive activity outside of regular operating hours, it could increase staffing costs through the need to pay overtime.
- In any instance where an expressive activity or event presents a public safety concern there could be an additional need to draw upon local law enforcement services.

AGENCIES CONTACTED:

University System of New Hampshire and Community College System of New Hampshire