



Foundation for Individual Rights in Education

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September 21, 2011

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Dear Chancellor Zeppos:

As you can see from the list of our Directors and Board of Advisors, the Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, legal equality, academic freedom, due process, freedom of speech, freedom of conscience and religion, and freedom of association on America's college

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Officer and Advisor Affirmation Form requires the presidents and faculty advisers of student organizations to sign the form below this statement affirming that they will follow this specific nondiscrimination policy—a policy that, by its own terms, does not seem to apply to them. (Strangely, the form also notes that “ALL Religious/Spiritual organizations must have a printed copy of their registration and constitution accompanying this document and obtain the signature of the Director of Religious Life.” It is not clear why religious organizations alone are to be singled out for special scrutiny at Vanderbilt, nor why the Director of Religious Life’s approval is required.)

A different nondiscrimination policy is found on pages 68–69 of the Vanderbilt faculty manual. In pertinent part, it reads as follows:

Vanderbilt University does not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, disability, or military service in its administration of educational policies, programs, or activities; its admissions policies; scholarship and loan programs; athletic or other University-administered programs; or employment. In addition, the University does not discriminate on the basis of sexual orientation consistent with University nondiscrimination policy.

[...]

Sexual Orientation Nondiscrimination Statement

Vanderbilt University is committed to the principles of nondiscrimination on the basis of being or being perceived as homosexual, heterosexual, or bisexual. In affirming its commitment to this principle, the University does not limit freedom of religious association and does not require adherence to this principle by government agencies or external organizations that associate with but are not controlled by the University. The University extends specified benefits to eligible domestic partners.

The first paragraph of this policy appears to be the same as the policy posted on the EAD office’s website, excepting mention of genetic information, gender identity, or gender expression. This may simply be an oversight in updating the publication.

It is the second paragraph of this policy, however, that bears directly on the issue that has caused the deferral of CLS’s constitution. It emphasizes that despite Vanderbilt’s official commitment not to consider sexual orientation in any decision-making processes, “*the University does not limit freedom of religious association and does not require adherence to this principle by government agencies or external organizations that associate with but are not controlled by the University.*” (Emphasis added.) The Christian Legal Society is exactly such an organization. It is an external organization that associates with Vanderbilt University through having a chapter on Vanderbilt’s campus, but which Vanderbilt does not actually control. The same can most likely be said for all of the other religious organizations and denominations that have a presence on Vanderbilt’s campus.

This policy signifies Vanderbilt's recognition that unlike most of the other categories listed as illegitimate bases for decision-making, religion cannot be argued to be solely an immutable characteristic, one that a person cannot change. Yet, unlike race or national origin, religion is a characteristic that people can and do change. Religion is a matter of both status and belief, and Vanderbilt's failure to make this distinction in the policies it has chosen to apply to CLS has resulted in an unconscionable restraint on Vanderbilt students' freedom of religion.

Of course, with regard to groups that have no expressive purposes or purposes that have nothing to do with religious belief (such as a chess club or soccer team), religion can be said to be a protected status. However, when it comes to religious groups on campus, Vanderbilt's failure to recognize that religion is also a belief compromises those groups' ability to effectively communicate their messages. Part of CLS's expressive purpose is to communicate to other law students what it sees as the Christian message. According to CLS's Community Life Statement, this message includes living in accordance with Christian teachings. This involves renouncing "unbiblical attitudes, including greed; jealousy; false pride; lust; covetousness; an unforgiving spirit; and unjust prejudice such as that based on race, sex, ethnicity, appearance, disability, or socio-economic status," as well as "unbiblical behaviors, including deception, malicious speech, drunkenness, drug abuse, stealing, cheating, and other immoral conduct such as using pornography and engaging in sexual relations other than within a marriage between one man and one woman." Its sincere belief that those who wish to spread the Christian message must believe that these attitudes and behaviors are wrong is hardly unique among Christian organizations.

However, according to the Rev. Person, CLS may make no such demands of its members.

To be a recognized student group at Vanderbilt, CLS must surrender its on, restdecigious groups on c2 uf(of c

