

December 1, 2004

Kevin S. Price  
Dean of Students and Assistant Vice Chancellor for Student Life and Academic  
Services  
Office of the Dean of Students  
116 Johnston Hall  
Louisiana State University  
Baton Rouge, Louisiana 70803

*Sent by e-mail, U.S. Mail, and Facsimile (225-578-9441)*

Dear Dean Price:

Thank you for your thoughtful response to our November 11, 2004, letter regarding the Muslim Students Association (MSA) at Louisiana State University. We deeply appreciate your genuine effort to address the issues raised in our letter. I am hopeful that we can resolve this matter in a way that is appropriately respectful of both the university's professed desire for "equal opportunity" and the MSA's constitutional freedoms.

This letter has two parts. In the first, FIRE more completely outlines the MSA's concerns and highlights the differences between the MSA's position and the university's position as outlined in your November 22, 2004, letter. The second part of the letter will propose a range of solutions, including those that have been adopted in the face of similar controversies at other major state universities. Again, please do not hesitate to inform us of factual errors, if any exist.

### **The Muslim Students Association's Concerns**

*The MSA has not been allowed to reserve spaces on campus.*

First, you state in your letter that a registered group "may also use facilities under the same guidelines as a group that is not registered with the University might." According to MSA leaders, the MSA successfully registered to use the LSU Union for its weekly "Dawah Tables" in the fall of 2004; however, once administrators realized that the group was not officially recognized, the university revoked its permission. The MSA also reports that since the fall of 2003, it has not been able to reserve space for its bi-annual Eid festivals, one of which occurs



teachings of their faith instead of being forced to address them by a clause in a university policy. Likewise, the MSA should not have to fear that it may be violating an unlawful university policy when addressing matters related to faith.

The current constitution of the MSA also already states that it does not deny membership “on the basis of race, color, sex, national origin, disability, marital status, or veteran’s status.” There is no legitimate state interest in forcing a religious group to violate its principles and explicitly add the two additional factors of “religion” and “sexual preference” to its constitution’s nondiscrimination statement.

***The FIRE cases you highlight are different from this one.***

We appreciate your efforts to compare this case with other, similar, cases at major state universities. However, it is important to note that in each case, the universities ultimately agreed to *explicitly* guarantee the right of religious organizations to choose their leaders and/or members according to the tenets of their faith. LSU’s policy does not explicitly grant religious organizations this basic right.

***LSU is violating its own principle of “equal opportunity” through this policy.***

You state that you are “charged with striking proper balance between equal opportunity and the array of freedoms that we all constitutionally enjoy.” With regards to “equal opportunity,” the law clearly demonstrates the breadth of the MSA’s fundamental First Amendment freedoms. LSU is required to grant religious organizations equal access to campus facilities (*see Widmar v. Vincent*, 454 U.S. 263 (1981)), and it is also required to grant religious organizations equal access—on a viewpoint neutral basis—to student fee funding. *See Rosenberger v. University of Virginia*, 515 U.S. 819 (1995) and *Board of Regents v. Southworth*, 529 U.S. 217 (2000). Moreover, LSU cannot compel the MSA to include members who would contradict the expressive purpose of the group. *See Hurley v. Irish-American Gay, Lesbian and Bisexual Group*, 515 U.S. 557 (1995) and *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000). In summary, LSU cannot require private student groups to conform to LSU’s “message” or “mission”—embodied by the disputed parts of the non-discrimination policy—as a precondition for receiving recognition, benefits, or facilities access. *See Healy v. James*, 408 U.S. 169 (1972).

The issue in this case is not “status”—it is conduct and belief. The MSA is not discriminating on the basis of immutable characteristics like gender or race but is instead simply applying faith-based criteria to faith-critical decisions. Obviously there is nothing about being black or white, male or female that would prohibit someone from embracing Islam, but, for example, a belief that there is more than one God would. The MSA is not asking for “permission to discriminate.” It is simply protecting its right to practice its faith.

No federal, state, local, or university statute, policy, or regulation can trump the exercise of Firbout bXr whiwou.



We hope that LSU will join universities like the Ohio State University in leading the nation towards creating a student organization system that nurtures rather than stifles the constitutional rights and academic freedom of each member of the university community.

Again, we are very pleased you have chosen to engage in dialogue about these issues and have used our website as a resource for other religious liberty cases. We hope to resolve this matter as promptly and amicably as possible.

I look forward to hearing from you soon.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. French", is written over a pink horizontal line.

David French  
President

cc:

William L. Jenkins, Interim Chancellor, Louisiana State University

Risa Palm, Executive Vice Chancellor for Academic Affairs and Provost, Louisiana State University

F. Neil Mathews, Vice Chancellor, Louisiana State University

Kathleen C. White, Associate Dean, Louisiana State University

Katrice Albert, Director, Office of I3psMersitb9med1w(.02 Tw -12.8s9 T7A )-1(rt, Direc6n7e)TromT7A .Secret