



Foundation for Individual Rights in Education

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January 11, 2007

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DIRECTOR OF LEGAL AND
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Sent via U.S. Mail and Facsimile (914-422-4426)

Alan Charles Kors
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Dear Dean Friedman:

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As you can see from 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 academic freedom, freedom of speech, due process, legal equality and, in this case, voluntary association and religious liberty, on America's college campuses. Our website, www.thefire.org, will give you a greater sense of our identity and activities.

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FIRE is concerned about the threat to free association and religious liberty posed by the Student Bar Association's (SBA's) denial of official recognition to the Pace Christian Legal Society (PCLS). The SBA, which Pace Law School has authorized to act in these matters, has directly and inappropriately interfered with the PCLS's rights to free expression and free association.

This is our understanding of the facts; please inform us if you believe we are in error. Pace Law School students, led by Cari Rincker, have attempted to form the Pace Christian Legal Society, a member chapter of the national Christian Legal Society (CLS), with the mission of "maintain[ing] a vibrant Christian Law Fellowship on Pace's campus which enables its members, individually and as a group, to love the Lord with their whole beings—hearts, souls, and minds—and to love their neighbors as themselves." In March, 2006, the SBA denied recognition to the PCLS. E-mail correspondence between members of the SBA indicates that the proposed PCLS constitution was rejected because it required all members to subscribe to a "Statement of Faith" and because its "Equal Opportunity and Equal Access" clause granted the group the right to exclude members on the bases of religion and sexual orientation.

The CLS as a national organization asks that its member chapters do not agree to any non-discrimination policy that includes religion, creed, or sexual orientation, as such forced ideologies are inconsistent with the U.S. Constitution's protections of religious freedom and the organization's own religious views (see CLS Affiliation Materials, Appendix 2, available at www.clsnet.org/lsmPages/lsm_manual/2005-2006AffilMatls.pdf). Nonetheless, after the SBA rejected the PCLS constitution at its March meeting, the group revised its constitution to include sexual orientation and religion in its "Equal Opportunity and Equal Access" clause. The PCLS also omitted the requirement that all members subscribe to the "Statement of Faith." The PCLS's revised constitution (enclosed) states that membership in the organization "shall be open to all students and faculty at Pace." Rincker submitted the revised constitution for approval at the November 16, 2006, SBA meeting. Despite the revisions to the "Equal Opportunity and Equal Access" clause, the SBA again denied the PCLS recognition.

The SBA's actions violate Pace Law School's promises of freedom of expression and association. The "Guiding Principles of Conduct" contained in Pace University's School of Law Student Handbook states:

Each member of the University community is required to cooperate with the University in its **endeavors to foster and maintain the freedom of expression and exchange of ideas** necessary to achieve excellence in teaching, learning, scholarship and service. The University strives **to protect the rights of its students** and employees (including faculty members) to publicize opinions through written and oral communications; **to organize and join political associations**; to convene and conduct meetings; and to advocate, demonstrate and picket in an orderly fashion. Further, members of the University community are responsible for fostering and maintaining respect for the dignity and uniqueness of one another. (Page 82; emphasis added)

The SBA's rejection of this new expressive organization is particularly suspect when one considers that the SBA has approved numerous other expressive groups such as the Federalist Society, the Pace Law School Democrats, and the Pace Law School Republicans, all of which strive to advance secular ideological goals.

It would be wise for a law school to enforce rules consistent with the U.S. Constitution's guarantees of freedom of association. The U.S. Supreme Court has ruled that public institutions are required to grant religious organizations equal access to campus facilities (*see Widmar v. Vincent*, 454 U.S. 263 (1981)) and equal access—on a viewpoint neutral basis—to student fee funding. *See Rosenberger v. Rector and Visitors of the University of Virginia*, 515 U.S. 819 (1995) and *Board of Regents v. Southworth*, 529 U.S. 217 (2000). The Court also reaffirmed in *Boy Scouts of America v. Dale* (2000) that "implicit in the right to engage in activities protected by the First Amendment is a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, educational,er the Univ

student governing body should have the authority to deny other students the right to associate as they see fit simply because their goals are not shared by all.

Moreover, no private institution that cherishes the rights of free association and expression can, in good conscience, extend fewer rights and freedoms to its students than would a public institution, bound by the Constitution. Do the law students of Pace University enjoy fewer protections of expression and conscience than students at New York's community colleges? To restrict freedom of conscience, freedom of association, and freedom of speech is to create a stifled and intellectually bereft environment—the very antithesis of the rich and open environment promised in the student handbook. The SBA has violated that promise.

In a December 12 e-mail to Rincker, Dean for Students Angela D'Agostino stated that both of you “are taking this issue very seriously” and plan to meet with members of the SBA during the week of January 16, 2007. FIRE hopes that as leaders in the field of law and institutional governance, the Pace administration will step in where the Student Bar Association has failed, to correct its unjust, arbitrary, and discriminatory errors. Please make Pace Law School's practices governing student association consistent with the U.S. Constitution, with Pace's stated commitments to legal equity and freedom of association, and with the most basic standards of fairness by granting the Pace Christian Legal Society, as well as any other faith-based groups that may have been refused by the SBA, official recognition.

We appreciate your attention to this matter and request a response by January 25, 2007.

Sincerely,

Tara E. Sweeney
Senior Program Officer

cc:

David A. Caputo, President, Pace University
Angela M. D'Agostino, Dean for Students, Pace University
Jeffrey G. Miller, Vice Dean for Academic Affairs, Pace University
Jonah Grossbardt, Student Bar Association President, Pace University
Karen Berggren, Student Bar Association Vice-President, Pace University
Cari Rincker

Encl.