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The Herald-Sun (Durham, NC)

August 25, 2004 Wednesday
Final Edition

SECTION: FRONT; Pg. A1

LENGTH: 863 words

HEADLINE: **Christian frat to sue UNC over free speech;**
Discrimination costly, chancellor has said, citing 14th Amendment

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BODY:

CHAPEL HILL -- A Christian fraternity that had its official recognition revoked is planning to sue UNC, alleging that the university has violated the constitutional rights of the group's members.

Late last year, the university declined to renew Alpha Iota Omega's student organization status because the group's leaders wouldn't sign a university policy requiring its membership to be open to all students. The fraternity's leaders didn't see the point of being open to non-Christians since Christianity is the fraternity's core principle.

In losing official recognition, the group is no longer eligible for student activity fee revenue, and cannot reserve meeting space as easily.

But more importantly, Alpha Iota Omega's First Amendment rights to free speech and association are being harmed, the group's attorney argued Tuesday.

"It's kind of a mindless, unthinking application of the principles of nondiscrimination that intrudes on the freedom of speech," said Jordan Lorence, senior counsel with the Alliance Defense Fund, an Arizona-based legal group. "There has not been thoughtfulness on how and when these nondiscrimination policies should apply. There's no finesse, no thought about how to protect First Amendment rights here."

Lorence said he expects to file the lawsuit today. Alpha Iota Omega has just a handful of active members, none of whom were available for comment Tuesday. The group plans a 1 p.m. news conference today in The Pit to address the issue in more depth.

Last week, the matter piqued the interest of a national educational watchdog group and a U.S. congressman, each of whom criticized the university's handling of the situation.

The Foundation for Individual Rights in Education, a watchdog group, has questioned the constitutionality of the university's decision. And U.S. Rep. Walter Jones, a Farmville Republican, asked the U.S. Department of Education to investigate the matter, calling it the latest example of "abusive policies" at Carolina.

UNC Chancellor James Moeser was not available for comment Tuesday. But he has repeatedly defended the university's actions, emphasizing that all student groups must adhere to the policy.

The issue has nothing to do with politics, Moeser stressed in an interview last week.

"The university has no political position," he said. "Our decision on this issue is based entirely on the best legal advice we could get. What we're dealing with this is a legal interpretation of the U.S. Constitution, specifically the First and 14th amendments. We're trying to be faithful to the Constitution and federal statutes."

Moeser said the university is in the somewhat delicate position of balancing the two amendments. On the one hand, it must protect a student's right to free association -- protected by the First Amendment -- with the right to equal protection under law -- guaranteed by the Fourteenth Amendment.

Lorence, Alpha Iota Omega's attorney, sees no logic in the university's stance.

"The point of the Alpha Iota Omega fraternity is to evangelize or promote the beliefs of the Christian gospel," he said. "But the university is saying they have to allow people to disagree with that purpose. That's like telling the vegetarian club they have to allow in people who are meat eaters and hunters."

Constitutional scholars aren't of one mind on the matter.

William Marshall, a UNC law professor who has advised university officials on the constitutional issues involved in the flap, believes the university is in good legal standing as long as it applies the same policy to all its student groups.

"There's nothing that prohibits this organization from believing exactly what it wants to believe, and advocating exactly what it wants to advocate," Marshall said. "This group is entitled to no better or no worse treatment than any other group."

But Jefferson Powell, a Constitutional law professor at Duke University, said the answer isn't clear. While UNC has a clear interest in preventing discrimination, it must also be wary of infringing on the rights of a student or group to meet freely.

"On the one hand, the university has a serious interest in making sure student organizations supported by the university are open and welcoming," Powell said. "But I think it's a very bizarre notion that the university could tell a religious organization that it cannot maintain its identity."

The Alpha Iota Omega situation is similar, though not identical, to a controversy that emerged two years ago concerning another Christian student group, InterVarsity Christian Fellowship. The university originally withheld that group's official recognition and student fee funding, but later relented after drawing a distinction between the group's general membership -- which had to be open -- and its officer selection process, which could have some exclusivity.

In Alpha Iota Omega's case, the student group and its handful of fraternity brothers simply wanted to require all members to adhere to Christian beliefs.

It isn't clear whether Alpha Iota Omega has lost any student fee revenue as a result of its lost student recognition. UNC officials have said the group didn't receive any such money in at least the past two school years.

LOAD-DATE: August 26, 2004

Project ID: project

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