



Zach Greenberg <zach.greenberg@thefire.org>

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## Letter from the Foundation for Individual Rights and Expression, July 26, 2022

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Elizabeth Griffin [REDACTED]  
To: Zach Greenberg <zach.greenberg@thefire.org>  
Cc: Jacob A Belue [REDACTED], [REDACTED], Joseph Wheelless [REDACTED]

Tue, Aug 9, 2022 at 5:10 PM

Zach --

Thank you for your letter dated July 26, 2022 expressing concerns regarding VCU's new policy that a student must have earned 12 credits at VCU before being eligible to join a fraternity or sorority. I note that you mischaracterize this policy as "deferred recruitment." Chapters are not prohibited from recruiting in the fall semester. Further, VCU does not restrict any student from attending chapter recruitment events in either the fall or the spring semester, including students who have not yet met the credit-hour eligibility requirements for joining. Simply stated, students must meet the credit-hour requirement to be eligible to join a fraternity or sorority as a new member -- similar to a minimum grade-point average requirement -- but not to attend a recruitment event or otherwise associate or communicate with current members.

Due to summer vacations and preparations for the new semester, VCU will need a few more weeks to fully respond to you. In the meantime, I remind you of our correspondence last year in the context of VCU's decision to schedule fraternity and sorority recruitment in the spring semester. Specifically, I sent you a message on December 17, 2021 that included the following:

Our disagreement with your legal position remains the same given that your latest message restates the arguments you made in your initial letter to VCU, with the addition of quoted dicta from *Gay Alliance of Students v. Matthews*. While *Matthews* is controlling authority -- in fact, the case arose from the actions of VCU -- the action challenged, and found to violate the First Amendment, was the denial of registration for Gay Alliance of Students as a student organization with the attendant privileges of registration. As we have previously discussed, fraternities and sororities at VCU have not been denied registration for the fall 2021 semester and have been free to associate, conduct meetings, and engage in philanthropic and other activities during this time. The action by VCU to which you have taken issue is the decision to hold fraternity and sorority new member recruitment in the spring, rather than the fall, semester of the 2021-2022 academic year. You still have provided no controlling authority that brings into constitutional question this decision that essentially is one surrounding scheduling.

This followed my correspondence on October 13, 2021 in which I explained that two other cases on which you relied, *Iota Xi* and *Healy*, were easily distinguishable in that in both the university took action with regard to the recognition of a student organization. Your July 26 letter similarly relies on *Matthews*, *Healy*, and *Iota Xi* and cases that are not controlling in the Fourth Circuit. None of these cases deal with requirements a university places on students to be eligible to join a fraternity or sorority or other student organization. If you have controlling legal authority on this particular question, please send it to us to review and to consider in the context of VCU's more detailed response in a few weeks.

I look forward to hearing from you.

Elizabeth

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*\*Due to COVID-19 precautions, our surface mail delivery is significantly delayed. Please send all documents via email to this address.\**

M. Elizabeth Griffin  
Associate University Counsel  
VCU Office of University Counsel



