



March 25, 2024

Alan Garber
Office of the President
Harvard University
Massachusetts Hall
Cambridge, Massachusetts 02138

Sent via U.S. Mail and Electronic Mail (president@harvard.edu)

Dear Interim President Garber:

FIRE¹ is concerned by Harvard's policy that limits student organizations in co-sponsoring events and collaborating with non-Harvard and unrecognized organizations, because it excessively restricts students' associational and expressive rights, contradicts the university's commitment to free expression, and is impermissibly vague.² We accordingly urge Harvard to eliminate or properly tailor the policy to better align with the university's mission.

The policy at issue, the Student Organization Resource Guide's Restrictions on Co-sponsorship of Events, prohibits recognized student organizations from co-sponsoring events "with non-Harvard organizations or individuals," co-sponsoring "on-campus events with external or unrecognized organizations," or "collaborat[ing] with unrecognized social organizations (final clubs, fraternities, sororities) on campus."³ In doing so, the policy contradicts the "emphasis" Harvard places on its "values ... essential to its nature as an academic community," including freedom of speech and expression, free inquiry, and academic freedom.⁴ Notably, freedom of

¹ As you may recall from prior correspondence, the Foundation for Individual Rights and Expression is a nonpartisan nonprofit which for more than 20 years has defended freedom of expression, conscience, and religion, and other individual rights on America's university campuses. You can learn more about our mission and activities at thefire.org.

² The policy came to our attention after the cancellation of Harvard's John Adams Society's December 8, 2023, event on the future of U.S.-China relations for the asserted policy violation co-sponsoring with an outside organization. Sohrab Ahmari, *Harvard Cancels Congressman Who Mocked Harvard Cancellations*, THE AM. CONSERVATIVE (Dec. 12, 2023, 12:05 AM), <https://www.theamericanconservative.com/harvard-cancels-congressman-who-mocked-harvard-cancellations/>. This letter reflects our understanding of the pertinent information, but we appreciate that you may have additional information and invite you to share it with us.

³ *Student Organization Resource Guide*, Events, Restrictions on Co-sponsorship of Events, HARVARD COLL. DEAN OF STUDENTS OFFICE, 40, https://soco.college.harvard.edu/get_file?pid=4b4a164d2f7b7c385e85e186d9f4cb34620dfde72901937d0c128432d624f6d [<https://perma.cc/48QJ-7JZX>] (the "RSO Events Co-sponsorship Policy").

⁴ *Harvard College Student Handbook*, General Regulations, Resolution on Rights and Responsibilities, HARVARD COLL., 52, https://handbook.college.harvard.edu/sites/projects.iq.harvard.edu/files/collegehandbook/files/harvard_college_student_handbok_2023-2024.pdf [<https://perma.cc/MS8J-KVU5>] (Harvard administrators also

expression encompasses students' expressive right to associate with others in furtherance of their political, social, economic, educational, religious, and cultural ideas.⁵

These commitments are not only moral and contractual obligations to Harvard students,⁶ but are fundamental to the university's accreditation.⁷ And students reading these commitments would naturally look to First Amendment jurisprudence to understand the nature and scope of their expressive rights.

Recognized student organizations may, at times, have an interest in joining other individuals or organizations—even those not associated with or recognized by the university—to achieve common goals.⁸ Harvard need look no further, as to the value of doing so, than to the extent to which the university itself appears to institutionally co-sponsor events with non-Harvard organizations and to reap the benefits of doing so.⁹ Yet it denies this same right and attendant benefits to its student organizations. When a university burdens a student organization's right to associate, it must narrowly tailor that burden to advance a compelling interest,¹⁰ such as maintaining safe learning environments free from substantial disruption or misconduct. The RSO Events Co-Sponsorship Policy, however, burdens far more associational freedom than is necessary for Harvard to achieve any proffered interest.

For example, the policy's restrictions reach co-sponsorships and collaborations that pose no cognizable health or safety threats to students and fall on recognized student organizations that may have no allegations or history of misconduct. It is also difficult to see how prohibiting *all* co-sponsored events with non-Harvard and unrecognized organizations and *all*

“must affirm, assure and protect the rights ... to organize and join political associations, convene and conduct public meetings, publicly demonstrate and picket in orderly fashion, advocate, and publicize opinion by print, sign, and voice.”).

⁵ *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984).

⁶ “[T]he relationship between a university and its students has a strong, albeit flexible, contractual flavor[.]” and it is well-established that “a student handbook, like the occasional employee handbook, can be the source of the terms defining the reciprocal rights and obligations of a school and its students.” *Dinu v. President & Fellows of Harvard Coll.*, 56 F. Supp. 2d 129, 130 (D. Mass. 1999).

⁷ The New England Commission of Higher Education, which accredits Harvard, requires accredited institutions to be “committed to the free pursuit and dissemination of knowledge.” *Standards for Accreditation*, Standard Nine Integrity, Transparency, and Public Disclosure, Integrity 9.3, NEW ENGLAND COMM’N OF HIGHER EDUC., 26 (effective Jan. 1, 2021), <https://www.neche.org/wp-content/uploads/2020/12/Standards-for-Accreditation-2021.pdf> [<https://perma.cc/FZU9-TCN3>].

⁸ See *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 933 (1982) (“[O]ne of the foundations of our society is the rights of individuals to combine with other persons in pursuit of a common goal.”). By combining with others, a student organization receives numerous benefits including increased exposure of an issue or viewpoint, additional funding and resources, networking opportunities, and credibility building.

⁹ See, e.g., *Career Fair*, HARVARD UNIV., <https://community.harvard.edu/event/career-fair> [<https://perma.cc/86MB-5KPM>] (“This career fair, in partnership with the Boston Resident Jobs Policy Bank, will offer a chance to explore diverse career paths, network with industry experts, and discover your next big step.”); see also *Harvard College Student Handbook*, *supra* note 4 at Unrecognized and Non-Harvard Organizations (permitting Harvard offices and departments “to co-sponsor educational programs” with “unrecognized student organizations whose membership consists entirely of Harvard College undergraduates”).


¹⁰ See *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 451 (2008); *Johnson v. City of Cincinnati*, 310 F.3d 484, 504 (6th Cir. 2002) (narrow tailoring requires a regulation to achieve its ostensible purpose without unnecessarily burdening rights).

collaborations with unrecognized organizations—without regard to the nature of the event or of the non-Harvard/unrecognized organization—is tailored to address safety, disruption, or misconduct. Courts notably have invalidated, as unconstitutionally burdensome of associational rights, restrictions less onerous than those identified here.¹¹ For example, a university’s ban on a single student group’s social event “substantial[ly] abridg[ed]” its associational rights given “the important role that social events can play in individuals’ efforts to associate to further their common beliefs.”¹²

The RSO Events Co-sponsorship Policy also suffers the separate flaw of impermissible vagueness insofar as it fails to define “co-sponsor” and “collaborate,” leaving students without guidance regarding what activities the policy prohibits.¹³ It is unclear, for example, if co-sponsoring encompasses simply accepting funds from a non-Harvard organization not otherwise involved in the event, or if the non-Harvard organization must have an active role in planning or executing the event. Students are also left in the dark as to whether collaborating is limited to official events with an unrecognized organization or if it includes any joint activity, such as meetings, projects, or socializing, without regard to the joint activity’s extent or duration. Such vagueness impermissibly chills a range of activity, including expressive activities, as student organizations will justifiably self-censor. This could include, for example, opting not to support unrecognized organizations on campus or on social media to avoid potential discipline, and refraining from participating in volunteer and leadership opportunities that unrecognized organizations host, out of fear the university may deem participation as “collaboration.”

Due to the ongoing threat the RSO Events Co-sponsorship Policy poses to students’ associational and expressive freedoms, we request a substantive response to this letter no later than close of business April 8, 2024, confirming Harvard will eliminate or properly tailor the policy to better align with the university’s mission. To that end, FIRE would be pleased to work with your administration—free of charge—to revise the policy.

Sincerely,



Haley Gluhanich
Program Officer, Campus Rights Advocacy

Cc: JonRobert Bagley, Associate Director of Student Organizations and Resources
Jason Meier, Associate Dean of Student Engagement

¹¹ *Gay Students Org. of the Univ. of N.H. v. Bonner*, 509 F.2d 652, 659–60 (1st Cir. 1974); cf. *NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 462–63 (1958) (compelling disclosure of membership lists was “a substantial restraint upon the exercise by [NAACP chapter] members of their right to freedom of association”).

¹² *Gay Students*, 509 F.2d at 659–60.

¹³ *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972) (regulations must “give a person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly”).