



September 11, 2015

President Guy Altieri
Hagerstown Community College
ASA-100
11400 Robinwood Drive
Hagerstown, Maryland 21742

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

Dear President Altieri,

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 liberty, legal equality, academic freedom, due process, freedom of speech, and freedom of conscience on America's college campuses. Our website, thefire.org, will give you a greater sense of our identity and activities.

FIRE is concerned by Hagerstown Community College's (HCC's) unconstitutional denial of recognition to the prospective student group Turning Point USA (TPUSA) on the basis of, among other factors, its purported similarity to an existing student group, the Political Science Club. In accordance with its moral and legal obligations to respect its students' constitutional right to freedom of association, HCC must overturn its denial of recognition to TPUSA.

The following is our understanding of the facts; please inform us if you believe we are in error.

On August 17, 2015, HCC student Moriah DeMartino emailed Student Activities Coordinator Heather B. Barnhart to follow up on an earlier meeting they had had about DeMartino's interest in starting a TPUSA chapter at HCC. TPUSA's mission, according to the national organization's website, is as follows:

Turning Point USA educates students about the importance of fiscal responsibility, free markets, and capitalism. Through non-partisan debate, dialogue, and discussion, Turning Point USA believes that every young person can be enlightened to true free market values.

TPUSA further outlines that it aims to carry out its mission by "educat[ing] students about the importance of fiscal responsibility, limited government, and free markets" and "organiz[ing]

young activists in chapters and networks on colleges across the country,” among other activities.

In her email, DeMartino inquired about whether Barnhart had spoken to Jessica A. Chambers, Dean of Student Affairs, regarding her desire to start a TPUSA chapter, since prospective student groups are required to get approval from both Barnhart and Chambers for recognition. In a response email, Barnhart notified DeMartino that, after speaking to Chambers and Director of Public Information and Government Relations Beth Kirkpatrick, she had decided that DeMartino would not be permitted to start a TPUSA chapter at HCC. She also outlined the circumstances under which a campus “Republican Club” would be allowed to form. Barnhart’s August 17 email to DeMartino stated in part:

You and I can talk about the club tomorrow, but the highpoints are:

- a. We can start a Republican Club, but not a Turning Point USA Club, though club members can belong to that national organization.
- b. We can start a Republican Club as long as we also start a Democrat Club at the same time

Campus Reform, a campus news organization, reached out to DeMartino, and first reported the story on August 26, 2015. *Campus Reform*’s Lauren Houck contacted Barnhart, who then informed her, according to Houck’s reporting, that HCC does not “start new clubs that duplicate the purpose and mission of existing clubs.”

Houck then contacted Chambers, who in a letter to Houck dated August 26 confirmed Barnhart’s rejection of TPUSA. Chambers additionally contradicted Barnhart’s earlier comments about starting new political clubs at HCC, then saying that no new organizations were necessary, as the existing Political Science Club would be sufficient to suit the students’ interest. As Chambers wrote to Houck, in full:

As you know, Moriah DeMartino inquired about the possibility of establishing a TurningPoint USA club on the campus of Hagerstown Community College. Upon review of her inquiry, I determined that this request does not meet the necessary requirements to allow my approval for the club’s formation. The reason for my decision is based on several things, including the first statement listed under “Starting a Club” on page two of HCC’s Club Guide. It states the following:

The first step to create a new club on campus is to research existing clubs to be sure the mission and purpose are not duplicated.

HCC continues to have an active Political Science Club, under the advisement of Dr. Eric Schwartz, instructor of political science at HCC. The purpose of the club is to further educate and expose its members to the principles of political science in a true objective manner with respect to all student rights.

The objectives of the Political Science Club are quite broad and include non-partisan, but inclusive, political engagement, political learning, and political instruction. Student learning outcomes have been established to engage students in a collaborative learning environment to develop and deepen their knowledge of political structures. Furthermore, they will develop a normative appreciation of elements that characterize politics in the United States [sic], elements such as democracy, freedom of speech, human rights, market distribution of goods and services, provision of public goods, collective action dilemmas, and free rider problems.

After further review of the mission, purpose, and activities of the Political Science Club, I have determined that both Republicans and Democrats, as well as any other political parties, are able to be fairly represented as members of the currently existing club, without the creation of any additional clubs. This decision is further supported by board-approved policies that guide student services and student life on campus. As such, I encourage Moriah to seek active participation in HCC's Political Science Club.¹

HCC's denial of official recognition to TPUSA, based on faulty assumptions and contradictory reasoning, violates its obligations under the First Amendment, and must be overturned immediately.

That the First Amendment's protections fully extend to public institutions like HCC is settled law. *See Widmar v. Vincent*, 454 U.S. 263, 268–69 (1981) (“With respect to persons entitled to be there, our cases leave no doubt that the First Amendment rights of speech and association extend to the campuses of state universities”); *Healy v. James*, 408 U.S. 169, 180 (1972) (“[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (citation omitted).

In keeping with its constitutional obligations, HCC must employ only content- and viewpoint-neutral criteria in the recognition and funding of student organizations. *See Board of Regents of the University of Wisconsin System v. Southworth*, 529 U.S. 217, 233 (2000) (“When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others.”); *Rosenberger v. Rectors of the University of Virginia*, 515 U.S. 819, 836 (1995) (“For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation’s intellectual life, its college and university campuses.”); *Widmar*, 454 U.S. at 277 (holding that after university had “created a forum generally open to student groups,” the “content-based exclusion of religious speech . . .

¹ HCC's arguments in support of rejecting TPUSA's recognition were repeated in a statement posted to its website September 2. *See* <http://www.hagerstowncc.edu/news-events/hcc-responds-turning-point-usa-request>.

violates the fundamental principle that a state regulation of speech should be content-neutral”).

In violating TPUSA’s rights, HCC relies on logical fallacies and faulty assumptions that do not withstand scrutiny.

HCC may not, as Barnhart initially did, refuse to grant a club recognition simply because a club with opposing views has not yet been founded. This impracticable, unwritten requirement is nowhere listed on HCC’s “Starting a New Club” section of its 2014–15 “Club Guide,” which states that new clubs must satisfy only the following neutral criteria to be recognized:

1. Find a full or part time HCC faculty or staff member to be a club advisor.
2. Find at least three student members who will act as officers.
3. Complete the application materials (application, constitution, budget) and submit to the Student Activities Coordinator. . . .

HCC’s unwritten requirement on student groups not only is unconstitutional, but also raises immediate concerns about unfair double standards. One could argue, for example, that HCC’s recognition of The Christian Fellowship Club, currently the only religious group listed on HCC’s “Clubs & Organizations” page, would be in violation of this unwritten policy. If a multitude of viewpoints must be represented on campus for students to form a group to express *one* viewpoint, then HCC could logically require that Jewish, Muslim, Buddhist, atheist, and other faith-based or humanist groups be active on campus at the same time. This is unsustainable and unconstitutional. A student group’s ability to form on campus is not contingent on the desire of opposing groups to do the same. If a Republican group demonstrates the necessary student interest and satisfies all requirements for forming, it must be allowed to form. If a Democratic group does the same, it too must be allowed to form. The same goes for TPUSA.

Chambers’ subsequent argument that TPUSA’s mission and goals duplicate those of the Political Science Club is flatly incorrect. Indeed, a comparison of the organizations’ respective missions reveals material differences. The Political Science Club, according to its most recent “Syllabus,” “was formed to enhance the instruction of political science” and aims, among other things, “to provide an environment where politics can be discussed in a civil and thoughtful manner.” Its described activities, including “host[ing] political discussions with state political figures” and “tour[ing] the governmental institutions in the nation’s capital,” are broadly aimed at providing general education about the political process. TPUSA, as previously discussed, has far different goals—namely, the nurturing of grassroots activists working specifically for certain causes. Chambers’ assumption that students will happily forego recognition of a TPUSA chapter to be members of the Political Science Club, which shares almost none of TPUSA’s goals, is unsupportable.

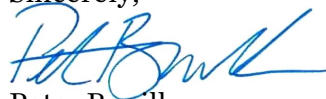
Further, Chambers’ contention that the Political Science Club renders not only TPUSA but also prospective Democratic and Republican clubs and clubs of any other political party or label

unnecessary is deeply worrying. It simply does not follow that students prevented from starting such groups will be equally happy to take up membership in the Political Science Club. (HCC made this same mistake earlier, when Barnhart suggested DeMartino form a Republican Club instead of a TPUSA chapter.) While the Political Science Club's mission and activities could indeed appeal to students who identify as Democrats and Republicans, as well as those who identify as neither, the leap HCC makes in declaring that the Political Science Club obviates the need for separate clubs is impermissible. Democrats and Republicans have different philosophies, and they must be allowed to associate around those philosophies as they choose without being forced to subsume their missions to those of other organizations at HCC's whim. HCC's action gives substantial cause for concern that, in effect, HCC administrators enjoy essentially unfettered discretion to approve or deny clubs as they personally see fit, in violation of the First Amendment. As the Supreme Court of the United States has stated, "a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." *Shuttlesworth v. Birmingham*, 394 U.S. 147, 150-51 (1969).

By withholding TPUSA's recognition and stifling political debate and discussion on campus, HCC deprives students of a valuable learning experience and denies their rights under the First Amendment. HCC must consider TPUSA's application for recognition using only narrow, content- and viewpoint-neutral criteria, and must recognize the group should it meet all valid requirements.

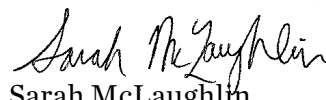
We appreciate your attention to these important concerns and hope to soon commend Hagerstown Community College for rectifying this situation. We request a response to this letter by September 25, 2015.

Sincerely,



Peter Bonilla

Director, Individual Rights Defense Program



Sarah McLaughlin

Program Officer, Individual Rights Defense Program

cc:

Jessica A. Chambers, Dean of Student Affairs

Heather B. Barnhart, Student Activities Coordinator