



Foundation for Individual Rights in Education

601 Walnut Street, Suite 510 • Philadelphia, Pennsylvania 19106
T 215-717-3473 • F 215-717-3440 • fire@thefire.org • www.thefire.org

Greg Lukianoff
PRESIDENT

Robert L. Shibley
VICE PRESIDENT OF
OPERATIONS

Samantha K. Harris
DIRECTOR OF LEGAL AND
PUBLIC ADVOCACY

Alan Charles Kors
CO-FOUNDER AND
CHAIRMAN EMERITUS

BOARD OF DIRECTORS

Harvey A. Silverglate
CO-FOUNDER AND
CHAIRMAN

William J. Hume
Joseph M. Maline
Marlene Mieske
Daphne Patai
Virginia Postrel
James E. Wiggins

BOARD OF ADVISORS

Lloyd Buchanan
T. Kenneth Cribb, Jr.
Candace de Russy
William A. Dunn
Benjamin F. Hammond
Nat Hentoff
Roy Innis
Wendy Kaminer
Woody Kaplan
Leonard Liggio
Herbert London
Peter L. Malkin
Milton Rosenberg
John R. Searle
Ricky Silberman
Christina Hoff Sommers

March 16, 2007

President Michael Rao
Office of the President
Central Michigan University
Warriner Hall
Mount Pleasant, Michigan 48859

Sent by U.S. Mail and Facsimile (989-774-3665)

Dear President Rao:

As you can see from our Directors and Board of Advisors, FIRE unites civil rights and civil liberties leaders, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, due process, legal equality, freedom of speech, religious liberty, and, in this case, freedom of association on America's college campuses. Our web page, www.thefire.org, will give you a greater sense of our identity and activities.

FIRE is deeply concerned about the threat to freedom of association posed by Central Michigan University's (CMU's) policy forbidding secular, ideologically based student groups from limiting membership to students with shared political or ideological beliefs.

This is our understanding of the facts; please inform us if you believe we are in error. Young Americans for Freedom (YAF) is a Registered Student Organization (RSO) at CMU. In Article I, Section 2 of its constitution, YAF describes itself as "a conservative non-partisan, non-sectarian voluntary educational organization at Central Michigan University." Article I, Section 3 of the constitution states that YAF is governed by the Sharon Statement of 1960.

YAF members have informed FIRE that following an attempt by the CMU student government to derecognize YAF last February, students from an assortment of liberal groups began attending and disrupting YAF meetings. Some students established a group on Facebook.com for "People who believe the Young Americans for Freedom is a Hate Group." On February 13, 2007, two members of the Facebook group posted messages on the group's "wall" about possible ways to get YAF expelled from campus. One student wrote the following:

The best way to get rid of them, is for everyone in this group to go to their meetings and we all vote eachother [sic] on to the eboard [sic] and dissolve the group.

Another thing we can do is make it public that we intend to bring in a ton of people and watch them change their membership requirements which might make them slip up and break a cmu [sic] discrimination policy.

Concerned for the future of YAF at CMU but wishing to abide by university policies, YAF President Dennis Lennox II e-mailed Assistant Director of Student Life Thomas H. Idema, Jr., on February 20, 2007 to inquire if YAF could lawfully deny membership to “someone who disagrees with us or our stated purpose.” Lennox cited the YAF constitutional requirement that members be “like-minded students.”

Idema responded in an e-mail by quoting from the non-discrimination clause of the RSO Manual, which states, “[a]n RSO may not discriminate in its membership criteria or leadership criteria on the basis of age, color, disability, gender, familial status, height, marital status, national origin, political persuasion, race, religion, sexual orientation, veteran status, or weight.” Idema clarified, “[y]ou will notice it mentions membership and political persuasion. Based on that, I would tell you that you may not require members to be ‘like-minded’ as that opens yourself up to discrimination based on political persuasion.”

Denying a political or ideological RSO the right to associate with other students who share the group’s beliefs threatens the freedom of association and freedom of expression to which all CMU students are entitled by law. Any expressive organization at CMU is entitled to the full protections of the First Amendment, including the right to exclude students who disagree with the purpose and mission of the organization. The U.S. Supreme Court unequivocally reaffirmed its commitment to this principle in *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000). In that decision, the Court pointed out 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, religious, and cultural ends.” This right, the Court proclaimed, is “crucial in preventing the majority from imposing its views on groups that would rather express other, perhaps unpopular, ideas.” Consequently, the Court held that “forced inclusion of an unwanted person in a group infringes the group’s freedom of expressive association if the presence of that person affects in a significant way the group’s ability to advocate public or private viewpoints.” Full freedom of association is a basic principle guaranteed by the First Amendment, and as a public institution of higher learning, CMU has a moral and legal obligation to uphold its students’ First Amendment rights.

CMU’s policy on membership in religious RSOs recognizes the importance of allowing student organizations to choose their membership on the basis of shared beliefs. The RSO Manual’s non-discrimination clause states that “[a] religious-oriented RSO may use religious beliefs as a criterion for selection of membership or leadership to the extent required by the goodfaith religious beliefs of that RSO except that the use of this criterion may not result in discrimination based upon race, color, national origin, sex, handicap or age.” If groups with a shared religious ideology are able to determine their membership based upon students’ religious beliefs, then why are groups with a shared secular ideology not granted that same right? All expressive

student organizations—especially those based upon political beliefs—have an interest in preserving their specific ideological character. CMU’s Students Against Discrimination, for example, should be able to deny membership to students advocating discrimination, and the Gay/Straight Alliance should likewise have the right to exclude homophobes. This necessity is even more pronounced in the case of YAF, since students hostile to its mission have explicitly and publicly sought to undermine the organization. Both YAF members’ constitutional rights and the continued existence of the organization at CMU require the university to allow the group to deny membership to students who do not support YAF’s principles.

FIRE urges Central Michigan University to act immediately to correct this ongoing injustice by allowing Young Americans for Freedom, and all registered student organizations at CMU, to choose members on the basis of their political viewpoints. FIRE further requests that CMU establish a clear policy stating that any group with an expressive purpose—be it religious or secular—may determine its membership on the basis of support for its mission.

FIRE hopes that this matter can be resolved amicably and swiftly, with fairness, common sense, and respect for the principle of free association. We are, however, committed to using all of our resources to seeing this matter through to a just and moral conclusion. Because of the urgency of this situation and the continuing violation of YAF’s constitutional rights, we request a response by March 30, 2007.

I look forward to your response.

Sincerely,

Tara E. Sweeney
Senior Program Officer

cc:

E. Gary Shapiro, Interim Executive Vice President and Provost, Central Michigan University
Bruce Roscoe, Dean of Students, Central Michigan University
Mike Owens, Associate Dean of Students, Central Michigan University
Tony Voison, Director of Student Life, Central Michigan University
Thomas H. Idema, Jr., Assistant Director of Student Life, Central Michigan University
Dennis Lennox II