



Foundation for Individual Rights in Education

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November 11, 2004

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William L. Jenkins
Interim Chancellor
Office of the Chancellor
Louisiana State University
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Dear Chancellor Jenkins:

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, voluntary association, freedom of speech, and religious liberty on America's college campuses. Our web page, www.thefire.org, will give you a greater sense of our identity and activities.

We consider this matter to be of the utmost urgency, with the most essential constitutional and moral values at stake. We understand that Louisiana State University is requiring the Muslim Students Association (MSA) to add language to its constitution that would prevent the group from using its faith to decide its membership. LSU has told the group that it will not be officially recognized as a student organization if it chooses not to include this language. In other words, the Muslim group would have to relinquish its right to decide to be run by Muslims and in accordance with the Muslim faith if it wishes to exist at LSU. It should be obvious that this unlawfully and immorally tramples the group's associational, religious, and free speech rights.

This is our understanding of the facts, gathered from student accounts and additional documents. Please correct any factual misunderstandings, if any exist. At the start of fall 2003, the Muslim Students Association, which has existed on campus for over 30 years, was told that in order to re-register it was required to revise its constitution to include a clause that states, "No student...can be denied

membership on the basis of race, color, religion, sex, national origin, age, disability, marital status, veteran's status, or sexual orientation." MSA leaders immediately spoke with Associate Dean of Students Kathleen White about their concerns. They explained to White that such a statement of nondiscrimination would be contradictory to the group's religious beliefs. Furthermore, contrary to White's claim that all organizations would be required to abide by the new university policy, MSA leaders have contacted other registered organizations and several Christian organizations who stated that they were not asked to make this change.

Because the MSA refused to adopt the clause, the university immediately derecognized it and revoked all of its privileges. When the MSA students contacted Dean of Students Kevin Price, he merely reiterated White's claim that all student organizations had to comply with the policy. In the fall of 2004, the MSA met with Associate Dean White to revisit the issue. White then claimed that *most*, not all, existing organizations were being asked to comply with the nondiscrimination policy. Upon the MSA leaders' request, White stated that she would provide them a list of all organizations being contacted; however, the MSA has not heard from her since.

The MSA's refusal to give up its right to use religious criteria to decide its identity has resulted in its becoming a nonentity on campus. The MSA may not use on-campus facilities, raise funds, sponsor speakers and public performances, distribute literature, or other benefits granted to student organizations. Furthermore, no other previously existing groups seem to have been asked by the university to adopt the nondiscrimination clause.

Forbidding a religious group from organizing on campus for refusing to adopt a nondiscrimination statement that denies LSU students' right to define themselves as a religious group threatens the freedom of association, freedom of expression, and free exercise of religion for all of your students. LSU, as a public institution, is legally obligated to uphold these constitutional rights. Furthermore, forcing a religious student organization to state that it does not discriminate on issues of faith violates not only the constitutional rights of its members, but also their moral and human rights.

If LSU allows expressive organizations to exist on its campus at all, then it must allow religious organizations to exist, to define their missions, to select their own members, and to establish policies and practices in pursuit of their goals. No group can control the delivery of its message if it is unable to define its message and membership. The U.S. Supreme Court reaffirmed its commitment to this principle in *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000). In this 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 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."

LSU, as a public institution of higher education, cannot and must not forbid religious student organizations from determining their mission and membership based on issues of faith. A Muslim organization has a right to be Muslim. A Jewish organization has a right to be Jewish. A Christian organization has a right to be Christian. It is tyranny, not tolerance, to prohibit such voluntary associations. At public universities, it is also a denial of core constitutional rights. LSU may not dictate the beliefs of its students, nor may it prohibit the exercise of those beliefs. As Supreme Court Justice Robert Jackson concluded more than fifty years ago in *West Virginia Board of Education v. Barnette* (1943), "[I]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what will be orthodox, in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." LSU administrators, as agents of the state of Louisiana, are indeed such officials. Any religious student organization at LSU is entitled to the full protections of the U.S. Constitution, including the right to exclude from its mission statement anything that would hinder its ability to effectively convey its message.

LSU should be aware that this fall, FIRE successfully concluded a case at Ohio State University concerning a proposed policy similar to that at issue at LSU. In that case, Ohio State was planning to adopt a policy requiring student organizations not to discriminate on the basis of "religion." FIRE intervened with a letter to Ohio State's president on behalf of a broad interfaith coalition of Muslim and Christian student organizations that believed that the policy interfered with the First Amendment's guarantees of religious freedom and free association. FIRE's effort coincided with that of the Christian Legal Society, which filed a lawsuit asserting the same claims against Ohio State. As a result, Ohio State agreed to change its "nondiscrimination" policy so that faith-based groups at the university would be granted their right to make decisions based on the tenets of their faiths. Rutgers University in New Jersey, Tufts University in Massachusetts, and Purdue University in Indiana have made similar decisions to respect religious belief. You may wish to read more about FIRE's efforts to defend religious freedom on these and other campuses across the nation at www.thefire.org/religiousliberty.


FIRE requests that Louisiana State University act immediately to correct this ongoing injustice by officially recognizing the Muslim Students Association and other faith-based groups potentially denied recognition under this policy, and by restoring to its students the essential rights of freedom of religion, expression, and association guaranteed by the U.S. Constitution. FIRE further requests that LSU establish a clear policy stating that groups with an expressive purpose may define their mission and membership on the basis of beliefs that reflect that purpose, and that to the extent to which any nondiscrimination policy violates this principle,

expressive groups will be exempted from it. Honoring the rights and dignities of its students does not mean that LSU endorses the particular message of any particular student group—it signifies only that the university recognizes and respects the basic liberties that belong to all of its students.

We hope to see this matter resolved with fairness, common sense, and respect for the principle of legal equality. Because of the urgency of this situation and the continuing violation of the MSA's constitutional rights, please respond to us by Friday, November 19, 2004.

I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'D' followed by 'F' and 'French'.

David French
President

cc:

Risa Palm, Executive Vice Chancellor for Academic Affairs and Provost, Louisiana State University

F. Neil Mathews, Vice Chancellor, Louisiana State University

Kevin S. Price, Dean of Students, Louisiana State University

Kathleen C. White, Associate Dean, Louisiana State University

Katrice Albert, Director, Office of Multicultural Affairs, Louisiana State University

Mohammad Inamullah, General Secretary, Muslim Students Association at Louisiana State University