



Foundation for Individual Rights in Education

210 West Washington Square, Suite 303 · Philadelphia, PA 19106

Tel: 215.717.3473 · Fax: 215.717.3440 · fire@thefire.org · www.thefire.org

David French
PRESIDENT

March 23, 2005

Greg Lukianoff
DIRECTOR OF LEGAL AND
PUBLIC ADVOCACY

President Hermann Viets
President's Office
Milwaukee School of Engineering
1025 North Broadway
Milwaukee, Wisconsin 53202-3109

BOARD OF DIRECTORS

Alan Charles Kors
CHAIRMAN

Harvey A. Silverglate
VICE CHAIRMAN

William J. Hume
Joseph M. Maline
Michael Meyers
Marlene Mieske
Daphne Patai
Virginia Postrel
Ed Snider
James E. Wiggins
Kenny J. Williams (d. 2003)

BOARD OF ADVISORS

David Brudnoy
Lloyd Buchanan
T. Kenneth Cribb, Jr.
Candace de Russy
William A. Dunn
Thor L. Halvorssen
Benjamin F. Hammond
Robert E. Hanrahan, Jr.
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

URGENT

Sent by U.S. Mail and Facsimile (414-277-7468)

Dear President Viets:

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 and—in the matter of the ReJOYce in Jesus Campus Fellowship—voluntary association, freedom of speech, and religious liberty on America's college campuses. Our web page, 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 legal and moral values at stake. We understand that the Milwaukee School of Engineering (MSOE) Student Government Association (SGA) is requiring the ReJOYce in Jesus Campus Fellowship (RJCF) either to revise a statement in its constitution that would allow the group to discriminate on matters of faith in its voting membership or to be refused recognition. In other words, if it wishes to exist at MSOE, this Christian group will have to relinquish its right to decide to be run in accordance with its practice of the Christian faith. It should be obvious that this tramples the group's associational, religious, and freedom of speech rights. To prevent religious students from associating based on their belief is unbecoming of a college that claims to believe in strong personal values, freedom, and diversity, and violates MSOE's own policies.

This is our understanding of the facts as provided by RJCF. Please correct any factual errors if they exist. From 1993 to 2002, RJCF was an active and officially recognized student organization at MSOE. The group's constitution has remained unchanged during that time until now. During the 2003–2004 school year, the organization did not re-register because of a lack of active student membership. In the fall of 2004, RJCF submitted its original constitution and bylaws as part of

the application process to once again become an officially registered student organization for that school year.

On January 31, 2005, the SGA sent RJCF a letter (**attached**) stating that it would not approve RJCF because RJCF discriminates on the basis of “sexual preference.” In its letter, the SGA states that allowing such “discrimination” would violate its duty to prevent “discrimination based on any class which is protected by the statutes for the state of Wisconsin, by the University Policies of The Milwaukee School of Engineering, or any other regulatory body who holds jurisdiction over us” (sic). Furthermore, the SGA expressed concerns that the membership requirements were not “quantitative in an enforceable manner and as such [members] cannot be properly disciplined without prejudice or bias.” Since then, the SGA granted RJCF “temporary status” extended until March 28. During this time, SGA expects RJCF to revise its constitution to address SGA’s concerns in order to receive official recognition.

The section in question—Article V, Section A, of RJCF’s bylaws—states:

A **voting member** of this organization shall not commit those acts which are expressly forbidden in Scripture, including idolatry, premarital or extramarital sex, **homosexual behavior**, drunkenness, coveting, theft, profanity, occult practices and dishonesty. (As adopted, or amended, February 7, 1993) (Exodus 20:1-17; Lev.18:22; Deut.18:10-11; Rom.1:18-32; 1 Cor.5:9-13, 6:18-19; Eph.5:1-12) [Emphasis added.]

RJCF believes that these “Standards of Personal Conduct” are consistent with the expressive purpose of the organization to “promote the teachings of Jesus Christ according to the Holy Bible...geared toward...loving and serving one’s fellow man, and adopting standards of Christian living as such standards are set forth in the Holy Bible.” These standards have been the same for over ten years.

For SGA officials to claim that a religious group cannot define its voting membership based on such religious criteria denies RJCF the right to freely associate as a religious group and threatens the freedom of association and free exercise of religion for all of MSOE’s students.

Additionally, there is no provision of state or federal law that prevents religious organizations from governing themselves according to religious principles—even when those principles place restrictions on the sexual behavior of members of the organization. While, as a private institution, MSOE is not obligated to the First Amendment, it is legally obligated to uphold the promises that it has made to students in its policies. MSOE’s “Policy Regarding On-Campus Religious Activities” states:

MSOE encourages spiritual exploration and moral and ethical formation as desirable components of students’ personal growth and development. On the other hand, **the university asserts every individual’s right to make spiritual choices freely, and to form religious associations without coercion or constraint.** [Emphasis added.]

Members of the SGA, acting as student administrators of MSOE, have indeed violated RJCF’s legal right “to make spiritual choices freely” and to associate “without coercion or constraint.” Preventing a religious student organization from discriminating on issues of faith such as

homosexual behavior violates not only the legal rights of its members, but also their moral and human rights.

Furthermore, the organization's bylaws clearly state that "[a]ttending members of this organization shall not be required to meet any of the requirements for voting membership, and are welcome to attend any meeting, event or program of this organization so long as they are not conducting themselves in an unlawful or disruptive manner, or are seeking to cause undue strife or division within this organization." RJCF also states in its constitution that, consistent with its expressive purpose, its "campus programs and activities shall be free from unlawful discrimination.... [A]ll people shall be invited or welcome to attend RJCF's campus programs and activities without discrimination on the basis of...sexual orientation."

MSOE's student handbook lists other expressive organizations on campus such as OUT and the Society of Women Engineers (SWE). Surely, MSOE would not force OUT, which exists "to promote the welfare of gay, lesbian, bisexual and transgender (GLBT) students, faculty staff and administrators at MSOE" to accept those who are hostile to promoting the welfare of GLBT individuals. Nor would MSOE force SWE, which exists in part to support "young women considering engineering," to include members who believe that women should not enter the field of engineering. Why, then, should RJCF be prevented from having a voting membership made up of individuals voluntarily associating on the basis of their particular doctrinal commitment to the Christian faith and from excluding those who do not share the same beliefs?

If MSOE allows expressive organizations to exist on its campus at all, it should 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. This principle is exemplified in the U.S. Supreme Court's decision 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." As a private institution with policies guaranteeing freedom of religious association on campus, MSOE should follow the Court's example in protecting the same fundamental freedoms guaranteed by the First Amendment.

MSOE should be aware that FIRE has successfully concluded religious liberty and freedom of association cases at other private universities facing situations similar to this one. For example, Tufts University in Massachusetts derecognized a Christian student group for wanting to discriminate, based on its religious beliefs, on the issue of homosexuality. After FIRE intervened, Tufts eventually decided to respect its students' legal and moral rights to religious liberty and freedom of association. At the Catholic University of America, FIRE also defended the right of students to organize an NAACP chapter on campus after CUA attempted to prevent its recognition by claiming its existence would be "redundant" and that it would violate the

university's adherence to Catholic beliefs by being "pro-choice." After FIRE reminded CUA of its obligation to legal equality and its own promises of students' rights to freedom of association, CUA decided to recognize the NAACP student chapter. You may wish to read more about FIRE's efforts to defend free speech, religious freedom, and freedom of association on these and other campuses across the nation at thefire.org/freespeech.

FIRE requests that Milwaukee School of Engineering act immediately to correct this ongoing injustice by officially recognizing the ReJOYce in Jesus Campus Fellowship and any other faith-based groups that may have been denied recognition by the SGA for similar reasons, and restore to its students the essential rights of freedom of religion and association guaranteed by MSOE policies. FIRE furthermore requests that MSOE administrators and its student government association review the institution's legal and moral obligations to treat expressive student organizations equally and according to the school's promises. Honoring the rights and dignities of its students does not mean that MSOE endorses the particular message of any particular student group—it signifies only that the school 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. We understand that RJCF is currently operating under temporary status until 1 p.m. on Monday, March 28, 2005. Because of the urgency of this situation and the continuing violation of RJCF's rights, we request that you extend the group's temporary status until Monday, April 4, and that you respond to us by that date.

Sincerely,



David French
President

cc:

Robert J. Hillis, Chairman, Board of Regents, Milwaukee School of Engineering
Patrick Coffey, Vice President of Student Life, Milwaukee School of Engineering
Richard Gagliano, Director of Student Activities, Milwaukee School of Engineering
Ray Allen, President, Student Government Association, Milwaukee School of Engineering
Daphne Wilson, Alumni Advisor, ReJOYce in Jesus Christian Fellowship

Encl.