



CHRISTIAN LEGAL SOCIETY

Seeking Justice with the Love of God

December 5, 2011

Mr. Mark F. Dalton
Chairman
Vanderbilt University Board of Trust
305 Kirkland Hall
Nashville, Tennessee 37240

Chancellor Nicholas Zeppos
Vanderbilt University
211 Kirkland Hall
Nashville, Tennessee 37240

Dear Chairman Dalton, Chancellor Zeppos, and Members of the Board of Trust:

The Christian Legal Society student chapter at Vanderbilt University Law School requests that the University restore protection of student religious groups' ability to choose their leaders according to their religious beliefs. This was the status quo for many years until April, when religious groups were told they no longer could require their leaders to share their religious beliefs. We deeply appreciate the Board's careful consideration of this matter, which is vitally important to many in the Vanderbilt community.

The ability of religious groups to ensure that their leaders share the groups' religious beliefs is fundamental to religious liberty. Nondiscrimination policies serve important purposes. But to use a nondiscrimination policy that is intended to *protect* religious students to *penalize* those students actually undermines the University's nondiscrimination policy and the essential good it serves.

A. The factual context: This April, several religious organizations, including CLS, were told that their constitutions, which had been accepted in prior years, were no longer acceptable and that they must submit new constitutions in order to retain recognition as a student organization. Thus, several religious organizations that had been registered student groups at Vanderbilt for many years had their approval to register as student organizations "deferred" for the 2011-2012 academic year. The deferral was based on their practice, common to many religious groups, of requiring their leaders to affirm that they share the groups' core religious beliefs.

Recognition as a student group allows a student group to reserve meeting space for meetings and activities, publicize meetings through campus channels of communication, attract new members through the organizational fair in the fall, and apply for funding to bring speakers

to campus. Practically speaking, without recognition, a student organization cannot exist on campus. CLS submitted a revised constitution on June 1st.

On August 9th, a University administrator informed the CLS student chapter that its registration was again “deferred” because its constitution provided that “[e]ach officer is expected to lead Bible studies, prayer, and worship at Chapter meetings.” The administrator stated: “This would seem to indicate that officers are expected to hold certain beliefs. Again, Vanderbilt policies do not allow this expectation/qualification for officers.” (Attachment A).

The administrator also took exception with CLS’s requirement that its leaders agree with its basic statement of faith. According to the University, “Vanderbilt’s policies do not allow any student organization to preclude someone from a leadership position based on religious belief. Only performance-based criteria may be used.”

On August 12th, CLS sent a letter to the Chancellor in hopes that the administrator’s email did not represent the University’s actual policy. (Attachment B). The conciliatory letter explained why religious groups need to ensure that their leaders share their religious beliefs and how the University’s own religious diversity would suffer if traditional religious groups were excluded from campus. No response was received. In an October 28 meeting between student leaders of religious groups and University administrators, the administrators reiterated that religious groups must jettison their religious requirements for leaders in order to be recognized.

B. The policy change is not required by any federal or state law, regulation, or court ruling: As six leading scholars on religious liberty have explained, the University’s policy change is not necessary to comply with any federal or state law or regulation. Nor does any court ruling require a policy that prohibits religious groups from having religious leaders. (Attachment C).

This is further borne out by a letter from twenty-three members of Congress, including Representatives Marsha Blackburn (TN-07) and Diane Black (TN-06), who observe that “[s]electing leaders that best represent a student organization’s mission is not discrimination; it is common sense.” Their letter cautions the University to ensure that its “nondiscrimination policy is not being interpreted in a manner that discriminates against religious groups” by denying them the ability “to freely choose student leaders that best represent their core beliefs.” (Attachment D). Charles Haynes, Senior Scholar at the Freedom Forum First Amendment Center, which is affiliated with the University, also has expressed support for the religious groups’ ability to choose officers according to their religious beliefs. (Attachment B, p. 3).

But perhaps the best evidence that such a policy is not legally required is the fact that many other leading universities have adopted policies stating that religious groups may use religious criteria to select their leaders. The University of Florida’s policy is an excellent model for striking the appropriate balance between nondiscrimination policies and religious liberty.

(Attachment E). But it is hardly alone. The University of Texas at Austin, the University of Oklahoma, and the Ohio State University all have such policies. (Attachment F). If any federal law, regulation, or ruling required universities to restrict religious groups' religious criteria for leaders, surely these universities would be aware of that fact. But no such law exists.

C. The administration has not uniformly applied the policy change among religious groups: The administration's application of the policy change has been arbitrary. Several recognized groups have publicly explained that the University should not have granted them recognition because they also maintain religious criteria for their leaders. Father John Sims Baker sent a letter to the administration explaining that Vandy Catholics have such a practice. (Attachment G). Leaders of various other Christian campus ministries sent a similar letter to the administration. (Attachment H).

Each of these groups welcomes all students to their meetings and activities. Indeed, it is their very openness that necessitates their need to ensure that their worship, prayers, and study of scripture are led by leaders conversant with and committed to the groups' beliefs.

The United States Conference of Catholic Bishops, the National Association of Evangelicals, and the Southern Baptist Commission on Ethics and Religious Liberty joined together to express their concern regarding the University's treatment of its religious student organizations. (Attachment I).

D. The University's written Equal Opportunity policy does not support the change in application of the policy to prohibit religious groups from requiring their leaders to share the groups' religious beliefs:

1. The Equal Opportunity policy's language regarding "religious discrimination" did not change: the administration simply decided to reinterpret the language. For years, the Equal Opportunity policy, as interpreted and applied, allowed religious groups to require their leaders to agree with their religious beliefs. For example, CLS, which has had the same statement of faith for decades, has been a recognized student group for many years. When one compares the policy's language from the 2010-2011 Student Handbook with the policy's language in the 2011-2012 Student Handbook, the language regarding discrimination on the basis of "religion" is the same. (Attachments J and K).

In listing discrimination on the basis of religion, the policy specifically notes that Title VII prohibits *the university itself* from discriminating on the basis of religion in its employment decisions. Two features of Title VII are salient to this discussion. First, Title VII prohibits discrimination *in employment by employers with 15 or more employees*. The policy itself does not claim that Title VII applies to student groups. Specifically, in its penultimate paragraph, the Equal Opportunity policy states:

Title VI, Title IX, Section 504 of the Rehabilitation Act, the ADA and the ADAAA protect students from discrimination in educational and recreational programs and activities sponsored by the University. Discrimination is prohibited by Title VI on the basis of *race, color, national or ethnic origin* and by Title IX on the basis of *sex*, which includes sexual harassment. Students with *disabilities* are protected by Section 504 of the Rehabilitation Act, the ADA and the ADAAA. (Emphasis supplied).

Religion is omitted from this listing for the simple reason that no federal law prohibits religious discrimination in educational and recreational programs and activities sponsored by a private university.

Second, Title VII explicitly provides that religious associations' use of religious criteria in their staffing decisions does not violate Title VII's prohibition on religious discrimination in employment. In three separate provisions, Title VII exempts religious associations from its general prohibition on religious discrimination in employment. Pursuant to 42 U.S.C. § 2000e-1(a), Title VII does not apply to religious associations "with respect to the employment of individuals of a particular religion to perform work connected with the carrying on" of the associations' activities. Pursuant to 42 U.S.C. § 2000e-2(e)(2), an educational institution may "employ employees of a particular religion" if it is controlled by a religious association or if its curriculum "is directed toward the propagation of a particular religion." Pursuant to 42 U.S.C. § 2000e-2(e)(1), any employer may hire on the basis of religion "in those certain instances where religion . . . is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise." The Tennessee Human Rights Act similarly exempts religious groups. *See* Tennessee Human Rights Act, T. C. A. §§ 4-21-405; 4-21-406(a)(4); 4-21-602(3) (2011).

Thus, Title VII does not apply to student groups' leadership decisions. But even if it did, it would allow religious student associations to use religious criteria to choose their leaders.

2. The only change to the Equal Opportunity policy was the deletion of the policy's explicit protection of religious association in the context of sexual orientation. As the policy makes clear, federal law does not prohibit discrimination on the basis of sexual orientation. That is not to say it should or should not do so. It is simply a statement of fact that the policy itself recognizes.

When the University decided to include sexual orientation in its list of protected classes (the rest of which are protected by federal law), the University wisely provided that religious association was to remain protected. Specifically, until December 8, 2010, the Equal Opportunity policy provided: "In affirming its commitment to this principle, *the university does not limit freedom of religious association* and does not require adherence to this principle by

government agencies or external organizations that associate with but are not controlled by the University.” (Emphasis supplied.)

This protection of religious association was integral to the University’s policy for years. There is no credible argument that the deletion of protection of religious association was required by federal law.

In summary, the current controversy is caused by a reinterpretation of the Equal Opportunity policy’s unchanged language regarding discrimination based on religious discrimination. This reinterpretation of the unchanged policy language is unnecessary and flies in the face of Title VII’s own respect for religious groups’ right to select staff according to their religious beliefs. The *only* change to the language of the Equal Opportunity policy -- the deletion of protection of religious association in the context of sexual orientation discrimination - is not required by federal law.

This arbitrary act of reinterpretation of the existing policy has led the administration to discriminate among religious groups, allowing some with religious criteria for their leaders to be recognized, while withholding recognition from other religious groups. It has unnecessarily alienated numerous religious groups who have served the Vandy campus for many years. Quite apart from the vital substantive question of religious groups’ ability to have religious leaders, the process itself during the past few months has raised grave questions whether the administration respects traditional Christian students’ right to live as they understand their beliefs require them to live.

A conversation about the future of religious liberty and diversity at the University has been triggered by this recent treatment of religious student groups. If, on pain of banishment from campus, religious groups must forfeit their right to have religious leaders, the University disrespects religion. But equally importantly, the promise of social, cultural, and political pluralism is broken. The University’s secularization of the campus marketplace of ideas is fundamentally incompatible with both religious liberty and diversity.

We respectfully request that religious liberty and pluralism be restored on campus. We trust the University will affirm that all religious groups, including those that require their leaders to agree with their religious beliefs, are once again welcome at Vanderbilt.

Respectfully,

/s/ Kim Colby

Kim Colby
Senior Counsel

Attachments—

- (A) Email from University to CLS chapter, August 9, 2011
- (B) Letter from CLS to Chancellor Zeppos, August 12, 2011
- (C) Scholars' letter to Chairman Dalton, December 2, 2011
- (D) Members of Congress' letter to Chancellor Zeppos, October 6, 2011
- (E) University of Florida Policy
- (F) Other universities' policies
- (G) Father Baker's letter to Chancellor Zeppos, October 24, 2011
- (H) Various campus groups' letter to Chancellor Zeppos, November 8, 2011
- (I) United States Conference of Catholic Bishops, National Association of Evangelicals, and Southern Baptist Commission on Ethics and Religious Liberty's letter to Chancellor Zeppos, November 8, 2011
- (J) University Student Handbook 2010-2011 (rev. 11-10-2010)
- (K) University Student Handbook 2011-2012
- (L) CLS student chapter constitution

----- Forwarded message -----

From: **Person, Gretchen** <gretchen.person@vanderbilt.edu>
Date: Tue, Aug 9, 2011 at 10:40 PM
Subject: RE: Christian Legal Society status
To: "Gunter, Justin Philip" <justin.p.gunter@vanderbilt.edu>
Cc: "Salters, Courtney N" <courtney.n.salters@vanderbilt.edu>

Dear Justin,

Thank you for submitting your new Constitution for the Christian Legal Society. In reviewing it, there are some parts of it that are in violation of Vanderbilt University's policies regarding student organizations; they will need to be addressed before the Office of Religious Life can endorse CLS's approval.

Article III states that, "All officers of this Chapter must subscribe to the Christian Legal Society Statement of Faith." Vanderbilt's policies do not allow any student organization to preclude someone from a leadership position based on religious belief. Only performance-based criteria may be used. This section will need to be rewritten reflecting this policy.

The last paragraph of Section 5.2 states that "Each officer is expected to lead Bible studies, prayer and worship at Chapter meetings as tasked by the President." This would seem to indicate that officers are expected to hold certain beliefs. Again, Vanderbilt policies do not allow this expectation/qualification for officers.

Section 9.1 regarding Amendments to the Constitution should include language stating that any amendment must also be in keeping with Vanderbilt University's policies on student organizations and must be approved by the University before taking effect.

Please make these few changes and submit a copy of the amended Constitution to me so we can proceed with the approval process.

Also, we do not have in hand a copy of the revised Officer and Advisor Affirmation Form, as requested in the initial deferral. Specifically, we need a clean document without the handwritten text that seems to be an exclusionary clause advocating for partial exemption from the University's non-discrimination policy. Please forward us a copy of this as well.

Thank you. Please let me know of any questions you may have.

Best,

Gretchen

Rev. Gretchen Person
Interim Director
Office of Religious Life
Vanderbilt University



August 12, 2011

Chancellor Nicholas Zeppos
Vanderbilt University
211 Kirkland Hall
Nashville, Tennessee 37240

By email (chancellor@vanderbilt.edu) and fax (615.322.6060)

RE: The Vanderbilt University Policy Regarding Religious Student Organizations

Dear Chancellor Zeppos:

We respectfully write to urge the Vanderbilt University administration to nurture a campus environment that welcomes religious groups of all faiths and is hostile to none, that encourages free speech for all student organizations and does not suppress unpopular or minority religious viewpoints, that protects all religious groups' right to exist and express their religious beliefs despite some administrators' disagreement with their religious beliefs.

This past April, several religious organizations that have long been registered groups at Vanderbilt, including the Christian Legal Society (CLS) student chapter at Vanderbilt Law School, had their approval to register as student organizations "deferred" for this coming academic year. The deferral was based on their practice, common to many religious groups, of requiring their leaders to affirm that they share the groups' core religious beliefs. Just as the Democratic Students Association wants its leaders to agree with the Democratic Party's platform, and the Animal Rights Club wants its leaders to commit to vegetarianism, many religious groups believe that it is essential for expression of their religious identities that their officers agree with their religious beliefs. In other words, the right of religious groups to be religious depends on their ability to have leaders who are committed to their religious beliefs.

Hoping to gain approval, the deferred groups resubmitted their constitutions on June 1st; however, on August 10th, the Interim Director of Religious Life informed the CLS student chapter that its registration was deferred again because its constitution provided that "[e]ach officer is expected to lead Bible studies, prayer, and worship at Chapter meetings." According to the Interim Director, "This would seem to indicate that officers are expected to hold certain beliefs. Again, Vanderbilt policies do not allow this expectation/qualification for officers." (Please see the attached email from the Interim Director to the CLS chapter president.)

A University cannot aspire to promote religious diversity on campus while instituting a policy that religious groups cannot expect their leaders to lead religious studies, prayer, and worship. How can religious diversity exist if the Catholic group must allow Baptist students to lead its worship, or a Jewish group must allow Christian students to lead its study of the Torah?

Is the University really insisting that a Muslim student group accept a pantheist as its prayer leader?

The Interim Director also criticized CLS's requirement that its leaders agree with its basic statement of faith. According to the Interim Director, "Vanderbilt's policies do not allow any student organization to preclude someone from a leadership position based on religious belief. Only performance-based criteria may be used." Of course, it is wrong for nonreligious groups to consider a person's faith in their leadership decisions. For example, the Astronomy Club should not exclude a Christian from being its president because of her religious beliefs. But a religious group, by definition, forms around specific religious beliefs, and for that reason must take into account its leaders' commitment to those religious beliefs if the group is to maintain its distinctive religious identity. It is good for a "Universalists' Religious Group" to meet on the Vanderbilt campus, but it is not good for the University to require every religious group to be a "Universalists Religious Group." If the University truly has such a policy, it stifles religious diversity on campus.

We trust that the University seeks to be sensitive to the importance many religious groups place on their ability to choose leaders who share their core tenets of faith. A religious group's leaders necessarily lead the group's core religious practices, including worship, prayer, study of scripture, and service to others. The leaders are the group's primary voice, both internally to its members and externally to the University community. A committed leader can determine whether a group thrives or withers. We are confident that the University recognizes the essential role that leaders play and will reaffirm its past practice of protecting religious student groups' basic ability to choose leaders according to the groups' sincerely held religious beliefs.

Such a policy furthers the basic goals of the University's nondiscrimination policy — a policy that includes religious persons among the persons it protects. Indeed, the University explicitly recognizes this important principle when it states in its sexual orientation nondiscrimination policy that "*[i]n affirming its commitment to this principle, the University does not limit freedom of religious association.*" Faculty Manual Vanderbilt University at 68-69 (emphasis added).

The University's commitment to freedom of religious association is simply a common sense application of its nondiscrimination policy. A nondiscrimination policy that expressly aims at protecting religious persons should not become an instrument for banishing them from campus. Indeed, the University violates its own nondiscrimination policy if it prohibits religious student organizations from having leadership requirements that reflect their religious viewpoints, while it allows nonreligious student groups to have leadership requirements that reflect their nonreligious viewpoints.

Allowing religious student groups to maintain their unique religious identities promotes a healthy religious diversity on campus. The deferred groups represent a distinct segment of the

Letter to Chancellor Zeppos

August 12, 2011

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religious spectrum at the University. We are confident that the University rejects the notion that religious groups are fungible and these groups will not be missed. We hope that the University does not intend to play favorites among religious groups by singling out for deferral evangelical Christian groups who traditionally require their leaders to affirm their core religious beliefs.

We are optimistic that the denial of approval was an aberration in the University's traditional openness to all religious groups. We trust that the University will move quickly to reaffirm religious groups' right to exist undisturbed on campus by granting approval to the deferred groups. Because the academic year is about to begin, the groups need prompt approval in order to reserve rooms for meetings, be listed on the University's website for student organizations, and participate in the student organizations fair for incoming students.

We have shared this letter with Dr. Charles Haynes, Senior Scholar at the Freedom Forum First Amendment Center. He strongly supports our position and joins us in asking the University to approve the deferred religious organizations.

The University is a leader in the nation and world. In an increasingly uncivil society, its campus can serve as a model of respect for differing viewpoints. The University's constant interaction with other nations' governments, some of whom brutally repress their own people's religious expression, makes it essential that the University's own campus be a model of tolerance for all faiths.

We look forward to hearing that the CLS chapter has been approved as quickly as possible. If a meeting or call to discuss the issue would be helpful, please contact me at (703) 894-1087 or by email at kcolby@clsnet.org. I look forward to hearing from you soon.

Yours truly,

s/ Kim Colby

Kim Colby
Senior Counsel

cc: Dean Mark Bandas, Dean of Students (deanofstudents@vanderbilt.edu/615.343.3702)
The Reverend Gretchen Person, Interim Director of Religious Life
(gretchen.person@vanderbilt.edu/615.343.8355)



Douglas Laycock

ROBERT E. SCOTT DISTINGUISHED PROFESSOR OF LAW
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PROFESSOR OF RELIGIOUS STUDIES
ALICE MCKEAN YOUNG REGENTS CHAIR IN LAW EMERITUS, UNIVERSITY OF TEXAS AT AUSTIN

December 2, 2011

Mr. Mark F. Dalton
Chairman
Vanderbilt University Board of Trust
305 Kirkland Hall
Nashville, Tennessee 37240

Chancellor Nicholas Zeppos
Vanderbilt University
211 Kirkland Hall
Nashville, Tennessee 37240

Dear Chairman Dalton, Chancellor Zeppos, and Members of the Board of Trust:

We write as law professors who have taught courses on religious liberty and written extensively on religious liberty matters, both in the courts and academia. We have watched the situation at Vanderbilt University with growing concern. Because many of us teach at private universities, we are sensitive to the autonomy that each university exercises over its academic sphere. At the same time, as professors who have spent many years defending religious liberty, we believe that all universities, public or private, should model religious liberty on their campuses in order to strengthen our national commitment to religious pluralism.

Specifically, we write to express our collective opinion that no court decision, administrative regulation, or federal or state statute requires Vanderbilt to prohibit religious student groups from requiring their leaders to share the groups' religious beliefs. Instead, we believe that a healthy respect for religious liberty necessitates allowing religious groups to have leaders who agree with the groups' religious beliefs. Leaders frequently determine whether a group will accomplish its goals and how the group will be perceived by the campus community. Leaders directly affect a group's expression of its values and sense of identity. For those reasons and many others, a university should allow religious groups breathing space in their choice of leaders.

Quite simply, it makes no sense for a university to require groups to accept as leaders persons who do not share their beliefs. A Talmud study group does not invidiously discriminate when it chooses a Jewish discussion leader rather than a Baptist. This is simply the free exercise of religion. Of course the University has an important interest in prohibiting religious discrimination where religion is irrelevant. But it is fundamentally confused to apply a rule against religious discrimination to a religious association. The University has changed a prohibition on religious discrimination from a protection for

religious students into an instrument for excluding religious students. In so doing, the University has turned its prohibition on religious discrimination on its head.

The ability of religious groups to choose their leadership is among our most highly protected freedoms. As Justice Brennan wrote, “religious organizations have an interest in autonomy in ordering their internal affairs, so that they may be free to ‘select their own leaders, define their own doctrines, resolve their own disputes, and run their own institutions.’” *Corporation of Presiding Bishop v. Amos*, 483 U.S. 327, 341-42 (1987) (Brennan, J., concurring), quoting Douglas Laycock, *Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy*, 81 Colum. L. Rev. 1373, 1389 (1981).

The Supreme Court decision in *Christian Legal Society v. Martinez*, 130 S. Ct. 2971 (2010), neither requires nor justifies the University’s change in policy. The *Martinez* decision requires no university, public or private, to adopt any policy or to take any action. But even had the *Martinez* case required any action by a public university, it would still have had no legal effect on a private university such as Vanderbilt.

Even for public universities, the *Martinez* ruling has been recognized to be quite limited in what it *permits*. In *Martinez*, the Court narrowly and conspicuously confined its decision to an unusual policy, unique to a California law school, that required *all* student groups to allow any student to be a member and leader of the group, regardless of whether the student agreed with—or actively opposed—the values, beliefs, or speech of the group. Moreover, the Court held it was not enough for a university to adopt an all-comers policy; the policy must actually be uniformly applied to all student groups.

The Court plainly stated that its decision did not apply to a nondiscrimination policy that prohibited specific enumerated types of discrimination, such as Vanderbilt has. Justice Ginsburg emphasized that “[t]his opinion, therefore, considers *only* whether conditioning access to a student organization forum on compliance with *an all-comers policy*” is permissible and does not address a written nondiscrimination policy that protects specific, enumerated classes. *Id.* at 2984 (emphasis added); *see also, id.* at 2993 (policy was “one requiring *all* student groups to accept *all* comers”) (original emphasis).¹

Therefore, far from ruling that a nondiscrimination policy may be used to prohibit religious student groups from requiring their officers to adhere to the groups’ statements of faith or rules of conduct, the Court left the issue untouched. Instead four Supreme Court justices explicitly stated that a nondiscrimination policy *cannot* be constitutionally applied to religious groups’ leadership choices. *Id.* at 2009-13 (Alito, J., dissenting,

¹ Justice Stevens, who has subsequently retired, was the only justice who expressed the view that a written nondiscrimination policy could be constitutionally applied to religious student groups’ selection of leaders, although he too observed that the Court “confines its discussion to the narrow issue” of the all-comers policy. *Id.* at 2995 (Stevens, J., concurring). Justice Kennedy concurred with the majority but emphasized that the decision was only concerned with an all-comers policy. *Id.* at 2999 (Kennedy, J., concurring). At oral argument, Justice Kennedy expressed concern that application of an enumerated nondiscrimination policy to a religious group’s selection of leaders would be constitutionally problematic. Tr. of Oral Arg. 6.

joined by Roberts, C.J., Scalia, J., and Thomas, J.). These justices explained that application of a nondiscrimination policy to prohibit religious groups from choosing their leaders according to their religious viewpoints would actually be unconstitutional viewpoint discrimination.

Notably, the senior vice president and general counsel for claims management at United Educators Insurance, described as “a prominent adviser to colleges on issues related to legal risk,” cautioned university counsel that they should “not be lulled into thinking their policies on student groups are immune to legal challenges based on the U.S. Supreme Court’s decision.” According to *The Chronicle of Higher Education*:

The ruling ... focused on a type of policy ... found at only a minority of colleges: an “accept all comers” policy requiring any student group seeking official recognition to be open to anyone who wishes to join. More common at colleges ... is a policy of allowing student groups to have requirements for membership and leadership as long as those requirements are not discriminatory.

Peter Schmidt, *Ruling Is Unlikely to End Litigation over Policies on Student Groups*, Chron. Higher Educ. (June 30, 2010) at <http://chronicle.com/article/Many-Colleges-Student-Group/66101/>.

Two lower courts, the Seventh Circuit in *Christian Legal Society v. Walker*, 453 F.3d 853 (7th Cir. 2006), and the Ninth Circuit in *Alpha Delta Chi v. Reed*, 648 F.3d 790 (9th Cir. 2011), have reached differing results on whether a public university may apply its enumerated nondiscrimination policy to prohibit religious groups from choosing leaders according to their religious beliefs. In *Walker*, the Seventh Circuit held that a university’s application of a nondiscrimination policy to a religious group was unconstitutional, stating it had “no difficulty concluding that [a university’s] application of its nondiscrimination policies in this way burdens CLS’s ability to express its ideas.” 453 F.3d at 863.

The Ninth Circuit noted that the Supreme Court in *Martinez* “expressly declined to address whether [its] holdings would extend to a narrower nondiscrimination policy that, instead of prohibiting *all* membership restrictions, prohibited membership restrictions only on certain specified bases, for example, race, gender, religion, and sexual orientation.” 648 F.3d at 795, *citing Martinez*, 130 S. Ct. at 2982, 2984. Judge Ripple in his concurring opinion also declared that “this case is not controlled by the majority opinion in *Christian Legal Society*.” Believing it was bound by a Ninth Circuit decision, the panel upheld application of a nondiscrimination policy to a religious group’s selection of officers.

Judge Ripple wrote separately to explain the heavy burden an unnecessarily wooden interpretation of a nondiscrimination policy places on religious groups:

Under this policy, most clubs can limit their membership to those who share a common purpose or view: Vegan students, who believe that the institution is not

accommodating adequately their dietary preferences, may form a student group restricted to vegans and, under the policy, gain official recognition. Clubs whose memberships are defined by issues involving “protected” categories, however, are required to welcome into their ranks and leadership those who do not share the group’s perspective: Homosexual students, who have suffered discrimination or ostracism, may not both limit their membership to homosexuals and enjoy the benefits of official recognition. The policy dilutes the ability of students who fall into “protected” categories to band together for mutual support and discourse.

For many groups, the intrusive burden established by this requirement can be assuaged partially by defining the group or membership to include those who, although they do not share the dominant, immutable characteristic, otherwise sympathize with the group’s views. Most groups dedicated to forwarding the rights of a “protected” group are able to couch their membership requirements in terms of shared beliefs, as opposed to shared status. . . .

Religious students, however, do not have this luxury—their shared beliefs coincide with their shared status. They cannot otherwise define themselves and not run afoul of the nondiscrimination policy. . . . The Catholic Newman Center cannot restrict its leadership—those who organize and lead weekly worship services—to members in good standing of the Catholic Church without violating the policy. Groups whose main purpose is to engage in the exercise of religious freedoms do not possess the same means of accommodating the heavy hand of the State.

The net result of this selective policy is therefore to marginalize in the life of the institution those activities, practices and discourses that are religiously based. While those who espouse other causes may control their membership and come together for mutual support, others, including those exercising one of our most fundamental liberties—the right to free exercise of one’s religion—cannot, at least on equal terms.

In summary, no court decision requires a public university to diminish religious groups’ ability to choose their leaders according to their religious beliefs. Even if a decision required such action of a public university, however, it would not require it of a private university such as Vanderbilt.

No federal or state statute or regulation requires Vanderbilt (or any other public or private university) to place such a prohibition on religious student groups. If such a requirement existed, our own universities would be required to place such restrictions on religious groups, which they have not done. Leading public universities allow religious groups to select their leaders and members according to their religious beliefs. Just by way of example, we would note that the University of Florida, the Ohio State University, and the University of Texas at Austin all have policies allowing religious groups to select their leaders according to their religious beliefs. Any federal law or regulation that

required Vanderbilt to adopt its new policy would apply equally to those universities, as well as our own universities. But no such law or regulation exists.

We would urge Vanderbilt University to respect religious liberty, rather than marginalize religious student groups. Allowing religious students to maintain their unique religious identities promotes a healthy intellectual, social, and religious diversity on campus. Without distinctive religious groups, the University would be impoverished.

Respectfully,

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Congress of the United States
Washington, DC 20515

October 6, 2011

Chancellor Nicholas Zeppos
Vanderbilt University
211 Kirkland Hall
Nashville, TN 37240

Dear Chancellor Zeppos,

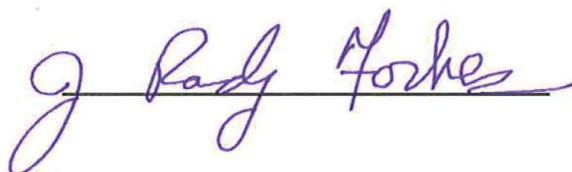
We write to express our deep concern about reports that several religious student groups at Vanderbilt University have been placed on provisional status and face possible dissolution, unless they allow students who do not share the groups' core religious beliefs to obtain leadership positions within the organization.

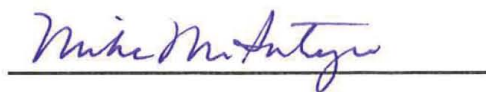
As Members of Congress dedicated to protecting religious freedom in America, we are troubled to learn that student groups are being prohibited from preserving their religious identity through their student leadership. Religious student groups form around specific beliefs, and provide an opportunity for like-minded individuals to assemble to study the tenets of their faith and engage in activities that enrich their religious experiences. Leaders of student groups necessarily lead student participants in the groups' activities; thus, if a religious student group's activities include Bible study, worship, or prayer, the leader of the group can necessarily be expected to lead in those activities. It follows, then, that religious groups must be allowed to select leaders that share the group's core religious beliefs in order to maintain their religious identities and carry out their primary functions. Selecting leaders that best represent a student organization's mission is not discrimination; it is common sense.

An aspect of American society that greatly contributes to diversity in public discourse is the freedom of like-minded individuals to coalesce around ideals, ensuring that their perspectives are given a voice in the public square. Preventing groups from choosing leaders who best represent the group's mission will dilute public discourse in which groups play such a vital role, and will diminish the diversity on your campus.

We urge you to ensure that Vanderbilt University's nondiscrimination policy is not being interpreted in a manner that discriminates against religious groups. We request that you allow these groups to freely choose student leaders that best represent their core beliefs. We look forward to hearing from you regarding this matter.

Sincerely,





David M. White FL-8 Paul C Brown BA 10

Joe Wilson, SC-02 James Taylor OK-5

Tim Walberg MI-07 Gregg Harper MS-3

Kevin Stanger FL-05 Louis Gohmert

Jeff Duncan SC-3 Bob Hargett FL-14

Steve Pearce NM-02 Doug Lamborn

Marsha Blackburn Diane Black

Steve King Vicky Hartzler MO-4

Scott Franks Thodina S. Mettler

Bill Cassidy

Mike Kelly

Jay Pitts

1. Rep. Randy Forbes (VA-04)
2. Rep. Mike McIntyre (NC-07)
3. Rep. Daniel Webster (FL-08)
4. Rep. Paul Broun (GA-10)
5. Rep. Joe Wilson (SC-02)
6. Rep. James Lankford (OK-05)
7. Rep. Tim Walberg (MI-07)
8. Rep. Gregg Harper (MS-03)
9. Rep. Richard Nugent (FL-05)
10. Rep. Louie Gohmert (TX-01)
11. Rep. Jeff Duncan (SC-03)
12. Rep. Randy Hultgren (IL-14)
13. Rep. Stevan Pearce (NM-02)
14. Rep. Doug Lamborn (CO-05)
15. Rep. Marsha Blackburn (TN-07)
16. Rep. Diane Black (TN-06)
17. Rep. Steve King (IA-05)
18. Rep. Vicky Hartzler (MO-04)
19. Rep. Trent Franks (AZ-02)
20. Rep. Thaddeus McCotter (MI-11)
21. Rep. Bill Cassidy (LA-06)
22. Rep. Mike Kelly (PA-03)
23. Rep. Joe Pitts (PA-16)

University of Florida's Policy
(<https://www.union.ufl.edu/involvement/index.asp>)

Student Organization Registration Policy Update

The University of Florida has modified its policies relating to the registration of religious student groups as Registered Student Organizations (RSOs). The modification was made to accommodate any student group whose religious mission requires its membership to share the organization's religious beliefs, while at the same time continuing to protect the University's nondiscriminatory educational program.

More than 760 student organizations covering a wide variety of interests are registered at the University. UF has always welcomed registration of religious organizations. More than 60 religious student organizations, of which about 48 are Christian, are registered as RSOs at UF.

The University considers participation in registered student organizations to be an important educational opportunity for all of our students. The University applies its nondiscrimination in membership policy to registered student organizations to ensure that these important learning opportunities are not denied to any student due to discrimination based on race, sex, religion or certain other prohibited bases.

A small number of religious student groups have expressed a religious need to ensure that all of their members share the religious beliefs of the organization.

To the greatest extent possible-while fulfilling our nondiscriminatory educational mission and complying with the law-the University wants to be sure that a full range of religious student organizations feel just as free to register as any other type of student organization. This ensures that all of our students will find meaningful educational opportunities to participate in registered student organizations.

As we are committed to serving all of our students well, the University has carefully considered how to address the concerns expressed by some religious student groups and individuals without compromising our educational program. After doing so, the University has made the decision to modify its nondiscrimination policy as follows:

"Student organizations that wish to register with the Center for Student Activities and Involvement (CSAI) must agree that they will not discriminate on the basis of race, creed, color, religion, age, disability, sex, sexual orientation, marital status, national origin, political opinions or affiliations, or veteran status as protected under the Vietnam Era Veterans' Readjustment Assistance Act.

A student organization whose primary purpose is religious will not be denied registration as a Registered Student Organization on the ground that it limits membership or

leadership positions to students who share the religious beliefs of the organization. The University has determined that this accommodation of religious belief does not violate its nondiscrimination policy."

This modification of the University's registration policy recognizes a meaningful distinction between sincerely held current religious beliefs (which may be considered in selecting members or leaders of religious RSOs)-and religious or other status (e.g., religion of birth or historical affiliation). The modification takes effect immediately and is now reflected in the CSAI's Handbook of Student Activities as well as its registration and constitution guidelines and Web site. A letter has been sent to each religious student group that has recently sought and not received registration to ensure that it is aware of the modification and to invite its registration.



New Student Organization Registration Application

Submit completed forms to Student Activities, along with required \$10 non-refundable fee.

A student organization that wishes to use university facilities must be registered with Student Activities. A group of three (3) or more enrolled students is eligible under the university's *Institutional Rules*, Section 6-202, if:

- 1) its membership is limited to enrolled students, staff and faculty of The University of Texas at Austin;
- 2) it does not deny membership on the basis of race, color, religion, national origin, gender, age, disability, citizenship, veteran status, sexual orientation, gender identity or gender expression, except that **a)** an organization created primarily for religious purposes may restrict the right to vote or hold office to persons who subscribe to the organization's statement of faith; and **b)** an organization may restrict membership based on the provisions of Title IX of the Education Amendments of 1972;
- 3) it is not under disciplinary penalty prohibiting registration; and
- 4) it conducts its affairs in accordance with the Regents' *Rules and Regulations*, university regulations and administrative rules.

Please Note: If the registered student organization is approved, the following information (1-6) will be posted on the Student Activities Web site.

1. Name of proposed registered student organization _____

- 2. Type of organization:** Political Educational/Departmental Honorary
 (Check **one** only) Student Governance Professional Social
 Recreational Religious Service
 International/Cultural Special Interest

3. State the registered student organization's official purpose _____

4. Indicate any membership requirements* beyond those stated in the *Institutional Rules* above _____

* Does your registered student organization intend to limit membership to a single gender? Yes No

For Office Use Only

Receipt Number _____

Staff Signature _____ Date _____

**REGISTRATION GUIDELINES FOR STUDENT ORGANIZATIONS AT OHIO STATE
2011-2012**

Available at http://ohiounion.osu.edu/posts/documents/doc_10192011_74034380.pdf

At the bottom of page 4, the guidelines provide:

“A student organization formed to foster or affirm the sincerely held religious beliefs of its members may adopt eligibility criteria for its Student Officers that are consistent with those beliefs”



The University of Oklahoma[®]

OFFICE OF LEGAL COUNSEL

September 12, 2011

Kimberlee Wood Colby, Senior Counsel
Center for Law and Religious Freedom
Christian Legal Society
P.O. Box 98000
Washington, DC 20090-8000

Dear Ms. Colby:

Thank you for your letter dated September 8, 2011. I have looked in to the issues raised in your letter and determined that, while recent Federal case activity prompted a review of Registered Student Organizations' ("RSOs") constitutions, there has been no change in University policy.

The letter from the UOSA General Counsel was sent to all RSOs was part of a review effort to ensure uniform application, enforcement and compliance with respect to *existing* RSO policies and procedures. In addition, the University desired to ensure appropriate maintenance of updated records for all RSOs. The requirement that all RSO constitutions incorporate the non-discrimination language from the Student Code has not changed, nor has the language itself.

The University's policy continues to allow RSOs to choose their leaders in accordance with the organization's purpose and core principles. Indeed, the UOSA's General Counsel made no mention of officers or leadership whatsoever in his letter. There has been no change in any University policy with respect to non-discrimination or student organization leadership.

Thank you for your inquiry, and do not hesitate to contact me if you have any additional questions or concerns.

Yours truly,

A handwritten signature in black ink, appearing to read "Anil V. Gollahalli".

Anil V. Gollahalli

Vice President & General Counsel



October 24, 2011

Mr. Nicholas Zeppos
Chancellor
Vanderbilt University
211 Kirkland Hall

Dear Chancellor Zeppos:

I hope that you had an enjoyable Homecoming weekend. The campus is certainly a vibrant place with the alumni back. Vanderbilt Catholic was delighted to have a part in welcoming alumni as well. It is gratifying to see that for many alumni admiration for the work of Vanderbilt Catholic is included in the pride that they have for their university. The same spirit of collaboration between the ministry and the university is evident at Move-In Day and Family Weekend as well as when prospective students and families are visiting campus for the first time or later when they are weighing their acceptances. I am likewise proud that Vanderbilt Catholic offers so much to the life of the university, from a tailgate before the game Saturday, to Mass last night, to a lecture on Thursday at noon, to staffing the first Room in the Inn of the year in a couple of weeks.

In light of such fruitful collaboration, it is all the more distressing to see the relationship between the university and Vanderbilt Catholic threatened by the application of the university's non-discrimination policy to forbid religious qualification for leadership in religious student organizations. The proposed application will restrict freedom and diversity in student life by jeopardizing authentic religious expression. For the good of the university, I am writing to urge you to reconsider the application of the non-discrimination policy to allow for religious qualifications for leadership in religious student organizations.

The constitution of Vanderbilt Catholic has been found in compliance with the non-discrimination policy by the Dean of Students office, but I think the approval is based on an interpretation of the constitution that Vanderbilt Catholic does not share. Vanderbilt Catholic changed its constitution last year at the regular renewal time. At the time the student leaders simplified aspects of the constitution partially, in their words, "to get it on one page!" The submission of the new constitution was well before the current controversy, and no one at Vanderbilt Catholic considered the implications of the leadership requirements requested by the dean's office. It was too far from experience to imagine someone other than a practicing Catholic qualifying for a leadership role. Vanderbilt Catholic reasonably interprets its constitution to recognize that only practicing Catholic students qualify for leadership. Such students have always comprised the leadership, and this requirement is implicit in the mission of Vanderbilt Catholic.

The university is proposing unilaterally to decide who is qualified to represent the Catholic faith on campus. According to the proposed interpretation of the non-discrimination policy, the university maintains that any student is qualified to lead Vanderbilt Catholic regardless of religious profession. Religious profession is, however, a rational basis for determining leadership in a religious organization. It is not invidious discrimination. Vanderbilt Catholic cannot bend on this principle. I have consulted Bishop Choby, and he is in agreement. The Catholic Church could not sponsor an organization at Vanderbilt under these conditions. I hope that you will decide to make it possible for the collaboration between faith and reason to continue in an authentically Catholic student organization at Vanderbilt by deciding to apply the non-discrimination policy in a manner that recognizes the reasonable requirement of religious profession for leadership in religious student organizations. Free religious expression is an integral part of the intellectual life.

I thank you for your consideration, and I am at your service for any discussion or clarification of the issues raised in this letter. Please be assured of my prayers for you as you carry out the responsibilities of leading the university.

Faithfully,

Fr. John Sims Baker
Affiliated Chaplain

Cc: The Most Reverend David Choby
Dr. Richard McCarty
Mr. David Williams, II
Dr. Mark Bandas
The Reverend Gretchen Person

November 8, 2011

Mark F. Dalton Chairman Vanderbilt University Board of Trust 305 Kirkland Hall
Nashville, TN 37240

Chairman Dalton and Members of the Vanderbilt Board of Trust:

We, as directors of parachurch ministries at Vanderbilt, are writing today to invite your active participation in the ongoing dialogue about the future of religious groups on campus. We love the Vanderbilt campus community and value its rich diversity. In order to preserve a campus dialogue that welcomes diverse ideologies and perspectives, student groups (including religious groups) need to be allowed to maintain their unique identities. The distinct messages of religious groups must be preserved. If the nondiscrimination clause is applied to prohibit religious groups from ensuring that their student leaders share the religious viewpoint of their group, unpopular or minority religious viewpoints could be diminished or suppressed. We are concerned that this application of the non-discrimination policy would therefore stifle religious diversity.

We are committed to all student organizations at Vanderbilt being open to any student who desires membership. However, most student groups on campus are allowed to have basic requirements of their student leadership teams, such as a commitment to and belief in the purpose and mission of the group. Yet, due to the enforcement of the current non-discrimination policy, religious groups would not be able to have such common sense requirements for their leaders since the purpose and mission of most religious groups are rooted in our doctrinal beliefs and thus, by definition, religiously distinctive. **Out of a desire for fairness and preservation of diverse viewpoints**, we ask that Vanderbilt allow our organizations to ensure that student leaders uphold our mission and purpose.

Despite the University's assessment that few religious groups are out of compliance with the nondiscrimination policy, **all of our groups do not comply with this policy in practice**. We believe doctrinal requirements for our leaders protect and preserve authentic religious identity and community coherence and are a necessary component of a vibrant and dynamic religious community. (See enclosures for alternative solutions reached by other universities.)

A student leadership team can determine whether a group thrives or withers. We would like to be able to ensure that our leaders are committed to our purpose and mission so that we can continue to effectively contribute to the rich religious diversity that currently exists on this campus. We respectfully call upon the Board of Trust to consider a policy that would allow religious groups to protect their identity by having leadership who express a commitment to the religious beliefs of their respective groups.

Sincerely

SB
Beth Randolph Fabelle
Campus Crusade for Christ

DB
The Navigators

[Signature]
Fellowship of Christian Athletes

[Signature]
Graduate Christian Fellowship

[Signature]
Bridges International

[Signature]
Medical Christian Fellowship
(formerly Medical Campus Outreach)

David C. Henderson
Beth Randolph Fabelle (VU '93)

David Bachman (VU '05)

Lance Brown

Tish Harrison Warren

DAVID MENKEN

Brian Pugh

Enclosures: 2

A Policy Alternative

The Ohio State University developed a policy that recognizes the importance of allowing religious groups the same privilege given to other student groups of selecting leaders that agree with their mission and purpose. For religious groups, those beliefs are grounded in religion, thereby relating to the nondiscrimination categories. Other groups also have beliefs that are also strongly held, but they are not categorized as religious.

The following paragraphs are included in The Ohio State University's "Constitution and By-Laws Guidelines for Student Organizations", found at http://ohiounion.osu.edu/posts/documents/doc_522011_104241354.pdf. Under this policy The Ohio State University has recognized a wide array of student groups and there have been no problems on campus.

“[Article I] Section 3 - Non-Discrimination Policy: All student organizations desiring to benefit from registered student organization status with The Ohio State University must include in their constitution a non-discrimination policy statement that accords with the Student Organization Registration Guidelines. Such statement will generally be at least as broad as the University's Non-Discrimination policy statement. Where applicable, a student organization may adopt a statement that reflects its eligibility criteria for Student Officers.

An example of an acceptable non-discrimination policy statement is as follows:

This organization and its members shall not discriminate against any individual (s) for reasons of age, color, disability, gender identity or expression, national origin, race, religion, sex, sexual orientation, or veteran status.”

“Article VI – Method of Selecting and/or Removing Officers and Members.

The constitution should describe the process by which officers and members are selected. A student organization formed to foster or affirm the sincerely held religious beliefs of its members may adopt eligibility criteria for its officers that are consistent with those beliefs. General members and elected or appointed leaders should be expected to meet certain standards and conduct themselves in a way that reflects well on the organization. In the event that a member or leader does not meet those expectations, the organization should have procedures in place for objectively considering the member's or leader's probationary membership status or removal from the organization. The process described in the constitution should specify which body conducts this review and ultimately makes the decision. It should be noted that the organization's non-discrimination policy should protect members from removal based on those listed statuses.”

University of Florida's Policy (<https://www.union.ufl.edu/involvement/index.asp>)

Student Organization Registration Policy Update

The University of Florida has modified its policies relating to the registration of religious student groups as Registered Student Organizations (RSOs). The modification was made to accommodate any student group whose religious mission requires its membership to share the organization's religious beliefs, while at the same time continuing to protect the University's nondiscriminatory educational program.

More than 760 student organizations covering a wide variety of interests are registered at the University. UF has always welcomed registration of religious organizations. More than 60 religious student organizations, of which about 48 are Christian, are registered as RSOs at UF.

The University considers participation in registered student organizations to be an important educational opportunity for all of our students. The University applies its nondiscrimination in membership policy to registered student organizations to ensure that these important learning opportunities are not denied to any student due to discrimination based on race, sex, religion or certain other prohibited bases.

A small number of religious student groups have expressed a religious need to ensure that all of their members share the religious beliefs of the organization.

To the greatest extent possible-while fulfilling our nondiscriminatory educational mission and complying with the law-the University wants to be sure that a full range of religious student organizations feel just as free to register as any other type of student organization. This ensures that all of our students will find meaningful educational opportunities to participate in registered student organizations.

As we are committed to serving all of our students well, the University has carefully considered how to address the concerns expressed by some religious student groups and individuals without compromising our educational program. After doing so, the University has made the decision to modify its nondiscrimination policy as follows: "Student organizations that wish to register with the Center for Student Activities and Involvement (CSAI) must agree that they will not discriminate on the basis of race, creed, color, religion, age, disability, sex, sexual orientation, marital status, national origin, political opinions or affiliations, or veteran status as protected under the Vietnam Era Veterans' Readjustment Assistance Act.

A student organization whose primary purpose is religious will not be denied registration as a Registered Student Organization on the ground that it limits membership or leadership positions to students who share the religious beliefs of the organization. The University has determined that this accommodation of religious belief does not violate its nondiscrimination policy."This modification of the University's registration policy recognizes a meaningful distinction between sincerely held current religious beliefs (which may be considered in selecting members or leaders of religious RSOs)-and religious or other status (e.g., religion of birth or historical affiliation). The modification takes effect immediately and is now reflected in the CSAI's Handbook of Student Activities as well as its registration and constitution guidelines and Web site. A letter has

been sent to each religious student group that has recently sought and not received registration to ensure that it is aware of the modification and to invite its registration.

November 8, 2011

Mr. Mark F. Dalton, Chair
Vanderbilt University Board of Trust
305 Kirkland Hall
Nashville, Tennessee 37240

Dear Chairman Dalton and Members of the Vanderbilt Board of Trust:

The Southern Baptist Ethics & Religious Liberty Commission, the National Association of Evangelicals, and the United States Conference of Catholic Bishops are deeply concerned that Vanderbilt University has abandoned its longstanding tradition of religious tolerance. Compelling religious student groups to forfeit their ability to have leaders who share the groups' religious beliefs is antithetical to religious liberty. We therefore urge the University to return to its time-honored commitment to religious diversity and pluralism by again respecting religious groups' leadership decisions.

A University cannot aspire to promote religious diversity on campus while instituting a policy that religious groups cannot expect their leaders to share their religious convictions and lead religious studies, prayer, and worship from that perspective. How can religious diversity exist if a Christian group must allow Hindu students to lead its worship, or a Jewish group must allow Christian students to lead its study of the Torah?

Yet the University claims to have adopted just such a policy. In an email to the Christian Legal Society's student president, dated August 9, 2011, the University criticized the venerable practice of religious groups requiring their leaders to agree with the groups' basic beliefs, and declared that "Vanderbilt's policies do not allow any student organization to preclude someone from a leadership position based on religious belief." Remarkably, the University further stated that a religious group's mere expectation that its officers should be able to lead its Bible study, prayer, or worship, also violated University policy.

A religious group obviously organizes itself around specific religious beliefs in order to promote those beliefs and, for that reason, must take into account its leaders' commitment to its core religious beliefs. Leaders necessarily express and model the group's religious tenets, whether through worship, prayer, the study of scriptures, or service to others. Leaders often speak on the group's behalf to the University community.

The University seems to have abandoned a common sense interpretation of its nondiscrimination policy for an unnecessarily draconian interpretation that harms the very religious students the policy is intended to protect. Indeed, it would seem that the University violates its own nondiscrimination policy by prohibiting religious student organizations from having leadership requirements that reflect their religious viewpoints, while allowing nonreligious student groups to have leadership requirements that reflect their nonreligious viewpoints.

For these reasons, we respectfully ask that Vanderbilt University reaffirm its tradition of religious tolerance and, once again, respect religious student groups' ability to choose their leaders according to the groups' sincerely held religious beliefs.


Sincerely,



Leith Anderson, President
National Association of Evangelicals



Dr. Richard Land, President
Southern Baptist Ethics
& Religious Liberty Commission



Anthony R. Picarello, Jr., General Counsel
United States Conference
of Catholic Bishops

Vanderbilt University Student Handbook 2010-2011 (rev. 11/10/2010)

Available at http://www.vanderbilt.edu/student_handbook/2010-2011/101208/?page_id=4 (last visited December 5, 2011) (first of three versions of student handbook for 2010-2011)

Equal Opportunity

In compliance with federal law, including the provisions of Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, the ADA Amendments Act of 2008, Executive Order 11246, the Uniformed Services Employment and Reemployment Rights Act, as amended, and the Genetic Information Nondiscrimination Act of 2008, Vanderbilt University does not discriminate against individuals on the basis of their race, sex, religion, color, national or ethnic origin, age, disability, or military service in its administration of educational policies, programs, or activities; admissions policies; scholarship and loan programs; athletic or other University-administered programs; or employment.

Statement on Sexual Orientation:

Vanderbilt University is committed to the principle of nondiscrimination on the basis of sexual orientation, or gender identity or expression, or the perception of one's sexual orientation, gender identity or expression. In affirming its commitment to this principle, the University does not limit freedom of religious association, does not require adherence to this principle by government agencies or external organizations that associate with, but are not controlled by, the University, and does not extend benefits beyond those provided under other policies of the University. (See "[Same-Sex Domestic Partner Policy](#)," below.)

Vanderbilt Campus Disability Access

Vanderbilt University is committed to equal access for people with disabilities. In compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA), Vanderbilt does not exclude otherwise qualified persons with disabilities, solely by reason of the disability, from participating in University programs and activities, nor are persons with disabilities denied the benefits of these programs or subjected to discrimination.

The Disability Services Program, which is part of Vanderbilt's Equal Opportunity, Affirmative Action, and Disability Services Department, provides reasonable accommodations for students with disabilities, which allow for equal access to education. Accommodations are available for Vanderbilt University students who have temporary or permanent disabilities and are based on the documented needs of each individual. To request reasonable accommodations, students are to contact the Disability Services

Program to schedule an intake meeting with the appropriate staff person. Intake meetings are provided on an individual basis to help students orient themselves with the EAD's processes and services. It is the individual student's responsibility to request accommodations and provide sufficient and appropriate documentation. Students are encouraged to contact the EAD's Disability Services Program prior to or upon enrollment at Vanderbilt University.

For further information about services for students with disabilities, write or call the EAD Disability Services Program, PMB 401809, 2301 Vanderbilt Place, Nashville, TN 37240-1809; telephone 615-322-4705 [begin_of_the_skype_highlighting 615-322-4705](#) [end_of_the_skype_highlighting](#) V/TDD. (See EAD, below)

The Equal Opportunity, Affirmative Action, and Disability Services Department (EAD)

The EAD serves as a resource in the following capacities:

- to assist in keeping the administration informed of the University's obligations under state and federal equal opportunity laws;
- to coordinate and monitor the University's Affirmative Action Program in compliance with equal opportunity laws;
- to serve as a source of information for faculty, staff, and students who may have questions or complaints pertaining to equal opportunity in employment practices, University-sponsored programs and activities, and educational opportunities;
- to provide training to the Vanderbilt community on issues of equal opportunity and affirmative action; and
- to coordinate services for persons with disabilities.

Several federal and state laws impose special obligations on the University. Some include:

- The Equal Pay Act of 1963
- Titles VI and VII of the Civil Rights Act of 1964, as amended
- Title IX of the Education Amendments of 1972
- Executive Order 11246, as amended
- The Age Discrimination in Employment Act of 1967, as amended
- The Rehabilitation Act of 1973
- The Vietnam Era Veterans Readjustment Act of 1974
- The Age Discrimination Act of 1975
- Tennessee Fair Human Rights Act
- Americans with Disabilities Act of 1990 (ADA)
- ADA Amendment Act of 2008 (ADAAA)

Of these laws, Title VI, Title IX, Section 504 of the Rehabilitation Act, the ADA and the ADAAA protect students from discrimination in educational and recreational programs and activities sponsored by the University. Discrimination is prohibited by Title VI on the basis of race, color, national or ethnic origin and by Title IX on the basis of sex, which

includes sexual harassment. Students with disabilities are protected by Section 504 of the Rehabilitation Act, the ADA and the ADA AAA. The EAD is the office responsible for coordinating services for students with disabilities. (See also “[Vanderbilt Campus Disability Access](#),” above.)

Students who believe that they have been subjected to discrimination or harassment may call the EAD staff for additional information (including information on [the student grievance procedure](#)). For more information, visit the EAD Web site (<http://www.vanderbilt.edu/ead/>).

Vanderbilt University Student Handbook 2011-2012

Available at http://www.vanderbilt.edu/student_handbook/university-policies-and-regulations#equal (last visited December 5, 2011)

Equal Opportunity

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The Disability Services Program, which is part of Vanderbilt's Equal Opportunity, Affirmative Action, and Disability Services Department, provides reasonable accommodations for students with disabilities, which allow for equal access to education. Accommodations are available for Vanderbilt University students who have temporary or permanent disabilities and are based on the documented needs of each individual. To request reasonable accommodations, students are to contact the Disability Services Program to schedule an intake meeting with the appropriate staff person. Intake meetings are provided on an individual basis to help students orient themselves with the EAD's processes and services. It is the individual student's responsibility to request accommodations and provide sufficient and appropriate documentation. Students are encouraged to contact the EAD's Disability Services Program prior to or upon enrollment at Vanderbilt University.

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- ADA Amendment Act of 2008 (ADAAA)

Of these laws, Title VI, Title IX, Section 504 of the Rehabilitation Act, the ADA and the ADAAA protect students from discrimination in educational and recreational programs and activities sponsored by the University. Discrimination is prohibited by Title VI on the basis of race, color, national or ethnic origin and by Title IX on the basis of sex, which includes sexual harassment. Students with disabilities are protected by Section 504 of the Rehabilitation Act, the ADA and the ADAAA. The EAD is the office responsible for coordinating services for students with disabilities. (See also "Vanderbilt Campus Disability Access," above.)

Students who believe that they have been subjected to discrimination or harassment may call the EAD staff for additional information (including information on the student grievance procedure). For more information, visit the [EAD Web site](#) .

- i The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits discrimination in health coverage and in employment based on genetic information.*
- ii Sexual orientation refers to a person's self-identification as heterosexual, homosexual, bisexual, asexual, pansexual, or uncertain.*
- iii Gender identity is generally defined as a person's own sense of identification as male, female, both, or neither as distinguished from actual biological sex, i.e. it is one's psychological sense of self.*
- iv Gender expression is everything we do that communicates our sense of identification to others.*

**CONSTITUTION FOR
CHRISTIAN LEGAL SOCIETY STUDENT CHAPTER AT
VANDERBILT UNIVERSITY LAW SCHOOL**

PREAMBLE The Mission and Vision of the Christian Legal Society

Mission. The Christian Legal Society (“CLS”) is an Illinois non-profit corporation with its principal offices in Springfield, Virginia, that exists to inspire, encourage, and equip lawyers and law students, both individually and in community, to proclaim, love and serve Jesus Christ through the study and practice of law, the defense of religious freedom, and the provision of legal assistance to the poor.

Vision. CLS is dedicated to seeking justice with the love of God by following His principles: Helping members faithfully serve Jesus in their professions, relationships, communities, and churches; influencing the legal profession and the law in accordance with His teachings; and serving others as He would serve them.

ARTICLE I. CHAPTER FORMATION

1.1 *Name.* As chartered by the Executive Director of the Christian Legal Society, the name of this organization is the Christian Legal Society Student Chapter at Vanderbilt University Law School (the “Chapter”).

1.2 *Location.* This Chapter is chartered and established at Vanderbilt University Law School and shall remain chartered at this law school unless lawful action to the contrary is taken by the Executive Director of the Christian Legal Society.

1.3 *Definitions.* When used herein, the terms “CLS” or the “Christian Legal Society” refers to the national membership organization based in Springfield, Virginia, and the term “Chapter” refers to the specific Student Chapter of the Christian Legal Society identified in article 1.1 by name.

ARTICLE II. PURPOSE

The purpose of this Chapter is to develop and maintain a vibrant Christian law student presence on campus, enabling its members, individually and as a group, to love the Lord with their whole beings--hearts, souls, and minds--and to love their neighbors as themselves (Matthew 22:37-40). To that end, the Chapter will:

- Cultivate spiritual growth among its members through communal prayer, fellowship, and worship; learning to share one's faith; and devotional study of the Bible and classic Christian works.
- Show the love of Christ to the campus community and the community at large by proclaiming the gospel in word and in deed, such as through a life of integrity and charitable good works; as Martin Luther put it, "to be as Christ to our neighbor."
- Address the question, "What does it mean to be a Christian in law?" that is, learning to submit every aspect of one's calling in the legal profession to the Lordship of Jesus Christ.

ARTICLE III. STATEMENT OF FAITH

3.1. *Statement of Faith.* All officers of this Chapter must subscribe to the Christian Legal Society Statement of Faith:

Trusting in Jesus Christ as my Savior, I believe in:

- *One God, eternally existent in three persons, Father, Son and Holy Spirit.*
- *God the Father Almighty, Maker of heaven and earth.*
- *The Deity of our Lord, Jesus Christ, God's only Son conceived of the Holy Spirit, born of the virgin Mary; His vicarious death for our sins through which we receive eternal life; His bodily resurrection and personal return.*
- *The presence and power of the Holy Spirit in the work of regeneration.*
- *The Bible as the inspired Word of God.*

All officers must also affirm the CLS Community Life Statement and agree to operate the Chapter under its principles.

ARTICLE IV. MEMBERSHIP

4.1 *Chapter Activities.* All meetings and activities are open to anyone who is part of the law school or university community, including faculty, staff, and students.

4.2. *Chapter Membership.* Any full- or part-time student at Vanderbilt University may be a member of the Chapter if he or she attends at least 50% of the Chapter's regular meetings or activities. Membership in the Chapter does not confer or imply membership in CLS.

4.3 *Eligibility to Vote.* Chapter members are the only persons eligible to vote for Chapter business that is put to a membership vote.

4.4 *Termination.* Any Chapter member who, for any reason, ceases to be a student at the School shall immediately cease to be a member of the Chapter.

ARTICLE V. OFFICERS

5.1 *General.* A Chapter must consist of at least three officers who are members of CLS and enrolled as students at the School. *[Upon request, CLS will decide whether to allow a chapter with fewer than three officers.]* All Chapter officers shall be members of CLS in good standing. Any Chapter officer who, for any reason, ceases to be a student at the School or whose CLS membership expires shall immediately cease to be an officer of the Chapter.

5.2 *Officer Duties.* The following offices and duties are stated for the use of those holding office. The offices of Secretary and Treasurer may be held by the same person.

President. The President shall preside over Chapter business meetings and meetings of the Officers. The President shall operate as the Chapter's representative and primary spokesperson to the law school community, university community, and public-at-large in all matters for which a formal representative is required or appropriate. The President shall also serve as the Chapter's primary contact person with CLS and shall immediately advise the CLS national office of any significant operational or policy conflicts or other problems within the Chapter or between the Chapter and another entity.

The President shall be responsible to select and notify the officer(s) who are to lead the Bible study, prayer, and worship. The President shall also be responsible for inviting any guest speakers. With the consent of the other officers, the President may delegate either or both of these two responsibilities to another officer.

Vice President. The Vice President shall assist the President in the discharge of his or her duties, as the President may direct, and shall perform such other duties as from time to time may be assigned to him or her by the President. In the absence of the President, or in the event of the President's inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all of the powers of, and be subject to all of the restrictions upon, the President.

Secretary. The Secretary shall maintain all non-financial records of the Chapter. The Secretary shall be responsible for (a) preparing minutes of all meetings and (b) assisting the President in filing the annual reporting form with CLS.

Treasurer. The Treasurer shall be responsible for maintaining all financial records of the Chapter, including, but not limited to, all records of the payment of funds, deposits and disbursements from the Chapter's bank accounts pursuant to the procedures described in Article VIII.

Other Officers. Any other Chapter Officers appointed pursuant to this Article shall have such duties as are assigned to them by the President.

Each officer is expected to lead Bible studies, prayer, and worship at Chapter meetings as tasked by the President. Although the President is the primary spokesperson for the Chapter, each officer also serves as a spokesperson for the Chapter.

5.3 Bearing Witness of Christ. The Chapter is expected to bear witness of Christ.

5.4 Transition of Authority. To insure the continual wellbeing of the Chapter, outgoing officers shall facilitate the orderly transition of authority by taking adequate time in the winter and spring to train new Chapter leaders. The Chapter shall implement a procedure for the naming of at least three new officers by April 30 of each year. No later than May 1, the outgoing President or Secretary shall inform the CLS office of the names and contact information of the incoming officers.

5.5 Election of Officers. Officers shall be elected by vote of the officers at the meeting of the board of officers called for that purpose each year. Officers may vote in consultation with members, faculty advisors, or other campus ministry staff, should the officers so choose. Any vacancies in the board of officers shall be filled by a majority vote of the remaining officers.

5.6. CLS Membership of Newly-Elected Officers. In order for a Chapter to retain its affiliation with CLS, each officer, upon election, must join CLS if he or she is not already a member.

5.7 *Forcible Removal of an Officer.* The removal of a current officer prior to the end of term requires a majority vote of officers or action by the CLS. Such action may be initiated by Chapter members or officers or CLS.

ARTICLE VI. MEETINGS

Chapter meetings shall be held with enough frequency to accomplish the mission and purposes of the Chapter. At least four general meetings shall be held during each school year. The officers, in consultation with the chapter members and any advisor, shall determine the frequency, time and place, and agenda of each meeting and shall insure that adequate notice is given of each meeting.

The President shall be responsible to select and notify before each meeting the officers who are to lead the Bible study, prayer, and worship as well as for inviting any guest speakers.

In compliance with federal law, including the provisions of Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, the ADA Amendments Act of 2008, Executive Order 11246, the Uniformed Services Employment and Reemployment Rights Act, as amended, and the Genetic Information Nondiscrimination Act of 2008, Christian Legal Society at Vanderbilt University Law School does not discriminate against individuals on the basis of their race, sex, religion, color, national or ethnic origin, age, disability, military service, or genetic information in its administration of educational policies, programs, or activities; admissions policies; scholarship and loan programs; athletic or other University-administered programs; or employment. In addition, the University does not discriminate against individuals on the basis of their sexual orientation, gender identity, or gender expression consistent with the University's nondiscrimination policy.

ARTICLE VII. FINANCES

The Chapter may raise revenues through contributions, fundraising activities, or by applying for funds otherwise available to student groups. A Chapter shall never charge local dues. If the Chapter chooses to raise revenues, it shall insure that the highest standards of Christian morality and financial integrity are met. At a minimum, the Chapter shall: maintain its funds in a segregated checking or savings account managed according to School standards; require the signatures of two officers to write a check or withdraw funds; incur financial obligations only when there is sufficient funding to honor the obligations; pay all debts in a prompt manner; and maintain accurate financial records showing all receipts and expenditures and all assets and liabilities of the Chapter. Upon request, the Chapter's financial records shall be made available to CLS.

ARTICLE VIII. RESTRICTIONS ON ACTIVITIES

The Chapter shall not carry on any activities prohibited by CLS under its bylaws or by Sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code. Without the prior written consent of the CLS Executive Director, the Chapter shall not: be a voluntary party in any litigation; seek legal counsel from an attorney not on CLS staff; lobby (including the publishing or distribution of statements) or otherwise attempt to influence legislation; or participate or intervene in any political or judicial campaign on behalf of any candidate for office. No part of the net income of the Chapter shall inure to the benefit of its officers or other private persons, except that the Chapter shall be

authorized to pay reasonable compensation for services actually rendered and to make payments and distributions in furtherance of its purposes.

ARTICLE IX. AMENDMENTS AND INTERPRETATION

9.1 *Amendments.* The Chapter may amend this Constitution by a 75% member vote, or unanimous vote of the officers; provided, however, that no amendment shall have any force or effect unless it has been approved in writing by the CLS Executive Director. Request for approval of any amendment must be submitted in writing to **CLS Law Student Ministries, 8001 Braddock Rd, Suite 300, Springfield, VA 22151, lsm@clsnet.org.**

9.2 *Interpretation.* Any conflict or disagreement among Chapter officers or members as to the meaning or interpretation of this Constitution shall be submitted in writing to the Christian Legal Society, through the Executive Director or Director of Law Student Ministries. The decision of the CLS Executive Director resolving the conflict or disagreement shall be final. In the event of any conflict or inconsistency between this Constitution and the CLS bylaws, the terms and provisions of the CLS Bylaws shall control. The Chapter, on behalf of its officers and members, agrees to submit any conflict with CLS to mediation or arbitration using the services of Peacemaker Ministries.

ARTICLE X. FORCE AND EFFECT OF CONSTITUTION

This Constitution shall take effect when the CLS Executive Director executes an affiliation agreement, accepting this Constitution, and shall remain in effect until terminated in writing by either party or until the Executor Director of CLS determines that the Chapter ceases to meet the qualifications of a CLS student chapter as enumerated in this Constitution and Art. XIII of the CLS Bylaws. If the Chapter Constitution is terminated, the Chapter ceases to exist.

