



# Center for Law & Religious Freedom

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February 29, 2008

Andrew A. Sorenson  
President of The University of South Carolina  
Osborne 206  
University of South Carolina  
Columbia, SC 29208

**Re: *Christian Legal Society, et al., v. Sorenson, et al.*, Temp. Docket No. 3:08-av-99999-CIV, Entry No. 378, Our File No. LE1249**

Dear President Sorenson:

The Center for Law and Religious Freedom of the Christian Legal Society (CLS) represents the Plaintiffs, CLS and its local chapter at the University of South Carolina in the above-referenced action. By this letter, I am advising you that we have filed the enclosed complaint in the federal district court in Columbia, South Carolina. The complaint challenges the University's exclusion of religious student organizations from general funding through student fees and its processes and procedures for allocating student fees. However, we have elected to postpone service of the complaint for two weeks to provide the University with an opportunity to remedy what we believe is a clear constitutional violation and eliminate the necessity of formal litigation.

The University of South Carolina has created a speech forum for student organization recognition and student activity funding through student fees collected by the University. *Rosenberger v. Rector and Visitors of the University of Virginia*, 515 U.S. 819, 830 (1995). Having done so, it is incumbent upon the university to ensure that the fees are dispensed in a manner consistent with the First Amendment. *Id.* See also, *Board of Regents of University of Wisconsin System v. Southworth*, 529 U.S. 217, 233 (2000). It is well established that the exclusion of religious student organizations from such a forum violates the First Amendment. *Rosenberger*, 515 U.S. at 837. The University of South Carolina's exclusion of recognized religious student organizations in the forum for allocation of student activity fees conflicts with well established Supreme Court precedent. While we hope that you will act to remedy this clearly unconstitutional policy, should you determine not to do so, we reserve the right to amend our complaint before service to name certain defendants in their individual capacities as well.

The outright exclusion of religious student organizations from general funding aside, the University's processes and procedures for allocating student fee funds do not comport with its

obligations to ensure viewpoint neutrality. Hence, if the University officials and those student body officials to whom it delegates authority do not “provide sufficient criteria to prevent viewpoint discrimination, [the policy] generally will not survive constitutional scrutiny.” *Child Evangelism Fellowship of Maryland v. Montgomery County Public Schools*, 457 F.3d 376, 387 (4th Cir. 2006). The fee allocation system at the University of South Carolina does not satisfy this requirement. No exhaustive list of criteria to be considered are provided for general funding, and those provided for special project funding are too vague to bridle the decisions of student government and university officials and protect against viewpoint discrimination. *See Amidon v. Student Ass’n of State University of New York at Albany*, 508 F.3d 94, 104 (2nd Cir. 2007) (non-exhaustive list of criteria, including criteria examining program’s “enrichment of campus life” and advancement of “educational mission” did not sufficiently protect against viewpoint discrimination). The requirement that events seeking special project funding must themselves be “content neutral,” a term of uncertain meaning, is also so vague as to fail to bridle the decisionmakers’ discretion and protect against viewpoint discrimination.

It is our hope that upon review of the complaint you will take the appropriate action to ensure that the University’s allocation of student activities fees complies with the First Amendment. For this reason, we are providing the attached courtesy copy of the filed complaint and Exhibits A and F. We expect that you have the remaining exhibits.

Please note that as discussed in Exhibit A, the CLS-USC chapter constitution, active voting membership and leadership in CLS-USC is limited to persons who affirm the CLS Statement of Faith. CLS-USC’s right to do so is protected by the First Amendment. *See Christian Legal Society Chapter at Southern Illinois University v. Walker*, 453 F.3d 853, 862 (7th Cir. 2006). However, anyone is welcome to attend and actively participate in any CLS-USC meetings or events. This Constitution has been accepted and CLS-USC has been approved as a recognized student organization. Because of this fact and CLS-USC’s communications with University officials clarifying its policies, we therefore understand that the University would not read the “membership” openness requirement of Finance Code § 390.05 to exclude CLS-USC from general funding. However, if CLS-USC’s voting membership and leadership policies would nevertheless be read to exclude it from general funding we ask that you inform us of this. We ask that you please respond to this letter by no later than March 17, 2007 so that we can ascertain whether service of the complaint will be necessary.

Sincerely,



M. Casey Mattox

Enclosures

Cc:

Dennis A. Pruitt, Vice President for Student Affairs

Jerry Brewer, Associate Vice President for Student Life and Development

Angela M. Dusenbury, Coordinator for Student Government & Student Organizations

Members of the Student Senate

President of the Student Body

Elizabeth J. Davis, Director of Student Affairs (USC School of Law)

Members of the Student Bar Association Finance Committee (USC School of Law)