

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
EASTERN DIVISION**

BUSINESS LEADERS IN CHRIST, an
unincorporated association,

Plaintiff,

v.

THE UNIVERSITY OF IOWA; LYN
REDINGTON, in her official capacity as
Dean of Students and in her individual
capacity; THOMAS R. BAKER, in his
official capacity as Assistant Dean of
Students and in his individual capacity; and
WILLIAM R. NELSON, in his official
capacity as Executive Director, Iowa
Memorial Union, and in his individual
capacity,

Defendants.

Civ. Action No. 3:17-cv-00080-SMR-SBJ

**DECLARATION OF
JACOB ESTELL**

I, Jacob D. Estell, declare as follows:

1. I am a senior at the Tippie College of Business at the University of Iowa. I am also the President of BLinC, or Business Leaders in Christ, which is a student group on campus for students who want to learn how to live their faith in the business world.
2. I became the President of BLinC in April 2017. The year before I served as its Vice-President.
3. The purpose of BLinC is “to create a community of followers of Christ . . . to share and gain wisdom on how to practice business that is both Biblical and founded on God’s truth.”

4. We want to help students learn how to live in the workplace in a way that reflects positively on the Gospel of Jesus Christ by being men and women who have integrity, a strong work ethic, a desire to serve their community, and to help their businesses succeed.

5. I first joined BLinC because I was growing in my faith and wanted to associate with other students who shared my beliefs and challenges of living them in the workplace.

6. As President of BLinC, my responsibilities include planning and leading the weekly meetings. Each week, I or another member of the executive board, leads our members in prayer and spiritual discussion.

7. I'm also responsible for finding Christian business leaders who are willing to come speak to us about how their faith helps them in the careers.

8. I also organize a couple of service activities each semester where we mentor kids in local programs for disadvantaged youth. We also have an activity on campus every year where we encourage students to express thanks and think about all of the things they have to be grateful for.

9. When I was elected, I knew that BLinC was being investigated by the University because a student complained that he was denied a leadership position for being gay. I further knew that that complaint was false, and that the student—who was a member at the time of his application for leadership—had been found ineligible for leadership because of his disagreement with and decision not to live by BLinC's religious beliefs.

10. On June 30, we got a letter saying that the investigator found that BLinC had discriminated against the student because of his sexual orientation. A copy of the letter is attached as **Exhibit A**.

11. On July 14, 2017, I sent a letter explaining that the student was denied a leadership position "only because he stated that he disagrees with, and would not try to live by, BLinC's Christian

principles, which means he could not effectively lead our group.” A copy of my letter is attached as **Exhibit B**.

12. A little later, I was invited to meet about the investigation with Dr. Bill Nelson, the University official who is responsible for registering the student groups on campus.

13. The meeting was on September 1, 2017. My Vice-President, Brett Eikenberry, went with me. Two of our lawyers were with us.

14. The Associate Dean of Students, Thomas Baker, was also at the meeting with Dr. Nelson.

15. Dean Baker did most of the talking at the meeting. He started by explaining the investigation’s finding that BLinC had denied a student a leadership position because he identified as being gay.

16. Dean Baker told us that this violated the University’s Human Rights policy. But he said that if BLinC understood the policy and was willing to comply with it, BLinC could remain a registered organization in good standing.

17. Dean Baker told us he had a similar situation with the Christian Legal Society in 2004 and that it was allowed to stay on campus after it clarified that its religious beliefs required them to abstain from sexual activity outside of marriage.

18. We explained that we likewise needed our leaders to actually share and live by our beliefs.

19. Dean Baker told us that was okay and gave an example that a student environmental group promoting awareness about global warming could choose leaders based on its beliefs and that BLinC could do the same thing based on its beliefs.

20. We talked quite a bit about the difference between discriminating on the basis of “status” and choosing leaders based on “beliefs” and “conduct.” We repeatedly emphasized that BLinC does not discriminate on status, but only seeks to choose leaders based on “belief” and “conduct.”

21. Dean Baker and Dr. Nelson explicitly said it was okay to choose leaders based on their beliefs and conduct as long as we did not discriminate on status alone. We confirmed that this was consistent with BLinC's position.

22. They told us that the University's finding would remain in BLinC's official file, but that we could write a letter for the file explaining why we thought the finding was wrong, since we said the student was turned down because he disagreed with our beliefs and not because he was gay.

23. Dr. Nelson asked if our beliefs were written down anywhere and said it would be better if students knew our beliefs before they joined so they wouldn't be offended later.

24. Brett and I agreed that we could make our beliefs more clear in BLinC's constitution.

25. Based on what they told us, I thought once we put our beliefs into BLinC's constitution, the University would leave us alone.

26. When the meeting ended and Dr. Nelson was leaving the room, he stopped and turned around and said something like that the University has a lot of great students but "some of the best" were "sitting right here."

27. We were surprised and happy that the meeting went so well.

28. A couple of weeks later, I got a letter from Dr. Nelson basically saying that we had to update our statement of faith by listing "qualifications for leaders" so that "non-heterosexuals are not categorically eliminated from consideration." A copy of that letter is attached as **Exhibit C**.

29. We updated our constitution and attached a new copy of our statement of faith with a more detailed explanation of our religious beliefs. Our lawyers sent it to Dr. Nelson on September 27, 2017. A copy of the updated constitution and statement of faith are attached as **Exhibit D**.

30. I got a response from Dr. Nelson on October 19. I was stunned that he said our updates were not good enough and that he was going to revoke our registration if we did not "make

additional revisions” to our statement of faith and “submit an acceptable plan” for picking our leaders. A copy of Dr. Nelson’s response is attached as **Exhibit E**.

31. Our beliefs are based on our understanding of the Bible, and we can’t just change them because the University doesn’t like them.

32. Our lawyers helped us file an appeal to the Dean of Students, Lyn Redington. A copy of our appeal is attached as **Exhibit F**.

33. On November 16, Dean Redington rejected our appeal and revoked BLinC’s registration. A copy of her letter is attached as **Exhibit G**.

34. Getting investigated and punished by the University has been really stressful and time-consuming for us. We’ve had to spend dozens of hours defending ourselves and our faith from University officials. It has distracted us from our studies and made us feel like outsiders at the University.

35. Being registered by the University is really important to us. We are a small group with fewer than ten members, but we met a lot of interested students at the last student fair. We want to grow, and that is where we have opportunity to reach out to students.

36. The next student fairs are January 24 and January 25 of next year. If we are not registered by the University, we can’t participate in the student fairs.

37. Another way that students find us is on OrgSync, which is the University’s website for all student organizations. If we’re not registered, we can’t be listed on OrgSync.

38. We also get to send a message to all students once every semester. But if we’re not registered we can’t do that.

39. We hold all of our meetings on campus, but if we are not registered by the University, we aren’t allowed to reserve rooms for free.

40. In the past we have been able to send some of our members to events related to BLinC's mission at other schools around the country, and the University has paid some of the costs out of the student activity fees that we all have to pay. But if BLinC isn't registered, we can't use any of that money.

41. Being officially derecognized also makes it much harder to grow our group because potential members are scared off because the University is treating us like there's something wrong with us, and are nervous that associating with us could harm their education or reputation at the University.

42. The worst part is that the University is discriminating against us because of our religious beliefs after it told us that we could choose leaders who shared our beliefs. I can't believe that they can basically kick us off campus because of our religious beliefs.

43. We let anyone join our group. We want to share our beliefs with them and we want to have an impact by helping students be successful in the business world.

44. We think it is important to have integrity in business. Dishonesty is one of the biggest problems in the business world and there is a lot of pressure on people to cheat or take unfair advantage of others. We want to learn how to apply our beliefs to help us be honest and fair and still be competitive.

45. It's crazy to see lately how much sexual harassment there is in the business world. We think that our religious beliefs about sexual morality can help us and others be more respectful in their business relationships and know how to stand up against harassment when they see it.

46. We know that not everyone agrees with our beliefs and that's okay. We know that you can disagree with our beliefs and still be honest and have integrity and be respectful in the workplace.

But we want the same right as everyone else to talk about our own beliefs and how they can help us be the kind of people we want to be in our careers.

47. We can't do that if we aren't allowed to choose leaders who share our beliefs.

48. I don't see how the University can punish us for our beliefs when there are all kinds of student groups that push all kinds of messages, but the University isn't telling them who has to be their leaders.

49. The University is basically saying that there's something wrong with our beliefs and that we don't belong on campus. Just because we agree with what Jesus and Paul taught about sexual morality doesn't mean that we hate people who disagree with us. We aren't trying to control how they live. But we also want to be free to live how we want and choose leaders who share our beliefs.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.


Executed on this 11th day of December, 2017.


Jacob D. Estell

EXHIBIT A

MEMORANDUM

TO: Student A, Complainant
Business Leaders in Christ, Respondent

FROM: Constance Schriver Cervantes 
Compliance Coordinator
Office of Equal Opportunity and Diversity

DATE: June 30, 2017

SUBJECT: Finding on formal complaint of discrimination

I. SUMMARY

On February 20, 2017, Complainant filed a formal complaint with the Office of Equal Opportunity and Diversity against Respondent alleging that Respondent engaged in actions in violation of the University of Iowa's *Policy on Human Rights*.

This finding is issued in conjunction with the Office of Equal Opportunity and Diversity's investigation of Complainant's complaint.

II. FINDING

The evidence produced during the investigation does provide a reasonable basis to believe the *Policy on Human Rights* was violated.

III. BACKGROUND

Complainant is a student at the University of Iowa, and a former member of Business Leaders in Christ (BLinC)

Respondent is a registered student organization at the University of Iowa.

In addition to Complainant, the following witness was interviewed:

- Student B, President, BLinC

The following documents were reviewed:

- Copy of Facebook Messenger notes of meeting dates between Complainant and B
- May 17, 2016 e-mail from Complainant to Student B
- June 22, 2017 e-mail from Student B to Complainant
- Constitution of Business Leaders in Christ

- Center of Student Involvement & Leadership Registered Student Organization Constitutional Standards and Guidelines
- “Nature of Complaints,” notes from Complainant
- “Chronology,” prepared by Student B
- “Vision Meeting August 26, 2016,” notes from Student B

IV. SUMMARY OF REMEDY REQUESTED, ALLEGATIONS AND RESPONSES

Remedy Requested

Complainant requests that BLinC be required to comply with the university’s non-discrimination policy, or no longer be a recognized student organization, affiliated with the University of Iowa.

Allegations

Complainant states that he was denied a leadership position with BLinC because of his sexual orientation.

Complainant indicated that at the end of the 2016 spring semester, he expressed an interest in becoming the vice-president of BLinC for 2016-17 academic year. On April 7, 2016, Student B, the current President of BLinC, met with Complainant and offered him the position. She then asked if he had any questions. Complainant told Student B he was gay. He asked how that would affect his becoming vice-president. Student B indicated she would have to get back to him.

On April 27, 2016, Student B again met with Complainant and informed him she was withdrawing the offer to him for the position of vice-president. Student B stated that because Complainant was gay and might pursue a relationship as a gay person, he could not be a leader in BLinC.

Responses

Student B admits that because of Complainant’s “desire to pursue a homosexual lifestyle/relationship” he was denied a leadership position in BLinC.

Student B is a co-founder of BLinC. It was founded three years ago, and was recognized by the university as a student organization in 2014. Student B was the secretary for the organization in its first year and has been the president since.

Student B states that the officers share duties. There is no vice president for the 2016-17 academic year. Currently BLinC has approximately 10-12 members. No minutes of meetings are kept.

In a meeting in March 2016, Student B announced they were looking for officers for BLinC for the 2016-17 academic year. Complainant reached out to Student B to express his interest in a leadership position, that of vice-president.

On April 7, 2016, Student B met with Complainant to discuss the position of vice-president. At the end of that meeting Complainant informed Student B he was gay. Student B then advised Complainant she would have to get back to him with respect to the position.

Student B then met with other BLinC officers to discuss the question of allowing Complainant to become vice-president. Student B determined Complainant would have been eligible for the position of vice-president but for being gay. Student B met further with Complainant on April 27, 2016, and told Complainant that he would not be allowed to be vice-president. In her interview in this investigation, Student B stated Complainant would have become vice-president at the April 27, 2016, meeting if he had not told her he was gay.

On May 17, 2016, Complainant e-mailed Student B to express further concerns with respect to the decision that he not to be allowed to be on the executive board of BLinC. Student B replied by e-mail on June 22, 2016, indicating in part:

First and foremost, the reason why I made the decision that I could not allow you to be in a leadership position within BLinC is because of your desire to pursue a homosexual lifestyle/relationship.

Student B confirmed that this e-mail correctly states her, and the organization's position on homosexuality and leadership in the organization. Pursuing a relationship with the opposite sex is acceptable within the organization.

Complainant has not attended any meetings since his rejection as vice-president and is no longer a member of the organization. BLinC has no self-identified gay members. Student B states individuals who are gay are welcome to be student members of BLinC, but not leaders of the organization.

BLinC's Constitution, adopted April 1, 2014, provides in part:

Article II

Membership:

Section 1) In no aspect of its programs shall there be any difference in the treatment of persons on the basis of ...sexual orientation...or any other classification which would deprive the person of consideration as an individual. The organization will guarantee that equal opportunity and equal access to membership, programming, facilities and benefits shall be open to all persons.¹

Article III

Officers and Duties:

There will be 4 executive officer positions within Business Leaders in Christ:

- 1) President...
- 2) Vice President...
- 3) Treasurer...
- 4) Secretary...

Article VI

Elections

Section 1) Elections for the Executive Board will be held once a year in March to elect for the following school year.²

V. APPLICABLE POLICIES

Policy on Human Rights:

The University is guided by the precepts that in no aspect of its programs shall there be differences in the treatment of persons because of ... sexual orientation ... These principles are expected to be observed in the internal policies and practices of the University; specifically... in policies governing programs of extracurricular life and activities...

<http://opsmanual.uiowa.edu/community-policies/human-rights>

¹ All university registered student organizations are required to follow the Registered Student Organization Constitutional Standards and Guidelines, <http://csil.uiowa.edu/manage/new-organization-constitutional-guidelines/>.

Under those guidelines, the university's Human Rights Clause must be included and must be written in a student organization's Constitution exactly as follows: *In no aspect of its programs shall there be any difference in the treatment of persons on the basis of race, creed, color, religion, national origin, age, sex, pregnancy, disability, genetic information, status as a U.S. veteran, service in the U.S. military, sexual orientation, gender identity, associational preferences, or any other classification which would deprive the person of consideration as an individual. The organization will guarantee that equal opportunity and equal access to membership, programming, facilities, and benefits shall be open to all persons. Eighty percent (80%) of this organization's membership must be composed of UI students.*

The clause in BLinC's Constitution does not meet the present language requirements, which were updated in October 2014.

² For the 2016-17 election, BLinC had approximately 5-6 members. Officer positions were discussed but no formal vote was taken. The members agreed on the candidates according to Student B.

VI. ANALYSIS AND CONCLUSION

The purpose of a formal investigation is to determine, based on sufficient evidence, whether there is a reasonable basis to believe that a violation of the policy has occurred. The standard for evaluating evidence gathered in the investigation is by a preponderance of evidence which requires the investigator to determine whether it is more likely than not that a given fact is true, or a given event occurred.

For a violation of the *Policy on Human Rights* here, the evidence must show that an individual was treated differently than others were treated in a university program, and that the differential treatment was based on a protected class, including sexual orientation.

The preponderance of the evidence in this case establishes that Complainant was applied for and was interviewed for the position of vice-president of BLinC for the 2016-17 academic year. However, upon learning that Complainant was gay, Student B, the president of the organization, after consultation with other officers, denied Complainant a position of leadership within BLinC because of his sexual orientation.

The refusal by an officer of a recognized student organization to allow Complainant to be an officer of BLinC, and the decision to treat him differently than other members due to his sexual orientation violates the university's *Policy on Human Rights*.

The University of Iowa has a categorical non-discrimination policy. The *Policy on Human Rights* prohibits institutional discrimination in its programs based on protected classifications, including sexual orientation. There is no distinction within the *Policy on Human Rights* for membership as opposed to leadership positions. The policy provides: *in no aspect of its programs shall there be differences in the treatment of persons because of ... sexual orientation ... These principles are expected to be observed in the internal policies and practices of the University; specifically in the ... in policies governing programs of extracurricular life and activities...*

Here, the basis for BLinC's refusal to select Complainant for the position of vice-president was his sexual orientation.

Student organizations may state a set of beliefs with which their members or leaders must comply. BLinC has no such statement in its Constitution. However, an organization may not adopt a statement of beliefs that is inconsistent with the *Policy on Human Rights*, and base exclusion on a protected classification. BLinC's action with respect to this Complainant's application for the position of vice-president violates the *Policy on Human Rights* because of the statements made by the president.

VII. APPEAL PROCEDURES

If the Office of Equal Opportunity and Diversity concludes that the complaint is unfounded, the Complainant may appeal the finding on the grounds that the decision was arbitrary and capricious or that the investigating office did not follow procedures resulting in prejudice to the

Complainant. Appeals must be made electronically or in writing³ and submitted together with all supporting documentation to the Office of Equal Opportunity and Diversity within ten (10) university business days of the receipt of the finding. Generally within two (2) university business days, the Office of Equal Opportunity and Diversity will transmit the notice of appeal and the case record to the appropriate appeal officer, as described on the Office of Equal Opportunity and Diversity website: <http://diversity.uiowa.edu/policies/discrimination-complaint-procedures>.

The appeal officer, or the appeal officer's designee, will issue a written decision on the appeal to the Complainant and the Office of Equal Opportunity and Diversity within 20 university business days of the receipt of the appeal, although this time frame may be extended due to the complexity of the case or the severity of the allegations.

In cases where the appeal is denied, such action constitutes final university action on the matter, subject to appeal to the Iowa Board of Regents. In cases where the appeal is successful, in whole or in part, the appeal officer/designee will advise the Office of Equal Opportunity and Diversity regarding appropriate measures to address the issues of concern raised in the appeal.

For complaints that conclude in a finding that there is a reasonable basis to believe that a policy violation has occurred and sanctions have been imposed, Respondents may appeal such findings through the grievance procedures applicable to them. The Respondent may challenge any sanctions imposed as a result of a finding through available grievance procedures.

VIII. NOTE ON CONFIDENTIALITY AND RETALIATION

The Office of Equal Opportunity and Diversity considers all information received in connection with the filing, investigation, and resolution of complaints to be confidential. Disclosure of information in connection with this complaint is limited to those individuals necessary to its investigation and resolution, and it is expected that the parties will observe the same standard of confidentiality. The individuals copied on this finding are administrators who have authority and responsibility for the University of Iowa student organizations, or for the Respondent and would be critical to any sanction that might be imposed. This practice of maintaining confidentiality is in the best interests of all the parties to the complaint and failure to respect confidentiality may be regarded as retaliation. University policy prohibits retaliation against individuals who file complaints and against those who participate in complaint investigations as witnesses.

³ The address to submit such an appeal is: diversity@uiowa.edu or Office of Equal Opportunity and Diversity, 202 Jessup Hall, 5 West Jefferson St., Iowa City, IA, 52242-1316.

cc: Georgina Dodge, Chief Diversity Officer and Associate Vice President, Title IX
Coordinator
Jennifer Modestou, Director, Office of Equal Opportunity and Diversity, Deputy Title IX
Coordinator
Thomas Rocklin, Vice President for Student Life
Lyn Redington, Assistant Vice-President, Dean of Students
William Nelson, Executive Director, IMU
Anita Cory, Associate Director, Student Organization and Leadership Program, Center
for Student Involvement and Leadership
Susan Sager, Administrator, HR Services, Advisor, Business Leaders in Christ

EXHIBIT B

July 14, 2017

VIA EMAIL

Dean Lyn Redington
Assistant Vice President and Dean of Students
University of Iowa
Office of the Dean of Students
135 Iowa Memorial Union
Iowa City, IA 52242
[REDACTED]

Dear Dean Redington,

I am a University of Iowa student and the incoming president of the student group BLinC or Business Leaders in Christ. As you know, on June 30, Ms. Schriver Cervantes from the Office of Equal Opportunity and Diversity found that BLinC had violated the University's *Policy on Human Rights*. It is my understanding that the matter has now been sent to you for a decision whether BLinC should be sanctioned. It should not. In fact, sanctioning BLinC would violate both the University's own policies and state and federal law.

First, Ms. Schriver Cervantes' conclusion that BLinC violated the *Policy on Human Rights* is incorrect. The University's own policies respect the right of student groups to "exercise free choice of members" who "subscribe to the goals and beliefs of the organization." BLinC did not discriminate against the complaining student because of his sexual orientation. The student participated in BLinC before asking for a leadership position, and remains welcome to participate—even as a leader, regardless of his sexual orientation. The student was not eligible to be a leader of BLinC only because he stated that he disagrees with, and would not try to live by, BLinC's Christian principles, which means he could not effectively lead our group.

Second, your office has previously agreed that it would be a violation of the Iowa Human Rights Act to force a student group to accept leaders whose behavior is contrary to the group's purpose or its statement of faith. Such coercion would also violate federal law, including the First Amendment. BLinC is a Christian organization for students who share core Christian convictions. Its entire purpose is to encourage students to live according to its understanding of Christian principles. And its leaders play a religious role in leading the group. BLinC cannot fulfill its core mission if its leaders do not support its beliefs. The First Amendment protects BLinC's right to select leaders who share its mission.

The University itself also protects that right for a wide variety of other student groups who require both their leaders and their members to support their organizations' goals and purposes. BLinC's earlier letter to Ms. Schriver Cervantes, on which you were copied, identifies many of those organizations. Because your office has acknowledged that forcing a religious group to select leaders who oppose its mission would violate the Iowa Human Rights Act, and because you have taken no action against many other student groups with leadership standards, targeting BLinC because of its religious beliefs would be an intentional violation of both state and federal law, raising the potential for punitive damages against the University and its officers.

For all these reasons, it is our hope that you will reverse Ms. Schriver Cervantes' findings and take no further action against BLinC.

Sincerely,

A handwritten signature in black ink, reading "Jacob D. Estell". The signature is written in a cursive style with a large, stylized initial "J".

Jacob D. Estell
President
Business Leaders in Christ

cc: Georgina Dodge [REDACTED]
Jennifer A. Modestou [REDACTED]
William Nelson [REDACTED]
Anita Cory [REDACTED]
Susan M. Sager [REDACTED]
Constance A. Schriver Cervantes [REDACTED]

EXHIBIT C



Iowa Memorial Union

145 Iowa Memorial Union
Iowa City, Iowa 52242-1317
319-335-3059
imu.uiowa.edu

SENT VIA ELECTRONIC MAIL

September 13, 2017

Jacob Estell, President
Business Leaders in Christ (BLinC)



Dear Jacob:

I am in receipt of the June 30, 2017, communication from Constance Schriver Cervantes regarding the case filed against your registered student organization, BLinC. Ms. Schriver investigated the complaint filed against BLinC on behalf of the Office of Equal Opportunity and Diversity.

This investigation was conducted under the Discipline of Registered Student Organization (DRSO) procedures found at <https://dos.uiowa.edu/policies/discipline-of-registered-student-organizations/>. We met on September 1, 2017, to discuss the case. I listened and considered your comments and questions. During our discussion, Tom Baker, Associate Dean of Students, stated your organization should be allowed to function as a registered student organization in good standing so long as the student leaders operate fully and consistently in accordance with the University of Iowa Human Rights Policy and make a sincere commitment to comply with the policy moving forward. After further discussion, you stated your organization intended to comply with the University of Iowa Human Rights Policy at all times in the future.

As explained in DRSO Section IV.D., I have the authority to impose sanctions if I conclude University rules were violated and sanctions are warranted. I find there is a preponderance of evidence that BLinC violated the University of Iowa Human Rights Policy.

After consideration of the Investigative Report and your remarks, I will permit your organization to function as a registered student organization in good standing with the University of Iowa provided you comply with the following:

1. Commit to ongoing compliance with the University of Iowa Human Rights Policy at all times in the future;
2. Submit a basic list of qualifications for leaders of your organization designed to prevent future disqualifications based on protected categories and to ensure that persons who identify as non-heterosexuals are not categorically eliminated from consideration; and

3. Submit an acceptable plan for ensuring that group officers who interview leaders will ask questions relevant to the vision statement that are not presumptive of candidates based upon their sexual orientation.

To reiterate, BLinC, as a registered student organization, will return to good standing with the University of Iowa following your compliance with the above. Please submit the required information to me directly at [REDACTED].

You have the opportunity to appeal this decision. As an organization representative, you have ten (10) business days after receipt of this decision to request an appeal to the Office of the Dean of Students. The deadline for filing an appeal is September 27, 2017. Permissible grounds for appeal are listed at DRSO Section VI. Appeals.

Information related to this incident will be filed in the Office of the Dean of Students. Please be aware Section V. Sanctions of the DRSO states that, "Student organizations that fail to comply with a sanction in a timely manner are subject to additional disciplinary action, which may include loss of registration until compliance is achieved."

If you have any questions, please contact me at [REDACTED] or [REDACTED].

Sincerely,



William Nelson, Ph.D.
Executive Director
Iowa Memorial Union

c: Tom Baker [REDACTED]
Eric Baxter [REDACTED]

EXHIBIT D

Title: THE CONSTITUTION OF BUSINESS LEADERS IN CHRIST ("BLINC")

Date: September, 27, 2017

Article I

Purpose:

As seekers of Christ, Business Leaders in Christ is a student organization within the Tippie College of Business meant to help students learn about how to continually keep Christ first in the fast-paced business world. Using the Bible as a guide and through prayer, fellowship, group discussions, and service, students will network within the College and with business leaders who walk with Christ on a day-to-day basis.

Article II

Membership:

Section 1) **Membership in BLinC shall be open to all students without regard to race, creed, color, religion, national origin, age, sex, pregnancy, disability, genetic information, status as a U.S. veteran, service in the U.S. military, sexual orientation, gender identity, associational preferences, or any other classification that deprives the person of consideration as an individual. The organization will guarantee that equal opportunity and equal access to membership, programming, facilities, and benefits shall be open to all persons.**

Section 2) There will be no limitations as far as the minimum or maximum number of participants within the student organization.

Section 3) Because BLinC is seeking certification within the Tippie College of Business to become a recognized student organization, its target audience includes students already admitted into the Tippie College of Business, pre-business students, and students strongly considering business as a major/minor. A Member's role or affiliation will not be different based on their class within, or ties to, the Tippie College of Business.

Section 4) A student will be considered a Member after signing in and attending 2 or more meetings in a given academic year. However, the President and/or the Faculty Advisor has the right to withdraw membership at any time for misconduct or other extreme circumstances.

Article III

Officers and Duties:

1) All Officers are required to affirm that they accept and seek to live BLinC's religious beliefs as set forth in its Statement of Faith attached as Exhibit A. They must be prepared

to provide spiritual leadership for the organization, including leading prayer and Bible study, explaining the content of BLinC's religious beliefs, and ministering to others. They should have knowledge of, and agreement with, BLinC's mission and an understanding of how to model the values of the organization for the rest of the membership. All Officers are expected to uphold BLinC's religious beliefs and help ensure that the organization remains true to its religious mission, as described in this paragraph.

2) There will be 4 Executive Officer positions within BLinC:

a) President: The role of the President is to schedule, organize, and lead executive and large group meetings weekly. It is also the President's responsibility to manage all administrative issues, such as amending the constitution, overseeing the work of the other executives, making any final decisions regarding the well-being of the student organization, and reaching out to form meaningful relationships with members of the organization. To fulfill these responsibilities, the President must work closely with the Faculty advisor, providing updates on a weekly basis, as well as working closely with the other executives of the organization. It is the President's duty to work with the other officers to make sure all administrative work is successfully completed. In order to become President, a candidate should possess strong leadership skills (prior leadership experience is preferred), strong communication skills, and a strong work ethic to be able to complete all of the required duties as President.

b) Vice President: The primary role of the Vice President is to schedule guest speakers to come in and present on how they use their faith on a day-to-day basis in the workforce. Ideally, they will start planning and scheduling guest speakers for the following fall semester, as soon as they are elected. Besides engaging in outreach for speakers, the Vice President will assist the President with administrative issues and will assume the role of President whenever the President cannot attend a meeting or fulfill his/her duties. In order to be a successful Vice President, a candidate should possess strong community outreach skills. They should feel comfortable reaching out to potential speakers and asking if they would like to come present to the organization. The Vice President should also have strong administrative and leadership skills as well because they will work hand in hand with the President completing various administrative tasks.

c) Treasurer: The primary role of the Treasurer is to manage the funds, money, and make a budget for the organization. They will work with the other executives and the faculty advisor to decide where to allocate all of the funds. Candidates should have a knowledge of managing money, and someone that is majoring in accounting or finance will be prioritized.

d) Secretary: The main role of the secretary is to market the student organization. They should send out emails to members reminding them of upcoming events, post on the Facebook page, and tweet about what is going on within BLinC. Also, during meetings, the secretary should record minutes. Candidates considering the position of secretary should be organized and good communicators.

Article IV

Staff/Faculty Advisor

The responsibility of the Staff/Faculty Advisor is to be a voice for the students with the University and to help the Executive Officers with whatever needs they may have. The advisor should be made aware of everything that is going on within the organization by the Executive Officers. The Advisor is invited to attend leadership and group meetings in order to again lend input for the well-being of the organization.

To select a Staff/Faculty Advisor, the Executive Officers will search first in the Tippie College of Business by sending out emails or scheduling meetings with faculty members to see if anyone would be interested. The Staff/Faculty advisor may serve only by unanimous vote of the Executive Officers. If there is no one interested within the Tippie College of Business, the search may expand outside of the college, but the same process of unanimous vote by the Executive Officers must be followed.

Article V

Meetings

Section 1) Meetings will be held once a week. Meetings will not be held during finals week or on University breaks and holidays.

Section 2) Members will be notified by email 48 hours in advance of special meetings.

Section 4) The President or Staff/Faculty Advisor has the authority to call and schedule a meeting.

Article VI

Election & Removal of Officers

Section 1) Elections for the Executive Officers will be held once a year in March to elect Officers for the following school year.

Section 2) BLinC Members who are regularly enrolled as students at the University of Iowa, in good standing with the organization, and have attended 75% or more of the group meetings may be nominated by themselves or others to run for an executive office. Nominations should be submitted by email or other writing to the Executive Officers before March 1 of each year.

Section 3) All nominees must be interviewed by the President or, at the President's discretion, by another Executive Officer. Nominees must affirm that they accept and seek

to live BLinC's religious beliefs as set forth in Article III, Paragraph 1 of this constitution. If elected, a nominee must sign a copy of BLinC's Statement of Faith.

Section 4) At minimum, members will be notified of the upcoming election and the opportunity to submit nominations in a meeting and by email at least two weeks before March 1 and again by email at least two weeks before the election if held after March 1.

Section 5) Executive Officers will be selected by a majority vote of the Members present at the duly noticed election meeting.

Section 6) The process for removal of any officer shall be commenced by a written request for removal signed by at least two Members and delivered to the Executive Officers. The challenged officer shall have one week to prepare a written response to the request and shall have the opportunity to meet with the remaining Executive Officers to speak with them about the request and response. Should the other Executive Officers find grounds for the challenged officer's removal, the matter will be referred to a vote by the Members. No officer shall be removed without the vote of the majority of the Members present at a duly noticed meeting.

Section 6) Notwithstanding the procedures outlined in the previous paragraph, any misrepresentation in an Executive Officer's leadership application or change in an Executive Officer's representations regarding the beliefs and mission of BLinC (and, hence, their ability to communicate the messages of the organization accurately) shall be grounds for the immediate review of the Executive Officer's position by the remaining Executive Officers. If, after review, the remaining Executive Officers decide that the Executive Officer in question can no longer effectively represent BLinC or further its mission, the remaining Executive Officers may remove the Officer by a majority vote of the remaining Executive Officers.

Article VII

Finances

Section 1) There will be no dues required for membership within BLinC.

Section 2) All financial decisions must be made by joint agreement between the President and the Treasurer. The President and Treasurer must seek consensus from the other Executive Officers for financial decisions involving more than \$200.

Section 3) All checks must be signed by both the President and the Treasurer. If the President is unavailable, the Vice-President may sign, but only with the President's permission.

Section 4) BLinC shall give back to the Tippie community at a minimum rate of 10 percent of any grants or gifts received by the organization.

Section 5) At the beginning of each fall semester a budget shall be made by the Treasurer to thoughtfully allocate all funds expected through the end of the spring semester. The budget shall be presented to the Executive Officers and be ratified by a $\frac{3}{4}$ vote.

Section 6) It is the duty of the Executive Officers, especially the Treasurer, to thoughtfully pray that whatever financing BLinC might receive would be used as God desires.

Section 7) **BLinC is required to deposit all receipts in, and make disbursements through, the Student Organization Business Office, Fraternity Business Services, or Recreational Services. Upon dissolution, state money and mandatory student fees revert back to the granting organization. Inactive organizations will be considered dissolved after five years of no account activity. Revenue generated dollars or "00 funds" must be divided as stated in this Constitution and carried out by our leadership. Our organization's remaining revenue generated dollars or "00 funds" will be divided or disbursed to The University of Iowa Student Government. If this organization has dissolved and revenue generated dollars or "00 funds" have not been divided as stated in this Constitution by five (5) years from last account activity, funds in our "00 account" will revert to an account specified for this purpose within UISG/ECGPS. These funds will then be available for distribution through SABAC or GPAC guidelines in accordance with University of Iowa policy.**

Article VIII

Amendments

Section 1) In order to amend this document, both a $\frac{3}{4}$ vote from the Executive Officers and a $\frac{2}{3}$ vote by current Members at a duly noticed meeting is required to overturn or create changes to amendments.

Section 2) If an Executive Officer or a Member wishes to amend this constitution, the Executive Officers and Members should be notified at least two weeks in advance by email and by reading the proposed change(s) at one meeting to all Members present.

Article IX

Section 1) This Constitution shall take immediate effect upon a majority vote of all Executive Officers of the organization. The organization shall have all authority necessary to implement this constitution.

EXHIBIT A1

BLINC STATEMENT OF FAITH

- **DOCTRINE OF SCRIPTURE:** The Bible is God's unique revelation to mankind, the inspired, infallible Word of God. As such, it is the supreme and final authority and without error in what it teaches and affirms. No other writings are vested with such divine authority.
- **DOCTRINE OF GOD:** There is only one true God. He exists eternally as three persons — Father, Son, and Holy Spirit — each fully God yet each personally distinct from the other. God is the creator of everything.
- **DOCTRINE OF SIN:** Everyone, regardless of race, gender, social class, or intellectual ability, is created in God's image and for communion with God. But because of sin, that communion was broken and all of humanity was separated from God, the source of all life. Because of the fall, everyone deserves God's judgment.
- **DOCTRINE OF SALVATION:** Jesus Christ is the Way, the Truth, and the Life, and God gives salvation and eternal life to those who trust in him. Salvation cannot be earned through personal goodness or human effort. It is a gift that is received by repentance, faith in Christ, his death on the cross, resurrection from the grave and testified through baptism.
- **DOCTRINE OF JUDGMENT:** At the final judgment, unbelievers will be separated from God into condemnation. Believers will be received into God's loving presence.
- **DOCTRINE OF CHRIST:** Jesus Christ, the second Person of the Trinity, was conceived by the Holy Spirit, born of the Virgin Mary — he was God in human flesh. He lived a sinless human life, yet willingly took upon himself our sins by dying in our place and on our behalf. He rose bodily, victorious over death. He ascended to Heaven and is at the right hand of the Father as the believer's advocate and mediator. Someday, he will return to consummate history and to fulfill the eternal plan of God.
- **DOCTRINE OF THE HOLY SPIRIT:** The Holy Spirit, the third Person of the Trinity, convicts the world of sin and gives new life to those who trust in Jesus. He indwells all believers and is available to empower them to lead Christ-like lives. The Spirit gives them spiritual gifts with which to serve fellow believers and reach out to a lost and needy world.
- **DOCTRINE OF THE CHURCH:** All believers are members of the body of Christ, the one true church universal. Spiritual unity is to be expressed among Christians by acceptance and love of one another across ethnic, cultural, socio-economic, national, generational, gender, and denominational lines. The local church is a group of believers who gather for worship, prayer, instruction, encouragement, mutual accountability, community with each other, and as a witness to the world.
- **DOCTRINE OF PERSONAL INTEGRITY:** All Christians are under obligation to seek to follow the example of Christ in their own lives and in human society. In the spirit of Christ, Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including pornography. We believe God's intention for a sexual relationship is to be between a husband and a wife in the lifelong covenant of marriage. Every other sexual relationship beyond this is outside of God's design and is not in keeping with God's original plan for humanity. We believe that every person should embrace, not reject, their God-given sex. We should work to provide for the orphaned, the needy, the abused, the aged, the helpless, and the sick. We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death.

- **As I hold an Executive position with Business Leaders in Christ, I commit to live a life in which I turn from my sin and actively choose the biblical principles of Godly sanctification and righteousness. If and when I misstep, I will confess my struggle to God and to a member of the Business Leaders in Christ executive board acknowledging that I choose to receive grace and forgiveness from God and from others, and turn from my sin.**

Name

Executive Office

Date

EXHIBIT E



Iowa Memorial Union

145 Iowa Memorial Union
Iowa City, Iowa 52242-1317
319-335-3059
imu.uiowa.edu

SENT VIA ELECTRONIC MAIL

October 19, 2017

Jacob Estell
Business Leaders in Christ (BLinC)
[REDACTED]

Eric Baxter
[REDACTED]

Dear Jacob and Eric:

The revised Constitution and Statement of Faith you submitted in response to my September 13, 2017 letter does not satisfy the requirements I delineated in order for BLinC to remain as a registered student organization in good standing. The Statement of Faith, on its face, does not comply with the University's Human Rights policy since its affirmation, as required by the Constitution for leadership positions, would have the effect of disqualifying certain individuals from leadership positions based on sexual orientation or gender identity, both of which are protected classifications under Chapter 216 of the Iowa Code (the Iowa Civil Rights Act) and the University of Iowa Human Rights Policy.

You have the opportunity to make additional revisions to your Statement of Faith in order to submit a version that complies with the University of Iowa Human Rights Policy. Your submission must also include a response to the third requirement I set forth in my September 13, 2017 letter, which follows: "Submit an acceptable plan for ensuring that group officers who interview candidates for leadership positions will ask questions relevant to the Statement of Faith that are not presumptive of candidates based upon their sexual orientation or gender identity." You have ten (10) business days from the date of this letter to submit your revised response. The deadline for submission is November 2, 2017.

If you choose not to submit a revised response, I will find BLinC not to be in compliance with the University of Iowa Human Rights Policy and as a result, will revoke its registration. If BLinC elects not to submit a revised response, you have the opportunity to appeal this decision. As an organization representative, Jacob, you have ten (10) business days from the date of this letter to file an appeal with the Office of the Dean of Students. The deadline for filing an appeal is November 2, 2017. The permissible grounds for appeal are listed at DRSO Section VI. Appeals.

Information related to this incident will be filed in the Office of the Dean of Students. Please be aware Section V. Sanctions of the DRSO states that, "Student organizations that fail to comply with a sanction in a timely manner are subject to additional disciplinary action, which may include loss of registration until compliance is achieved."

If you have any questions, please contact me at [REDACTED] or [REDACTED].

Sincerely,

A handwritten signature in purple ink, appearing to read "W. Nelson", is written above the typed name.

William Nelson, Ph.D.
Executive Director
Iowa Memorial Union

c: Tom Baker [REDACTED]

EXHIBIT F



November 2, 2017

VIA EMAIL

Dean Lyn Redington
Assistant Vice President and Dean of Students
University of Iowa
Office of the Dean of Students
135 Iowa Memorial Union
Iowa City, IA 52242
[REDACTED]

RE: Appeal of Adverse Decision

Dear Dean Redington,

I write on behalf of the student group Business Leaders in Christ, or “BLinC,” to appeal the decision by Dr. William Nelson, Executive Director of the Iowa Memorial Union, which forces BLinC to revise its Statement of Faith or be kicked off campus for requiring its student leaders to share and abide by its religious beliefs. That decision not only violates the civil rights of BLinC and its members but also abuses the principles of diversity and academic freedom that the University seeks to promote. Under the laws of the United States and the State of Iowa, and to preserve the integrity of the University of Iowa, you should reverse Dr. Nelson’s decision.

FACTUAL BACKGROUND

Business Leaders in Christ

BLinC was founded three years ago as a community where business students can learn to integrate their faith in the workplace. BLinC encourages students to follow the admonition of the Apostle Paul in his letter to the Colossians to see all their activities—including their careers—as part of their discipleship to Jesus Christ:

Whatever you do, work at it with all your heart, as working for the Lord, not for human masters, since you know that you will receive an inheritance from the Lord as a reward. It is the Lord Christ you are serving.

Colossians 3:23-24 (NIV).

In pursuing this mission, BLinC has adopted a Statement of Faith describing what it means to be a disciple of Christ. *See* Exhibit A. The Statement of Faith embraces traditional Christian doctrines, including those concerning the supremacy of the Bible, the Unity of the Trinity, and the availability of salvation through Jesus Christ. The Statement also includes an explanation of the doctrine of personal integrity and sets forth



basic examples of Christian conduct that BLinC seeks to promote among its members. This includes opposition to racism, greed, selfishness, vice, and all forms of sexual immorality. The Statement affirms God's intention for sexual relationships only in marriage between a man and a woman, and encourages members to embrace, not reject, their God-given sex. The Statement also encourages compassion in providing for the orphaned, the needy, the abused, the aged, the helpless, and the sick.

BLinC's mission is to encourage students to embrace and live these values as they enter the business world and advance in their professions. For BLinC, living and encouraging others to live these values as disciples of Christ is at least as important as attending worship services, praying, or sharing the Gospel of Jesus Christ with others.

Since its founding, BLinC has held regular meetings on campus to invite like-minded students to address challenges they may face in the business world and to share how to apply Christian values in overcoming these challenges. BLinC has hosted Iowa business leaders to speak about how they live their faith in the work place. And BLinC has organized service activities to practice Christian virtues, including by providing childcare at Faith Academy's Saturday School program and partnering with Strive for Success, a local non-profit's after-school mentoring program for at-risk youth.

BLinC's Statement of Faith is the heart of its mission. It cannot simply change the Statement based on government fiat. The Statement of Faith is a reflection of what BLinC's founders and leaders view as their calling as Christians. To remain in existence and to carry out its mission, BLinC must have leaders who can advocate for its beliefs.

The Complaint

In February 2016, BLinC member Marcus Miller approached Hannah Thompson, BLinC's president at the time, to inquire about serving in BLinC's executive leadership. In a later meeting and on his own initiative, Mr. Miller disclosed to Ms. Thompson that he thought he was gay and was struggling with how that related to his Christian faith. Ms. Thompson explained that she would need to discuss this with other members of the executive team and what it meant for having a leadership role.

When they next met, Mr. Miller confirmed that he intended to be sexually active in same-sex relationships. Ms. Thompson expressed to Mr. Miller that she wanted to continue to walk closely with him as a friend and fellow Christian, and would love for him to continue to be a member of BLinC. But he would not be eligible for a leadership position because his decision to engage in sexual activity outside of marriage between a man and a woman was inconsistent with BLinC's religious beliefs. Mr. Miller could not



meaningfully lead BLinC while openly rejecting its beliefs. In a subsequent email, Ms. Thompson emphasized that her decision was not because Mr. Miller was gay, but because he intended to be sexually active in same-sex relationships, contrary to BLinC's Christian beliefs.

On February 20, 2017, Mr. Miller filed a Complaint with the University of Iowa stating that "I was denied a leadership position (Vice President) due to my being openly gay." As relief, he asked the University to "force BLinC to . . . allow openly LGBT members to be leaders . . . or take away their status of being a student organization affiliated with the University of Iowa." *See* Exhibit B.

The Investigation

On June 30, 2017, after completing an investigation of the facts alleged by Mr. Miller in his Complaint, University Compliance Coordinator Constance Shriver Cervantes from the Office of Equal Opportunity and Diversity issued a report finding that that BLinC had violated the University's Policy on Human Rights. *See* Exhibit C. Ms. Shriver Cervantes acknowledged that BLinC welcomed all students as members, regardless of their sexual orientation, but noted that *leaders* were required to abide by BLinC's religious beliefs, which would include avoiding any sexual activity outside of marriage between a man and a woman. *See* Exhibit C at 3. Ms. Shriver Cervantes also recognized that "[s]tudent organizations may state a set of beliefs with which their members or leaders must comply," but claimed that a "statement of beliefs" could not be "inconsistent" with the University's policies. *Id.* at 5. With this background, Ms. Shriver Cervantes concluded that there was a "reasonable basis" to believe that BLinC had violated the University's Policy on Human Rights. *Id.* at 1.

In a letter dated July 14, 2017, BLinC reiterated that Mr. Miller had "participated in BLinC before asking for a leadership position, and remains welcome to participate—even as a leader, regardless of his sexual orientation," and that he was "not eligible to be a leader of BLinC only because he stated that he disagrees with, and would not try to live by, BLinC's Christian principles." *See* Exhibit D.

The Parties' Meeting

On September 1, 2017, BLinC met with the Dr. Nelson and Assistant Dean Thomas Baker to discuss Ms. Shriver Cervantes's findings. BLinC was represented by its President, Jacob Estell, its Vice-President, Brett Eikenberry, and its legal counsel, Daniel Blomberg and me.

Dr. Baker started the discussion by conceding that student groups, and particularly religious student groups, have the right to select leaders who share their mission and beliefs. He explained that the issue had arisen



previously at the University in 2004 with the Christian Legal Society (“CLS”), which also required its leaders to share its religious beliefs, including beliefs about sexual morality. The University allowed CLS to remain a registered student organization after it confirmed that its leadership policies were focused on student leaders’ *beliefs and conduct* (i.e., affirming religious beliefs on sexual ethics and refraining from sexual intimacy outside of marriage) and not their *status* (i.e., sexual orientation). Dr. Baker went on to analogize that a student environmental society established to promote awareness of global warming would be allowed to choose leaders based on that tenet, and that BLinC could expect the same of its leaders and its tenets.

Mr. Estell and I engaged with Dr. Baker at some length on this issue, and—in response to my direct question—Dr. Baker confirmed that BLinC could maintain a standard of religious belief and conduct for its leaders without violating the University’s Human Rights Policy, as long as it did not discriminate categorically on status. He explained that the initial finding that BLinC violated University policy was based on the understanding that the complaining student had been denied a leadership position solely because he identified as gay, and that BLinC had never asked if he shared BLinC’s faith and would live according to its beliefs. BLinC explained that this understanding was incorrect, was directly contradicted by the record, and—in any event—was not in accordance BLinC’s leadership policy. Under that policy, students who identify as homosexual can be members and leaders of BLinC, if they affirm its beliefs and agree to live by them. Dr. Baker confirmed that such a policy would be permissible.

Dr. Nelson added that BLinC’s beliefs should be more clearly stated in its constitution so that students would be aware before joining and not risk feeling offended in discovering later that they may not be eligible for a leadership position. Dr. Baker agreed that a written articulation of BLinC’s beliefs would also help avoid arbitrary application of BLinC’s standards.

Although I objected that BLinC should not be compelled to detail its beliefs in ways that other student groups were not, BLinC’s student leaders who were present at the meeting indicated they had no objection to clarifying their religious beliefs. They again confirmed that they do not discriminate based on status of members or leaders, and require leaders only to share their beliefs and standards. We thus all agreed that, once BLinC updated its constitution to more clearly reflect its religious beliefs, the University’s investigation would end. Dr. Thomas stated that, although Ms. Shriver Cervantes’s findings would remain in BLinC’s files, BLinC could submit a letter of objection to emphasize its position that Mr. Miller had been denied a leadership only because he rejected BLinC’s mission, and not because he is



gay. Dr. Nelson indicated that he would send a letter to BLinC confirming the outcome of the parties' meeting.

Dr. Nelson's Final Decision

On September 13, 2017, Dr. Nelson issued a letter upholding Ms. Shriver Cervantes's finding that BLinC had violated the University's Policy on Human Rights. *See* Exhibit E. Dr. Nelson also determined that BLinC could retain its status as a recognized student organization if it: (1) confirmed in writing that it complies with the University's policy; (2) submitted an updated list of qualifications in its statement of faith to avoid categorically excluding people based on their sexual orientation; and (3) submitted an "acceptable plan" for ensuring that candidates will be evaluated on BLinC's "vision statement" and not be "presumptive of candidates based upon their sexual orientation."

BLinC understood Dr. Nelson's letter in light of the September 1 discussion, where he and Dr. Baker had explained that the nondiscrimination provision mandated by the Policy referred only to status-based, not belief- or conduct-based, discrimination. Thus, on September 27, 2017, BLinC submitted a revised constitution that it believed complied with all of Dr. Nelson's requests. *See* Exhibit F. The revised constitution (1) confirmed that BLinC would continue to comply with the clarified understanding of the Human Rights Policy; (2) submitted a Statement of Faith to avoid categorically excluding people based on their sexual orientation; and (3) confirmed in Article III of its revised constitution that leaders would be asked to sign the statement of faith, thus avoiding being "presumptive of candidates based upon their sexual orientation."

In a complete about-face, on October 19, 2017, Dr. Nelson issued a final decision letter stating that BLinC's revised Constitution was not in compliance with the University's Human Rights Policy. *See* Exhibit G. The basis for his decision was that BLinC's Constitution asks BLinC's leaders to affirm that they agree with its Statement of Faith and will seek to live according to its principles. *See* Exhibit F, Article III, ¶ 1 ("All Officers are required to affirm that they accept and seek to live BLinC's religious beliefs as set forth in its Statement of Faith"). Dr. Nelson found that BLinC's "Statement of Faith, on its face, does not comply with the University's Human Rights policy since its affirmation, as required by the [BLinC] Constitution for leadership positions, would have the effect of disqualifying certain individuals from leadership positions based on sexual orientation or gender identity." *See* Exhibit G at 1.

Dr. Nelson accordingly determined that BLinC must "make additional revisions to [its] Statement of Faith" and must also submit an "acceptable plan" for interviewing officer candidates about its "Statement of Faith that



are not presumptive of candidates based upon their sexual orientation or gender identity.” *Id.* If BLinC does not submit the required revisions and the “acceptable plan” by November 2, 2017, Dr. Nelson “will find BLinC not to be in compliance with” University policy and “will revoke its registration.” *Id.* Alternatively, Dr. Nelson stated that BLinC could appeal his decision to you by November 2. *Id.*

ARGUMENT

You should reverse Dr. Nelson’s decision that BLinC must change the content of its Statement of Faith and submit an “acceptable” plan for selecting its leadership. Telling a religious organization how to define its faith and select its leaders violates University policy, is inconsistent with how the University treats other students groups, contradicts past University decisions on same issues, and violates clearly established state and federal law, including the First Amendment to the United States Constitution. Accordingly, the decision is “arbitrary, capricious, unreasonable, [and] constitutes an abuse of discretion.” *See* DRSO Section VI(2).

Dr. Nelson’s earlier finding that BLinC violated the University’s Policy on Human Rights must also be reversed, both for the reasons articulated above and because that decision was “unsupported by substantial evidence when viewed as a whole.” *Id.* at Section VI(1).

1. Dr. Nelson’s decision dictating the content of BLinC’s Statement of Faith and its manner of selecting leaders must be reversed.

The University cannot dictate the content of BLinC’s religious beliefs or prescribe an “acceptable” plan for evaluating the religious commitment of its religious leaders.

First, the University’s decision should be reversed because it violates University policy and is inconsistent with University practice. The University’s guidelines for student organizations recognize the right of students to organize according to common beliefs and values. For example, the University’s policy regarding “Registration of Student Organizations” states that it is “the policy of the University that all registered student organizations be able to exercise *free choice of members* on the basis of their merits as individuals without restriction in accordance with the University Policy on Human Rights.” Registration of Student Organizations at I.B.2.b (emphasis added). The policy further recognizes that students have the right to “organize and associate with like-minded students” and thus that “any individual *who subscribes to the goals and beliefs of a student organization* may participate in and become a member of the organization.” *Id.* (emphasis added).



This common-sense protection for student groups' individual missions—which is essential to any organization's existence—does not conflict with the University's non-discrimination policy. As BLinC's officers confirmed during their meetings with the University and as reflected in BLinC's constitution, *all* students are welcome to join BLinC. BLinC never discriminates against students because of who they are. All it asks is that its *leaders* support and uphold its “goals and beliefs.” BLinC is a Christian organization led by students who share core Christian convictions. It cannot fulfill its core mission if its leaders do not support its beliefs.

Student organizations at the University frequently ask even their members to share the missions of the organizations they seek to join. For example:

- The Feminist Union limits its *membership* to students who “agree[] with [its] purposes and principles,” including support for abortion, access to contraception for minors, and even certain positions on the environment.
- The fraternity Delta Sigma Pi prohibits its *members* from belonging to competing fraternities and requires them to be of “good moral character.”
- Students for Life requires its *members* to be “pro-life.”
- The Islamic organization Imam Mahdi reserves certain *membership* benefits to members who are Shia Muslims.
- The Korean American Student Association requires *members* to “exhibit an optimistic attitude towards Korean culture” and reserves the right to revoke the membership of any member who “possesses a negative attitude.”
- The Association of Women Dentists requires *members* to support the advancement and recognition of women in dentistry.
- Multiple Christian student groups condition *membership* on students signing a “statement of belief,” bearing “clear testimony of conversion to Jesus Christ,” setting “an example for others on how to live a holy and Biblically-based life,” or keeping religion-specific “standards.”

These requirements for members to support their organizations' missions make sense in light of the University's goal that student organizations bring “like-minded students” together. Thus, punishing BLinC because it creates space for students of like-minded religious beliefs would *violate*, not uphold, the University's policies. The University's Statement of Religious Diversity emphasizes that “[r]eligious history, religious diversity, and spiritual values



have formed a part of The University of Iowa's curricular and extracurricular programs since the founding of the University" and that "[a]s a public institution, the University neither promotes any particular form of religion nor discriminates against students, staff, or faculty on the basis of their religious viewpoints." The University's Human Rights Policy similarly forbids discrimination on the basis of "creed" or "religion," promising that "equal opportunity and access to facilities shall be available to all," including in "policies governing programs of extracurricular life and activities."

Nor can any of this come as a surprise to the University, since as Dr. Baker confirmed, your office previously agreed in 2004 that it would be a violation of the Iowa Human Rights Act to force CLS to accept leaders whose beliefs or behavior are contrary to the group's purpose or its statement of faith.

Second, Dr. Nelson's decision violates federal law. For instance, the United States Supreme Court has unanimously ruled that religious groups have a First Amendment right to select their leaders without government interference or coercion. *See Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 565 U.S. 171 (2012). Here, BLinC is a Christian organization led by students who share core Christian convictions. Its entire purpose is to encourage students to live according to its understanding of Christian principles. And its leaders play a religious role in leading the group. BLinC cannot fulfill its core mission if its leaders do not support its beliefs. The First Amendment protects BLinC's right to select leaders who share its mission.

In a case directly on point, a federal appellate court explained that there is "no clearer example" of unconstitutional governmental "intrusion into the internal structure or affairs of an association" than controlling its leadership. That court thus applied the First Amendment to strike down a public university's policy that prevented a religious student group from asking its "voting members and officers . . . [to] subscribe to the statement of faith." *Christian Legal Society v. Walker*, 453 F.3d 853, 858, 861, 864 (7th Cir. 2006); *see also Conlon v. InterVarsity Christian Fellowship*, 777 F.3d 829, 835 (6th Cir. 2015) (applying this principle to employment decisions of a national student organization). These First Amendment protections are particularly applicable "in the community of American universities," where the First Amendment rejects "any strait jacket" that "'cast[s] a pall of orthodoxy' over the free exchange of ideas." *Dube v. State University of New York*, 900 F.2d 587, 597-98 (2d Cir. 1990) (finding that university officials could be personally liable for damages for censoring free speech).

Thus, Dr. Nelson's decision is arbitrary, capricious, unreasonable, and an abuse of his discretion because it violates University policy and is



inconsistent with how the University treats other student groups. Indeed, because your office has acknowledged that forcing a religious group to select leaders who oppose its mission would violate the Iowa Human Rights Act, and because you have taken no action against many other student groups with leadership (and even membership) standards that implicate the status protections in the Human Rights Policy, targeting BLinC because of its religious beliefs would be an intentional violation of federal law, raising the potential for punitive damages against the University and its officers.

2. Dr. Nelson's decision to uphold the finding that BLinC previously violated the University's Policy on Human Rights must also be reversed.

For the reasons articulated above, BLinC was within its rights to select leaders who share and live by its religious beliefs. Accordingly, Dr. Nelson's contrary finding concerning Mr. Miller should be reversed as arbitrary, capricious, unreasonable, and an abuse of discretion.

The finding should also be vacated because it is not supported by substantial evidence. As Dr. Baker explained, the finding was based on the understanding that the complaining student had been denied leadership solely because he identified as gay, and that BLinC had never asked if he shared its faith and would live according to its beliefs. But in fact BLinC expressly and repeatedly stated that it could not accept Mr. Miller's leadership application because he rejected important parts of its Christian beliefs, would not support them, and would openly oppose them in public. It was for this reason, and this reason only, that he was deemed ineligible to serve as an officer of BLinC. *See, e.g.*, Exhibit H at 2. Indeed, the University's own findings specifically stated that it was *not* solely because of the complainant's self-identification as gay that he was denied, but rather because of the complainant's expressed intent "to pursue a homosexual . . . relationship"—*i.e.*, to engage in *conduct* that violated BLinC's beliefs. *See* Exhibit C at 3. Moreover, BLinC has repeatedly made clear that students who identify as gay or lesbian are eligible to serve as leaders so long as they affirm and live by BLinC's Christian religious beliefs. *See, e.g.*, Exhibit D at 1.

Accordingly, the factual basis for Dr. Nelson's finding is expressly and directly contradicted by the record and, for that reason, should be vacated.

CONCLUSION

Since 2004, the University has been clear that religious groups like BLinC have a right to select student leaders who share their faith. Yet BLinC's students have been subjected to an intensive, months-long investigation and adverse findings under a selectively enforced policy merely



for trying to exercise that right. Moreover, while BLinC was instructed to remain silent about the investigation, Mr. Miller immediately went to school media to attack BLinC and its beliefs. *See* Exhibit I. You should end this lopsided probe of BLinC, reverse Dr. Nelson's findings, and affirm the University's long-standing commitment and obligation to protect BLinC's rights.

Sincerely,

Eric S. Baxter
Senior Counsel
The Becket Fund for Religious Liberty

cc: Thomas R. Baker [REDACTED]
William Nelson [REDACTED]

EXHIBIT G

November 16, 2017

Business Leaders in Christ Non-Greek
Sent electronically

PERSONAL AND CONFIDENTIAL

Regarding Case Number: 2017143301

November 16, 2017

Jacob Estell
Business Leaders in Christ (BLinC)
[REDACTED]

Eric Baxter
[REDACTED]

Dear Jacob and Eric:

I have received and considered your appeal regarding the decision of Dr. William Nelson, Executive Director of the Iowa Memorial Union, that Business Leaders in Christ (BLinC) more likely than not violated the University of Iowa Human Rights Policy resulting in his decision to revoke BLinC's registration as a UI student organization. My review is based upon the written record.

Upon my review of the record, I affirm the decision of Dr. Nelson that BLinC violated the University's Human Rights Policy. Furthermore, the revised Constitution and Statement of Faith you submitted in response to Dr. Nelson's September 13, 2017 letter does not satisfy the requirements delineated in order for BLinC to remain as a registered student organization in good standing. The Statement of Faith, on its face, does not comply with the University's Human Rights policy since its affirmation, as required by the Constitution for leadership positions, would have the effect of disqualifying certain individuals from leadership positions based on sexual orientation or gender identity, both of which are protected classifications under Chapter 216 of the Iowa Code (the Iowa Civil Rights Act) and the University of Iowa Human Rights Policy. Therefore, I affirm the sanctioning decision of Dr. Nelson to revoke the registration of BLinC.

Your appeal document states that the university is forcing "... BLinC to revise its Statement of Faith or be kicked off campus." In fact, a student organization is a voluntary special interest group organized for educational, social, recreational, and service purposes and comprised of its members. Student organizations are separate legal entities from the University of Iowa and legally are not treated the same as University departments or units. *A student organization can exist on campus whether or not the University approves its registration pursuant to the Registration of Student Organizations policy.*

In addition, upon appeal, you now claim for the first time that the Complainant was not allowed to hold a leadership position because he "confirmed that he intended to be sexually active in same-sex relationships." This assertion by BLinC of the complainant's intentions specifically regarding sexual activity outside of marriage was not previously addressed by BLinC and the making of such a statement by the complainant was not validated through the investigation process and finding. In fact, BLinC's leadership told the investigator, as well as the Complainant in an email, that because of Complainant's "desire to pursue a homosexual lifestyle/relationship" he was denied a leadership position. BLinC's leadership also told the investigator that Complainant would have become vice-president had he not told

her he was gay. BLinC leadership also told the investigator that individuals who are gay are welcome to be student members of BLinC, but not leaders of the organization.

My decision is the final University of Iowa action on this matter. You have the right to appeal this decision to the Board of Regents, State of Iowa. If you choose to appeal, your notice of appeal must be delivered in hand copy or by fax (319)-335-0907 to the President's Office (11 Jessup Hall) within twenty days of this decision. The president is responsible for assembling your notice of appeal and other evidence and forwarding it to the Board Office. Details of the appeals process are available at:

<http://www.iowaregents.edu/plans-and-policies/boardpolicy-manual/17-appeals-to-the-board/>

Sincerely,

A handwritten signature in black ink, appearing to read "Lyn Redington", with a long, sweeping horizontal line extending to the right.

Lyn Redington, Ph.D.
Assistant Vice President and Dean of Students

CC: Eric Baxter
Bill Nelson, Ph.D., Executive Director IMU
Anita Cory, Ph.D., Associate Director, Student Organizations and Leadership Program
Jennifer Modestou, Director, Office of Equal Opportunity and Diversity, Deputy Title IX Coordinator
Lena Hill, Interim Chief Diversity Officer and Associate Vice President
Melissa Shivers, Ph.D., Vice President for Student Life
Tom Baker, J.D., Associate Dean of Students, Director of Student Conduct