

No. 19-3389

---

**United States Court of Appeals  
for the Eighth Circuit**

---

INTERVARSITY CHRISTIAN FELLOWSHIP/USA AND INTERVARSITY  
GRADUATE CHRISTIAN FELLOWSHIP,

*Plaintiffs-Appellees,*

v.

THE UNIVERSITY OF IOWA, ET AL.,

*Defendants-Appellants.*

---

On Appeal from the United States District Court  
for the Southern District of Iowa  
No. 3:18-cv-00080

---

**APPELLEES' APPENDIX VOL. 8**

---

CHRISTOPHER C. HAGENOW  
WILLIAM R. GUSTOFF  
Hagenow & Gustoff, LLP  
600 Oakland Rd. NE  
Cedar Rapids, IA 52402  
(319) 849-8390 phone  
(888) 689-1995 fax  
chagenow@whgllp.com

ERIC S. BAXTER  
DANIEL H. BLOMBERG  
The Becket Fund for  
Religious Liberty  
1200 New Hampshire Ave. NW  
Suite 700  
Washington, DC 20036  
(202) 955-0095  
ebaxter@becketlaw.org

*Counsel for Plaintiffs-Appellees*

---

## APPENDIX INDEX

### VOLUME 8

Tab 12: Plaintiffs' Reply to Defendants' Responses to Plaintiffs' Statement of Material Facts in Support of Motion for Partial Summary Judgment, ECF No. 40-1.....	2225
Tab 13: Plaintiffs' Response to Defendants' Statement of Additional Material Facts, ECF No. No. 40-2.....	2297
Tab 14: Defendants' Motion to file Supplemental Brief & Supplemental Statement of Disputed Facts in Resistance to Plaintiffs' Motion for Partial Summary Judgment, ECF No. 47.....	2322
Tab 15: Defendants' Motion for Partial Summary Judgment (& Attachments), ECF No. 51 .....	2478
Tab 16: Plaintiffs' Response to Supplement to Defendants' Statement of Additional Material Facts in Resistance to Plaintiffs' Motion for Partial Summary Judgment, ECF No. 56.....	2491
Tab 17: Plaintiffs' Supplemental Statement of Material Facts in Support of Plaintiffs' Motion for Partial Summary Judgment, ECF No. 57 .....	2503

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

INTERVARSITY CHRISTIAN  
FELLOWSHIP/USA, *et al.*

*Plaintiffs,*

v.

THE UNIVERSITY OF IOWA, *et al.*,

*Defendants.*

Case No.: 18-cv-00080

**PLAINTIFFS' REPLY TO  
DEFENDANTS' REPONSES TO  
PLAINTIFFS' STATEMENT OF  
MATERIAL FACTS IN SUPPORT OF  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

Christopher C. Hagenow  
Hagenow & Gustoff, LLP  
600 Oakland Rd. NE  
Cedar Rapids, IA 52402  
(319) 849-8390 phone  
(888) 689-1995 fax  
*chagenow@whgllp.com*

Eric S. Baxter\*  
*Lead Counsel*  
Daniel H. Blomberg\*  
The Becket Fund for Religious Liberty  
1200 New Hampshire Ave. NW, Suite 700  
Washington, DC, 20036  
(202) 955-0095 phone  
(202) 955-0090 fax  
*ebaxter@becketlaw.org*  
*dblomberg@becketlaw.org*

***Counsel for Plaintiff***

*\*Admitted pro hac vice*

1. InterVarsity Graduate Christian Fellowship (“InterVarsity”) is a chapter of InterVarsity Christian Fellowship/USA (“InterVarsity USA”). App. 1947 [Kummer Decl. ¶¶ 1-4].

**RESPONSE: Admit.**

2. Both groups are Christian ministries with the purpose of establishing and advancing “witnessing communities of students and faculty who follow Jesus as Savior and Lord” and who are “growing in love for God, God’s Word, God’s people of every ethnicity and culture and God’s purposes in the world.” App. 1948 [Kummer Decl. ¶ 6].

**RESPONSE: Admit.**

3. InterVarsity USA was founded in 1877 at the University of Cambridge, England, and has been active on U.S. campuses since the late 1930s. App. 1948 [Kummer Decl. ¶ 7]. It currently has over 1,000 chapters on more than 600 campuses nationwide. App. 1948 [Kummer Decl. ¶ 9]. Over a dozen of those chapters serve colleges and universities in Iowa, including Iowa State University, the University of Northern Iowa, and the University of Iowa. App. 1948-49 [Kummer Decl. ¶ 10]. Several chapters are at the University of Iowa alone, including the graduate InterVarsity chapter that is a plaintiff in this case. App. 1948-49 [Kummer Decl. ¶¶ 810].

**RESPONSE: Admit.**

4. The graduate InterVarsity chapter had been a registered student organization at the University of Iowa for 25 years. App. 1949-49 [Kummer Decl. ¶¶ 8-10]. It welcomes everyone to participate in the group’s activities, including its weekly Bible studies and its monthly religious services that feature prayer, worship, and religious teaching. It likewise welcomes all students to join as members. App. 1951 [Kummer Decl. ¶ 22]; App. 1982 [Schrock Decl. ¶ 8]. And it has a twenty-five-year history of broadly serving the University community, including via service projects, educational events, interfaith activities, and other forms of campus-wide engagement.



App. 1949-51 [Kummer Decl. ¶¶ 14-21]. In fact, the University previously recognized and awarded InterVarsity for its efforts in serving the entire University community.

App. 1951 [Kummer Decl. ¶ 21].

**RESPONSE: Admit.**

5. InterVarsity's service is animated by its faith. Like other InterVarsity USA chapters nationwide, including those at Iowa State University and the University of Northern Iowa, InterVarsity has always required its student leaders to affirm its faith and agree to exemplify its Christian values. App. 1952 [Kummer Decl. ¶ 24].

**RESPONSE: Admit that these statements are consistent with Kevin Kummer's affidavit signed on December 12, 2018. Deny any additional knowledge in regard to the practices of other InterVarsity USA chapters.**

6. InterVarsity believes that this leadership criteria is necessary because its student leaders fill an important spiritual role for the group, such as leading its religious services and Bible studies; leading and participating in prayer, worship, and religious teaching; determining the religious content of its meetings; selecting guest speakers and identifying religious topics to cover during events; ministering to their peers individually; planning and scheduling ministry events on campus; and determining what kind of outreach and service activities to engage in to advance the group's religious mission. App. 1952 [Kummer Decl. ¶ 25]; App. 1983-84 [Schrock Decl. ¶¶ 20-24].

**RESPONSE: Admit.**

7. To prepare and support student leaders for their important leadership roles, both InterVarsity and InterVarsity USA provide significant religious training to their student leaders. App. 1953, 1954 [Kummer Decl. ¶¶ 27, 31]; App. 1983 [Schrock Decl. ¶¶ 15-17]. This includes both religious training retreats before the start of school and regular religious mentoring meetings during the school year. *Id.*

**RESPONSE: Admit that these statements are consistent with Kevin Kummer's affidavit signed on December 12, 2018. Deny any additional knowledge in regard to the practices of other InterVarsity USA chapters.**

8. InterVarsity's student leaders are the primary embodiment of InterVarsity's faith and Christian message to the University community. App. 1952 [Kummer Decl. ¶ 25]. The vast majority of a student leader's time is spent on ministry; very little is devoted to nonreligious matters such as administrative tasks. App. 1952-53 [Kummer Decl. ¶ 26]; App. 1984 [Schrock Decl. ¶ 25]. InterVarsity believes it is absolutely necessary for its leaders to agree with and live by the organization's beliefs. App. 1987 [Schrock Decl. ¶ 43]. Being led by individuals who deny or reject InterVarsity's faith would undermine the group's religious mission and message, App. 1953 [Kummer Decl. ¶ 29], and would compromise InterVarsity's Christian identity and purpose, App. 1987 [Schrock Decl. ¶ 43].

**RESPONSE: Admit that InterVarsity's position is correctly set forth above. Deny that Defendants' actions in regard to InterVarsity's group constitution would force InterVarsity to be "led by individuals who deny or reject InterVarsity's faith," that the group's "religious mission and message" would be undermined, or that its Christian identity would be compromised.**

9. No student has ever filed a complaint with InterVarsity or with the University about InterVarsity's religious leadership requirement. App. 1955 [Kummer Decl. ¶ 35]; App. 1986 [Schrock Decl. ¶ 37].

**RESPONSE: Admit.**

10. But this summer, for the first time, the University ordered InterVarsity to remove its religious leadership requirement, stated that InterVarsity could not even encourage its leaders to

agree with its faith, and warned that the University would deregister InterVarsity unless the requirement was removed. App. 1985-88 [Schrock Decl. ¶¶ 27-44]; App. 1955 [Kummer Decl. ¶¶ 35-37].

**RESPONSE:** Admit that the University required InterVarsity and many other student groups to remove any language contradicting the University’s Human Rights Policy from RSO governing documents. P. App. 1992–93. Admit that University staff told Katrina Schrock that InterVarsity’s restrictions on leadership appeared to violate the Human Rights Policy. P. App. 2004–11. Deny that the University told Ms. Schrock that InterVarsity “could not even encourage its leaders to agree with its faith.” Rather, the University indicated to Ms. Schrock that the University would not approve language which “strongly encouraged” group leaders to “subscribe” to the group’s mission. P. App. 2004– 11. University staff stressed that “[s]tudent orgs are free to express whatever language they desire in their mission/purpose, but the University and the Center for Student Involvement and Leadership must enforce [its] Human Rights Policy when it comes to leadership and membership.” P. App. 2005.

**IVCF REPLY:** While University staff stated that “[s]tudent orgs are free to express whatever language they desire in their mission/purpose,” the University has penalized another student organization, Business Leaders in Christ, for stating its religious beliefs in its constitution. IVCF App. 400, 402.

11. The University explained that it interprets and applies its Human Rights Policy to forbid any limitations on “the ability to become a member or to hold leadership positions” that are based on the nondiscrimination criteria listed in the Policy, including “religion.” App. 1985, 1986 [Schrock Decl. ¶¶ 27, 36]

**RESPONSE:** Admit.

12. The University stated that it “recognize[d] the wish to have leadership requirements based on Christian beliefs,” but “[h]aving a restriction on leadership related to religious beliefs is contradictory” to the Human Rights Policy’s prohibition on religious discrimination. App. 1987 [Schrock Decl. ¶¶ 39-42].

**RESPONSE:** Admit that the statement was made in an email communication. Deny that the University’s policy is limited to restrictions based on religious beliefs. Rather, the email addressed religious beliefs, specifically, because the restriction in question was based on religious beliefs and not some other protected status.

**IVCF REPLY:** Other than religious organizations, the University has not deregistered any organization because of its leadership requirements. Of the 38 organizations deregistered with InterVarsity, 28 were nonreligious groups. There is no evidence that the nonreligious groups were deregistered for reasons other than that they were defunct or because they otherwise failed to meet deadlines or technical requirements, as opposed to because they had leadership or membership restrictions. *See* Defs.’ Resp. to SoF 14, *infra*; *see also, e.g.*, IVCF App. 1087 (Chinese Dance Club: “There is no limitations of membership”); IVCF App. 1125 (Korean UIowa Student Association: “Anyone who is interested . . . may join.”); IVCF App. 1102 (Korean Conversation Group: “[m]embership is nonselective and open to all students that portray a positive interest in Korean language and Korean culture”); IVCF App. 1077 (Hong Kong Student Association: open to “students and faculty from Hong Kong, and others who are interested in HKSA”); IVCF App. 1096 (Malaysian Student Society: “any non-Malaysian shall be eligible to apply for associate membership”; “any associate member can opt to become a regular paying member”); IVCF App. 2134-35 (listing all 38 organizations, most of which do not related to protected categories, and stating that they should be “updated to defunct”); IVCF App. 0315-316

[Nelson Dep. 237:17-241:11] (noting that many of the deregistered groups were deregistered because “they missed the submission date”). Numerous registered groups continue to have leadership requirements based on categories protected by the Human Rights Policy. Fraternities and sororities on campus all restrict leadership and membership based on sex, and many restrict leadership and membership based on race, ethnicity, or sexual orientation. IVCF App. 0895-0906. Love Works, a Christian organization, requires its leaders to sign a statement of faith affirming its religious principles yet has never been told to remove its leadership requirements and was not among the organizations derecognized by the University. IVCF App. 0789-91; 2134-35. In *Business Leaders in Christ v. University of Iowa*, the University admitted that it made an exception for organizations like Love Works that “provide safe spaces for minorities which have historically been the victims of discrimination.” Defs.’ Resistance to Pl.’s Mot. for Summ. J. [Dkt. 85] at 18, No. 3:17-cv-00080-SMR-SBJ. Feminist Majority Leadership Alliance requires its members to submit “written agreement” with “the Feminist Majority Foundation’s purposes and principles.” IVCF App. 0969. Membership in the Chinese Students and Scholars Association is “only open to enrolled Chinese Students and Scholars.” IVCF App. 0990. Hawkapellas – Iowa is recognized by the University as an “all-female a cappella group” with membership controlled by “vocal auditions.” IVCF App. 0908. The Sigma Alpha Iota – Zeta Epsilon organization is “open to any woman student.” IVCF App. 0921. The Tau Sigma Military Dental Club, restricts “[e]ligibility” to “all full-time, military-sponsored” students. IVCF App. 0979. The UI Veteran’s Association restricts membership to “past or current military personnel” and their dependents. IVCF App. 0981.

13. Because InterVarsity did not change its religious leadership requirement, the University de-registered InterVarsity in the summer of 2018. App. 1987-88 [Schrock Decl. ¶¶ 43-44].

**RESPONSE: Admit.**

14. The University also deregistered several other religious groups, including the Christian Pharmacy Fellowship, the Chinese Student Christian Fellowship, the Geneva Campus Ministry, the Imam Mahdi Organization, the J. Reuben Clark Law Society, the Latter-day Saint Student Association, and the Sikh Awareness Club. App. 1987-88 [Schrock Decl. ¶ 44].

**RESPONSE: Admit, with the qualification that many other groups (religious and nonreligious in nature) were also categorized as “defunct” as a result of this process. Those groups, in addition to the ones listed by Plaintiff, included the American Institute of Aeronautics and Astronautics, the Association of Nursing Students (UIANS), the Financial Management Association, the Institute of Electrical and Electronic Engineers, the Korean Conversation Group, Phi Beta Lambda, the Public Relations Student Society of America (PRSSA), the American Academy of Pediatric Dentistry, the Graduate Student Anthropology Association (U of I), the Student Iowa School Counseling Association, the Asian Pacific American Student Association (U of I), the German Club, the Hong Kong Student Association, the Japanese Students and Scholars Club, the Korean UIowa Students Association, the Malaysian Student Society, the Minority Association of Pre-Medical Students, the National Association for the Advancement of Colored People (UI Chapter of NAACP), the Revolution Dance Company, the Chinese Dance Club, the Young Americans for Liberty, Alpha Phi Omega-Omicron (APO), Code the Change, MEDLIFE (Medicine, Education and Development for Low Income Families Everywhere), CMA EDU, Cookie Dokie, Red Shamrock Student Organization, Cru, Wall-Breakers, Young Life, and the Iowa American Student Dental Association (IASDA). P. App. 2134–2135.**

**IVCF REPLY: There is no evidence that any of the “defunct” nonreligious organizations had any relevant leadership requirements. *See supra* ¶ 12. The record only**

**shows that religious organizations have been deregistered because of their leadership requirements.**

15. After InterVarsity USA and InterVarsity filed the instant lawsuit, the University agreed to temporarily treat InterVarsity and all of the deregistered religious groups as if they had registered status. App. 2021 [Baxter Decl. ¶ 4]. But the University’s position on the Policy has not changed. It still takes the position that InterVarsity may not be a registered student organization if it requires or encourages its leaders to agree with its faith. App. 0319 [Nelson Dep. 255:13-256:516]; App. 1987 [Schrock Decl. ¶¶ 39-42].

**RESPONSE: Admit that the University agreed to temporarily treat InterVarsity and all of the deregistered religious groups as if they had registered status. Admit that the University’s Policy has not changed. Deny the remainder, as all review of RSO constitutions has been put on hold pending the outcome of the *BLinC* litigation.**

16. The University does not have an “all-comers policy” that requires all registered student groups to accept all students as members and leaders of the groups. App. 0358 [Nelson Dep. 299:21-300:17]; App. 0102, 0122 [Cervantes Dep. 19:9-11, 99:7-14]; App. 0038 [Baker Dep. 146:8-21].

**RESPONSE: Admit.**

17. Following the Supreme Court’s decision in *Christian Legal Soc’y v. Martinez*, 561 U.S. 661 (2010), the University expressly considered and rejected changing its policy to an all-comers policy. App. 0038 [Baker Dep. 146:8-148:4]; App. 0358 [Nelson Dep. 300:14-17]; App. 1334 ¶ 2; App. 1342.

**RESPONSE: Admit that Baker met with “several attorneys from the General Counsel’s office” at some point in 2010, and that the issue of an “all-comers” policy was**

discussed at that meeting. Baker 147:7–148:4; P. App. 38. The extent to which the subject was discussed by University counsel is protected by the attorney-client privilege. *Id.*

**IVCF REPLY:** Dean Baker testified that, as of the time of the *Christian Legal Society v. Martinez* decision in 2010, “the University of Iowa did not have an ‘All Comers’ Policy,” such as the policy at issue in *Martinez*. IVCF App. 0038 [Baker Dep. 146:8-21]. He further testified that the University held “a meeting after the Supreme Court issued its decision in 2010” where “the issue of ‘All Comers’ policy did come up,” and “the decision was that we would not make any changes in the Human Rights Policy.” IVCF App. 0038 [Baker Dep. 147:7-17]. The University did not have an all-comers policy at the time of its decision to deregister the student organization Business Leaders in Christ. App. IVCF 0358 [Nelson Dep. 300:14-17]. The University has admitted that it “does not currently have an ‘all-comers’ policy.” Univ. Resp. to IVCF SoF ¶ 16, *supra*.

18. University officials are unaware of “any effort by the University to adopt an ‘All Comers’ Policy” since that time. App. 0038 [Baker Dep. 148:8-10]; *see also* App. 0102, 0122 [Cervantes Dep. 19:9-23, 99:7-14]; App. 0573-74 [Redington Dep. 20:7-23:3]; App. 0592.

**RESPONSE:** Admit that Baker is not aware of any efforts to adopt an “all-comers” policy at the University since the decision in *Christian Legal Soc’y v. Martinez*, 561 U.S. 661 (2010), was issued. Baker 148:8–10; P. App. 38. Deny that the citations to testimony by Schriver Cervantes or Redington support the remainder of Plaintiff’s assertions here.

**IVCF REPLY:** Cervantes testified in her capacity as a Rule 30(b)(6) witness and someone who trained other University officials on the interpretation of the Policy that the University did not have an all-comers policy, IVCF App. 0102 [Cervantes Dep. 19:9-23], and that “[n]obody” at the University “opined to me that we had an all-comers policy,” IVCF App. 0122 [Cervantes Dep. 99:7-14]. Redington testified that she received an email from Tom



**Baker in 2017 stating that “the University of Iowa Human Rights Policy does not mandate an ‘all-comers’ policy,” as discussed in a 2009 memo on the Policy, and that she was unaware of any change in the Policy since the 2009 memo. IVCF App. 0573-574 [Redington Dep. 21:13-23:3].**

19. Instead, the registration of student organizations has long been governed by a University policy entitled “Registration of Student Organizations” (the “RSO Policy”). App. 0287 [Nelson Dep. 125:10-22]; App. 0366.

**RESPONSE: Admit, with the qualification that the deposition testimony cited merely states that the policy is “one of the three sections of the Code of Student Life that references student organizations” and that the purpose of the document is “[t]o talk about the registration of student organizations.” Nelson 125:10–22; P. App. 287. Nelson does not advise as to the length of time the policy has been in place or whether the RSO Policy is the only document which “governs” in this area. *Id.***

20. The RSO Policy “encourages the formation of student organizations around the areas of interests of its students, within the limits necessary to accommodate academic needs and ensure public safety,” and provides that registered student organizations are “voluntary special interest group[s]” that are “separate legal entities from the University of Iowa and legally . . . not treated the same as University departments or units.” App. 0366; *see also* App. 0369-70; App. 0355 [Nelson Dep. 288:7-13].

**RESPONSE: Admit.**

21. The RSO Policy emphasizes that “[r]egistration of a student organization by the University does not constitute an endorsement of its programs or its purposes, but is merely a charter to exist.” App. 0366-68; App. 0355 [Nelson Dep. 288:14-289:8].

**RESPONSE: Admit, with the qualification that the Policy also states that “[s]tudent organizations can exist whether or not the University endorses them pursuant to this policy.”**

**P. App. 366.**

22. General student organizations like InterVarsity have no authority to speak for the University, which “disavow[s] ownership” of speech by such groups. App. 0355 [Nelson Dep. 289:20-290:11].

**RESPONSE: Admit.**

23. The RSO Policy expressly anticipates that students will form groups “to organize and associate with like-minded students” and that they will limit membership in these groups to “any individual who subscribes to the goals and beliefs” of the organization. App. 0367. And the University “guarantee[s] an equal opportunity” for all student organizations to apply for University funds and resources “without differentiation for reasons that violate the University Policy on Human Rights or inhibit the group’s exercise of First Amendment rights of free expression and association.” App. 0367.

**RESPONSE: Admit that the University “acknowledges the interests of students to organize and associate with like-minded students,” and that “any individual who subscribes to the goal and beliefs of a student organization may participate in and become a member of the organization,” with the qualification that “[m]embership and participation in the organization must 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.” P. App. 366. Deny that the University guarantees an equal opportunity “to access” University funds and resources. The University merely guarantees an equal opportunity for RSOs *to apply* for**

**funds. P. App. 366–67 (noting that “[n]othing in this section shall be construed to create or guarantee any expectation of the receipt of funding or other benefits from UISG and/or GPSG and/or Recreational Services by any student organization . . .”).**

24. The University’s Human Rights Policy (“Policy”) broadly “prohibits discrimination” by the University, stating that “in no aspect of its programs”—including in “employment, educational programs, and activities”—“shall there be differences in 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 that deprives the person of consideration as an individual.” App. 0376; App. 0383-84.

**RESPONSE: Admit that the University maintains and implements a Human Rights Policy which prohibits discrimination, with the qualification that the language cited by Plaintiff is part of the University’s Nondiscrimination Statement. P. App. 383–84.**

25. The RSO Policy incorporates the University’s Policy, and RSO constitutions are reviewed by the University to ensure they incorporate the Policy. App. 0367, 372.

**RESPONSE: Admit. RSO constitutions are reviewed to ensure that they comply with the Human Rights Policy and other University Policies. P. App. 371.**

26. Until recently, the Policy language adopted by the RSO Policy read as follows:

Membership and participation in the organization must 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.

App. 0367.

**RESPONSE: Admit.**

27. In July or August 2018, the University amended the language in its RSO Policy to insert a parenthetical after the word “sex” to state an explicit exemption for fraternities and sororities.

The RSO policy now reads as follows:

Membership and participation in an organization must be open to all students without regard to race, creed, color, religion, national origin, age, sex (*unless the organization is exempt under Title IX*), 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.”

App. 1334 ¶ 3; App. 1348 (emphasis added); App. 0287 [Nelson Dep. 125:10-127:20].

**RESPONSE: Admit.**

28. To date, no similar change has been made to other versions of the Policy, such as in the nondiscrimination statement listed in Chapter 6 of the Community Policies section of the University Operations Manual. See <https://opsmanual.uiowa.edu/communitypolicies/nondiscrimination-statement>.

**RESPONSE: Admit that the online University Operations Manual has not been updated. Deny the remainder for lack of knowledge. Defendants are not certain what Plaintiff means by “other versions of the Policy” and Plaintiff’s assertion lacks citation to the record.**

29. Historically, the University has understood its RSO Policy, including the Policy language, to protect the right of a student organizations to restrict both leadership and membership to individuals who embrace the organization’s “goals and beliefs.” App. 0367.

**RESPONSE: Admit that the University, through implementation of its RSO Policy, “acknowledges the interests of students to organize and associate with like-minded students.” P. App. 366–67. Deny that student organizations have the right to restrict leadership and membership to individuals who embrace the organizations “goals and beliefs” without**

qualification, as the University’s RSO Policy explicitly states that an organization should “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.*” P. App. 366–67 (emphasis added). Deny that the appendix pages cited by Plaintiff support its contentions regarding the University’s historic understanding of its RSO policy or its implementation in regard to members and leaders of student groups. P. App. 366.

30. Before its actions in Fall 2017 against another religious registered student organization, Business Leaders in Christ (“BLinC”), the University had never deregistered or refused registration to a student group for requiring its leaders or its members to agree to its mission, purpose, or faith. App. 0353 [Nelson Dep. 278:12-279:5]; App. 1911-13, 1916.

**RESPONSE: Admit, with the qualification that the University officials involved in evaluating civil rights complaints against student groups had only received complaints against three groups: BLinC, the UI Feminist Union, and 24:7. Nelson 35:23–36:9; P. App. 264; Schriver Cervantes 16:20–17:17; P. App. 101-102.**

31. Further, the University had reviewed and approved numerous constitutions for registered student organizations that required leaders or members to agree with the groups’ missions, purposes, or beliefs.

**RESPONSE: Admit.**

32. For instance, the University approved the constitutions of numerous religious groups, including an actual church, that explicitly require their leaders to sign a statement of faith or satisfy other religious criteria. *See, e.g.*, App. 0789-91 (**Love Works**, requiring leaders to sign a statement of faith); App. 0788 (**24-7**, requiring leaders to “sign and affirm the Statement of Faith” and “live their lives in a manner consistent with the Code of Conduct”); App. 0816 (**Athletes in Action**, requiring leaders to “follow Jesus’ example of leadership, teaching by word and by example” and

“live in a manner that is consistent with the Biblical teachings”); App. 0717 (**Christian Legal Society**, requiring “[a]ll officers” to “subscribe to the Christian Legal Society Statement of Faith”); App. 0738 (**Campus Bible Fellowship**, limiting voting membership to individuals “who bear clear testimony of conversion to Jesus Christ”); App. 0864 (**Chi Alpha**, 2012 constitution, requiring leaders to “be in sincere agreement with the Articles of Faith” and to “conform to the Christian standards of conduct of Chi Alpha”); App. 0795 (**Geneva Campus Ministry**, construing Policy as “not preclud[ing] additional religious and moral qualifications for certain leadership positions”); App. 0703, 705-06 (**Imam Mahdi Organization**, Islamic group requiring its leaders to “refrain from major sins (*kaba’ir*)” and requiring both leaders and voting members to “[b]e Muslim, Shiea”); App. 0861 (**International Neighbors**, requiring leaders to commit to agree with and abide by group’s Christian faith); App. 0874-75 (**Multiethnic Undergrad Hawkeye Intervarsity**, same); App. 0807 (**Muslim Students’ Association**, allowing only Muslims to be voting members or leaders); App. 0824 (**The Salt Company**, a campus church requiring leaders to be members who “have professed their faith in the Lord Jesus Christ . . . and live according to the tenets of the Bible as explained by the Statement of Faith”); *see also generally* App. 0748 ¶ 3; App. 0773-0890 [Exhibit B-1].

**RESPONSE: Admit.**

33. The University has approved the constitutions of many organizations that limit their leadership or membership based on non-religious creeds or missions as well. *See, e.g.*, App. 0969 (**Feminist Majority Leadership Alliance**, requiring members to submit “written agreement” with “the Feminist Majority Foundation’s purposes and principles”); App. 1334, App. 1360 (**Feminist Union**, same); App. 1334, App. 1367 (**Iowa National Lawyers Guild**, requiring members to agree with effort to bring about “basic change in the structure of our political and economic system” “to the end that human rights shall be regarded as more sacred than property interests”); App. 0686

(**Korean American Student Association**, requiring members to “exhibit an optimistic attitude towards Korean culture” and stating that any member with a “negative attitude” will have their membership “revoked”); App. 1104 (**Latina/o Graduate Student Association**, limiting membership to “[a]nyone who supports the purpose of the organization, and is willing to commit to its objectives”; App. 1334 ¶ 6, 1376 (**National Society of Black Engineers**, requiring leaders to “put forth the effort to accomplish the goals” to “assist,” “promote,” and “[i]nform African-American engineers”); App. 1150 (**Organization of Women Law Students and Staff**, open to all “who subscribe to the purposes for the organization” including to “recommend and implement new programs” to meet the “changing needs and problems of women in the legal profession”); App. 1107 (**SistaSpeak**, limiting membership to those “who identify with SistaSpeak’s vision and mission”); App. 1335 ¶ 7, 1378 [Exhibit F] (**Students for the Right to Life**, requiring “that members of this organization hold pro-life beliefs”); App. 0971 (**Spectrum UI**, opening membership “to anyone who supports the mission of the student organization,” which includes “eliminat[ing] homophobia, transphobia, sexism, prejudiced views and discrimination”); App. 1009-10 (**Trans Alliance**, requiring leaders to have “drive to execute the established goals” of “spread[ing] awareness of transgender issues and work[ing] to increase public knowledge of the transgender population”); *see also generally* App. 0773-1165 [Exhibits B-1, B-2, & B-3].

**RESPONSE: Admit, though the extent to which each organization’s “mission” qualifies as a “creed” granting protection under the University Human Rights Policy has not been explored.**

34. And while not explicitly limiting membership, dozens of University-approved constitutions send the same message by adopting a mission or purpose to suggest a preference for one particular creed (secular or religious) over another. *See, e.g.*, App. 0732 (**Cru**, purpose to “introduce students to Christ, help them to grow in faith, encourage them to passionately live life

in a manner consistent with belief in the God of the Bible, and inspire commitment to advancing the purposes of God in the world.”); App. 1335 ¶ 8, 1383 (**Hawks for Choice**, purpose “to unite pro-choice students and educate the University of Iowa community on issues related to all peoples’ reproductive freedom”); App. 1061 (**Hindus Against Casteism**, purpose to “raise awareness of the injustice of caste discrimination as well as build a group to help support [their] cause”); App. 1143-46 (**House of Lorde**, purpose “to advocate for the political interests of Black Lesbian et al GBTQPA+ students,” membership can be revoked for actions that “go against the support of Black Queer individuals and our Mission”); App. 0692 (**Students for Life**, purpose “to provide representation for members of the student body who hold pro-life views and to be a voice for the voiceless”); App. 1335 ¶ 9, App. 1389 (**UDems**, purpose “to promote the Democratic Party”); App. 1334 ¶ 10, 1393 (**University of Iowa College of Law Federalist Society**, purpose to “preserve the natural law of human freedom” and “[t]he separation of governmental powers”); *see also generally* App. 0773-1165 [Exhibits B-1, B-2, & B-3].

**RESPONSE: Admit, though the extent to which each organization’s “mission” qualifies as a “creed” granting protection under the University Human Rights Policy has not been explored.**

35. This welcoming of groups of diverse viewpoints and missions is consistent with other University policies as well.

**RESPONSE: Admit, despite lack of citation.**

36. The University’s “Statement of Religious Diversity,” for example, states that “the University neither promotes any particular form of religion nor discriminates against students, staff, or faculty on the basis of their religious viewpoints.” App. 0374.

**RESPONSE: Admit.**



37. And the University’s “Statement on Diversity” states that “[t]he University believes that a rich diversity of people and the many points of view they bring serve to enhance the quality of the educational experience at The University of Iowa.” App. 0143.

**RESPONSE: Admit.**

38. Notably, the University has also long allowed groups to form around not just diverse viewpoints, but also around protected characteristics.

**RESPONSE: Admit.**

39. It has approved the constitutions of dozens of organizations that explicitly restrict or control access to leadership or membership based on race, national origin, sex, sexual orientation, gender identity, status as a U.S. veteran, and/or military service. *See, e.g.*, App. 1144-45 (**The House of Lorde**, implementing membership “interview[s]” to maintain “a space for Black Queer individuals and/or the support thereof”); App. 0973-77 (**Chinese Basketball Club**, restricting membership to Chinese students and alumni); App. 0990 (**Chinese Students and Scholars Association**, stating that “[m]embership is only open to enrolled Chinese Students and Scholars”); App. 0908 (**Hawkapellas – Iowa**, “all-female a cappella group” with membership controlled by “vocal auditions”); App. 0921 (**Sigma Alpha Iota – Zeta Epsilon**, membership in organization for “those who share a commitment to music” is “open to any woman student”); App. 0979 (**Tau Sigma Military Dental Club**, restricting “[e]ligibility” to “all full-time, military-sponsored” students); App. 0981 (**UI Veteran’s Association**, restricting membership to “past or current military personnel” and their dependents); *see also generally* App. 0895-0906 (identifying **fraternities and sororities** with membership restricted to men, to women, or to men or women of a certain race, ethnicity, or sexual orientation); *see also* ¶ 17, *supra*.

**RESPONSE: Admit.**

40. And even without explicitly restricting membership based on protected characteristics, many organizations express preference for individuals of a certain characteristic through their chosen name and/or their mission to promote the interest of one particular group. *See, e.g.*, App. 1129 (**American Association of Women Dentists**, purpose to promote “the advancement and recognition of women in dentistry”); App. 1118 (**Reaching OUT in Business**, promoting “professional development opportunities to LGBTQ+ people and allies”); App. 1141 (**Women in Science and Engineering Ambassadors**, “encourag[ing]” its members to be “a woman, a student in a science or engineering field, or interested in science” and expressing purpose to “expand and improve educational and professional opportunities for women in all fields of science, technology, engineering and math”); *see also generally* App. 0774-1165 (**African Student Association, Agape Chinese Student Fellowship, American Indian Student Association, Arab Student Association, Asian American Coalition, Asian Fitness Association, Black Law Student Association, Chabad Jewish Student Association, Chinese Dance Club, Hispanic Dental Association, Hispanic/Latino Law Student Association, Hong Kong Student Association, Indian Student Association, Indonesian Student Organization, Iowa Men’s Hockey, Korean U Iowa Students Association, Latina/o Graduate Student Association, Latino Medical Student Association, Latter-day Saint Student Association, Lutheran Campus Ministry, Malaysian Student Society, Middle Eastern Law Students Association, Newman Catholic Student Center, National Association of Black Journalists, National Organization for the Professional Advancement of Black Chemists & Chemical Engineers, National Society of Black Engineers, Nepalese Student Association, Organization of Women Law Students & Staff, Outlaws, Pakistani Student Association, Persian Student Association, Reaching OUT in Business, Saudi Students Club, Society of Black Graduate & Professional Students, Society of Hispanic Professional Engineers, South Asian Student Alliance, Sri Lankan**

**Students' Association, Taiwanese Student Association, Thai Student Association, Turkish Student Association, Vietnamese Student Association, Women in Business, Young Women for America at Iowa).**

**RESPONSE: Admit.**

41. There are also many groups that are designed for certain categories of individuals who are not protected by the Policy. *See, e.g.*, App. 1335 ¶ 11, 1399 (**First Generation Iowa**, organization “designed for students who are considered first generation college students,” *i.e.*, those “whose parents or guardians did not graduate from a four-year college or university”); *see generally* App. 0655 ¶ 3; App. 0773-86.

**RESPONSE: Admit.**

42. The University treats sports clubs as registered student organizations that are governed by the Policy. App. 0655 ¶ 3; App. 0666-0669; App. 0366.

**RESPONSE: Admit.**

43. The University has long allowed, and still allows, sports clubs to restrict membership, participation, and leadership based on sex. Specific examples include registered student sports clubs for men’s and women’s ultimate frisbee, ice hockey, lacrosse, rugby, volleyball, water polo, and soccer. App. ¶ 12, App. 1404-1530 (*see, e.g.*, **Lady Ice Hawks** at App. 1451, limiting club to “any and all females” and requiring minimum number of “female hockey players” for the competition team; **Women’s Soccer Club** at App. 1478, 1483, stating group is for “female students” and that “in order to be on the team, each woman must tryout”; **Women’s Club Volleyball** at App. 1507, limiting membership to “female[s]”; **Men’s Water Polo Team** at App. 1517, describing President as “him”; **Women’s Water Polo Team** at App. 1521, describing team as a “collection of women”).

**RESPONSE:** Admit. Title IX requires that men and women be provided equitable opportunities to participate in sports, and does not require institutions to offer identical sports but an equal opportunity to play. *See* 20 USC § 1681; 34 C.F.R. § 1641.

**IVCF REPLY:** Title IX does not require that the University make an exception for or otherwise not enforce its Policy against sports clubs. The University admits that chooses not to enforce its Policy against sex-segregated student sports clubs for “historical reasons” even though it is a “potential violation of the Human Rights Policy,” and further admitted that it has “no intention” of changing this non-enforcement policy. Univ. Resp. to IVCF SoF ¶¶ 188-190, *infra*. There is no law that requires the University to restrict the leadership requirements of student organizations on any basis. *See, e.g.*, IVCF App. 0356-57 [Nelson Dep. 293:14-295:2].

44. The University also administers, supports, or otherwise provides numerous programs, leagues, scholarships, grants, or other activities that discriminate based upon a characteristic identified in the Human Rights Policy.

**RESPONSE:** Admit.

45. For instance, the University’s Athletics Department has over twenty Division I NCAA teams, which are divided into men’s and women’s teams. App. 1337 ¶ 13; App. 1532-1534; App. 0455 [Petty Dep. 44:14-19] (University counsel admitting that the sex discrimination was “patently obvious”).

**RESPONSE:** Admit.

46. Iowa does not offer the same sports team options for both sexes—there are no NCAA Division I women’s football, baseball, or wrestling teams, nor are there men’s soccer, volleyball, softball, rowing, or field hockey teams. App. 1337 ¶ 13; App. 1534.

**RESPONSE:** Admit.

47. The University devotes significant resources to its Athletics Department. As of FY2013, its Athletics Department budget was \$80 million, and it had over \$700 million in facilities. App. 1337 ¶ 13; App. 1411, 1433. Recent reports put expenses for the department at \$128.9 million. *See* <https://www.thegazette.com/subject/news/education/university-of-iowa-athletics-reports-budget-surplus-for-2016-2017-20180219>.

**RESPONSE: Admit.**

48. The University also provides a number of other sex-segregated sports and recreational programs: intramural sports leagues, sports camps for children and young adults, and recreational activities. The University’s intramural leagues that include “gender requirements” to participate include tennis, basketball, softball, volleyball, flag football, and dodgeball. App. 1337 ¶ 14; App. 1595-1619. The University’s sports camps that are “limited by . . . gender” include camps for gymnastics, wrestling, and basketball (including a 2018 Father-and-Son basketball camp). App. 1338 ¶ 15; App. 1624-1651. University recreational clinics such as women’s weight-lifting and rock-climbing programs also discriminate based on sex. App. 1338 ¶ 16; App. 1653-56.

**RESPONSE: Admit.**

49. The University also provides several programs that discriminate based upon protected characteristics or classes listed in the Human Rights Policy. App. 1338-39 ¶ 17; App. 1659; *see also* App. 1917-18.

- a. The **Iowa Edge Program** discriminates based on race because it is only open to “African American, Alaskan Native, American Indian, Asian American, Pacific Islander, Latino/a, and first-generation college students.” App. 1770. The program sponsors a registered student group that gives “particular emphasis to students of color” in its membership and requires that its group president have participated in the Iowa

Edge program or with the University's Center for Diversity and Enrichment. *See App.* 1783-89.

- b. The **Iowa First Nations Summer Program** discriminates based on race as a program for Native American high-school students to help them prepare to succeed in college. *See App.* 1778-81.
- c. The **University of Iowa National Education for Women ("N.E.W.") Leadership** program discriminates based on sex because it is open only to "[a]ny student who identifies as a woman" and is "designed to empower women"; it is also supported by a fund administered by the University. *App.* 0463 [Petty Dep. 29:7-30:8]; *App.* 0518; *App.* 1338 ¶ 17; *App.* 1790-95.
- d. The **Military Veteran and Student Services** program and the **Peer Advisors for Veteran Education** program, which discriminate based on veteran status. *See App.* 1918 (MVSS); *App.* 1338 ¶ 17; *App.* 1796-97 (PAVE).
- e. The **TRIO Student Support Services** program is a federal grant program that the University has elected to participate in and administer for over 40 years, and which provides students individualized coaching, academic planning and skill development, financial literacy training, tutoring, and career, graduate, or professional school preparation and planning. *See App.* 0458-59 [Petty Dep. 9:6-13:13]; *see also App.* 1338 ¶ 17, *App.* 1852-53. Disability is one of the criteria for eligibility to participate in the program. *App.* 0459 [Petty Dep. 11:20-13:3].

**RESPONSE: Admit each subpart.**

50. The University also provides, supports, advertises, or otherwise administers scholarships, grants, and awards that discriminate based upon protected characteristics or classes listed in the Human Rights Policy. *See, e.g., App.* 0353 [Nelson Dep. 280:10-281:17].

- a. *Scholarships, grants, and awards that discriminate based on race.* The **Advantage Iowa Scholarship** requires eligible students to be “black, Hispanic, Latino, Native American, or . . . Pacific Islander,” *or* to be the first member of the student’s family to attend college *and* to have gone through a federally-funded Upward Bound program App. 0459-60 [Petty Dep. Petty Dep. 13:8-16:1]; App. 1338 ¶ 17, App. 1767-69. The **Iowa First Nations Tuition Scholarship** allows Native American students who are non-residents of Iowa to receive in-state tuition rates if they are descended from a tribe that was historically a First Nation’s tribe in Iowa. App. 0461 [Petty Dep. 21:1522:11]; *see also* App. 1338 ¶ 17; App. 1781-82 (listing specific eligible tribes); *see also* App. 0465 [Petty Dep. 37:2-38:25]; App. 0479 (**Robert D. Dockendorff Scholarship**, with “preference given to underrepresented minority undergraduate students (African American, Latino/a, or American Indian heritage)”); *see* App. 1338 ¶ 17, App. 1823-25, 1830 (**College of Public Health Diversity Scholarship**, which factors in whether an applicant is “African American, Hispanic, Native American, Pacific Islander, Multiracial”; the **Iowa Minority Academic Grant for Economic Success (IMAGES)**, which is awarded to “African American, Latino/Hispanic, Asian, Pacific Islander, American Indian, or Alaskan Native” applicants; the **Tom Brokaw Scholarship Fund**, for “Native Americans”; the **Ezra L. Totton Scholarship**, with “preference given to Black students”).
- b. *Scholarships and awards that discriminate based upon veteran’s status or service in the U.S. Military.* *See* App. 1338 ¶ 17; App. 1798-1804, 1832-39 (**Hawkeye Distinguished Veteran’s Award**, provided annually to five Iowa City veterans, one of whom is active student at the University; the **University Armed Forces Award**, which discriminates based on status as a U.S. veteran or service in the U.S. military, offering

- scholarships up to \$15,000 and eligibility for in-state tuition rates; the **Ernie T. Pascarella Military Veteran Promise Award**, annual \$1,000 award for veteran; the **Paul Larson Military/Veteran Student Scholarship**, up to \$2,000 for veterans and military students).
- c. *Scholarships that discriminate on the basis of sexual orientation and gender identity.* App. 0466 [Petty Dep. 39:1-40:20]; App. 0481 (**Rainbow Scholarship**, annual scholarship limited to “undergraduate student who is gay, lesbian, bisexual, or transgender”); *see also* App. 0465 [Petty Dep. 37:2-38:25]; App. 0479 (**Robert D. Dockendorff Scholarship**, with “preference given to” students “who are active in the Gay, Lesbian, Bisexual, Transgender community”).
- d. *Funds that discriminate based upon disability.* App. 0462 [Petty Dep. 24:7-26:25]; App. 0484, 0486 (**Handicapped Projects Program Fund** and the **Learning Disability Assistant Fund**).
- e. *Awards that discriminate based upon national origin.* *See* App. 1338 ¶ 17, App. 1835-39 (**Iowa MBA India and China Awards**, which offer full or partial tuition to MBA students who have citizenship in India or China).
- f. *Scholarships and awards that discriminate based on sex.* *See* App. 1338 ¶ 17; App. 1809, 1820-21, 1837-38, 1848 (**Iowa MBA Women’s Award**; the **Kathleen Dore Women’s MBA Scholarship**; the **Henry Tippie Women’s MBA Scholarship**; the **M. Gladys Scott Scholarship**, available to “women majoring in Sports Studies”; **C. Pauline Spencer Scholarship** (same); **Lloyd and Gladys Burr Cunningham Nursing Scholarship Fund**, with “preference given to women from Iowa”; the **Margaret P. Benson Memorial Scholarship**, awarded to “[w]omen who are committed to women’s issues”).



g. *Fraternity and sorority scholarships and awards that discriminate based on sex.* See App. 0463-64 [Petty Dep. 30:17-31:6]; App. 0519 (**Dinette L. Myers Quiet Leader Award**, for sorority member); App. 0464 [Petty Dep. 31:8-17], App. 0523 (**Mary Peterson Sorority Woman of the Year Fund**); App. 0464 [Petty Dep. 31:19-32:6] (**Andrew James Mogni Legacy Award**, awarded to “UI Fraternity Man”); App. 0464-65 [Petty Dep. 34:23-35:9]; App. 0562 (**Chi Omega Scholarship Fund**, for “female student”); App. 0465 [Petty Dep. 36:18-37:1]; App. 0565 (**Edith Williams Malone Scholarship**, with “preference” for “female students”). *Sports club funds that discriminate based on sex.* See App. 0464 [Petty Dep.33:1134:22]; App. 0546-54 (**Women’s Water Polo Club, Men’s Rugby Club, Men’s Water Polo Club, Men’s Volleyball Club**);

h. *Scholarships or funds that discriminate upon multiple protected classes.* See App. 1338 ¶ 17; App. 1841-42, 1824, 1828 (**Adah Johnson/Otilia Maria Fernandez Scholarship**, awarded to “woman student of color”; **Robert Vernon Family Memorial Fund**, with “preference given to American Indian, Black, and female minority students”; **Madeline P. Peterson Scholarship for American Indian Women**, for “woman student of American Indian descent with tribal affiliation”).

**RESPONSE: Admit each subpart.**

The Christian Legal Society’s Ordeal at the University of Iowa

51. In 1999 the Christian Legal Society (CLS) filed its application to renew its status as a registered student organization at the University. App. 0752.

**RESPONSE: Admit, with the qualification that the CLS incident occurred in 2003 and 2004 and offers little support for InterVarsity’s position. As the Court noted in its Order on Plaintiff’s Motion for Preliminary Injunction in *Business Leaders in Christ v. The***

*University of Iowa, et al*, “the Court is not blind to the fact that these events occurred approximately fourteen years ago. Views regarding sexual orientation and gender identity have changed a great deal over the past fourteen years. Thus, the CLS incident’s probative value with respect to the present dispute is diminished both by its age and its ambiguity.” United States District Court for the Southern District of Iowa, Case No. 3:17-cv-00080SMR-SBJ, Order filed January 23, 2018, p. 26.

**IVCF REPLY:** Beyond adding exemptions for fraternities and sports clubs, the University has not changed its Policy. *See supra* ¶¶ 26-27. Moreover, reinterpreting its Policy to enforce any particular views regarding sexual orientation and gender identity would constitute clear viewpoint discrimination. Finally, InterVarsity was derecognized solely for allegedly violating the prohibition against religious discrimination by requiring its leaders to be Christian. IVCF has never been alleged to have violated the prohibition against sexual orientation or gender identity discrimination, and in fact past leaders have identified as gay or lesbian. IVCF App. 1951-52 [Kummer Decl. ¶ 23].

52. In an accompanying letter to the then-Dean of Students, Phillip Jones, CLS noted that the chapter would require members to embrace its Christian beliefs and its moral code. App. 0752-54.

**RESPONSE:** Admit. *See* response to ¶ 51.

**IVCF REPLY:** *See* reply to ¶ 51.

53. CLS asked the University if its beliefs and membership practices would be proscribed by the University’s Policy. App. 0752.

**RESPONSE:** Admit. *See* response to ¶ 51.

**IVCF REPLY:** *See* reply to ¶ 51.

54. In response, Dean Jones issued a memo noting that the University's Office of General Counsel had reviewed and cleared the proposed CLS constitution. App. 1340 ¶ 18, App. 1854-1855.

**RESPONSE:** Admit, with the qualification that Dean Jones stated that “there appear to be no first amendment violations in the organization’s constitution for local participation in a religious organization.” P. App. 1855. Dean Jones went on to caution that “the practices of the organization will have to be consistent with the spirit of open participation.” *Id.* See also, response to ¶ 51.

**IVCF REPLY:** See reply to ¶ 51.

55. Defendant Thomas R. Baker was one of the University employees copied on Dean Jones’s memo. App. 1340 ¶ 18, App. 1854-55.

**RESPONSE:** Admit. See response to ¶ 51.

**IVCF REPLY:** See reply to ¶ 51.

56. Following this approval, CLS continued to operate as a registered student organization at the University. App. 1194-95 ¶¶ 4, 8.

**RESPONSE:** Admit. See response to ¶ 51.

**IVCF REPLY:** See reply to ¶ 51.

57. On January 30, 2004, CLS contacted Thomas Baker, then the Associate Dean of Students, to address a new issue that had arisen. App. 0007 [Baker Dep. 23:14-24:10]; App. 0069; App. 0007-8 [Baker Dep. 25:13-27:1, 27:20-28:10].

**RESPONSE:** Admit. See response to ¶ 51.

**IVCF REPLY:** See reply to ¶ 51.

58. A follow-up letter from CLS’s attorney to Dean Baker noted that CLS had been “recognized as an official student organization by the University of Iowa at least since 1980.”

App. 0010 [Baker Dep. 37:2-8]; App. 0071; App. 0010-11 [Baker Dep. 37:23-39:18]; App. 1194.

**RESPONSE: Admit. *See* response to ¶ 51.**

**IVCF REPLY: *See* reply to ¶ 51.**

59. But upon submitting a renewed “Recognition Form,” CLS’s constitution was rejected by the Office of Student Life for “failure to include” the language of the University’s nondiscrimination policy. App. 0010 [Baker Dep. 37:2-8]; App. 0071.

**RESPONSE: Admit. *See* response to ¶ 51.**

**IVCF REPLY: *See* reply to ¶ 51.**

60. Dean Baker wrote down notes regarding the situation, which stated that the University’s Policy “doesn’t preclude you from asking prospective officers to subscribe to a statement of faith,” and that it “doesn’t preclude your group from establishing reasonable leadership qualifications consistent with the purpose of your org.” App. 0011-13 [Baker Dep. 40:21-47:3]; App. 0077.

**RESPONSE: Admit that Baker responded to Mr. Nierman’s letter on February 20, 2004. Admit that Baker’s letter explained that “the Human Rights policy does not prohibit student groups from establishing membership criteria” with the qualification that Baker also clarified that the right to establish membership rules does not “extend to permit CLS or any other student group to reject prospective student members solely on the basis of race, gender, or sexual orientation.” P. App. 78. Baker also pointed out that CLS had not “cite[d] any judicial ruling on point that would nullify a viewpoint-neutral application of the Human Rights Policy to student religious groups with respect to membership discrimination on the basis of sexual orientation.” *Id.* Interestingly, Baker noted that “no complaint from the community has ever been filed with the UI Committee on Human Rights against a religious student organization alleging a violation of the Human Rights Policy.” *Id.* *See* response to ¶ 51.**

**IVCF REPLY:** *See* reply to ¶ 51. InterVarsity was derecognized for allegedly violating the prohibition against religious discrimination by requiring its leaders to be Christian, not for violating the prohibitions on discrimination for any other protected classifications or characteristics.

61. Baker sent a formal letter on February 20, 2004 stating, *inter alia*, that the Policy “does not prohibit student groups from establishing membership criteria.” App. 0014-15 [Baker Dep. 51:20-52:6, 53:18-54:24]; App. 0078-80.

**RESPONSE:** Admit that Baker responded to Mr. Nierman’s letter on February 20, 2004. Admit that Baker’s letter explained that “the Human Rights policy does not prohibit student groups from establishing membership criteria” with the qualification that Baker also clarified that the right to establish membership rules does not “extend to permit CLS or any other student group to reject prospective student members solely on the basis of race, gender, or sexual orientation.” P. App. 78. Baker also pointed out that CLS had not “cite[d] any judicial ruling on point that would nullify a viewpoint-neutral application of the Human Rights Policy to student religious groups with respect to membership discrimination on the basis of sexual orientation.” *Id.* Interestingly, Baker noted that “no complaint from the community has ever been filed with the UI Committee on Human Rights against a religious student organization alleging a violation of the Human Rights Policy.” *Id.* *See* response to ¶ 51.

**IVCF REPLY:** *See* reply to ¶ 51.

62. The letter copied Dean Jones and Defendant William Nelson (“Dr. Nelson”). App. 0014 [Baker Dep. 51:20-52:2]; App. 0080.

**RESPONSE:** Admit. *See* response to ¶ 51.

**IVCF REPLY:** *See* reply to ¶ 51.

63. The letter concluded that CLS could not omit the Human Rights Policy from its group constitution or even modify it. App. 0014 [Baker Dep. 51:20-52:2]; App. 0080.

**RESPONSE:** Admit. Baker explained the University’s responsibility to require that all groups include the Human Rights Policy in their constitutions, without exception. P. App. 78. Baker stressed that “viewpoint neutrality must be the guiding principle in the application of the Human Rights Policy. A decision to treat religious groups differently would invite a constitutional challenge by non-religious groups, who have the same right as religious groups to equal treatment.” *Id.* See response to ¶ 51.

**IVCF REPLY:** Baker’s 2004 letter stated that “[e]very University of Iowa student organization is required to include in its group constitution the Human Rights Policy in its entirety in order to be eligible for University recognition, and your clients were treated the same as every other religious group has been treated.” IVCF App. 0080. But the University admitted to this Court that, following its review of 513 RSO constitutions in January and February of 2018, “356 RSOs did not have the full and correct Human Rights Clause in their constitution.” IVCF App. 1332. The University further admitted that *none* of the 54 recognized social fraternity and sorority chapters had constitutions at all, and were not requested to begin adopting constitutions until June 1, 2018. *Id.* See also reply to ¶ 51.

64. But Dean Baker emphasized that “the Human Rights Policy does not prohibit student groups from establishing membership criteria” and that “[a] student religious group is entitled to require a statement of faith as a pre-condition for joining the group.” App. 0014-15 [Baker Dep. 53:18-54:1]; App. 0079.

**RESPONSE:** Admit. See response to ¶ 51.

**IVCF REPLY:** See reply to ¶ 51.

65. The letter emphasized, in italics, that “[a]sking prospective members to sign the CLS statement of faith would not violate the UI Human Rights policy.” App. 0015 [Baker Dep. 54:224]; App. 0079 (emphasis in original).

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

66. Dean Baker further noted that a religious group “would not be required, and will not be required, to condone the behavior of student members—after they join your group—that is contrary to the purpose of your organization and its statement of faith.” App. 0016-17 [Baker Dep. 61:19-62:15]; App. 0079; App. 0017 [Baker Dep. 65:17-20].

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

67. He emphasized that “[i]ndividuals who fail to observe the CLS statement of faith may be dismissed as members.” App. 0079; *see also* App. 0025-26 [Baker Dep. 97:10-100:15].

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

68. With this understanding, CLS added the Human Rights Policy to its constitution, which was then approved by the University for resubmission to the University of Iowa Student Organization Recognition Board. App. 0017 [Baker Dep. 65:21-66:10]; App. 0081.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

69. The University’s April 2004 approval letter reiterated that “organizational leaders may require members to accept the CLS statement of faith as a condition for participation.” App. 0018 [Baker Dep. 66:11-67:4]; App. 0081.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

70. After the University approved CLS's constitution, the matter was forwarded to the student government's Student Organization Recognition Board for further approval. The student chair of the Board objected "on both ethical and moral grounds to this organization's recognition" and stated that he would "not be able to put [his] signature on the recommendation form for the Christian Legal Society." App. 1340; App. 1857.

**RESPONSE:** *Admit. See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

71. He referred the matter to the Student Senate. App. 1340; App. 1858.

**RESPONSE:** *Admit. See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

72. In response to the chair's statements, Dean Jones, then the University's Vice President for Student Services and Dean of Students, sent a memorandum in May 2004 to the Student Senate, instructing them that "CLS is entitled to ask its members to adhere to the group's statement of faith." App. 0765.

**RESPONSE:** *Admit. See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

73. Dean Jones emphasized that it was his "obligation under the law and under University policy to realize the group members' freedom to promote their beliefs through association" and that the Student Senate was "bound by law to observe the same constitutional standards." App. 0765.

**RESPONSE:** *Admit. See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*



74. Dean Jones stated that he was “prepared to recognize the group if the CLS students’ legal rights [were] not fully acknowledged” by the Student Senate. App. 0765.

**RESPONSE: Admit. See response to ¶ 51.**

**IVCF REPLY: See reply to ¶ 51.**

75. Dr. Nelson was copied on Dean Jones’s memo. App. 0765.

**RESPONSE: Admit. See response to ¶ 51.**

**IVCF REPLY: See reply to ¶ 51.**

76. Several years later, in 2008, the Student Government denied funding to CLS because of its constitution and informed CLS’s student president that timely funding for CLS could not be guaranteed because members of the Student Government were “uncomfortable with your organization.” App. 0083-84; App. 0018 [Baker Dep. 69:14-70:2].

**RESPONSE: Admit. See response to ¶ 51.**

**IVCF REPLY: See reply to ¶ 51.**

77. In response, the University twice instructed the Student Government that it could not discriminate against CLS in this manner. App. 0018 [Baker Dep. 67:15-68:24]; App. 0085; App. 0020 [Baker Dep. 75:12-23]; App. 0086.

**RESPONSE: Admit that the University twice reprimanded the Student Government for failing to appropriate funding to CLS, and that it twice reminded the Student Government of its responsibilities as a government agent. Deny that the Baker deposition testimony cited supports Plaintiff’s assertion. See response to ¶ 51.**

78. In a memo dated October 21, 2008, Tom Rocklin, Vice President for Student Services and Dean of Students, reminded the Student Government that CLS “has been recognized as a University of Iowa student organization after full review of its application, including its constitution” and that “applicable law, including the United States Constitution . . . requires that

funding requests from student organizations are processed in a content neutral manner,” “without any consideration of the organization’s viewpoint, including the Statement of Faith in the CLS constitution.” App. 0018 [Baker Dep. 68:14-71:16]; App. 0085.

**RESPONSE:** Admit. *See* response to ¶ 51.

**IVCF REPLY:** *See* reply to ¶ 51.

79. Vice President Rocklin specifically warned the student leaders that they were “agents of the University and the State of Iowa” and thus as “agents of the state” could “be subject to personal liability” if they violated CLS’s “rights under the U.S. Constitution.” App. 0018 [Baker Dep. 68:14-71:16]; App. 0085.

**RESPONSE:** Admit that Rocklin warned the Student Government of their potential liability for constitutional infractions under the law in his letter. Deny that the Baker deposition testimony cited supports Plaintiff’s assertions. *See* response to ¶ 51.

**IVCF REPLY:** Dean Baker testified that the Rocklin memorandum went to the student officers for the purpose of “clarifying that CLS should be treated as any other student group and that their request for funding should be processed in a content-neutral manner,” and that the memorandum came in response to an effort by “some of the Student Government leaders who wanted CLS to be deregistered or defunded” because of CLS’s religious beliefs. IVCF App. 0018-19 [Baker Dep. 69:2-71:16]. *See also* reply to ¶ 51.

80. One week later, on October 28, 2008, Vice President Rocklin gave the student government leaders specific instructions on funding CLS and directed them to “process [CLS’s] request in a timely manner without consideration of membership rules as stated in the organization’s constitution.” App. 0020 [Baker Dep. 75:12-23]; App. 0086.

**RESPONSE:** Admit. *See* response to ¶ 51.

81. Dean Baker and Dr. Nelson were both copied on this memo and the student leaders were directed to contact Dean Baker with any further questions. App. 0020 [Baker Dep. 75:12-23]; App. 0086.

**RESPONSE: Admit. See response to ¶ 51.**

**IVCF REPLY: See reply to ¶ 51.**

82. On February 26, 2009, four registered student groups—Outlaws, Law Students for Reproductive Justice, Iowa Campaign for Human Rights, and American Constitution Society—wrote a letter “to voice [their] objection” to the “recent decision to fund the Christian Legal Society,” claiming that “its constitution and membership requirements” violated the University’s Human Rights Policy. App. 0020 [Baker Dep. 76:11-22]; App. 0087-88.

**RESPONSE: Admit. See response to ¶ 51.**

**IVCF REPLY: See reply to ¶ 51.**

83. Vice President Rocklin responded by letter dated March 6, 2009, stating that the Human Rights Policy did “not prohibit student groups from establishing membership criteria” and that the First Amendment protected religious student groups in “establish[ing] a statement of faith as a precondition for joining the group.” App. 0020-21 [Baker Dep. 77:18-79:1]; App. 0089; App. 0093-94; App. 0021-22 [Baker Dep. 79:5-81:17, 82:13-83:12].

**RESPONSE: Admit, with the qualification that Rocklin also indicated that “[t]he CLS, like any other recognized student group, must welcome all students interested in attending group meetings, regardless of sexual orientation or other classification.” P. App. 89. Rocklin went on to indicate that “CLS did agree in 2004 to observe this requirement of the Policy on Human Rights, and it is currently observing this requirement.” *Id.* See response to ¶ 51.**

84. In May 2009, the Student Government attempted to change its bylaws to bar funding to “exclusive religious groups,” which were defined as “organizations that restrict membership or access to programming according to religious belief.” App. 1340; App. 1866; App. 1881.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

85. On June 3, 2009, attorneys for CLS wrote the University noting that “the recently adopted bylaws . . . conflict with [the University’s] previous decisions and threaten once more to violate the chapter’s First Amendment Rights.” App. 0169-71.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

86. The University’s General Counsel responded the next day requesting additional time to respond, noting that the University “will not approve student government decisions denying funding to . . . [CLS] in violation of the Constitution.” App. 1340; App. 1885-86.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

87. Vice President Rocklin again wrote a memo to the student government leaders, reminding them that they could be “subject to personal liability in court,” even for “inadvertently” infringing the “constitutional rights of religious student organizations.” App. 0768.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

88. He directed the student leaders to “remove as soon as possible” the provisions restricting funds to exclusive religious organizations and stated that the offending provisions would be “considered suspended” until he received the “revised version.” App. 0768.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

89. He further stated that the University’s General Counsel recommended that his office “orient” the student leaders “each year regarding the interplay between the Constitution and the University of Iowa Policy on Human Rights.” App. 0769.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

90. He again emphasized that “student government leaders are state actors” and thus “must protect student organization members’ constitutional rights at all times.” App. 0769.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

91. He warned that University action against religious organizations “raises a number of issues with legal implications, not the least of which involve an organization’s right to free association, free speech, and equal protection of law.” App. 0769.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

92. Finally he stated that, for the upcoming school year, training on these issues would be “presented by Tom Baker” and that student government officials would be “required to attend.” App. 0769.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY:** *See reply to ¶ 51.*

93. Dr. Nelson was copied on the memo, as were the University’s general counsel, Carroll Reasoner, and its senior associate general counsel, Maria Lukas. App. 0769.

**RESPONSE:** Admit. *See response to ¶ 51.*

**IVCF REPLY: See reply to ¶ 51.**

94. On June 22, 2009, the University wrote CLS to note that the offending provisions had been removed from the student government bylaws and that “all religious student organizations will be permitted to apply for . . . funds,” which would be “allocated in compliance with constitutional standards.” App. 0770.

**RESPONSE: Admit, with the qualification that Ms. Lukas also informed CLS that the University “decline[d] to provide an exemption from religious discrimination rules for religious student groups” as CLS had proposed. D. Supp App. 167. See response to ¶ 51.**

**IVCF REPLY: See reply to ¶ 51.**

95. One year later, on June 28, 2010, the United States Supreme Court issued its ruling in *Christian Legal Society v. Martinez*, where it held that universities could have student organization policies which “mandate acceptance of all comers,” where the groups “must ‘allow any student to participate, become a member, or seek leadership positions in the organization, regardless of [her] status or beliefs.’” 561 U.S. at 671. The Court emphasized that its holding was limited solely to whether “compliance with an all-comers policy violates the Constitution.” *Id.* at 678.

**RESPONSE: Admit that the United States Supreme Court ruled on *Christian Legal Society v. Martinez* in 2010. See *Christian Legal Soc. Chapter of the University of California, Hastings College of the Law v. Martinez*, 561 U.S. 661 (2010). Deny Plaintiff’s other contentions insofar as analysis of a legal opinion is inappropriate for a Statement of Undisputed Fact. See LC 56(1)(3) (requiring a “statement of material facts setting forth each material fact as to which the moving party contends there is no genuine issue to be tried . . .”). Additionally, Defendants deny any remaining implication regarding the application of *Martinez* to the facts of the case at hand.**

96. The next day, on June 29, 2010, CLS wrote to the University noting that “a story in today’s *The Daily Iowan* [had] suggested that the University was being pressed, yet again, by students hostile to CLS-Iowa to reconsider its status at the University based on the false premise that the Supreme Court’s decision yesterday would support reconsideration.” App. 1340; App. 1888.

**RESPONSE: Admit. See response to ¶ 51.**

**IVCF REPLY: See reply to ¶ 51.**

97. Following the *Martinez* decision, the University’s leadership met to discuss the ruling. They agreed that the University did not have an all-comers policy and rejected adopting an allcomers policy. App. 0038 [Baker Dep. 147:7-148:4].

**RESPONSE: Admit that several University staff members met to discuss the *Martinez* decision. Deny that all staff members were in agreement about how they should interpret the policy at the time of the events at issue in the Petition—including whether registered student groups must “accept all students as members and leaders of the groups.” Nelson 301:15–302:14; P. App. 358-359 (Q: “With that understanding, was there agreement that the University does not have an all-comers policy?” A: “Was there agreement that we did not? I would say there was not agreement.”); Baker 147:7–13; P. App. 38 (Q: “As far as you know, did the University ever discuss the differences between those two types of policies?” A: “I know that there was a meeting after the Supreme Court issued its decision in 2010, and I was present at the meeting, so the issue of “All Comers” Policy did come up, and as I recall, the decision was that we would not make any changes in the Human Rights Policy.”); Cervantes 19:9–13; P. App. 102 (testifying that she does not understand the University’s Human Rights policy to be an “all-comers” policy); Redington 20:23–21:4; P. App. 573 (testifying that she does not know the legal definition of an “allcomers” policy, and that she did not know at the**

time whether the University maintained an “all-comers” policy). Admit that the University did not implement an all-comer’s policy.

98. The CLS chapter has continued to this day as a registered student organization at the University of Iowa campus with religious standards for its leaders. App. 1195-96.

**RESPONSE:** Admit. *See* response to ¶ 51.

**IVCF REPLY:** It is unclear what the Defendants mean by “the Petition.” Dean Baker testified that, after the University’s meeting about the *Martinez* case in 2010, it decided not to have an all-comers policy. All Defendants testified that the University did not have an all-comers policy at the time of their actions to derecognize BLinC. IVCF App. 0358 [Nelson Dep. 300:14-17]; *Id.* at 0573-574 [Redington Dep. 21:13-23:3]; *Id.* at 0104 [Cervantes Dep. 27:5-28:2]. *See also* response to ¶ 51.

The University’s actions against BLinC and 24-7

99. BLinC is a religious student group that was a registered student organization (“RSO”) at the University from 2014 to 2017. App. 1290; App. 0599-0601.

**RESPONSE:** Admit.

100. BLinC requires its officers to agree with its faith because they are responsible for leading its members in prayer, Bible discussion, and spiritual teaching; for implementing and protecting the religious mission of the group; and for modeling BLinC’s faith to the group and to the public. App. 1291; App. 1295-96; App. 1312; App. 1202; App. 0601 [Thompson Dep. 15:812]; App. 0646 [Estell Dep. 44:2-6].

**RESPONSE:** Admit that the above-statements are consistent with Hannah Thompson’s affidavit, signed on December 12, 2017, and with Jacob Estell’s deposition testimony.



101. In February 2017, a student filed a complaint with the University alleging that BLinC denied him a leadership position because he was “openly gay,” and demanding that the University “[e]ither force BLinC to . . . allow openly LGBTQ members to be leaders or take away their status of being a student organization.” App. 1296, 1317.

**RESPONSE: Admit.**

102. BLinC denied the allegation, explaining that while the student could participate as a member, he could not serve as a leader because he disagreed with fundamental aspects of BLinC’s faith, including its beliefs regarding the authority of Scripture and Scripture’s teaching regarding sexual morality. App. 1297, 1324-26; App. 604.

**RESPONSE: Deny. Much of the evidence shows that in her initial conversation with Mr. Miller, Ms. Thompson explained that he could not be a member of BLinC’s leadership team because he is a gay man. D. App. 1317 (“I [Marcus Miller] was denied leadership . . . for being openly gay.”); D. App. 142 (“Student B [Hannah Thompson] stated that because Complainant was gay and might pursue a relationship as a gay person, he could not be a leader in BLinC.”); P. App. 115 [Cervantes 69:24–70:4] (Q: “Okay. And in his interviews with you, Marcus Miller told you that he was not allowed to be a leader of BLinC because he did not ascribe to their view of the Bible. Is that correct?” A: “He told me that he told them he was gay and they rescinded his offer.”), P. App. 116 [Cervantes 73:3–4] (“My recollection is . . . She [Hannah Thompson] told me he could not be a leader because he was gay.”), P. App. 117 [Cervantes 79:24–80:3] (Q: “So Hannah told you it wasn’t because he was gay, correct?” A: “No, Hannah told me it was because he was gay.”), P. App. 117 [Cervantes 80:18–24] (Q: “Did you have any reason to disbelieve that that’s . . . the reason Hannah did not allow him to become a leader?” A: “All I know is what she told me and that was because he was a homosexual, because he was openly admitting or acknowledging he**

was homosexual.”), P. App. 120 [Cervantes 89:13–19] (Q: “So why did you choose to seize on . . . the statement that Mr. Miller was excluded because he was gay and not all of the statements from Hannah that he was excluded because of his religious beliefs?” A: “Because Hannah told me he was excluded because he was gay.”), P. App. 120 [Cervantes 91:5–10] (Q: “And was there any reason why you discounted those parts of her statements?” A: “Because she told me she’d eliminate him because he was gay. She was pretty firm about that. There was no discussion of religious beliefs. She just said because he was gay, that’s it.”), P. App. 120-121 [Cervantes 91:21–92:8, 94:6–17]; P. App. 38 [Baker 148:19–25] (Q: “Okay. And what do you recall Hannah saying during that interview?” A: “What I recall Hannah saying off the top of my head was that Marcus Miller without being prompted told her that he was openly gay and that because he said he was openly gay, that he was—according to Hannah, that they decided he was not eligible to be a leader.”).

103. In association with the University’s proceedings against BLinC, Associate Dean Tom Baker wrote a memo to Dr. Nelson, stating that “it will be important to clarify how the University Human Rights Policy operates.” App. 0090-91. He emphasized that “[t]he Human Rights Policy does not require that [BLinC’s] creed be modified.” App. 0090-91.

**RESPONSE:** Admit. In that same memo, Dean Baker made the distinction at issue in the BLinC litigation: “Consequently, denying a leadership application on the basis of a student’s homosexuality is not the same as denying a student’s leadership application for refusing to abide by the expectation that all members remain sexually abstinent regardless of their sexual orientation. While the latter is permitted under the Human Rights Policy, the former is not.” The University’s position is that Mr. Miller was denied a leadership position with BLinC because of his sexual orientation. *See* response to ¶ 102

**IVCR REPLY:** InterVarsity was derecognized for allegedly violating the prohibition against religious discrimination by requiring its leaders to be Christian, not for violating the prohibition against any other form of discrimination. Mr. Miller’s denial of a leadership position is not at issue in this lawsuit.

104. During a face-to-face meeting with BLinC’s leaders, Dean Baker explained that he had faced a similar situation with CLS in 2004, and that CLS had been allowed to stay on campus as an RSO. App. 1203; App. 0271 [Nelson Dep. 62:16-63:6]; App. 0043 [Baker Dep. 168:12-17].

**RESPONSE:** Admit, with the qualification that the CLS incident occurred in 2003 and 2004 and offers little support for InterVarsity’s position. As the Court noted in its Order on Plaintiff’s Motion for Preliminary Injunction in *Business Leaders in Christ v. The University of Iowa, et al*, “the Court is not blind to the fact that these events occurred approximately fourteen years ago. Views regarding sexual orientation and gender identity have changed a great deal over the past fourteen years. Thus, the CLS incident’s probative value with respect to the present dispute is diminished both by its age and its ambiguity.” United States District Court for the Southern District of Iowa, Case No. 3:17-cv-00080SMR-SBJ, Order filed January 23, 2018, p. 26.

**IVCF REPLY:** Beyond adding exemptions for fraternities and sports clubs, the University has not changed its Policy. *See supra* ¶¶ 26-27. Moreover, reinterpreting its policy to enforce any particular views regarding sexual orientation and gender identity would constitute clear viewpoint discrimination. Finally, InterVarsity was derecognized for allegedly violating the prohibition against religious discrimination by requiring its leaders to be Christian, not for violating prohibitions against any other form of discrimination.

105. BLinC responded that, like CLS, it needed its leaders to actually agree with and live by its beliefs. App. 1203.

**RESPONSE: Admit.**

106. Dean Baker agreed that this was permissible under the University Policy. App. 1203; App. 0647 [J. Estell Dep. 49:25-50:12]; App. 0271 [Nelson Dep. 64:7-15].

**RESPONSE: Defendants are unable to admit or deny this statement, as it is unclear what Plaintiff claims is “permissible under University policy.” Defendants cannot make a blanket admission as to which “beliefs” it can require its members to live by without a more specific statement. Additionally, the deposition testimony cited does not support this statement.**

**IVCF REPLY: The deposition testimony speaks for itself.**

107. Dean Baker gave an example that a student group promoting awareness about global warming could choose leaders based on its beliefs—declining, for example, to give a leadership position to a “climate denier”—and said that BLinC could similarly make leadership requirements based on its beliefs. App. 1203; 0647 [J. Estell Dep. 49:15-50:1-16]; App. 0271 [Nelson Dep. 64:7-22]; App. 0043 [Baker Dep. 168:22-169:1].

**RESPONSE: Admit that Dean Baker made the analogy, with the qualification that it is unclear whether a climate denier would be considered a member of a protected class or a person against which discrimination is forbidden under the University’s Human Rights Policy.**

108. Thus, at least “at the time of that meeting,” it was “permissible for a student organization at the University of Iowa to require its leaders to embrace the mission of the organization.” App. 0271-72 [Nelson Dep. 64:16-23]; App. 0043 [Baker Dep. 169:2-11].

**RESPONSE: Admit, with the qualification that Baker limited his statement to groups which do not intend to pursue illegal activity—which would include discrimination on the basis of a protected class or characteristic. Baker 169:2–11; P. App. 43.**

**IVCF REPLY:** Baker did not testify that “discrimination on the basis of a protected class or characteristic” was “illegal activity” or that the University categorically banned it for student groups. To the contrary, it is undisputed that Baker testified that it is “acceptable” for groups to engage in “forms of status-based discrimination—such as having sex-segregated fraternities, sororities, and sports teams[.]” *See infra* Univ. Resp. to SoF ¶ 142; *see also supra* ¶¶ 31-50 (admitting further forms of permitted “discrimination” in University RSOs, programs, scholarships, grants, and activities).

109. It was also acceptable for that requirement to be written into a student group’s constitution and for the group’s leaders to “be required to sign a statement affirming that provision of the constitution.” App. 0271-72 [Nelson Dep. 64:20-65:4].

**RESPONSE:** Admit.

110. But the University ultimately determined that BLinC could not “remain as a registered student organization in good standing” because 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 Constitution for leadership positions, would have the effect of disqualifying certain individuals from leadership positions based on sexual orientation or gender identity.” App. 0585 [Redington Dep. 67:14-68:17]; App. 402-03.

**RESPONSE:** Admit.

111. The same student who had filed a complaint against BLinC, also filed a complaint against 24-7 after he applied to lead their freshman bible study group. App. 0114-15 [Cervantes Dep. 67:12-68:4, 69:24-70:3]; App. 0199-211.

**RESPONSE:** Admit.

112. 24-7’s student leaders and voting members are required to sign its Statement of Faith. App. 0179-82.

**RESPONSE: Admit.**

113. 24-7 also requires applicants for leadership positions to confess any sins involving sexual immorality, including “inappropriate relations with the opposite sex” and “homosexuality.” App. 1340; App. 1892-1900.

**RESPONSE: The 24:7 application asks applicants to discuss “[w]here [applicants] see those sins in [their] life? Have you done anything to see God transform your life in those areas?” There is no indication in the cited documentation that 24:7 would exclude a leader’s application based on any information provided. P. App. 1895.**

114. 24-7 stated that because the student espoused a theologically revisionist belief about homosexuality, “it would be difficult” for him to be a leader with 24-7, because he “could not affirm the same beliefs.” App. 0126 [Cervantes Dep. 113: 12-22]; App. 0184.

**RESPONSE: Admit.**

115. Ultimately, however, the University found no “probable cause” against 24-7, because the student never confirmed whether or not he accepted 24-7’s religious beliefs. 24-7’s leaders thus never made a final decision about whether the student could serve as a Bible leader. App. 0126 [Cervantes Dep. 114:1-115:17]; *see also* App. 0283-84 [Nelson Dep. 110:13-113:6].

**RESPONSE: Admit, with the qualification that the overriding reason behind Cervantes’ finding was that there was “insufficient evidence to show the decision was based on Complainant’s membership in a protected class . . .” D. Supp. App. 177. In her finding, Cervantes unequivocally stated that “treating [Complainant] differently than other members due to his sexual orientation would violate the university’s *Policy on Human Rights*.” D. Supp. App. 177.**

Constance Cervantes

116. Constance Cervantes was designated as a 30(b)(6) witness to testify about the Human Rights Policy in BLinC's lawsuit against the University, *Business Leaders in Christ v. The University of Iowa*, No. 3:17-cv-00080 (S.D. Iowa). App. 1340; App. 1902.

**RESPONSE: Admit.**

117. Ms. Cervantes confirmed that the University did not have an all-comer's policy. App. 0102, 0104, 0122 [Cervantes Dep. 19:9-11, 27:15-28:2, 99:7-14].

**RESPONSE: Admit.**

118. In the course of the BLinC investigation, Tom Baker sent Ms. Cervantes "the most recent memo [he] could find" on the topic of student organizations with statements of faith. App. 0127 [Cervantes Dep. 119:2-24]; App. 0212; App. 0093-94.

**RESPONSE: Admit.**

119. Dean Baker noted that the memo had issued "before the US Supreme Court issued its decision in the Hastings Law College case, which had an 'all comers' policy," but that "the University of Iowa Human Rights Policy does not mandate an 'all comers' policy, so the Policy articulated in the 2009 memo regarding statement of faith is still current, as far as I know." App. 0127 [Cervantes Dep. 118:21-119:12]; App. 0212.

**RESPONSE: Admit.**

120. Ms. Cervantes acknowledged that she had received and read the memo, and that the memo's interpretation of the Human Rights Policy was still current and correct. App. 0127-28 [Cervantes Dep. 119:19-24, 121:4-10].

**RESPONSE: Admit.**

121. Ms. Cervantes acknowledged that, according to the memo, the Human Rights Policy "does not prohibit student groups from establishing membership criteria," would not require, for

example, “Campus Democrats . . . to admit self-identified Republicans into its membership,” and that “the university is obliged to protect the First Amendment right of [a student group’s] members to espouse the group’s basic tenets.” App. 0127-28 [Cervantes Dep. 119:13-122:9].

**RESPONSE: Admit.**

122. She testified that the Policy only “prohibit[s] discrimination on the basis of protected classification,” which she understood as prohibiting discrimination on the basis of someone’s “status” and not their “belief.” App. 0103, 0107-08 [Cervantes Dep. 22:12-23:2, 40:18-41:8].

**RESPONSE: Admit.**

123. She testified that a pro-life group could require even its members “to hold pro-life beliefs.” App. 0105-06 [Cervantes Dep. 32:2-33:11]; App. 0244-46.

**RESPONSE: Admit.**

124. A feminist group could require its “members to sign a statement supporting [its] principles.” App. 0106 [Cervantes Dep. 33:14-34:17].

**RESPONSE: Admit, with the qualification that Cervantes stated that such a practice would not be allowed if “[it] prohibited membership based on a protected classification[.]” P. App. 106 [Cervantes 34:13-20].**

125. And it would be “okay . . . for an organization to encourage its members to be women.” App. 0106 [Cervantes Dep. 35:8-23]; App. 0247-50.

**RESPONSE: Admit.**

126. With regard to religious status and belief, Ms. Cervantes testified that the Human Rights Policy prohibits discrimination on the basis of “religion,” which is a protected classification, but that it does not prohibit discrimination on the basis of “religious belief,” which is not a protected classification. App. 0108-09 [Cervantes Dep. 42:4-15, 42:24-45:7].

**RESPONSE: Admit.**



127. Thus, she suggested that “a Catholic organization cannot exclude someone because they’re Muslim, but they could exclude them because they don’t embrace Catholic belief.” [App. 0109 [Cervantes Dep. 45:4-20].

**RESPONSE: Admit, with the qualification that Cervantes actually stated: “I guess I’d have to know the facts of the case. How are they expressing they don’t understand those beliefs? So I’d look at all the facts and circumstances of the case, and if I felt based on all the facts and circumstances they were making a decision based on religion, I would find it a violation.” P. App. 109 [Cervantes 45:14–20].**

128. Similarly, if a Muslim organization “exclude[d] someone” “from a leadership position” “because they’re Catholic,” “that would violate the prohibition against discrimination on the basis of religion,” but if that same organization “excluded . . . a Muslim student because they . . . rejected Muhammad as the prophet,” that could be “okay.” App. 0109 [Cervantes Dep. 46:247:25].

**RESPONSE: Admit, with the qualification that Cervantes sees a distinction between belonging to a religious group and holding an opinion typically held by members of a particular religious group. P. App. 109 [Cervantes 47:22–25].**

129. By contrast, Ms. Cervantes conceded that allowing fraternities to exclude women would violate the Policy “on its face.” App. 0113 [Cervantes Dep. 61:14-62:12].

**RESPONSE: Admit.**

130. Cervantes likewise admitted that, if the University’s men’s sports teams exclude women, that would violate the Policy, “[u]nless there was some other thing like some NCAA rule or something that would, you know, overrule our rule.” App. 0123 [Cervantes Dep. 102:825].

**RESPONSE: Admit.**

131. Ms. Cervantes was aware that, “as an employee” of a state university, she had “an obligation to respect the First Amendment rights of students” and student groups, including their freedom of speech, freedom of religion, and right to assemble. App. 0101-02 [Cervantes Dep. 16:8-19, 17:13-18:2].

**RESPONSE: Admit.**

132. She conceded that a student group does not violate the Policy when it holds worship services or prayer meetings, propounds religious teachings, observes sacraments such as baptisms or communions, celebrates religious holidays, provides religious training to its leaders, or selects an ordained minister as one of its leaders. App. 0128 [Cervantes Dep. 122:10-19].

**RESPONSE: Admit, with the qualification that Cervantes did not “concede” these things, as she had no motivation to deny them in the first place.**

Thomas Baker

133. At the time of the BLinC investigation, Thomas Baker was the Associate Dean of Students. App. 0004 [Baker Dep. 10:17-21].

**RESPONSE: Admit.**

134. Dean Baker previously had been deeply involved with the issue involving CLS. *See* ¶¶ 45, 48-86, *supra*.

**RESPONSE: Admit.**

135. From that experience, he understood that a Muslim group excluding Christians who could not sign an Islamic statement of faith would not be a violation of the Policy: “the Muslim organization would have had a right under the Human Rights Policy to not accept the Christian as a member.” App. 0023 [Baker Dep. 87:21-88:5]; *see also* App. 0025-26 [Baker Dep. 97:10100:15]; App. 0078-80 (agreeing that as early as 2004, the Human Rights Policy was understood to allow religious groups to exclude members who didn’t share their religious beliefs).

**RESPONSE:** Admit, though he later stated that if a Muslim group excludes students who are Christians from membership, that act could be a violation of the Human Rights Policy. Baker 91:3–9; P. App. 24.

136. Likewise, it was his understanding that “a religious student organization could require that members agree to the group’s tenets[.]” App. 0023 [Baker Dep. 86:14-21].

**RESPONSE:** Admit, with the qualification that the rest of Dean Baker’s statement says: “as long as the group’s tenants did not categorically prohibit gay students from becoming members.”

137. Other groups similarly had a right to exclude individuals who did not share the groups beliefs or mission. App. 0026 [Baker Dep. 101:3-8] (noting that “an environmentalist group can exclude climate deniers from membership in their organization”).

**RESPONSE:** Admit, with the qualification that it is unclear the extent to which the policy would exclude students based on a protected characteristic in example posed by Dean Baker.

138. Dean Baker understood that “the core principle” of the Policy is to protect against “differential treatment” based on “immutable characteristics”—*i.e.*, “what your eye color is, what your skin color is, things like that.” App. 0009, App. 0035 [Baker Dep. 33:14-22, 134:825].

**RESPONSE:** Admit.

139. Baker acknowledged that “belief” is not an immutable characteristic. App. 0035 Baker Dep. 134:8-25]; *see also* App. 0035 [Baker Dep. 135:8-137:18] (acknowledging that it was “important” under the Policy to distinguish status discrimination from selection based on beliefs or conduct).

**RESPONSE:** Admit.

140. Thus, at all relevant times, he was “certainly under the belief that groups could have membership standards.” App. 0041 [Baker Dep. 160:10-12].

**RESPONSE: Deny.** At “the time that the CLS issue surfaced in 2004” Baker was under the impression that groups could have membership standards. Baker 160:10–12; P. App. 41.

**IVCF REPLY:** Baker’s testimony is that “*by* the time that the CLS issue surfaced in 2004 – by that time I was certainly under the belief that groups could have membership standards.” IVCF App. 0041 [Baker Dep. 160:8-12] (emphasis supplied). The testimony came in response to questions about a conversation he had with Ms. Cervantes in 2017 regarding the BLinC investigation and the Policy. IVCF App. 0039-41 [Baker Dep. 150:9-160:12]. Baker also testified that he did not know of any changes since 2004 that barred student groups from setting membership standards. IVCF App. 0018 [Baker Dep. 66:11-67:4]; *see also* IVCF App. 0021 [Baker Dep. 79:5-14].

141. And he further agreed that “forming a group around [a] particular principle is not inherently discriminatory.” App. 0029 [Baker Dep. 112:13-17].

**RESPONSE: Admit.**

142. Dean Baker even acknowledged that some forms of status-based discrimination— such as having sex-segregated fraternities, sororities, and sports team—were “acceptable.” App. 0029 [Baker Dep. 111:8-112:17].

**RESPONSE: Admit.**

143. Dean Baker was not aware of any change to the Policy or its interpretation since the time of the CLS issue. App. 0015-16, 0018, 0019, 0026 [Baker Dep. 57:8-58:7, 67:1-4, 71:6-16, 100:3-15]; *see also* App. 0573-74 [Redington Dep. 21:13-22:14] (same).

**RESPONSE: Admit.**

144. Dean Baker understood that, in enforcing the Human Rights Policy, the University had to follow the constitutional “principle of content neutrality.” App. 0011-12 [Baker Dep. 40:2142:9]; 0077.

**RESPONSE: Admit.**

145. Dean Baker was fully aware throughout the BLinC investigation that he had an obligation as state employee to “conform to the First Amendment.” App. 0036 [Baker Dep. 138:14-25].

**RESPONSE: Admit.**

146. He understood that the Free Speech Clause protects the right of students to express their religious views on campus. App. 0036 [Baker Dep. 140:13-22].

**RESPONSE: Admit.**

147. He agreed that students may engage in all kinds of religious exercise, including activities such as praying, worshiping, preaching, and administering sacraments, which could make them the “functional equivalent” of a church. App. 0051-52 [Baker Dep. 201:9-20, 202:124]; *see also* App. 0824-26 (constitution of The Salt Company, an on-campus church organization); App. 1950 [Kummer Decl. ¶ 18] (“the Newman Catholic Student Center holds Mass for students several times throughout the week”).

**RESPONSE: Admit.**

148. He admitted that the University telling a religious group who to select as leaders would “raise questions under the Free Speech Clause.” App. 0037 [Baker Dep. 142:22-143:21].

**RESPONSE: Admit.**

149. And he admitted that the ability of groups, including on-campus religious groups, to select leaders based on their beliefs is “beneficial,” and an “aspect of democracy,” and a “positive good,” he just preferred that the selection be done by “popular vote and not by some other mechanism.” App. 0030-31 [Baker Dep. 117:13-121:5].

**RESPONSE: Admit.**

150. He noted specifically that the situation with BLinC did “raise First Amendment concerns in my mind.” App. 0037, 0041 [Baker Dep. 142:22-143:21, 158:4-13].

**RESPONSE: Admit.**

151. He knew that First Amendment issues were implicated by the University’s investigation of BLinC, and he located for Ms. Cervantes the University’s 2009 memo identifying the First Amendment protection for student groups with statements of faith and told her that this policy “is still current, as far as I know.” App. 0037 [Baker Dep. 144:4-145:20]; App. 0212; App. 0093.

**RESPONSE: Admit.**

152. Dean Baker acknowledged that religious groups play an important role on campus and that allowing them to “espouse a particular ideology or belief or a mission” is “beneficial” because it promotes “persistence,” *i.e.*, “it promotes progress toward graduation, it gives students a sense of camaraderie by meeting other students from their faith, working with other students from their faith.” App. 0030 [Baker Dep. 114:11-115:25].

**RESPONSE: Admit.**

William Nelson

153. In the BLinC lawsuit, Dr. Nelson was designated under Federal Rule of Civil Procedure 30(b)(6) to speak on behalf of the University concerning its “policies and/or procedures regarding registered student organizations,” including its Human Rights Policy. App. 0258 [Nelson Dep. 12:14-23]; App. 0361; App. 0284-85 [Nelson Dep. 115:16-116:7, 118:1-7] (acknowledging designation to testify for University regarding its “policies and/or procedures regarding Registered Student Organizations”).

**RESPONSE: Admit.**

154. Dr. Nelson had been involved in most of the incidents concerning CLS's status as a registered student organization and was aware that penalizing a student group because of its religious beliefs "would be a violation of the law" and "would also violate the Human Rights Policy." App. 0284 [Nelson Dep. 113:7-125:9].

**RESPONSE: Admit.**

155. Nelson admitted that other groups are allowed to "assemble around an agreed-upon mission." App. 0297 [Nelson Dep. 167:22-23].

**RESPONSE: Admit.**

156. Political groups, for example, could require students to sign a statement affirming the group's political values. App. 0297-98 [Nelson Dep. 168:25-170:1].

**RESPONSE: Admit.**

157. He admitted that telling student groups what they had to believe or say, including in their student group constitutions, violated federal and state law. App. 0278-80 [Nelson Dep. 91:25-95:12, 196:24-197:10].

**RESPONSE: Admit.**

158. Dr. Nelson acknowledged that it is the University's desire "to encourage a broad diversity of student organizations" because they "add[] a richness to the educational experience and campus environment" and "provide . . . fellowship opportunities for very important learning outside of the classroom, opportunities to engage the curriculum with the co-curriculum in a more practical experiential way." App. 0356 [Nelson Dep. 290:12-291:2].

**RESPONSE: Admit.**

159. He further agreed that "an important part of the University's purpose of having student groups" is to give students "opportunity to confront ideas that they might disagree with and learn

how to debate and understand and grapple with positions that maybe they have never grappled with before.” App. 0356 [Nelson Dep. 291:7-15].

**RESPONSE: Admit.**

160. The only justifications Dr. Nelson provided for trying to regulate student groups’ selection of leaders is “to provide equal treatment to all under the law” and the University’s “obligation as an institution to comply with federal, state, and [the University’s] own . . . laws and policies. App. 0356-57 [Nelson Dep. 292:3-294:23]; App. 1340; App. 1923-25.

**RESPONSE: Deny.** The University publicly sets forth its goals in regard to the regulation of student groups in its policies and procedures governing those groups. In its “Registration of Student Organizations” document, the University states that “Student organizations are an important link in the co-curricular activities of the University of Iowa. They play an important role in developing student leadership and providing a quality campus environment. As such, the University encourages the formation of student organizations around the areas of interests of its students, *within the limits necessary to accommodate academic needs and ensure public safety.*” P. App. 366 (emphasis added). The University also requires each student organization to abide by the mission of the University, its supporting strategic plan, policies, and procedures. P. App. 366. The RSO document specifically incorporates the Human Rights Policy, which strives to ensure that all students are granted equal access to educational opportunities. P. App. 366. The University expects that participation in student organizations will “enhance a student’s educational experience and the University deems this important to our students’ success . . .” P. App. 366.

161. But, “speak[ing] for the University,” Dr. Nelson acknowledged that “student groups are not acting on behalf of the University when they select their leaders” and neither University policy



nor the law “require [the University] to control who student organizations select as their leaders.” App. 0357, 0356, 0357, 0305 [Nelson Dep. 294:4-7, 293:14-17, 294:24-295:2, 197:19198:9].

**RESPONSE: Admit.**

Lyn Redington

162. Dean Lyn Redington was the Dean of Students during the BLinC investigation and until May 1, 2018. App. 0569-70. She conceded that University student groups had the right to form around common interests, including interests concerning religion, gender identity, politics, sports, music, drama, and art, and so forth. App. 0575 [Redington Dep. 26:25-27:13].

**RESPONSE: Admit.**

163. It was her understanding that the University was “obliged to protect the First Amendment right” of students to “espouse [a] group’s basic tenets.” App. 0574 [Redington Dep. 22:15-23:3].

**RESPONSE: Admit.**

164. Dean Redington agreed it would not “ever be okay for the University of Iowa to tell a religious student group that it cannot consider religion in selecting its leaders,” because “that’s their belief,” which is “protected by the First Amendment.” App. 0576 [Redington Dep. 30:2031:4].

**RESPONSE: Admit.**

165. If she ever “thought the University was doing that,” she hoped she would “try to stop them” as that “would raise red flags in [her] mind that the University should be very cautious.” App. 0576 [Redington Dep. 31:7-13].

**RESPONSE: Admit.**

166. Dean Redington agreed that a religious student group would not violate the Policy if it “allow[ed] everybody to join as a member” and only screened its leaders for “affirmation of the organization’s religious beliefs.” App. 0579-80 [Redington Dep. 44:13-45:9, 46:4-13].

**RESPONSE: Admit.**

167. She agreed it was problematic to tell a religious group it couldn't use religion as a factor for selecting its leaders, while allowing an environmental group to use its environmental creed as a factor in selecting its leaders. App. 0585 [Redington Dep 66:5-14]. And she conceded that, under the University's Policy, it was permissible for any group to restrict its leadership to individuals who shared that group's philosophy or beliefs. App. 0581-82 [Redington Dep. 53:2454:2].

**RESPONSE: Deny. Redington reviewed all of the information and arguments made by Plaintiff's counsel, and stated that she "doesn't know" if BLinC's Statement of Faith violated the Human Rights Policy. She agreed with Plaintiff's counsel that "[t]here's a conflict here, correct?" Redington 59:21–62:7; P. App. 583-584. Admit that Redington agreed that she may have made a mistake in claiming that BLinC had never asserted its "status" versus "belief" defense prior to its appeal to Redington. 72:19–75:3; P. App. 587.**

**IVCF REPLY: Dean Redington's testimony speaks for itself.**

168. Dean Redington agreed that part of learning in the university setting is "to be exposed to new ideas, different ways of thinking," "[e]ven if those ideas might be offensive," and that student groups were "absolutely" part of the process of helping "students to engage with difficult ideas and grapple with them and expand their intellectual horizon while at the University." App. 0572 [Redington Dep. 16:18-17:19].

**RESPONSE: Admit.**

169. Dean Redington also acknowledged that "general" student organizations, which includes groups like InterVarsity, have "almost no connection" to the University and that the University has structured its RSO program to distance itself from groups' individual messages or purposes. App. 0585-86 [Redington Dep. 69:15-72:18]; 0402, 0388.

**RESPONSE: Admit.**

The Student Org Clean-Up Effort

170. After Dean Redington denied the appeal, BLinC filed suit in this Court. Complaint, *Business Leaders in Christ v. The University of Iowa*, No. 3:17-cv-00080 (S.D. Iowa Dec. 11, 2017).

**RESPONSE: Admit.**

171. On motion for preliminary injunction, the Court ordered that BLinC's registered status be reinstated, in large part because the record evidence showed that other student organizations were "permitted to organize around their missions and beliefs, though [BLinC] cannot." Order on Plaintiff's Motion for Preliminary Injunction at 27, Dkt. 36, *Business Leaders in Christ v. The University of Iowa*, No. 3:17-cv-00080 (S.D. Iowa Jan. 23, 2018).

**RESPONSE: Admit.**

172. The Court thus concluded that "on the current record" BLinC had "shown that the University does not consistently and equally apply its Human Rights Policy," raising "an issue regarding whether BLinC's viewpoint was the reason it was not allowed to operate with membership requirements that the University had determined violated the Policy, while at the same time [other groups were] not subjected to any enforcement action." Order on Plaintiff's Motion for Preliminary Injunction at 28, Dkt. 36, *Business Leaders in Christ v. The University of Iowa*, No. 3:17-cv-00080 (S.D. Iowa Jan. 23, 2018).

**RESPONSE: Admit.**

173. In response to the Court's order and in an effort to apply its Human Rights Policy more evenly, the University adopted a "Student Org Clean Up Proposal," whereby it decided to review all student organization constitutions in late January and early February 2018 for compliance with the Policy. App. 0290-91 [Nelson Dep. 139:10-141:13].

**RESPONSE: Admit.**

174. The purpose of the review was to “[e]nsure all Registered Student Organizations (RSO) have governing documents that have all required statements,” meaning the “Human Rights Clause” and a required “Financial Statement.” App. 0291, 0302 [Nelson Dep. 143:11-144:19, 185:4-18]; App. 0407.

**RESPONSE: Admit.**

175. Reviewers were further instructed “to see if there were other perhaps contradictory language that was also to be noted.” App. 0291 [Nelson Dep. 144:4-6].

**RESPONSE: Admit.**

176. Specifically, reviewers were instructed to “[b]riefly skim” each constitution “to make sure no language that would contradict the HR Clause is included. App. 0302 [Nelson Dep. 186:1-6]; App. 0408; App. 0291.

**RESPONSE: Admit.**

177. Reviewers were told that “[i]f included,” contradictory language “is usually found in the leadership qualifications, elections or membership sections.” App. 0302 [Nelson Dep. 186:16]; App. 0408.

**RESPONSE: Admit.**

178. Constitutions with “language that contradicts the HR Clause” were to be referred to the University’s in-house counsel, Nate Levin. App. 0302 [Nelson Dep. 186:1-6]; App. 0408.

**RESPONSE: Admit.**

179. Contradictory language was defined as language requiring leaders or members to embrace certain “beliefs/purposes.” App. 0302 [Nelson Dep. 186:1-6]; App. 0408.

**RESPONSE: Admit.**

180. Reviewers were instructed that while registered student organizations could “still have purposes/mission statements related to specific classes or characteristics of the HR Clause,”

“membership or leadership” could not “be contingent on the agreement, disagreement, subscription to, etc., of stated beliefs/purposes which are covered in the HR Clause.” App. 0302 [Nelson Dep. 186:1-6]; App. 0410.

**RESPONSE: Admit.**

181. The reviewers were instructed to “look at” religious student groups first. App. 0310-11; 0312; [Nelson Dep. 220:20-221:13; 227:16-228:4]; App. 0419.

**RESPONSE: Admit.**

182. The constitutions of religious groups were reviewed twice: the first review identified membership or leadership selection criteria and a second review was done to highlight groups whose criteria pertained to marriage or sexuality. App. 0310-12 [Nelson Dep. 220:9-227:15]; App. 0411-18.

**RESPONSE: Admit that reviewers completed a second review. Deny that it was done to “highlight” groups criteria pertained to marriage or sexuality. Rather, Nelson testified that the second review was done to “double-check” and to “make certain[.]” App. 0310-12 [Nelson 227:1–5].**

**IVCF REPLY: The University has already admitted that the second review “was done to highlight groups whose criteria pertained to marriage or sexuality.” Defs.’ Resp. to Pl.’s Statement of Material Fact [Dkt. 82-2] at ¶ 419, No. 3:17-cv-00080-SMR-SBJ. As part of that review, the reviewers created a spreadsheet that highlighted the language from religious organization’ constitutions pertaining to marriage and sexuality. IVCF App. 0310-12 [Nelson Dep. 220:9-227:15]; IVCF App. 0411-18.**

183. Notably, the University’s more than fifty sororities and fraternities were not part of the initial review, even though roughly 17% of the University’s students pledge and are impacted by

their policies. App. 0310; 0307 [Nelson Dep. 207:10-13, 205:15-206:7]; App. 0411; App. 1938, 1940.

**RESPONSE: Admit.**

184. The review team was “told to hold off” on fraternities and sororities due to the “complexities” of their “national and international[]” connections, which would have triggered “several layers of consultation” if they were asked to make any changes. App. 0307 [Nelson Dep. 207:15-18].

**RESPONSE: Admit.**

185. Other organizations with national connections, such as the Federalist Society or InterVarsity, were not exempted from the initial review. App. 0307 [Nelson Dep. 208:1-9].

**RESPONSE: Admit.**

186. Ultimately, the constitutions of fraternities and sororities were also reviewed, but only after the University formalized its existing *de facto* exemption from the Policy that allowed them to exclude members and leaders based on sex. App. 0312; 0307-08 [Nelson Dep. 126:2-127:20, 208:18-210:17]; App. 0411 (noting that social fraternities/sororities “maintain a legally protected single gender status”); App. 1330; App. 1334; App. 1345.

**RESPONSE: Admit.**

187. The exemption was justified on the ground that Title IX gives universities the discretion to allow fraternities and sororities to remain segregated by sex. App. 0308 [Nelson Dep. 210:12211:25].

**RESPONSE: Admit.**

188. NCAA and other sports teams at the University are also allowed to remain segregated by sex based on a “long established” tradition, even though that also technically violates the Policy. App. 0308-09 [Nelson Dep. 212:19-213:16]; *see also* ¶¶ 30-32, *supra*.

**RESPONSE: Admit.**

189. And again for “historical reasons,” the University has also made an exception for sex segregated student sports clubs which have “long [been] allowed . . . to be single sex,” with the University turning “a blind eye to that potential violation of the Human Rights Policy.” App. 0309-10 [Nelson Dep. 214:3-215:18, 218:3-219:24].

**RESPONSE: Admit.**

190. Currently, there is no intention to force “student sports clubs that are sex-based to integrate”; “they’re going to continue to be allowed to be single sex clubs.” App. 0310 [Nelson Dep. 219:15-220:2].

**RESPONSE: Admit.**

The University’s Deregistration of InterVarsity

191. In June 2018, Defendant Andrew Kutcher told InterVarsity that language in “Articles II, III, IV and VII” of its constitution contradicted the Policy. App. 0317 [Nelson Dep. 246:25248:24]; App. 0422; App. 2007, 2015 [Schrock Decl.Ex. D & E].

**RESPONSE: Admit.**

192. The cited provisions in InterVarsity’s constitution simply require InterVarsity’s leaders to be Christian. App. 1995-98; App. 1983, 1986 [Schrock Decl. ¶ 19, ¶ 38].

**RESPONSE: Admit.**

193. InterVarsity’s president, Katrina Schrock, responded that it is “important to have Christian leadership in a Christian organization. We do not in any way discourage those who may not subscribe to the basis of faith in Article II from participating in [InterVarsity] as members, but we do recognize that having Christian leadership is important to the fulfillment of our purpose.” App. 0256; App. 0422-27; App. 2007, 2015 [Schrock Decl. Ex. D & E].

**RESPONSE: Admit.**

194. Mr. Kutcher responded that:

I recognize the wish to have leadership requirements based on Christian beliefs, however Registered Student Organizations are considered University of Iowa programs and thus must follow the Human Rights Clause in its entirety. Having a restriction on leadership related to religious beliefs is contradictory to that clause.

App. 0256; App. 0422-27; App. 2006, 2014 [Schrock Decl. Ex. D & E].

**RESPONSE: Admit.**

195. Katrina asked if rather than stating that leaders “must subscribe” to the group’s Christian beliefs the constitution could say “something like ‘are requested to subscribe . . .’ or ‘are strongly encouraged to subscribe . . . .’” App. 0256; App. 0422-27; App. 2005, 2013 [Schrock Decl. Ex. D & E].

**RESPONSE: Admit.**

196. Mr. Kutcher responded that the University would “discuss [that question] with our university attorney.” About five hours later, he sent an email stating that he had “just received word that we would not approve the change in language you proposed” because “the University and the Center for Student Involvement and Leadership must enforce our Human Rights Clause when it comes to leadership and membership.” App. 0256; App. 0422-27; App. 2013, 2005 [Schrock Decl. D & E].

**RESPONSE: Admit.**

197. Mr. Kutcher further stated that InterVarsity would be “deregistered” if it failed to submit a constitution with the required change, and that it could only “become reregistered when [it] submit[ted] governing documents compliant with the Human Rights Clause.” *Id.*

**RESPONSE: Admit.**

198. Dr. Nelson, the University’s Rule 30(b)(6) witness for construing the Policy as to student groups, testified that the “official interpretation” of the Policy was that “[t]he Human Rights Policy



does allow you to . . . require leaders and members to share beliefs [and] purposes.” App. 0305 [Nelson Dep. 197:19-198:9].

**RESPONSE: Admit that the above statement reflects Dr. Nelson’s understanding of the policy at the time of his deposition.**

199. But when questioned about the language in InterVarsity email, he stated that the email must reflect the University’s “official position” because the University officer writing it “said that he received word from the General Counsel’s Office that the language they proposed was not acceptable.” App. 0318-19 [Nelson Dep. 250:14-253:9].

**RESPONSE: Admit.**

200. Dr. Nelson stated that it “appears that the -- the General Counsel has given . . . the direction,” and concluded that what InterVarsity was told must be “the position of the University.” App. 0319 [Nelson Dep. 255:13-256:5-16].

**RESPONSE: Admit.**

201. InterVarsity did not remove its requirement that its leaders embrace and exemplify its faith. The University deregistered InterVarsity for that reason, and only for that reason. App. 1987-88 [Schrock Decl.].

**RESPONSE: Admit, with the qualification that Dr. Nelson also stated that he was not sure whether the constitution was still under review by the General Counsel’s office.**

202. As a result of the University’s review of student groups, over thirty groups were deregistered. App. 2134-35 (University email identifying the 38 that were deregistered). Several of the deregistered groups were religious groups that required their leaders to agree with their faith. *See, e.g.* ¶ 34, *supra*, (listing **Imam Mahdi Organization**, which required both leaders and voting members to “[b]e Muslim, Shiea”; and **Geneva Campus Ministry**, which allowed “religious and moral qualifications for certain leadership positions”).

**RESPONSE: Admit.**

203. InterVarsity believes that maintaining registered status is very important to its ministry. App. 1989 [Schrock Decl. ¶ 51]; App. 1956-57 [Kummer Decl. ¶¶ 40-46].

**RESPONSE: Admit.**

204. Registered status makes RSOs eligible to access or apply for many unique benefits, resources, and opportunities. App. 1205-06; App. 0366; App. 0301 [Nelson Dep. 184:8-24]; App. 0404-06; App. 1327-29; App. 1188-93.

**RESPONSE: Admit.**

205. Without registered status, InterVarsity cannot participate in student orientation activities, including graduate and international student orientations, otherwise access student organization fairs or other University resources that allow groups to communicate about events (such as signs and billboards), or apply for funding. App. 1956-57 [Kummer Decl. ¶¶ 40-46]; App. 1989-90 [Schrock Decl. ¶¶ 51-54]. InterVarsity would also be ineligible for the free campus meeting spaces and dedicated RSO websites available to RSOs. App. 1989-90 [Schrock Decl. ¶¶ 51-53]; App. 1956 [Kummer Decl. ¶ 40]. And InterVarsity would be ineligible to engage in certain opportunities for speech that are available only to RSOs. App. 1956 [Kummer Decl. ¶ 40].

**RESPONSE: Admit.**

206. Losing registered status would further impose specific harms on InterVarsity because many of its leaders and participants are commuters and international students, for whom the benefits of RSO status are particularly important. App. 1957 [Kummer Decl. ¶¶ 45-46].

**RESPONSE: Admit that Mr. Kummer has stated that many of InterVarsity's leaders and participants are commuters and international students. Deny that RSO benefits are especially important to those specific groups.**

207. Even just the short period of deregistration that InterVarsity suffered was damaging.

Being publicly deregistered for allegedly violating the nondiscrimination Policy harmed InterVarsity's reputation and made students more tentative to participate in the group. App. 1989-90 [Schrock Decl. ¶¶ 53]; App. 1959 [Kummer Decl. ¶ 54]. The University's action also harmed InterVarsity's ability to find, train, and retain student leaders. App. 1959 [Kummer Decl. ¶ 54].

**RESPONSE: Admit that the statements above are consist with the information provided in Ms. Schrock and Mr. Kummer's affidavits.**

Current Policy

208. Under the University's current articulation of its Policy, religious registered student organizations are not permitted to require their leaders to agree with and live by the organization's religious beliefs. App. 0319 [Nelson Dep. 255:13-256:5-16]; App. 1987 [Schrock Decl. ¶¶ 39-42].

**RESPONSE: Admit.**

209. Other groups are still permitted to have statements requiring or "encouraging" their leaders and members to be part of a class protected under the Policy. *See* ¶¶ 34, 40, *supra*; App. 0106 [Cervantes Dep. 35:8-23]; App. 0247; *see also* App. 2024-2132 (providing examples of groups with current University-approved constitutions that limit leadership or membership based on characteristics identified in the Policy).

**RESPONSE: Admit**

210. For instance, feminist and pro-life groups are permitted to require their leaders and members to sign statements affirming the group's ideological beliefs. ¶¶ 33, *supra*; App. 010506 [Cervantes Dep. 32:2-34:17]; App. 0244.

**RESPONSE: Admit.**

211. The group Iowa National Lawyers Guild is still a registered student group, and can "exclude people who don't agree" with its political beliefs, even though Dr. Nelson agreed that

would technically constitute discrimination on the basis of creed in violation of the Policy. App. 0319 [Nelson Dep. 253:10-16]; *see also* App. 2061-65 (**Caribbean Student Association**, a registered group that currently has a sex-based restriction on its “Miss CSA” officer, who is the “crowned winner of the Miss CSA Pageant” and “her responsibility” is to help with community service projects and with “teaching the girls” who will be the next year’s pageant contestants).

**RESPONSE: Admit.**

212. Most of the other groups identified that limit their leadership or membership based on non-religious creeds or missions are still registered student groups. *Compare* App. 2134-35, with ¶ 33, *supra*.

**RESPONSE: Admit.**

213. Even most of the identified religious groups with explicit religious requirements for their leaders, including CLS, 24-7, and Love Works, were never deregistered and remain registered student organizations. *Compare* App. 2134-35, with ¶ 32, *supra*; *see also* App. 2025 (current Love Works constitution available online).

**RESPONSE: Admit, with the qualification that the University has suspended its review of RSO constitutions pending the outcome of the *BLinC* litigation.**

214. And all of the other groups identified that, while not explicitly limiting membership send the same message by adopting a mission or purpose to suggest a preference for one protected class over another or one particular creed (secular or religious) favoring a protected class over another, are still registered student groups. *Compare* App. 2134-35, with ¶ 40, *supra*.

**RESPONSE: Deny. An RSO’s articulation of a purpose or mission does not automatically equate to a preference for one protected class over another.**

**IVCF REPLY: The University has already admitted this statement of fact. Defs.’ Resp. to Pl.’s Statement of Material Fact [Dkt. 82-2] at ¶ 445, No. 3:17-cv-00080-SMR-SBJ.**

215. The University’s own programs that differentiate in recipients and beneficiaries based on protected categories also remain in place. *See* ¶¶ 44-50, *supra*.

**RESPONSE: Admit.**

216. Several fraternities and sororities at the University state that they were founded to serve individuals from certain races or nationalities and have reported membership composed entirely of individuals from those populations. App. 1944 (listing Alpha Kappa Alpha, Alpha Phi Alpha, Delta Sigma Theta, Phi Beta Sigma as having 100% African American membership); App. 1945 (listing Lambda Theta Nu, Lambda Theta Phi, and Sigma Lambda Beta as having 100% Hispanic/Latino(a) membership); *see also* App. 2087-2110 (University webpages describing historically African-American and Hispanic/Latino chapters).

**RESPONSE: Admit.**

217. The University’s website lists 53 fraternity and sorority chapters on campus, states that fraternities and sororities have been at the University for over 150 years and informs students that fraternities and sororities are the “largest and most successful support networks available to Hawkeye students.” App. 1938.

**RESPONSE: Admit.**

218. The University’s filings in the *BLinC* lawsuit have likewise admitted that it does not have an all-comers policy and does not evenly apply its policy to all registered student groups or University programs. For instance, the University admits that its new policy grants “many exceptions” to “various clubs, sports teams, and even scholarship programs”—as well as to Greek groups—and that it overlooks these “apparent violations” of its policy “for a variety of reasons,” including that “multiple groups provide safe spaces for minorities.” *See* Dkt. 81-1 at 17-18, *Business Leaders in Christ v. University of Iowa*, No. 17-cv-80 (S.D. Iowa); *see also id.* at 30 (admitting “the University’s decision to permit fraternities, sororities, sports teams, and groups

and programs meant to assist historically groups which have been historically discriminated against to exist on campus.”); *accord id.* at 36 (noting “the exemptions [the University] has provided to campus groups including sports teams, fraternities, and sororities”). The University also stated that it “freely admits that its review process for student constitutions is inconsistent.” *Id.* at 22. And the University states that it “admit[s] that the University does not require its student groups to comply with an ‘all-comers’ policy.” *Id.* at 11.

**RESPONSE: Admit.**

Respectfully submitted,

/s/ Eric S. Baxter

Eric S. Baxter\*

*Lead Counsel*

Daniel H. Blomberg\*

The Becket Fund for Religious Liberty  
1200 New Hampshire Ave. NW, Suite 700  
Washington, DC, 20036  
(202) 955-0095 PHONE  
(202) 955-0090 FAX  
*ebaxter@becketlaw.org*

Christopher C. Hagenow  
Hagenow & Gustoff, LLP  
600 Oakland Rd. NE  
Cedar Rapids, IA 52402  
(515) 868-0212 phone  
(888) 689-1995 fax  
*chagenow@whgllp.com*

***Counsel for Plaintiff***

*\*Admitted pro hac vice*

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

---

INTERVARSITY CHRISTIAN  
FELLOWSHIP/USA, *et al.*

*Plaintiffs,*

v.

THE UNIVERSITY OF IOWA, *et al.*,

*Defendants.*

---

Case No.: 18-cv-00080

**PLAINTIFF'S RESPONSE TO  
DEFENDANTS' STATEMENT OF  
ADDITIONAL MATERIAL FACTS**

**UNIVERSITY OF IOWA HUMAN RIGHTS POLICY**

1. The University abides by the following Human Rights policy in all of its endeavors:

The University of Iowa brings together in common pursuit of its educational goals persons of many nations, races, and creeds. 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 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, and that equal opportunity and access to facilities shall be available to all. These principles are expected to be observed in the internal policies and practices of the University; specifically in the admission, housing, and education of students; in policies governing programs of extracurricular life and activities; and in the employment of faculty staff and personnel. Consistent with state and federal law, reasonable accommodations will be provided to persons with disabilities and to accommodate religious practices. The University shall work cooperatively with the community in furthering these principles.

Depo. Ex. 20; App. 111.<sup>1</sup>

---

<sup>1</sup> As noted in Plaintiff's Statement of Facts #27, the University recently amended its Human Rights Policy as included in the RSO governing documents to include an exception for organizations which are exempt from compliance under Title IX.

**RESPONSE:** Admitted that the quoted language in Paragraph 1 accurately reflects the language in the University's Human Rights Policy ("Policy"), with the correction that it should read "in the employment of faculty and staff personnel." IVCF App. 0376. Denied that the University "abides by" the Policy in "all of its endeavors." *See* Def. Resp. to P. SOMF, Dkt. 33-2 ¶¶ 27-50, 209-218 (Defendants' admissions that they grant express exemptions to the Policy and also do not enforce the Policy against numerous students groups and University programs). Also denied that Plaintiffs' Statement of Facts stated that the University amended its Policy as such. Rather, the University amended the part of its Registration of Student Organizations Policy ("RSO Policy") that includes nondiscrimination language from the Policy. *Id.* at ¶¶ 19-27. Other articulations of the Policy, including the Policy itself reflected in the record at IVCF App. 0376, have not been amended. *Id.* at ¶ 28.

#### **UNIVERSITY OF IOWA NONDISCRIMINATION STATEMENT**

2. The University sets forth its official Nondiscrimination Statement as follows:

The University of Iowa prohibits discrimination in employment, educational programs, and activities 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 that deprives the person of consideration as an individual. The university also affirms its commitment to providing equal opportunities and equal access to university facilities.

Depo. Ex. 21; App. 117.

**RESPONSE:** Admitted that the quoted language in Paragraph 2 is an excerpt of the University's Nondiscrimination Statement. IVCF App. 0383. Denied that the University follows the nondiscrimination statement as quoted. Dkt. 33-2 ¶¶ 27-50, 209-218.



## UNIVERSITY OF IOWA STATEMENT ON DIVERSITY

3. The University sets forth its official statement on diversity as follows:

The University of Iowa values diversity among students, faculty, and staff, and regards Equal Employment Opportunity and Affirmative Action tools to achieve diversity. The University believes that a rich diversity of people and the many points of view they bring serve to enhance the quality of the educational experience at the University of Iowa.

Depo. Ex. 22; App. 87.

**RESPONSE:** Admitted that the quoted language in Paragraph 3 reflects the University's "Statement on Diversity" listed at Dkt. 33-3 at 118.

## PURPOSES OF THE FORUM

4. The purposes of the limited-public forum created by the University of Iowa are laid out in its "Registration of Student Organizations" document, as well as in its other policies. P. App. 0366-73.

**RESPONSE:** Admitted that the RSO Policy identifies the University's purposes for Registered Student Organizations. IVCF App. 0366-73. Otherwise denied. Further, the cited appendix language does not support the claim that the purposes of the RSO forum are "laid out" in "other policies."

5. The RSO document states:

Student organizations are important links in the co-curricular activities of the University of Iowa. They play an important role in developing student leadership and providing a quality campus environment. As such, the University encourages the formation of student organizations around the areas of interests of its students, within the limits necessary to accommodate academic needs and ensure public safety.

P. App. 0366-73.

**RESPONSE:** Admitted that the RSO Policy makes this statement, with the correction that the RSO Policy states that groups "are an important link." IVCF App. 0366.

6. Additionally, the University requires each student organization to abide by its mission, supporting strategic plan, policies, and procedures. P. App. 0366–73.

**RESPONSE:** Admitted that the RSO Policy makes this statement. IVCF App. 0366. Denied that the University equally requires or enforces these expectations of all student groups. *See* Dkt. 33-2 ¶¶ 27-50, 209-218.

7. The RSO document specifically incorporates the Human Rights Policy. P. App. 0366–73.

**RESPONSE:** Admitted that the RSO Policy twice references “the Policy on Human Rights,” IVCF App. 0367, and applies portions of the protected classes and characteristics listed in the Policy to membership and participation decisions by student groups. Dkt. 33-2 at ¶¶ 24-28.

8. The University anticipates that participation in student organizations will “enhance a student’s educational experience . . .” P. App. 0366–73.

**RESPONSE:** Deny. The RSO Policy at IVCF App. 0366 states that participation in student organizations “may enhance a student’s educational experience.” The RSO Policy explains that this expectation is the reason the University grants student organizations “certain privileges and benefits.” *Id.* It is not a condition of obtaining registered status.

9. Student organizations at the University “provide opportunities for fellowship . . . [and] learning outside the classroom, opportunities to engage the curriculum with the co-curriculum in a more practical experiential kind of way.” Nelson 290:12–291:2; App. 84.

**RESPONSE:** Admitted that Defendant Nelson testified that student groups “provide opportunities for fellowship . . . [and] learning outside of the classroom, opportunities to engage the curriculum with the co-curriculum in a more practical experiential kind of way.” IVCF App. 0356.

10. The University values diversity and inclusion, the inclusion of various religious groups, and sets forth its Statement of Religious Diversity and the University Calendar in part as follows:

Religious history, religious diversity, and spiritual values have formed a part of the University of Iowa's curricular and extracurricular programs since the founding the University. In order to advance religious diversity on campus, the University makes reasonable accommodations for students, staff, and faculty whose religious holy days coincide with their work schedules and classroom assignments. As 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.

Depo. Ex. 18; App. 109. In its policy, the University sets forth various methods for students, faculty, and staff to observe religious holidays without penalty. Depo. Ex. 18; App. 109.

**RESPONSE: Admitted that the quoted language accurately reflects the University's Statement on Religious Diversity, with the exception that it should read "The University of Iowa" and "founding of the University." IVCF App. 0374. Admitted that University policy accommodates observation of religious holidays by students, faculty, and staff of the University. Further admitted that the University in the past has taken action to avoid discriminating against religious groups on the basis of their religious viewpoint, Dkt. 33-2 at ¶¶ 51-98, and has in fact warned University representatives that discrimination against religious groups because of their religious leadership policies could subject them to personal liability under federal civil rights law, *id.* at ¶¶ 77-93. Denied that the University currently abstains from viewpoint discrimination against religious groups. Dkt. 33-2 ¶¶ 27-50, 209-218.**

## STUDENT ORGANIZATIONS

11. A student organization at the University of Iowa is a “voluntary special interest group organized for education, social, recreational, and service purposes and comprised of its members.” Depo. Ex. 14; App. 87.

**RESPONSE:** Admitted that this is part of the definition of registered student groups established in the RSO Policy, though the quoted term should be “educational.” IVCF App. 0366.

12. Student organizations are separate legal entities from the University, and are not treated like departments or units. Depo. Ex. 14; App. 87.

**RESPONSE:** Admitted. Dkt. 33-2 at ¶ 20.

13. Student organizations may exist on campus whether or not the University endorses them. Depo. Ex. 14; App. 87.

**RESPONSE:** Admitted that student organizations denied registered status by the University are not banned from existing. IVCF App. 0366. Registered status does not in any event “constitute an endorsement” by the University of a student organization. Dkt. 33-2 ¶ 21; IVCF App. 0366-68. Denial of registered status deprives student organizations of access to numerous speech opportunities, resources, benefits, and opportunities to interact with and recruit students. Dkt. 33-2 at ¶¶ 204-205; *see also infra* at ¶¶ 20-23. Loss of this access is harmful to student organizations like InterVarsity, subjects them to unlawful discrimination, and diminishes their ability to successfully exist on campus. *Id.* at ¶¶ 203-207.

**COSTS OF REGISTRATION AS A “REGISTERED STUDENT ORGANIZATION”**

14. Registered student organizations must adhere to the mission of the University, its supporting strategic plan, policies, and procedures. Depo. Ex. 14; App. 87.

**RESPONSE:** Admitted that this is stated in the RSO Policy. IVCF App. 0366. Denied that the University equally interprets or applies this requirement to all student groups. *See* Dkt. 33-2 ¶¶ 27-50, 209-218.

15. Organizations must abide by all local, state, and federal laws. Depo. Ex. 14; App. 87.

**RESPONSE:** Admitted that this is stated in the RSO Policy. IVCF App. 0366.

16. An organization’s goals, objectives, and activities must not deviate from established University policies and procedures. Depo. Ex. 14; App. 87.

**RESPONSE:** Admitted that this is stated in the RSO Policy. IVCF App. 0366. Denied that the University equally interprets or applies this requirement to all student groups. *See* Dkt. 33-2 ¶¶ 27-50, 209-218.

17. Membership and participation in a registered student organization must 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.” Depo. Ex. 14; App. 87.

**RESPONSE:** Denied that this is the current RSO Policy on membership and participation in a registered student organization. Dkt. 33-2 ¶ 27. The current RSO Policy adds “(unless the organization is exempt under Title IX)” after the word “sex” above. *Id.* Further denied

that the University equally interprets or applies this requirement to all student groups. *See id.* ¶¶ 27-50, 209-218.

18. Organizations must “guarantee that equal opportunity and equal access to membership, programming, facilities, and benefits shall be open to all persons.” Depo. Ex. 14; App. 87.

**RESPONSE:** Admitted that this is stated in the RSO Policy. IVCF App. 0367. Denied that the University equally interprets or applies this requirement to all student groups. *See* Dkt. 33-2 ¶¶ 27-50, 209-218. Denied that this language means or suggests that the University has or implements an all-comers policy. *Id.* at ¶¶ 16, 97, 218.

19. To be recognized as a registered student group, an organization must include the complete UI Human Rights Clause in its constitution. Depo. Ex. 17; App. 87.

**RESPONSE:** Admitted that the University takes the position that registered student organizations must include the RSO Policy language on nondiscrimination in membership and participation. *See, e.g.,* Dkt. 33-2 at ¶¶ 59, 191. Denied that this language is the same as the Human Rights Policy. *See* Response to ¶ 1, *supra*. Further denied that the University equally applies this requirement to all student groups. *See* Dkt. 33-2 ¶¶ 27-50, 209-218. For instance, the University has previously approved hundreds of constitutions of registered student groups that do not have the RSO Policy language. Dkt. 36 at 8 (admitting that as recently as Spring 2018, 356 registered student organizations did not include the required language in their constitutions). The University also has yet to confirm that fraternities and sororities are being required to include the policy language in their constitutions, *see* Dkt. 36 at 13 n.2 (noting that University review of fraternities and sororities just “began” in “fall 2018,” without confirming that the review is complete).

## **BENEFITS OF REGISTRATION**

20. Student groups which chose to register through the University may receive the following benefits: establishment of an account in the Student Organization Business Office (SOBO), Fraternity Business Service, or Recreational Services and appropriate purchasing privileges in accordance with University policies; eligibility to apply for funds from mandatory Student Activity Fees; inclusion in appropriate University publications; utilization of the Center for Student Involvement & Leadership's ("CSIL") OrgSync software; utilization of the University's trademarks; eligibility for use of campus meeting facilities and outdoor spaces; eligibility to utilize UI Fleet Services vehicles; eligibility to utilize University staff and programming resources; eligibility to utilize the University's Mass Mail system once a semester; eligibility to apply for awards and honors presented to registered organizations and members; and eligibility to apply for Student Organization Office Suite ("SOOS") or Student Activity Center office and/or storage space. Depo. Ex. 14; App. 87.

**RESPONSE:** Admitted that these are some of the benefits and opportunities afforded by registered status. Dkt. 33-2 at ¶¶ 204-05.

21. Registered student organizations have the opportunity to participate in the Student Organization Fair in August and January of each year. Affidavit of Kristi Finger, filed January 5, 2018, ¶ 5; App. 9.

**RESPONSE:** Admitted that this one of the opportunities afforded by registered status, and a very important one. Dkt. 33-2 at ¶¶ 204-07.

22. Students enrolled in the University of Iowa pay \$36 per semester per student which goes to support University services, programs, and student organizations. Nelson 273:8– 275:7; App. 81-82.

**RESPONSE: Admitted.**

23. Registered student organizations may receive funding from the activity fee collected from students. Depo. Ex. 14; Nelson 275:1–7; App. 82, 89.

**RESPONSE: Admitted.**

24. The University asserts its right to regulate student groups in the interest of providing equal treatment to all of its students under the law. Nelson 292:17–293:2; App. 84.

**RESPONSE: Admitted that Defendant Nelson testified that the purpose of requiring student organizations to comply with the Policy is to ensure that the University “provide[s] equal treatment to all under the law.” IVCF App. 0356 [Nelson Dep. 292:17-293:2]. Nelson also testified, though, that when student groups select their leaders, they are not “acting on behalf of the University,” and that federal law does not require the University “to control who student organizations select as their leaders.” IVCF App. 356-57 [Nelson Dep. 293:14-295:2]. Denied that the University equally regulates student groups. Dkt. 33-2 ¶¶ 27-50, 209-218.**

**NON-REGISTERED STUDENT ORGANIZATIONS**

25. Non-registered Student Organizations may still organize and meet on the University campus and groups may reserve space in the Iowa Memorial Union (“IMU”) at the general public event pricing, if space is available. Depo. Ex. 14; Affidavit of William R. Nelson, filed January 17, 2018, ¶ 1; App. 7, 90.

**RESPONSE: Admitted that Defendant Nelson filed an affidavit in the *BLinC* case stating that non-registered student organizations may organize and meet, and that they may reserve space on campus at the general public event pricing, if space is available. Dkt. 33-3 at 9. These costs are significant and are more than InterVarsity can afford to pay while**



**maintaining the schedule of meetings it had regularly held before it was deregistered. IVCF App. 1188 [Blomberg Decl ¶ 2]; IVCF App. 1957 [Kummer Decl. ¶ 45].**

26. Non-registered Student Organizations may also request meeting space within university residence halls subject to the University Housing & Dining Academic Year Room Reservation Policy for External Groups. Affidavit of William R. Nelson, filed January 17, 2018, ¶ 4; App. 7.

**RESPONSE: Admitted that Defendant Nelson filed an affidavit in the *BLinC* case stating that “[e]xternal groups can request meeting space within university residence halls.” Dkt. 33-3 at 10. However, University policy states that non-hall-recognized student groups are subject to space rental fees and are also limited on how often they can rent space, when they can rent space, and the specific types of space that they can rent. IVCF App. 1192 [Blomberg Decl. ¶ 6].**

27. Non-registered Student Organizations may use the bulletin boards located on the Ground Floor of the IMU and the bulletin board in the Student Activities Center located on the IMU 2nd floor. Affidavit of William R. Nelson, filed January 17, 2018, ¶ 3; App. 7

**RESPONSE: Admitted that Defendant Nelson filed an affidavit in the *BLinC* case stating that “[t]he bulletin board located on the Ground Floor of the IMU can be used by anyone,” that there are “no published restrictions limiting the use of that board,” and that “the same is true for the bulletin board in the Student Activities Center.” Dkt. 33-3 at 10. But University policy says that “the IMU ground floor displays” may only be reserved by “[r]egistered student organizations and University departments.” IVCF App. 1189 [Blomberg Decl. ¶ 3(c)]. Nelson does not explain if the single ground-floor IMU bulletin board is exempt from this policy. In any event, numerous other displays, speech mediums, and means of**

communicating with students are not available to non-registered student organizations, such as chalking written messages on University sidewalks, digital displays in the IMU, certain forms of information tables, large signs and/or banners posted in important areas, and rallies and demonstrations. IVCF App. 1189-90, 1192 [Blomberg Decl. ¶¶ 3, 4(●)].

28. Non-registered Student Organizations may request to have flyers displayed on bulletin boards in residence halls, as well as on digital displays subject to University policies.

Affidavit of William R. Nelson, filed January 17, 2018, ¶ 5; App. 7.

**RESPONSE: Denied.** University policy states that “[d]igital displays are a designated public forum for registered student organizations and university departments.” IVCF App. 1189 [Blomberg Decl. ¶ 3(a)].

29. Non-registered Student Organizations may request to distribute communications by mass-mailings. Affidavit of William R. Nelson, filed January 17, 2018, ¶ 5; App. 7.

**RESPONSE: Denied.** The cited affidavit only says that such requests may be made for mass mailings “*in the residence halls*,” not to University students more generally. Dkt. 33-3 at 10; *see also* IVCF App. 1957 [Kummer Decl. ¶ 45] (noting that many of InterVarsity’s members and leaders do not live in the residence halls). Moreover, the affidavit and the underlying cited policy state that approval is only granted on a “case-by-case-basis.” *Id.*; *see also* 2018-2019 Guidelines for Distribution, Sales, & Solicitation at 3, [https://housing.uiowa.edu/sites/housing.uiowa.edu/files/wysiwyg\\_uploads/guidelines\\_for\\_distribution\\_sales\\_and\\_solicitation.pdf](https://housing.uiowa.edu/sites/housing.uiowa.edu/files/wysiwyg_uploads/guidelines_for_distribution_sales_and_solicitation.pdf) (last visited Jan. 22, 2019).

30. Non-registered Student Organizations may advertise or recruit on campus subject to the University’s “Casual Use” policy. Affidavit of William R. Nelson, filed January 17, 2018, ¶ 6; App. 7.

**RESPONSE:** Denied. The University policy cited in Defendant Nelson’s affidavit states “individual students and other persons” may “use the Pentacrest” for “spontaneous and unorganized use for which there is no prior promotion, solicitation, or purposeful attempt to attract or solicit the public.” Univ. of Iowa Operations Manual V-37.3, <https://opsmanual.uiowa.edu/administrative-financial-and-facilities-policies/use-pentacrest/casual-use> (last visited Jan. 21, 2019).

## **COMPLAINT PROCESS**

31. Individuals who believe that they have been discriminated against in violation of the Human Rights Policy are encouraged by the University to bring a complaint to the Office of Equal Opportunity and Diversity (“EOD”). Depo. Ex. 20; App. 111.

**RESPONSE:** Admitted that the Policy states that “Persons who believe they have been subjected to discrimination in violation of the [P]olicy are encouraged to report it” and that a “complaint that this [P]olicy has been violated may be brought to the Office of Equal Opportunity and Diversity (EOD)[.]” IVCF App. 0377. Denied that this or any of the remaining paragraphs in the Complaint Process section are relevant to this case. Defendants have admitted that InterVarsity has never been subject to a complaint regarding its religious leadership requirement. Dkt. 33-2 at ¶ 9. Defendants have further admitted that InterVarsity was deregistered solely because of its Christian leadership requirement. *Id.* at ¶¶ 13, 201. And Defendants admitted that, prior to Fall 2017, the University had never registered or refused registration to a student group for requiring its leaders or its members to agree to its mission, purpose, or faith. *Id.* at ¶ 30.

32. The University distinguishes between formal and informal complaints of discrimination. Depo. Ex. 20; App. 111.

**RESPONSE: Admitted, subject to the objection in Paragraph 31, *supra*. IVCF App. 0377-78.**

33. If an individual makes a formal complaint regarding a violation of the Human Rights Policy, the complaint will be investigated by the EOD, the respondent will be notified of the complaint, the respondent and other witnesses will be interviewed, and the EOD will issue a written finding regarding whether the investigation resulted in a “reasonable basis to conclude, by the preponderance of the evidence, that the respondent violated the Policy on Human Rights.” Depo. Ex. 20; App. 111.

**RESPONSE: Denied. The formal complaint policy speaks for itself and is not consistent with the summary in Paragraph 33. IVCF App. 0378. Further denied that Paragraph 33 is relevant to this case, as explained in Paragraph 31, *supra*.**

34. Written findings are provided to the respondent, the alleged victim, and the chief administrative officer in the unit or his or her designee. Depo. Ex. 20; App. 111.

**RESPONSE: Admitted, subject to the objection in Paragraph 31, *supra*. IVCF App. 0378. The written report is also provided “to the administrative officials responsible for the area in which the respondent is involved.” *Id*.**

35. Where the respondent to a formal complaint is a student, the Dean of Students will review the findings of the EOD and determine, based on the EOD’s findings and input, appropriate corrective measures and/or sanctions. Depo. Ex. 20. The Dean will go on to implement appropriate corrective measures and/or sanctions consistent with University procedures. Depo. Ex. 20; App. 111.

**RESPONSE: Subject to the objection in Paragraph 31, *supra*, the University states that the University’s written procedures speak for themselves. *See App. 378*.**

36. Both findings of probable cause of discrimination and the issuance of sanctions may be appealed. Depo. Ex. 20; App. 111.

**RESPONSE: Subject to the objection in Paragraph 31, *supra*, the University states that the University’s written procedures speak for themselves. See App. 379-80.**

37. Sanctions against students are governed by the “Student Judicial Procedure” document. Depo. Ex. 20; App. 111.

**RESPONSE: Subject to the objection in Paragraph 31, *supra*, the University states that the University’s written procedures speak for themselves. The University disputes that the citation to “Depo. Ex. 20; App. 111” is a correct citation.**

38. The University does not currently enforce an “all-comers policy.” Nelson 300:14–302:13; Redington 20:19–21:12; Cervantes 19:9–11; Baker 146:18–21; App. 22, 33, 42, 85-86.

**RESPONSE: Admitted, with the qualification that the University has admitted that it does not have an all-comers policy and that there is no evidence that the University has *ever* enforced an all-comers policy. Dkt. 33-2 at ¶ 218 (admitting that the University “does not require its student groups to comply with an ‘all-comers’ policy,” and that it “does not have an all-comers policy and does not evenly apply its policy to all registered student groups or University programs”); *see id.* at ¶¶ 16, 18, 97 (admissions that the University does not have an all-comers policy).**

#### **UNIVERSITY OFFICIALS HAVE NOT DEMONSTRATED ANIMUS TOWARD PLAINTIFF’S VIEWPOINT**

39. Content-neutrality was both the prevailing principle and the goal when analyzing issues that arose with student organizations. Baker 42:6–14, 69:6–23, 83:2–9, 173:1–23; P. App. 12, 18, 44, 78–80, 169-171;174-178.

**RESPONSE:** Deny. The citations to the record do not support this assertion of fact, nor is it clear what the University means by “the prevailing principle and the goal.” Further, the University has admitted that both on its face and as interpreted and applied, the Human Rights Policy is not content-neutral. Dkt. 33-2 ¶¶ 27-50, 209-218. Defendants have systematically used government power to target InterVarsity and its religious beliefs for disfavor, *id.*; have singled out religious groups and subjected them to more scrutiny than other groups, *id.* at ¶ 218; and have repeatedly disparaged InterVarsity’s religious motivations for leadership selection as nothing more than irrational “discrimination,” Dkt. 36 at 7, 32-33. Moreover, demonstrating subjective-intent such as animus or hostility is not required to demonstrate a lack of content neutrality. *See, e.g., Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2228 (2015) (“A law that is content based on its face is subject to strict scrutiny regardless of the government’s benign motive, content-neutral justification”); *accord Shrum v. City of Coweta*, 449 F.3d 1132, 1144-45 (10th Cir. 2006); *Hassan v. City of New York*, 804 F.3d 277, 309 (3d Cir. 2016); *Cent. Rabbinical Cong. v. New York City Dep’t of Health*, 763 F.3d 183, 198 (2d Cir. 2014).

#### **GENERAL REVIEW OF RSO CONSTITUTIONS**

40. Organizations seeking official recognition by the University must submit an application to the Student Organization Review Committee (“SORC”). P. App. 0274. SORC “shall review all student organization registration applications.” P. App. 0274.

**RESPONSE:** Admit that the applications of student organizations to be RSOs must be submitted to SORC, with the qualification the organizations must submit the applications to a University staff member for review, and that staff member in turn submits the applications to SORC. *See* IVCF App. 0367-68.

41. Applications from organizations seeking recognition must include “an approved constitution and bylaws.” P. App. 0274.

**RESPONSE: Admit, with the qualification that the relevant cite is to IVCF App. 0368. Further, new organizations must, in addition to submitting a written constitution for SORC review, “hold a Pre-registration meeting with the appropriate [University] staff.” IVCF App. 0367. Further, University staff must “review” the organization’s proposed constitution and application for registered status before submitting it to SORC for consideration. *Id.***

42. Student organizations “are required to include mandatory clauses within their organization constitutions. SORC “shall review all student organization registration applications.” P. App. 0274. Mandatory clauses include the University’s Human Rights Policy. P. App. 0273.

**RESPONSE: Admit the first two sentences, with the qualification that the relevant cites are to IVCF App. 0367-68. Deny that the citation for the third sentence supports the assertion that “Mandatory clauses include the University’s Human Rights Policy.” Admit that the citation supports the claim that University policy states that “all registered student organizations” are “able to exercise free choice of members on the basis of their merits as individuals . . . in accordance with the University Policy on Human Rights,” *id.*, and that University has interpreted its RSO Policy as requiring that an adapted version of the Policy be written into RSO constitutions. *See Response to Paragraph 1, supra.***

43. Upon its evaluation of a group’s application, SORC may 1) “register the student organization and forward the organization’s application to the appropriate student governance organization or college/department/unit for confirmation; 2) register the organization subject to specific conditions on activities the organization is permitted to sponsor; or 4) reject the application.” P. App. 0274.

**RESPONSE:** Admit that the RSO Policy at IVCF App. 0368 states that “[u]pon its evaluation, [SORC] will register the student organization and forward the organization’s application to the appropriate student governance organization or college/department/unit for confirmation; 2) register the organization subject to specific conditions on activities the organization is permitted to sponsor; or 3) reject the application.”

44. If an organization’s application is rejected, the organization may appeal within 30 days to the Director of the Center for Student Involvement & Leadership (for student organizations) or the Director of Recreational Services (for sports clubs). P. App. 0274.

**RESPONSE:** Admit, with the qualification that the relevant cite is to IVCF App. 0368.

45. If the organization is not satisfied with the results of the first level appeal, then it may submit a final appeal to the Dean of Students in writing. P. App. 0274.

**RESPONSE:** Admit, with the qualification that the relevant cite is to IVCF App. 0368.

#### **2018 RSO “CLEAN-UP”**

46. In late January and early February of 2018, CSIL staff conducted a review of 513 RSO constitutions to ensure compliance with the University’s Human Rights Policy. P. App. 1332.

**RESPONSE:** Denied as without reliable foundation. The cited document is a University exhibit for which veracity or even authorship was not attested or otherwise demonstrated. InterVarsity does not contest that University staff conducted a review of 513 RSO constitutions in late January and early February. InterVarsity denies that the sole purpose was ensuring compliance with the Policy, and that the University currently requires compliance with the Policy by all student groups or in all University programs. Dkt. 33-2 ¶¶ 27-50, 209-218.



47. It was determined that 157 RSOs were in compliance with the Human Rights Policy, while 356 RSOs were not in compliance. P. App. 1332. On February 7, 2018, the University restricted student access to OrgSync so that all group constitutions would necessarily flow through a CSIL staff member. P. App. 1332.

**RESPONSE: Denied as without reliable foundation. The cited document is a University exhibit for which veracity or even authorship was not attested or otherwise demonstrated. InterVarsity does not contest that the overwhelming majority of recognized student groups had previously-approved constitutions that did not comply with the University's new interpretation of its Policy.**

48. On April 20, 2018, CSIL staff sent an email to leaders for all RSOs which were not in compliance with the Human Rights Policy. P. App. 1332. The email asked organizations to submit their updated or corrected constitutions, including the full Human Rights Policy, by May 3, 2018. P. App. 1332.

**RESPONSE: Denied as without reliable foundation. The cited document is a University exhibit for which veracity or even authorship was not attested or otherwise demonstrated. Further, InterVarsity denies that it or its student leaders ever received the April 20 email. IVCF App. 1958 [Kummer Decl. ¶ 49]; *id.* at 1985 [Schrock Decl. ¶¶ 27-30].**

49. On May 4, 2018, CSIL staff began its review of the 201 updated RSO constitutions it had received. P. App. 1332.

**RESPONSE: Denied as without reliable foundation. The cited document is a University exhibit for which veracity or even authorship was not attested or otherwise demonstrated.**

50. Throughout May of 2018, CSIL staff worked closely with RSO leaders to ensure that each organization would have the opportunity to comply with the Human Rights Policy and to avoid deregistration. P. App. 1332.

**RESPONSE: Denied as without reliable foundation. The cited document is a University exhibit for which veracity or even authorship was not attested or otherwise demonstrated. Further, InterVarsity denies that CSIL staff worked closely with it or its student leaders. IVCF App. 1958 [Kummer Decl. ¶ 49]; *id.* at 1985 [Schrock Decl. ¶¶ 27-30]. The first notice that InterVarsity received of the requirement to update its constitution was on June 1, 2018. *Id.***

51. On June 1, 2018, CSIL staff sent out another email to all RSOs that had not yet submitted an updated or corrected constitution. P. App. 1332. The email indicated that language contradicting the Human Rights policy would need to be removed and warned that if constitutions were not submitted and approved by June 15, 2018, RSOs would be automatically deregistered. P. App. 1332. Groups could be reregistered by submitting compliant constitutions to CSIL. P. App. 1332.

**RESPONSE: Denied as without reliable foundation. The cited document is a University exhibit for which veracity or even authorship was not attested or otherwise demonstrated. InterVarsity admits that on June 1, 2018, it received an email stating that its constitution did not contain a new version of the University's nondiscrimination language and that it would be deregistered if it did not submit a constitution with the new language by June 15, 2018. IVCF App. 1985 [Schrock Decl. ¶¶ 27-30]. This was first notice that InterVarsity received of the required update to its constitution. *Id.* Further, InterVarsity's constitution already included a previous version of the required language, which was substantially identical to**

the new language, including that it listed all of the same nondiscrimination categories. *Id.* InterVarsity immediately updated its constitution with the new language and submitted it to the University on June 2, 2018. *Id.*

#### **INTERVARSITY'S FAILURE TO COMPLY WITH THE HUMAN RIGHTS POLICY**

52. On June 12, 2018, CSIL staff member Laurynn King emailed apparent former InterVarsity leaders “Tiffany” and “Lyubov” regarding the group’s governing documents. P. App. 427. Ms. King indicated that she was “following up” on several unanswered communications to the organization and indicated that InterVarsity’s updated constitution must be submitted by the June 13, 2018 deadline or the group would be deregistered. P. App. 427.

**RESPONSE:** Admitted that Ms. King claimed to have “sent a few emails, and also left voicemails, over the past few months,” and that she moved the submission deadline forward by two days (from June 15 to June 13). IVCF App. 1986. Denied that her statements about several unanswered communications were true. *Id.* at 1958 [Kummer Decl. ¶ 49]; *id.* at 1985 [Schrock Decl. ¶¶ 27-30].

53. Tiffany responded later that morning, indicating that she and Lyubov were no longer group leaders but had forwarded prior communications to the current leaders. P. App. 426. Tiffany copied Katrina Schrock on the email. P. App. 426.

**RESPONSE:** Admitted.

54. Ms. Schrock responded, stating that she believed that InterVarsity’s constitution had already been updated and submitted through OrgSync. P. App. 425.

**RESPONSE:** Admitted. IVCF App. 1986 [Schrock Decl. ¶ 35].

55. CSIL staff member Andrew Kutcher responded to Ms. Schrock’s email, indicating that the updated constitution had not yet been received. P. App. 425. Ms. Schrock resubmitted the documents. P. App. 425.

**RESPONSE: Admitted. IVCF App. 1986 [Schrock Decl. ¶ 35].**

56. Upon review of InterVarsity’s updated constitution, Mr. Kutcher indicated that he saw potential conflicts between the University’s Human Rights Policy and Articles II, III, IV, and VII of InterVarsity’s constitution. P. App. 424.

**RESPONSE: Admitted. *See also* IVCF App. 1986 [Schrock Decl. ¶ 36].**

57. Article II of InterVarsity’s constitution outlines the group’s “Basis of Faith” and indicates that “All leaders of this organization—Leadership Team members, Small Group/Bible Study Leaders, and any serving in an official leadership role—must subscribe to the above basis of faith.” P. App. 1995.

**RESPONSE: Admitted.**

58. Article III of InterVarsity’s constitution, while listing the full Human Rights Policy, also states “General membership is open to all who wish to participate in the group’s activities, and such members do not need to affirm the organization’s statement of faith. Members who hold leadership positions must affirm the organization’s statement of faith; failure to do so will prevent them from serving as leaders, but their general membership will not be revoked.” P. App. 1995–96.

**RESPONSE: Admitted.**

59. Article IV of InterVarsity’s constitution restates that “Chapter leaders are expected to indicate their agreement with InterVarsity Christian Fellowship/USA’s Doctrine and Purpose Statements and exemplify Christ-like character, conduct and leadership[.]” P. App.

1996.

**RESPONSE: Admitted.**

60. Article VII of InterVarsity's constitution states that "The Selection Committee will be responsible to see that all prospective leaders meet the conditions stated in Articles II, III, and IV." P. App. 1997.

**RESPONSE: Admitted.**

61. Articles II, III, IV, and VII are in conflict with the University's Human Rights Policy, which does not permit a group to exclude a student on the basis of membership in a particular religious group, or on the basis of any other protected characteristic. *Compare* ¶ 1, with ¶ 151. As a result, InterVarsity was deregistered. P. App. 1988 ¶ 148.

**RESPONSE: Denied that InterVarsity's religious leadership requirements are actually in conflict with the Policy, as illustrated by over 25 years on campus as a registered student organization while maintaining those requirements. Dkt. 33-2 at ¶ 4. Denied that the University uniformly interprets or applies its policy to forbid other student groups or University programs from excluding students on the basis of membership in a particular religious group or on the basis of any other protected characteristic. Dkt. 33-2 ¶¶ 27-50, 209-218. Admitted that the University has adopted an interpretation of the Policy that forbids InterVarsity from requiring its leaders to agree with its faith. *Id.* at ¶¶ 10-13. Admitted that InterVarsity was deregistered because of its religious leadership requirement. *Id.* at ¶¶ 13, 201.**

**CURRENT ENFORCEMENT OF THE HUMAN RIGHTS POLICY**

62. On July 18, 2018, the University deregistered 38 additional noncompliant groups. P. App. 2134-35. The great majority of those groups were not religiously-affiliated. P. App.

2134–35.

**RESPONSE:** Admitted that the University formally deregistered 38 student organizations during the Summer of 2018. Denied that the “great majority . . . were not religiously-affiliated.” Over 25% of the deregistered groups were religiously affiliated. IVCF App. 2135 (listing the following deregistered groups with religious criteria, affiliation, or purposes: Chinese Student Christian Fellowship, Christian Pharmacy Fellowship, J. Reuben Clark Law Society, Cru, Geneva Campus Ministry, Imam Mahdi Organization, Latter-day Saint Student Association, Sikh Awareness Club, Wall-Breakers, and Young Life). Denied that all 38 groups were deregistered because of leadership requirements. The vast majority of them were deregistered only because they were defunct and because their existing constitutions did not include the Human Rights Policy language. *See* IVCF Reply to SOF ¶¶ 12, 14.

63. On August 6, 2018, InterVarsity filed this lawsuit. *See* Complaint.

**RESPONSE:** Admitted.

64. The University has ceased its enforcement of the Policy against religious student groups at this time, pending the outcome of the *BLinC* and *InterVarsity* cases. App. 167–68.

**RESPONSE:** Denied. The University admitted that it has only “temporarily” agreed to “treat” InterVarsity as if it had registered status, and that its Policy against InterVarsity’s selection of religious leaders remains in force. Dkt. 33-2 ¶ 15.

Respectfully submitted,

/s/ Eric S. Baxter

Eric S. Baxter\*

*Lead Counsel*

Daniel H. Blomberg\*

The Becket Fund for Religious Liberty

1200 New Hampshire Ave. NW, Suite 700  
Washington, DC, 20036  
(202) 955-0095 PHONE  
(202) 955-0090 FAX  
*ebaxter@becketlaw.org*

Christopher C. Hagenow  
Hagenow & Gustoff, LLP  
600 Oakland Rd. NE  
Cedar Rapids, IA 52402  
(515) 868-0212 phone  
(888) 689-1995 fax  
*chagenow@whgllp.com*

***Counsel for Plaintiff***  
*\*Admitted pro hac vice*

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

**INTERVARSITY CHRISTIAN  
FELLOWSHIP/USA, and INTE  
GRADUATE CHRISTIAN FEL**

**Plaintiffs,**

**VS.**

**THE UNIVERSITY OF IOWA; BRUCE HARRELD, in his official capacity as President of the University of Iowa and in his individual capacity; MELISSA S. SHIVERS, in her official capacity as Vice President for Student Life and in her individual capacity; WILLIAM R. NELSON, in his official capacity as Associate Dean of Student Organizations, and in his individual capacity; ANDREW KUTCHER, in his official Capacity as Coordinator for Student Organization Development; and THOMAS R. BAKER, in his official capacity as Student Misconduct and Title IX Investigator and in His individual capacity,**

### Defendants.

**CASE NO. 3:18-CV-00080**

**DEFENDANTS' MOTION  
TO FILE SUPPLEMENTAL BRIEF  
AND SUPPLEMENTAL STATEMENT  
OF DISPUTED FACTS  
IN RESISTANCE TO PLAINTIFF'S  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

**COME NOW** the Defendants and move the Court to deny Plaintiff's Motion for Partial Summary Judgment and state:

1. The material facts are disputed.
2. Plaintiff's are not entitled to judgment as a matter of law.



**WHEREFORE**, the Defendants request the Court to deny Plaintiff's Motion for Partial Summary Judgment.

**THOMAS J. MILLER**  
Attorney General of Iowa

**/s/GEORGE A. CARROLL**  
George A. Carroll  
Assistant Attorney General  
Hoover Building, Second Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319  
PHONE: (515) 281-8583  
FAX: (515) 281-7219  
E-MAIL: [George.carroll@ag.iowa.gov](mailto:George.carroll@ag.iowa.gov)  
ATTORNEYS FOR DEFENDANTS

*Original filed electronically.*  
*Copy electronically served on all parties of record.*

PROOF OF SERVICE	
The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on April 10, 2019:	
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> FAX
<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Federal Express	<input type="checkbox"/> Other
<input checked="" type="checkbox"/> ECF System Participant (Electronic Service)	
Signature: <u>/s/Betty Christensen</u>	

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

**INTERVARSITY CHRISTIAN )  
FELLOWSHIP/USA, and INTERVARSITY )  
GRADUATE CHRISTIAN FELLOWSHIP, )**

**Plaintiffs,**

**VS.**

THE UNIVERSITY OF IOWA; BRUCE HARRELD, in his official capacity as President of the University of Iowa and in his individual capacity; MELISSA S. SHIVERS, in her official capacity as Vice President for Student Life and in her individual capacity; WILLIAM R. NELSON, in his official capacity as Associate Dean of Student Organizations, and in his individual capacity; ANDREW KUTCHER, in his official Capacity as Coordinator for Student Organization Development; and THOMAS R. BAKER, in his official capacity as Student Misconduct and Title IX Investigator and in His individual capacity,

## Defendants.

**CASE NO. 3:18-CV-00080**

**SUPPLEMENT TO DEFENDANTS’  
STATEMENT OF ADDITIONAL  
MATERIAL FACTS  
IN RESISTANCE TO PLAINTIFF’S  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

COME NOW Defendants, by and through the undersigned counsel, and supplement their Statement of Additional Material Facts in response to Plaintiff's Motion for Partial Summary Judgment, pursuant to the Court's Order of March 12, 2019, and state to the Court as follows:

## TESTIMONY OF MS. KATRINA SCHROCK

65. Katrina Schrock was deposed in the above-captioned matter on March 28, 2019. Schrock 6:1–5; App. 170.

66. At the time of the events at issue in the Petition, Ms. Schrock was a graduate student at the University of Iowa, and was also employed as a Resident Assistant (“RA”). Schrock 8:11–20; App. 171.

67. In fall of 2017, Ms. Schrock was a member of InterVarsity Graduate Christian Fellowship on the University of Iowa campus. Schrock 10:9–13; App. 172.

68. In May of 2018, Ms. Schrock became President of InterVarsity Graduate Christian Fellowship at the University of Iowa. Schrock 10:24–11:2; App. 172-173; Kummer 36:17–22; App. 201.

69. In her role as InterVarsity President, Ms. Schrock was responsible for “organizing events and other aspects of regular InterVarsity scheduling.” Schrock 11:3–7; App. 173.

70. Ms. Schrock received emails intended for the InterVarsity Graduate Christian Fellowship at her university student email account. Schrock 15:7–11; App. 176.

71. In her deposition, Ms. Schrock testified that she stayed on campus during the summer months. Schrock 12:5–7; App. 176.

72. Though she did not take classes in the summer, her work as an RA continued through the summer months. Schrock 12:15–13:1; App. 174-175.

73. On or about June 1, 2018, Ms. Schrock received an email from Andy Kutcher, the Coordinator for Student Organization Development at the Center for Student Involvement and Leadership (“CSIL”). Schrock 13:9–12; App. 175.

74. The June 1, 2018, email provided that CSIL had identified “that the Constitution of InterVarsity Graduate Christian Fellowship either does not include current language related to the University of Iowa Human Rights Clause or it is missing in its entirety.” Kummer Depo Exhibit 1; App. 205.

75. Ms. Schrock did not respond to the June 1, 2018 email. Schrock 16:16–20; App. 177.

76. The email further provided that “[a]ll RSOs are required to have [the human rights] Clause included verbatim in their constitution or bylaws.” Kummer Depo Exhibit 1; App. 205.

77. CSIL, through its email, instructed InterVarsity that it must update its current governing documents to include the required Human Rights Policy. Kummer Depo Exhibit 1; App. 205.

78. Ms. Schrock later received email correspondence from Mr. Kutcher specifically addressing several clauses in its group constitution which violated the University of Iowa’s Human Rights Policy. Kummer Depo Exhibit 2; App. 208.

79. During her deposition, Ms. Schrock admitted that she was not very familiar with InterVarsity’s constitution at the time she received CSIL’s emails regarding the Human Rights Policy. Schrock 25:2–5; App. 181.

80. Ms. Schrock did not know whether InterVarsity’s constitution was a national constitution or a local constitution. Schrock 25:9–12; App. 181.

81. Though she was not very familiar with InterVarsity’s constitution, she was aware or at some point became aware that in order for a student group to be in compliance with the University’s Human Rights Policy, the group could not maintain leadership restrictions. Schrock 27:19–28:4; App. 182-183.

82. Ms. Schrock agreed that the University has the power to enforce its policies and regulations, and that students on campus are subject to the University’s rules. Schrock 34:17–35:14; App. 184-185.

83. Ms. Schrock indicated that she believes that the benefits provided to registered student groups by the University include using the University's email system to send mass emails, using the Iowa Memorial Union for recruitment fairs free of charge, and using University property to hold meetings. Schrock 19:23–21:12; App. 178-180.

84. InterVarsity was eventually deregistered in the summer of 2018 for failing to submit a group constitution which complied with the University's Human Rights Policy, and Ms. Schrock did not personally take any steps to get the group reregistered. Schrock 46:1–17; App. 187.

85. Nevertheless, InterVarsity was eventually reregistered. Schrock 45:15–17; App. 186.

86. Despite having been deregistered in summer 2018, InterVarsity was permitted to participate in the fall 2018 recruitment fair for student groups. Schrock 45:22–46:21; App. 186-187.

87. InterVarsity did not pay rent at the fall 2018 recruitment fair. Schrock 47:2–3; App. 188.

88. InterVarsity was permitted to set up a table at the fall 2018 recruitment fair and to recruit members. Schrock 47:4–7; App. 188.

89. At the fall 2018 recruitment fair, InterVarsity was allowed to represent that it was an active student group on campus. Schrock 47:21–48:3; App. 188-189.

90. Though she was aware that InterVarsity was still a registered student organization in January of 2018, Ms. Schrock was not certain whether InterVarsity had even participated in the recruitment fair that month. Schrock 48:11–23; App. 189.

91. Despite Plaintiff's claims that the University's actions have damaged the number of members in the group, Ms. Schrock testified that the number of students participating as members in InterVarsity on the University of Iowa campus did not change between January 2018—at which time the University had taken no action against the group—and fall of 2018. Schrock 49:12–50:4; App. 190-191.

92. Despite Plaintiff's claims that the group's reputation had been damaged by the University's actions, Ms. Schrock could think of only one student who had approached her to ask about the lawsuit. Schrock 50:10–24; App. 191.

93. InterVarsity still has access to an email address through which it can send mass mailings. Schrock 51:9–15; App. 192.

94. InterVarsity is still permitted to utilize University property, such as conference rooms, for meetings. Schrock 51:16–18; App. 192.

#### **TESTIMONY OF MR. KEVIN KUMMER**

95. Mr. Kummer was deposed on March 28, 2019.

96. Mr. Kummer is a senior campus staff member with InterVarsity Christian Fellowship USA, and his position is located on the University of Iowa campus. Kummer 7:15–8:2; App. 194.

97. Mr. Kummer has no employment connection with the University of Iowa, but he is subject to University policies including the Human Rights Policy. Kummer 10:2–12:8; App. 196-198.

98. In his capacity as InterVarsity campus staff, Mr. Kummer served as an advisor to the InterVarsity Graduate Christian Fellowship. Kummer 55:17–56:1; App. 202-203.

99. Mr. Kummer testified that a person who did not share InterVarsity's Christian beliefs could be a member of the group, and could even seek a leadership role, though they would not likely be selected as a leader. Kummer 20:16–20; 22:10–24; App. 199-200.

#### **CURRENT ENFORCEMENT OF THE HUMAN RIGHTS POLICY**

100. On March 27, 2019, Governor Kim Reynolds signed Senate File 274 ("SF 274"). Senate File 274; App. 216.

101. SF 274 mandates that "a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission." SF 274, Sec. 3(3); App. 220.

102. SF 274 took effect upon enactment. SF 247, Sec. 7; App. 222.

103. As a result of this new law, the University of Iowa will immediately cease to enforce its Human Rights Policy in regard to student group's selection of their leaders.

104. The Student Organization Compliance Chart as of April 5, 2019. Chart; App. 223.

**THOMAS J. MILLER**  
Attorney General of Iowa

**/s/GEORGE A. CARROLL**  
George A. Carroll  
Assistant Attorney General  
Hoover Building, Second Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319  
PHONE: (515) 281-8583  
E-MAIL: [George.carroll@ag.iowa.gov](mailto:George.carroll@ag.iowa.gov)  
ATTORNEYS FOR DEFENDANTS

*Original filed electronically. Copy electronically served on all parties of record.*

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on April 10, 2019:

- |   |  |
|---|--|
| <input type="checkbox"/> U.S. Mail  | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery  | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express  | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> ECF System Participant (Electronic Service) |  |

Signature: /s/Betty Christensen





**THOMAS J. MILLER**  
Attorney General of Iowa

**/s/GEORGE A. CARROLL**  
George A. Carroll  
Assistant Attorney General  
Hoover Building, Second Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319  
PHONE: (515) 281-8583  
FAX: (515) 281-7219  
E-MAIL: [George.carroll@ag.iowa.gov](mailto:George.carroll@ag.iowa.gov)  
ATTORNEYS FOR DEFENDANTS

*Original filed electronically.*

*Copy electronically served on all parties of record.*

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on April 10, 2019:

- |   |  |
|---|--|
| <input type="checkbox"/> U.S. Mail  | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery  | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express  | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> ECF System Participant (Electronic Service) |  |

Signature: /s/Betty Christensen



COURT REPORTING

LEGAL VIDEOGRAPHY

VIDEOCONFERENCING

TRIAL PRESENTATION

MOCK JURY SERVICES

LEGAL TRANSCRIPTION

COPYING AND SCANNING

LANGUAGE INTERPRETERS

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

INTERVARSITY CHRISTIAN FELLOWSHIP/USA, et al.,

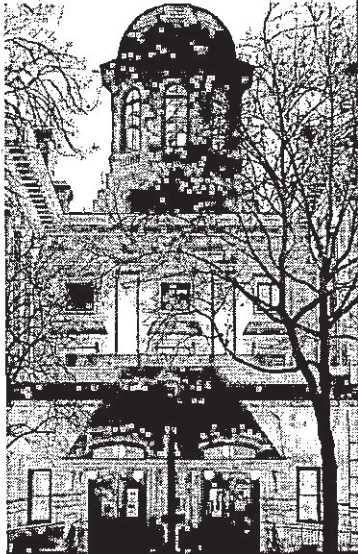
Plaintiffs,

vs.

Civil Action No. 18-cv-00080-SMR-SBJ

THE UNIVERSITY OF  
IOWA, et al.,

Defendants.



DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

DEPOSITION OF

KATRINA SCHROCK

TAKEN ON  
THURSDAY, MARCH 28, 2019  
9:18 A.M.

UNIVERSITY PARK RESEARCH CENTER  
2500 CROSSPARK ROAD, ROOM W219  
CORALVILLE, IOWA 52241

## 1 DEPOSITION OF

2 KATRINA SCHROCK

3 TAKEN ON

4 THURSDAY, MARCH 28, 2019

5 9:18 A.M.

6  
7 KATRINA SCHROCK, having been first duly sworn, was  
8 examined and testified as follows:

9 MR. CARROLL: Before we begin I want to  
10 make a statement on the record.

11 Previously, earlier this morning I deposed  
12 Mr. Kummer, who is associated with InterVarsity  
13 Christian Fellowship. He is now present in the room  
14 for the deposition of Ms. Schrock. Counsel --  
15 opposing counsel has indicated that he's the  
16 corporate representative and that's why he's present  
17 in this room. And I'm going to make the record that  
18 then that will be the corporate representative at  
19 trial because he is subject to recall for further  
20 testimony and he would be subject to ordinary  
21 sequestration rules under the Federal Rules of Civil  
22 Procedure.

23 So that is my record.

24 MR. BLOMBERG: And then can I speak to  
25 that?

NAEGELI

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2384

InterVarsity-Def Resist to MSJ Appendix

000170

1 of them.

2 Let me finish my question before you speak  
3 so that we're not speaking at the same time. Okay?  
4 If I ask you for a yes or no style of question,  
5 please provide a yes or no answer as opposed to a  
6 mm-hmm or nodding the head that we're used to in  
7 normal conversations. And finally, if you don't  
8 understand my question, just ask me to rephrase it.  
9 Okay?

10 A. Yes.

11 Q. Okay. Ms. Schrock, what is your status  
12 with the University of Iowa?

13 A. I am a graduate student.

14 Q. In what program?

15 A. I'm in the physics program.

16 Q. And are you an employee of the University  
17 of Iowa?

18 A. I am an employee.

19 Q. Are you a TA or RA?

20 A. I am an RA.

21 Q. Okay. And where did you go to undergrad?

22 A. I attended undergrad at Messiah College in  
23 Pennsylvania.

24 Q. Did you come directly to the University of  
25 Iowa to attend graduate school?

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2335

University of Iowa - Assist to MSJ Appendix

000171

1 first interaction with InterVarsity was?

2 A. October 2017.

3 Q. Okay. Did you otherwise know the -- the  
4 previous president?

5 A. Yes, I did.

6 Q. Okay. Through school or just the  
7 university community?

8 A. We attend church together.

9 Q. Okay. Did you become a member of  
10 InterVarsity in the timeframe of fall of 2017?

11 A. Yes, I did.

12 Q. And what was your membership at that time?

13 A. I was an attendee.

14 Q. Okay. Is there a -- generally the same  
15 physical location for meetings?

16 A. Yes.

17 Q. Okay. Where is that?

18 A. We meet typically at First Mennonite  
19 Church.

20 Q. And I'm familiar with the University of  
21 Iowa, or excuse me, Iowa City. Where is that?

22 A. It's near -- it's on Myrtle. Myrtle and  
23 Greenwood, that intersection.

24 Q. Okay. What is your current role with  
25 InterVarsity?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2386

InterVarsity-Dep Assist to MSJ Appendix

000172



1 A. As I stated, I am the student president of  
2 the Iowa chapter.

3 Q. And what does the student president mean?

4 A. I interact with the university on behalf  
5 of InterVarsity. The InterVarsity chapter. I also  
6 help to organize events and other aspects of regular  
7 InterVarsity scheduling.

8 Q. Is there any individual, one or two  
9 individuals at Iowa -- when I say Iowa, I mean the  
10 University of Iowa. Are there any individuals that  
11 you regularly work with as president?

12 A. I have regularly communicated with Andy  
13 Kutcher and the Student Organizations staff in  
14 general.

15 Q. Okay. When you communicate, is it email  
16 or in person?

17 A. Typically it's email communication.

18 Q. Okay. Have you been to the Student  
19 Organizations or Center for Student Life in the  
20 Union?

21 A. Yes, I have.

22 Q. Okay. Was that related to InterVarsity?

23 A. Yes, it was.

24 Q. Okay. How many times have you been to the  
25 Union for that purpose?

1 A. Twice.

2 Q. Okay. In your Ph.D. program -- do you  
3 already have your master's then?

4 A. I do not.

5 Q. Okay. Are you on campus in the summer  
6 months?

7 A. Yes, I am.

8 Q. Are you still a TA or RA during the summer  
9 months?

10 A. Yes, I am.

11 Q. And in that position you get, regardless  
12 of how people call it, you kind of get a stipend;  
13 right?

14 A. Yes, I do.

15 Q. Okay. And with that stipend you, if  
16 you're provided it you're expected to be on campus  
17 in the summer months?

18 A. Yes, I am.

19 Q. Do you also do studies during the summer  
20 months?

21 A. No, I do not.

22 Q. So you're not taking classes?

23 A. No.

24 Q. Are you working on your master's thesis in  
25 the summer months?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2338

InterVarsity-Def Resist to MSJ Appendix

000174



1 A. No.

2 Q. Okay. What was your first involvement  
3 with -- well, let me back up.

4 You understand why we're here today?

5 A. Yes.

6 Q. Okay. What was your first involvement  
7 with the University of Iowa and its attempt to  
8 change InterVarsity's constitution?

9 A. The first that I had heard about it was an  
10 email at the beginning of June.

11 Q. And do you recall who that email was from?

12 A. I believe it was from Mr. Kutcher.

13 Q. Okay. Do you have -- who has the original  
14 exhibits for this one?

15 I'm going to show you some exhibits that  
16 were marked previously.

17 A. Okay.

18 Q. Okay. This is what we refer to as Exhibit  
19 1.

20 A. Okay.

21 Q. So would you look to what I'll call the  
22 second page of Exhibit 1? Are you familiar with  
23 that document?

24 A. Yes, I am.

25 Q. And did you receive it in the time period

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2389

InterVarsity-Deposits to MSJ Appendix 000175

1 Q. Okay. And that's the email account that  
2 you get all kinds of notices from Iowa; right?

3 A. Yes, it is.

4 Q. Like yesterday you got a notice there was  
5 going to be a tornado siren drill; right?

6 A. Yes.

7 Q. I mean, you read it, didn't you? So you  
8 know what I'm asking. So everything related to  
9 InterVarsity is coming to your student email  
10 account?

11 A. Yes, it is.

12 Q. Does the University of Iowa have -- well,  
13 let me back up.

14 Do you have a personal email account?

15 A. I do.

16 Q. Does the University of Iowa related to  
17 InterVarsity ever use your personal email account to  
18 contact you?

19 A. They do not.

20 Q. What, if anything, did you do with this  
21 email upon receipt?

22 A. I did not personally do anything with this  
23 email.

24 Q. And do you know where the email went?

25 A. Could you clarify the question?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2846

InterVarsity-Dep Resist to MSJ Appendix 000176

1 Q. It has -- whoever it's to has been  
2 redacted. Do you -- you didn't do anything personal  
3 with it. Do you know where this email went? Or to  
4 whom, actually?

5 A. As I stated, it would have gone to  
6 previous leaders.

7 Q. Okay. And today, if the University of  
8 Iowa were to contact you as the president of  
9 InterVarsity, would they also send it to others or  
10 would they expect you to distribute to other  
11 leaders, if you know?

12 A. I'm not certain but I believe that they  
13 would send it to myself, perhaps the other leaders,  
14 but definitely at least to myself and then expect it  
15 to get to the group that way.

16 Q. And so this Exhibit B, did you take -- did  
17 you personally take any action to respond to the  
18 University of Iowa?

19 A. I personally did not take any action to  
20 respond to this specific email.

21 Q. Okay. And if you could look to Exhibit 2,  
22 please.

23 And again, go to the first -- second page  
24 but first page.

25 A. Mm-hmm.

1 Q. So you would have seen this?

2 A. Yes.

3 Q. Because it was forwarded?

4 A. Yes.

5 Q. Okay. And then when we move up to the  
6 next email, are you now part of this email chain, or  
7 it's at least being forwarded to you?

8 A. Yes, I am.

9 Q. Okay. Now, go to the next page. I see  
10 your -- now I see your name responding to Laurynn.  
11 Is that fair?

12 A. That is fair.

13 Q. Okay. So when we look at this, "I was  
14 under the impression that the InterVarsity Graduate  
15 Christian Fellowship's constitution had been updated  
16 with the human rights clause and submitted to  
17 OrgSync."

18 What did you understand OrgSync to be?

19 A. OrgSync I understood to be the web-based  
20 service that the university uses to track and list  
21 and generally communicate files and such with  
22 registered Student Organizations of the university.

23 Q. Okay. And as a Registered Student  
24 Organization through the University of Iowa,  
25 InterVarsity receives certain benefits; correct?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2342

InterVarsity-Def Resist to MSJ Appendix 000178

1 A. That is correct.

2 Q. Okay. For example, you can use its email  
3 system to do mass emails?

4 A. Yes.

5 Q. You understand that that system is being  
6 provided by the University of Iowa?

7 A. Yes, I do.

8 Q. Okay. And InterVarsity can actually  
9 access the Iowa Memorial Union for their recruitment  
10 fairs free of charge?

11 A. Yes.

12 Q. Okay. Are there other benefits that the  
13 university -- excuse me, InterVarsity would be  
14 eligible for that they choose not to use?

15 A. Not to my knowledge.

16 Q. Okay. For example, could you use  
17 university property to hold your meetings as opposed  
18 to the private church?

19 A. Yes, they could.

20 Q. Okay. And can you use those facilities  
21 without paying rent?

22 A. I'm uncertain but I believe so.

23 Q. Okay. Are you aware that other private  
24 groups that aren't registered with the University of  
25 Iowa would have to pay to rent the Union?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2348

InterVarsity-Do Not Resist to MSJ Appendix

000179



1 A. Yes, I am aware.

2 Q. Do you agree that those are University of  
3 Iowa funded benefits that are being provided to  
4 InterVarsity?

5 A. Yes.

6 Q. Regardless of the source of the funding,  
7 it is coming through the University of Iowa;  
8 correct?

9 A. Yes.

10 Q. I mean, indirectly, some of it's coming  
11 from your tuition.

12 A. Yes.

13 Q. So when we look at what I see to be your  
14 email to Laurynn, you indicate that it was your  
15 impression that the updated human rights clause had  
16 been loaded into OrgSync; correct?

17 A. Yes.

18 Q. Okay. And the human rights clause is the  
19 University of Iowa's clause that says, in essence,  
20 no discrimination?

21 A. Yes.

22 Q. Okay. Did you, with this email where it's  
23 under your -- I was under the impression, did you  
24 load it into OrgSync?

25 A. I did not.

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2344

InterVarsity-Dea Resist to MSJ Appendix

000180

1 A. Correct.

2 Q. Did you -- at this point in time, how  
3 familiar were you with the InterVarsity's  
4 constitution?

5 A. I was not very familiar with it.

6 Q. How big of a document is it?

7 A. I can't list the exact number of pages off  
8 of my head but it's not terribly long.

9 Q. Okay. Is that a national constitution  
10 that's submitted to the group to get approval by  
11 campuses across the United States?

12 A. I do not know.

13 Q. Okay. You understand InterVarsity is a  
14 national group?

15 A. Yes, I do.

16 Q. Okay. Do you know approximately how many  
17 campuses it has functions or functions as a group?

18 A. I do not know but I am aware that it's  
19 quite a few.

20 Q. Right. It's a relatively large group, is  
21 it not?

22 A. To my knowledge, yes.

23 Q. Okay. So now at this point, at 10:43, Mr.  
24 Kutcher is identifying -- at this stage I see  
25 several issues; correct?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2345

InterVarsity-Def Resist to MSJ Appendix

000181

1 A. Correct.

2 Q. And when I say are you writing this, you  
3 are writing this or you're just forwarding what  
4 somebody else wrote?

5 A. I am writing this.

6 Q. Okay. And you write, "While I understand  
7 that this leadership restriction can be construed as  
8 a difference in treatment, it is also important to  
9 have Christian leadership in a Christian  
10 organization."

11 At some point in time were you told that  
12 the University of Iowa would not allow InterVarsity  
13 to select leaders based on religious beliefs?

14 A. Could you restate the question, please?

15 Q. Yes. At some point in time, and all of  
16 this unfolded rather quickly, would you agree to  
17 that?

18 A. I would agree.

19 Q. Okay. At some point in time were you  
20 aware that the University of Iowa said to be in  
21 compliance with the human rights policy you can't  
22 have leadership restrictions?

23 A. Yes, I was aware that we could not have  
24 leadership restrictions.

25 Q. And were you aware that the University of

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2346

InterVarsity-Def Resist to MSJ Appendix

000182



1 Iowa was saying to comply with the human rights  
2 policy you can't in any manner have leadership  
3 restrictions?

4 A. Yes, I was aware.

5 Q. Now, during this time period, and not  
6 pending the lawsuit now, did you read the human  
7 rights policy in detail?

8 A. Yes, I did.

9 Q. Okay. And you understand that the  
10 University of Iowa's human rights policy says you  
11 cannot treat people differently based on certain  
12 criteria?

13 A. Yes.

14 Q. Okay. And so one of the criteria is race;  
15 correct?

16 A. Correct.

17 Q. Disability?

18 A. Correct.

19 Q. Age?

20 A. Correct.

21 Q. Okay. Religion?

22 A. Correct.

23 Q. Creed?

24 A. Correct.

25 Q. How can a nonbeliever -- do you understand

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2347

InterVarsity-Des Moines Resist to MSJ Appendix

000183

1 Q. Okay. And so if we go up on this page,  
2 excuse me, June 12, 11:19, do you see that?

3 A. Yes. Yes, I do.

4 Q. Okay. So now this is more -- well, from  
5 is generic but it's obviously signed off on by Andy  
6 to you; correct?

7 A. That is correct.

8 Q. And if you want to take a moment to look  
9 at it.

10 A. All right. I read it.

11 Q. Okay. And is it fair to say that the  
12 University of Iowa is telling your group,  
13 InterVarsity -- I'll call it InterVarsity -- that  
14 your leadership requirements are contrary to the  
15 University of Iowa human rights policy?

16 A. That is fair.

17 Q. Okay. Do you have a -- if you do, that's  
18 fine, if you don't, that's fine. Do you have an  
19 opinion on whether the University of Iowa can  
20 enforce its policies and regulations?

21 MR. BLOMBERG: Objection; calls for legal  
22 conclusion.

23 You may answer if you can.

24 THE WITNESS: Could you restate the  
25 question, please?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2348

InterVarsity-Do Not Resist to MSJ Appendix

000184

1 BY MR. CARROLL:

2 Q. Yes. You're a student at the University  
3 of Iowa; correct?

4 A. Yes.

5 Q. For example, you're subject to many rules  
6 and regulations as a student; correct?

7 A. Correct.

8 Q. Okay. Is it fair for the University of  
9 Iowa to have those rules and regulations that govern  
10 you as a student?

11 A. Yes.

12 Q. Okay. And those rules and regulations are  
13 quite broad, are they not?

14 A. They are.

15 Q. Okay. For example, your stipend, there  
16 are certain restrictions on how you can use the  
17 funds and what you're supposed to do if you use the  
18 funds; correct?

19 A. Not to my knowledge.

20 Q. Well, you're a teaching assistant for an  
21 academic year?

22 A. No, I'm a research assistant.

23 Q. Research assistant. But if you take the  
24 stipend, it's fair for the university to expect you  
25 to be at work?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2349 InterVarsity-Dea Resist to MSJ Appendix

000185

1 Q. Okay. Then other than talking to your  
2 attorneys or potential attorneys, once you somehow  
3 became aware that InterVarsity was deregistered, who  
4 did you talk to?

5 A. Most any conversation about this was  
6 limited to InterVarsity, specifically Mr. Kummer and  
7 our leadership team.

8 Q. Okay. So once you were aware that  
9 InterVarsity was deregistered, did you take any  
10 steps to get reregistered?

11 A. I personally did not take any steps.

12 Q. Are you aware if anybody did other than  
13 attorneys?

14 A. I am not aware.

15 Q. Okay. Are you aware that InterVarsity was  
16 reregistered?

17 A. Yes, I am aware.

18 Q. And what was the time gap, if you know,  
19 between deregistration and reregistration?

20 A. I'm not certain of the exact time gap but  
21 I do believe it was a couple months.

22 Q. Okay. The -- so with the assumption  
23 you're deregistered in the summer of 2018 --

24 A. Yes.

25 Q. -- was InterVarsity to participate in the

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2356

InterVarsity-Dep Resist to MSJ Appendix

000186

1 fall recruitment fair at the Union?

2 A. Yes.

3 Q. Okay. And isn't it -- that fair occurs  
4 generally in September of the fall semester? Maybe  
5 late August?

6 A. I believe it was late August.

7 Q. Okay. But it's pretty much when school  
8 started; is that fair?

9 A. That is fair.

10 Q. Okay. And was InterVarsity a Registered  
11 Student Organization to participate in the  
12 recruitment fair?

13 A. We --

14 MR. BLOMBERG: Objection. I'm not sure  
15 that we -- that it was university's position that  
16 they were registered or being treated as registered,  
17 but just, you can answer if you can.

18 THE WITNESS: To my knowledge, we were  
19 allowed to. I do not know if we were considered as  
20 a Registered Student Organization, but we were  
21 permitted to participate.

22 BY MR. CARROLL:

23 Q. Okay. And that was the same benefit you  
24 had, InterVarsity had as a registered group;  
25 correct?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2351

InterVarsity-Def Resist to MSJ Appendix

000187



1 A. Yes.

2 Q. Did you pay rent?

3 A. No, we did not.

4 Q. Were you allowed to put up a table?

5 A. Yes, we were.

6 Q. And you were allowed to recruit students?

7 A. Yes, we were.

8 Q. And were you allowed to represent on that  
9 table that you had, like any other group, were you  
10 allowed to indicate that you were a viable student  
11 organization on campus?

12 A. I'm not sure what you mean by "viable  
13 student organization."

14 Q. Well, there's been some testimony in this  
15 record that you were listed as defunct and that it  
16 impacted membership and other things. But at the --  
17 if you're deregistered in June and you're allowed to  
18 participate in the recruitment fair in late August  
19 of the same year, correct, 2018?

20 A. Correct.

21 Q. Okay. At that fair, were you allowed to  
22 indicate that we are viable in the sense of we are a  
23 student group and we are on campus, just like the  
24 table next to you, and here's what we offer?

25 A. Yes.

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2352

InterVarsity-Def Resist to MSJ Appendix

000188

1 Q. Okay. And the University of Iowa didn't  
2 interfere with that in any manner, did they?

3 A. They did not.

4 Q. Okay. Did they provide you the same  
5 benefits that you had in others, what I call the  
6 fall and winter fairs?

7 A. Yes.

8 Q. Okay. So the winter fair is generally  
9 when school starts again in January?

10 A. Yes.

11 Q. Okay. So in January of 2018, you were --  
12 InterVarsity was a Registered Student Organization?

13 A. In January of 2018? Yes.

14 Q. Yes. And you participated in that, what I  
15 call the winter fair; correct?

16 A. I was not on leadership at that point so I  
17 don't know.

18 Q. Okay. You don't know if InterVarsity even  
19 appeared at the fair?

20 A. I have no knowledge --

21 Q. Okay.

22 A. -- about InterVarsity's presence at that  
23 fair.

24 Q. Okay. And did you participate in the  
25 August fair?

1 A. Of which year?

2 Q. 2018?

3 A. Yes.

4 Q. Okay. Were you physically at the Union?

5 A. Yes, I was.

6 Q. And did you physically recruit students?

7 A. Yes, we did.

8 Q. Okay. How was that recruiting fall?

9 A. We had a few students come up to us and  
10 express interest but not many of them ended up  
11 joining the group.

12 Q. What's your current membership? And what  
13 I mean by that, numbers?

14 A. To my knowledge our current membership is  
15 about 20 members.

16 Q. And how many did you have in the fall of  
17 2018?

18 A. It would be about the same for fall of  
19 2018.

20 Q. Okay. And how about, if you know, when  
21 you first became involved in InterVarsity, what was  
22 the current membership?

23 A. I don't know numbers of membership at that  
24 point. But I did notice that the monthly meetings  
25 were larger at that point than they are currently.

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM



1 Q. Okay. And in January 2018, the university  
2 had taken no action against InterVarsity; is that  
3 fair?

4 A. That is fair.

5 Q. Okay. So do you attribute the lowering of  
6 membership to the University of Iowa or maybe a  
7 general lack of student interest?

8 A. I don't have the experience to speak to  
9 that.

10 Q. Okay. The -- have you had any students --  
11 first of all I'll limit it to students. Have you  
12 had any students talk to you about the InterVarsity  
13 lawsuit?

14 A. Yes.

15 Q. And who? I don't need names. How many  
16 students?

17 A. There was one student specifically at a  
18 recruitment fair --

19 Q. Okay.

20 A. -- who inquired.

21 Q. They inquired about the lawsuit?

22 A. They inquired about what was going on with  
23 our situation. Were we allowed to be there? That  
24 kind of vein of questioning.

25 Q. And clearly you were there.

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

1 A. Yes.

2 Q. So you were allowed to be there.

3 A. Yes. More of a confirmation that they  
4 were allowing us to be there.

5 Q. And as we speak today, you are officially  
6 registered, you are allowed to function as a RSO on  
7 University of Iowa campus, InterVarsity; correct?

8 A. To my knowledge, yes.

9 Q. Okay. And has there been any -- the email  
10 account still exists for your access?

11 A. Could you specific which email account  
12 you're referring to?

13 Q. Yes. The one that University of Iowa  
14 provides to have mass mailings?

15 A. Yes.

16 Q. Okay. And if you wanted to, InterVarsity  
17 could utilize space on campus, conference rooms?

18 A. To my knowledge, yes.

19 Q. Do you know who you would talk to, for  
20 example, if you wanted to hold, as opposed to the  
21 private church you described, if you wanted to have  
22 it on campus so maybe it was more convenient for  
23 students who don't have cars, for example, who would  
24 you talk to to see about a room at the Union or, you  
25 know, there's a lot -- well, maybe you don't know

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2356

InterVarsity-Def Resist to MSJ Appendix

000192



COURT REPORTING

LEGAL VIDEOGRAPHY

VIDEOCONFERENCING

TRIAL PRESENTATION

MOCK JURY SERVICES

LEGAL TRANSCRIPTION

COPYING AND SCANNING

LANGUAGE INTERPRETERS



**NAEGELI**  
*Expect Excellence*

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

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

INTERVARSITY CHRISTIAN FELLOWSHIP/USA, et al.,

Plaintiffs,

vs.

Civil Action No. 18-cv-00080-SMR-SBJ

THE UNIVERSITY OF  
IOWA, et al.,

Defendants.

DEPOSITION OF

KEVIN KUMMER

TAKEN ON

THURSDAY, MARCH 28, 2019

8:02 A.M.

UNIVERSITY PARK RESEARCH CENTER  
2500 CROSSPARK ROAD, ROOM W219  
CORALVILLE, IOWA 52241

1 Q. Unlike that.

2 A. Yes.

3 Q. It just makes it difficult.

4 A. Right.

5 Q. The second thing is let me finish speaking  
6 before you answer my question. Even if you know  
7 what I'm asking, again, it's for the court reporter  
8 because you can't take two people down at the same  
9 time.

10 A. Right.

11 Q. If you don't understand my question, just  
12 ask me to restate it so that we're talking the same  
13 things today.

14 A. Okay..

15 Q. Okay? What is your current employment  
16 status?

17 A. I'm considered a senior campus staff  
18 member with InterVarsity Christian Fellowship USA.

19 Q. And who is your employer?

20 A. InterVarsity Christian Fellowship USA.

21 Q. Okay. And where -- where is their  
22 corporate headquarters, if that's what you call  
23 them?

24 A. Yeah, Madison, Wisconsin.

25 Q. Okay. And are you physically located in

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2358

InterVarsity Christian Fellowship USA - Deponent's Exhibit to MSJ Appendix

000194



1 Iowa City?

2 A. Yes.

3 Q. And you work for -- I'll just shorten it,  
4 InterVarsity if that's okay?

5 A. That's fine. Yes, I do work for  
6 InterVarsity.

7 Q. Okay. Full time?

8 A. Full time.

9 Q. Okay. And where are you physically  
10 housed?

11 A. Me; personally, or InterVarsity?

12 Q. Yeah. I don't mean where you live at  
13 home.

14 A. Okay.

15 Q. Where do you go to work every day?

16 A. Okay. There is no particular center for  
17 InterVarsity. InterVarsity is interdenominational  
18 and so unlike say the Methodists or the Catholics or  
19 the Lutherans, we don't have a campus center. So  
20 when I go to work it's often a coffee house or  
21 somebody's, you know, area on campus, that kind of a  
22 thing.

23 Q. Okay. And can you just briefly tell me  
24 what InterVarsity's mission is?

25 A. Yeah. InterVarsity's mission is to

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2359

InterVarsity-Dep. Resist to MSJ Appendix 000195

1 InterVarsity.

2 Q. Okay. And do you have any employment  
3 connection with the University of Iowa?

4 A. No.

5 Q. Okay. So are you subject to any  
6 University of Iowa procedures, policies,  
7 regulations?

8 A. Yes.

9 Q. And which ones?

10 A. We're part of the Association of Campus  
11 Ministers, which while that's not a University of  
12 Iowa entity, those are the network of campus  
13 ministers that the university administration relates  
14 to. And there are various things that we -- we  
15 respect others' groups. We don't proselytize from  
16 their groups. We don't -- we don't go on to campus  
17 in people's dorms or living units uninvited, that  
18 kind of a thing. There are various kinds of -- I  
19 can't tell you every single policy, but basically  
20 it's a policy of mutual respect and operating within  
21 the university's parameters.

22 Q. Okay. And the university parameters, are  
23 you familiar with them?

24 A. I'm familiar with some. I'm sure I'm not  
25 familiar with all. Sure.

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2360

InterVarsity-Dep. Resist to MSJ Appendix

000196

1 Q. For example, you understand that you need  
2 permission to go into University of Iowa dormitory?

3 A. Yes.

4 Q. Okay. You understand that those buildings  
5 are locked?

6 A. Yes.

7 Q. Okay. So if you wanted to go into a  
8 dormitory and hold a meeting, for example, with your  
9 group or potential new group members, who do you go  
10 to to get permission?

11 A. We have student leaders, and the student  
12 leaders are the ones that would set up the meetings  
13 and get permission.

14 Q. Okay. And so then the permission would be  
15 granted -- the student leaders would ask for it but  
16 perhaps you'd be included?

17 A. I might be or I might not be. Yeah.

18 Q. Okay. Now, you understand if you're on  
19 university property, for example, a dormitory, you  
20 are subject to all University of Iowa rules and  
21 regulations?

22 A. Yes.

23 Q. Okay. For example, you understand alcohol  
24 is prohibited in a dormitory?

25 A. Yes.

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2361

InterVarsity-Dea Resist to MSJ Appendix

000197

1 Q. Okay. It's a very simple example but it  
2 is a university rule, even though many people that  
3 live in the dorms are of legal age.

4 A. Right.

5 Q. Okay. And then there's other rules, for  
6 example. Are you familiar with the University of  
7 Iowa's human rights policy?

8 A. Yes.

9 Q. How are you familiar with that?

10 A. It's something that each year we include  
11 in our constitution and we include with  
12 attentiveness.

13 Q. Okay. And what's your understanding of  
14 the University of Iowa human rights policy?

15 A. Well, in a nutshell, that we treat every  
16 single person regardless of their religious, ethnic,  
17 cultural, sexual orientation, et cetera, with  
18 respect and hospitality and --

19 Q. Okay.

20 A. -- graciousness, value.

21 Q. And let me show you what's -- if you could  
22 mark this.

23 Do you want to just keep going on the  
24 numbers, or how do you want to do it? What's more  
25 convenient?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM



1 there as an advisor but I don't have authority in  
2 making those decisions. I would be part of the  
3 discussion and the process, and people would be  
4 talked to, interviewed.

5 Q. Okay. So if I understand your answer, the  
6 current leaders select their successors?

7 A. They do in general. Sometimes if we have  
8 a surplus of leaders, which is a nice luxury that's  
9 not normally there, we'd have something we call a  
10 nominating committee. So they would be senior  
11 people in the group, including someone from the  
12 leadership team who would be set aside to do the  
13 same thing as right now because we don't have a  
14 surplus of leaders, the leadership team is  
15 responsible.

16 Q. So can I be, for lack of a better term,  
17 excuse me, a nonbeliever and be a member?

18 A. Yes.

19 Q. Okay. Can I attempt to be a leader?

20 A. You could.

21 Q. At any stage do the members select their  
22 leadership?

23 A. They all have input. And we -- we all  
24 have input, and we tend to operate on the basis of  
25 trying to have consensus. And so we don't have a

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2368

InterVarsity-Deo Resist to MSJ Appendix

000199

1 able to do that. Yeah.

2 Q. So the rest of these categories in the  
3 human rights clause, for example, leadership, you  
4 couldn't discriminate on race; correct?

5 A. Correct.

6 Q. Color?

7 A. You can go through the whole list. There  
8 would be no basis there that we would discriminate  
9 on.

10 Q. Okay. And so when I get to religion and  
11 creed, can I be -- can I literally be a nonbeliever  
12 and be a leader of InterVarsity?

13 A. Not likely, no.

14 Q. Well, there's a distinction here. Not  
15 likely being selected.

16 A. I was going to say, there are people who  
17 exercise leadership within the group who are not  
18 necessarily believers. Not that they would be  
19 official, you know, designated leaders.

20 Q. Okay. So let's go with official.

21 A. Okay.

22 Q. Can I be an official leader and be a  
23 nonbeliever?

24 A. No.

25 Q. And why not?

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2364

InterVarsity-DePauw Assist to MSJ Appendix 000200

1 Q. Yes?

2 A. Mm-hmm.

3 Q. Okay. Do you see, who is the email from?

4 A. Andrew Kutcher.

5 Q. Okay. And who is it to?

6 A. Katrina Schrock.

7 Q. And who is Katrina Schrock?

8 A. She is the -- this year's 2018-2019  
9 chapter president of InterVarsity Graduate Christian  
10 Fellowship.

11 Q. Okay. Is she a University of Iowa  
12 student?

13 A. She is. She's a graduate student.

14 Q. All right. And would this -- is this an  
15 appropriate individual for Mr. Kutcher to email to?

16 A. It is.

17 Q. Is she, at this time, June of 2018, would  
18 she have been the contact person?

19 A. She would have just started. In May is  
20 when we do the transitions, so one of her first  
21 experiences of interacting with the university  
22 administration was this one.

23 Q. But this is clearly -- I guess my question  
24 is, it went to the right person, didn't it?

25 A. If it went to Katrina, it did. Yes. Uh-

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2365

InterVarsity-Dep Assist to MSJ Appendix

000201

1 MR. BLOMBERG: -- June 12th at 11:25 a.m.

2 email?

3 THE WITNESS: Let me take a look back  
4 here. It looks like I'm cc'd --

5 BY MR. CARROLL:

6 Q. You should have a page number at the top,  
7 so if you can use it that way, that would be  
8 helpful.

9 A. I am cc'd on page two at the top.

10 Q. And is this the time period you're still  
11 on vacation?

12 A. Mm-hmm. Mm-hmm.

13 Q. Yes?

14 A. Yes. Forgive me for continuing to say mm-  
15 hmm. Yes.

16 Q. Okay.

17 A. Yes. There are a couple of these and it  
18 looks like not every single one, but perhaps most of  
19 them I am cc'd, which is not unusual. I get things  
20 as the advisor to this group, and I've gotten things  
21 as advisor, you know, when I've been advisor to  
22 other groups in the past. I don't see myself on  
23 every single one but on a number of these. I was  
24 not back in the country during any of the time that  
25 these particular emails are listed here and I did

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2366

Intervarsity Dep Assist to MSJ Appendix 000202

1 not really respond to anything until I did get back.

2 Q. Okay.

3 A. Because when I'm on vacation I attempt to  
4 not.

5 Q. Were you -- excuse me.

6 At some point you -- or I'll ask you --  
7 did you come to the understanding that the  
8 University of Iowa deregistered InterVarsity?

9 A. Oh, yes.

10 Q. How did you become aware of that?

11 A. Once I got back I did hear about this from  
12 my student leaders and others. And then, of course,  
13 I became aware because the university falsely put on  
14 the webpage that we had been -- what was it,  
15 derecognized due to lack of interest. I can't  
16 remember the exact wording here. It's in mine there  
17 but that was astonishing to look at that since we  
18 had never requested to be taken off, which is the  
19 way the language was.

20 Q. And you're saying you saw that on a  
21 university website?

22 A. Mm-hmm.

23 Q. Okay.

24 A. I went to go on our OrgSync page and I  
25 couldn't get into it even though I'm an

## EXHIBIT B

EXHIBIT 1	
DEPONENT NAME: Kummer	DATE: 3/28/19



**From:** Kutcher, Andrew M

**Sent:** Friday, June 1, 2018 3:09 PM

**To:** [REDACTED]

**Subject:** Registered Student Organization Compliance - Action Required

**NOTE: This communication is being sent to all Primary and Secondary Representatives, and Advisors, as they are listed on a Registered Student Organization's (RSO) OrgSync portal. YOUR ATTENTION AND IMMEDIATE ACTION IS REQUIRED.**

Dear [REDACTED],

The Center for Student Involvement and Leadership (CSIL) has identified that the constitution of InterVarsity Graduate Christian Fellowship either does not include the current language related to the University of Iowa Human Rights Clause or it is missing in its entirety. All RSOs are required to have this Clause included verbatim in their constitution or bylaws.

**Human Rights Clause:**

*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.*

Your RSO must update your current governing documents to include the required Human Rights Clause to continue as a RSO now and in the future. Additionally, RSO governing documents may not include language that is considered contradictory to the Human Rights Clause. Any language considered contradictory, must be removed. Once you have made this update, you must submit all governing documents to CSIL using the form linked here: <https://orgsync.com/14241/forms/311661>

If you have language in your constitution or bylaws that is outdated, often found in the membership section, you simply need to remove the old language and insert the required new language listed above. If you realize you do not have any part of the Human Right Clause, it needs to be inserted **VERBATIM**, within the membership section.

The deadline to submit changes is **June 15, 2018, or your RSO will be de-registered**. If de-registered, registration can be reinstated by submitting governing documents with required language to CSIL, using the link above. RSOs will receive feedback on their updates, and the submitting person will be updated via email if additional changes are required.

We recognize many RSOs require a vote of the membership to ratify governing documents. We ask you to insert the Human Rights Clause into your governing documents with the understanding you will hold a vote of confirmation once the fall semester commences. If allowed by your constitution or bylaws, you may hold an electronic vote of confirmation immediately.

**Please see the [FAQs](#) for more information.**

Thank you for your attention and timely action to address this issue. Please to contact to CSIL staff at [csil-student-org@uiowa.edu](mailto:csil-student-org@uiowa.edu) should you have any questions.

Andy Kutcher

---

Andy Kutcher, M.Ed.  
*he, him, his*

Coordinator for Student Organization Deveopment  
Center for Student Involvement & Leadership  
[andrew-kutcher@uiowa.edu](mailto:andrew-kutcher@uiowa.edu)  
<http://csil.uiowa.edu>  
Adaptability | Harmony | Positivity | Consistency | Arranger

**IMU** Center for Student  
Involvement  
& Leadership  
145 Iowa Memorial Union  
Iowa City, Iowa 52242-1317  
319-335-3059 Fax 319-353-2245  
[getinvolved@uiowa.edu](mailto:getinvolved@uiowa.edu)

Schedule an appointment with me

---

Notice: This UI Health Care e-mail (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521 and is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately and delete or destroy all copies of the original message and attachments thereto. Email sent to or from UI Health Care may be retained as required by law or regulation. Thank you.

---



## EXHIBIT D

EXHIBIT	
2	
DEPONENT NAME:	DATE:
Kummer	3/28/19

**From:** Kutcher, Andrew M

**Sent:** Wednesday, June 13, 2018 4:02 AM

**To:** Schrock, Katrina N <[REDACTED]@uiowa.edu>

**Cc:** Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; [REDACTED]  
<[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]  
[REDACTED]@uiowa.edu>; kkummer50@[REDACTED]; King, Laurynn L <laurynn-king@uiowa.edu>

**Subject:** Re: InterVarsity Graduate Christian Fellowship Governing Documents

Hi Katrina,

We encouraged groups to get there governing documents submitted by the 13th in order for us to have time to review them and provide feedback prior to the 15th deadline. The 15th is our deadline for groups not wanting to be deregistered.

The form to submit will remain open for groups that go deregistered to submit after June 15. If a group goes deregistered they will become reregistered when they submit governing documents compliant with the Human Rights Clause.

Hope this makes sense. Please let me know what questions you have.

Best,

Andy

On Jun 12, 2018, at 11:45 PM, Schrock, Katrina N <[REDACTED]@uiowa.edu> wrote:

Andy,

In an email from Laurynn this morning we were told "**The updated document(s) are due tomorrow, June 13<sup>th</sup> or your student organization will be placed on unregistered status.**" However, an earlier email from you, dated June 1<sup>st</sup>, said: "The deadline to submit changes is **June 15, 2018, or your RSO will be de-registered.** If de-registered, registration can be reinstated by using the link above to submit governing documents with the Human Rights Clause and no language that is considered contradictory to the Human Rights Clause." Can you please confirm that we have until the close of business on June 15?

Thank you,

Katrina

**From:** Student Organization Help & Information

**Sent:** Tuesday, June 12, 2018 4:05 PM

**To:** Schrock, Katrina N <[REDACTED]@uiowa.edu>; Student Organization Help & Information <CSIL-

Student-Org@uiowa.edu>; Kutcher, Andrew M <andrew-kutcher@uiowa.edu>

Cc: [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <s[REDACTED]@uiowa.edu>; [REDACTED]  
[REDACTED] <[REDACTED]@uiowa.edu>; kkummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Hi Katrina,

I just received word that we would not approve the change in language you proposed. Student orgs are free to express whatever language they desire in their mission/purpose, but the University and the Center for Student Involvement and Leadership must enforce our Human Rights Clause when it comes to leadership and membership.

I also wanted to let you know that I am out of the office starting tomorrow and will be back in on Tuesday. I will be doing my best to check email while away and would be happy to answer any further questions or address any concerns. I've copied my University Andemail address to this email in order to be able to follow up.

Best,

Andy

**From:** Schrock, Katrina N

**Sent:** Tuesday, June 12, 2018 11:25 AM

**To:** Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

Cc: [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED]  
[REDACTED] <[REDACTED]@uiowa.edu>; kkummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Andy,

Thank you for your clarification! Obviously, I will need to discuss any changes with the rest of the leadership team, but I do have a question. Would changing the language of the constitution from "must subscribe..." to something like "are requested to subscribe..." or "are strongly encouraged to subscribe..." make it so that the constitution is no longer contradictory? Again, I will need to discuss changes, but your input on this matter is greatly appreciated.

Thank you,

Katrina

**From:** Student Organization Help & Information

**Sent:** Tuesday, June 12, 2018 11:19 AM

**To:** Schrock, Katrina N <[REDACTED]@uiowa.edu>; Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; kummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Katrina,

I recognize the wish to have leadership requirements based on Christian beliefs, however Registered Student Organizations are considered University of Iowa programs and thus must follow the Human Rights Clause in its entirety. Having a restriction on leadership related to religious beliefs is contradictory to that clause.

I'm happy to chat further about this and provide any information I can.

Best,

Andy

---

Andy Kutcher, M.Ed.

*he, him, his*

Coordinator for Student Organization Development  
Center for Student Involvement & Leadership  
[andrew-kutcher@uiowa.edu](mailto:andrew-kutcher@uiowa.edu)  
<http://csil.uiowa.edu>

<image001.jpg>145 Iowa Memorial  
Union  
Iowa City, Iowa 52242-1317  
319-335-3059 Fax 319-353-2245  
[getinvolved@uiowa.edu](mailto:getinvolved@uiowa.edu)

Adaptability | Harmony | Positivity | Consistency | Arranger

[Schedule an appointment with me](#)

**From:** Schrock, Katrina N

**Sent:** Tuesday, June 12, 2018 11:02 AM

**To:** Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; kummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Andy,

I would guess that the issues you see involve potential contradictions to the part of the Human Rights Clause that states: "In no aspect of its programs shall there be any difference in the treatment of

persons...". From my reading, the language of the constitution does not contradict the later part of the Clause, which states: "...equal access to membership, programming, facilities, and benefits shall be open to all persons". Membership, events, and other facets of the group are not restricted – the only restriction is specifically for leadership positions.

While I understand that this leadership restriction can be construed as a difference in treatment, it is also important to have Christian leadership in a Christian organization. We do not in any way discourage those who may not subscribe to the basis of faith in Article II from participating in IVGCF as members, but we do recognize that having Christian leadership is important to the fulfillment of our purpose.

The above are my thoughts, but I am open to having further dialogue on the matter.

Katrina

**From:** Student Organization Help & Information

**Sent:** Tuesday, June 12, 2018 10:43 AM

**To:** Schrock, Katrina N <[REDACTED]@uiowa.edu>; Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; kummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Katrina,

On my initial review I see several issues. As part of compliance with the Human Rights Clause, organizations cannot have any language deemed contradictory to that Clause. I'm seeing potential contradictory language in Articles II, III, IV and VII. The language is directly related to the ability to become a member or to hold leadership positions.

Please let me know your thoughts, questions or concerns. I want to make sure this is clear.

Best,

Andy

**From:** Schrock, Katrina N

**Sent:** Tuesday, June 12, 2018 10:27 AM

**To:** Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED]

██████████ <██████████@uiowa.edu>; kkummer50@██████████

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Andy,

I've now used the form you linked to submit the updated constitution. Please let me know if there is anything else you need from us, and thank you for your quick reply and for checking into the submission.

Katrina

**From:** Student Organization Help & Information

**Sent:** Tuesday, June 12, 2018 10:06 AM

**To:** Schrock, Katrina N <██████████@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** ██████████ <██████████@uiowa.edu>; ██████████ <██████████@uiowa.edu>; ██████████ <██████████@uiowa.edu>; kkummer50@██████████; Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Hi Katrina,

Did you use the OrgSync form (<https://orgsync.com/14241/forms/311661>) to submit? I'm not seeing your submission in the form or on the InterVarsity Graduate Christian Fellowship's OrgSync portal.

Best,

Andy

**From:** Schrock, Katrina N

**Sent:** Tuesday, June 12, 2018 9:25 AM

**To:** King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** ██████████ <██████████@uiowa.edu>; ██████████ <██████████@uiowa.edu>; ██████████ <██████████@uiowa.edu>; kkummer50@██████████; Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>


**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Laurynn,

I was under the impression that the InterVarsity Graduate Christian Fellowship's constitution had been updated with the Human Rights clause, and submitted to OrgSync on either the 1<sup>st</sup> or 2<sup>nd</sup> of June. If this is not the case, I would appreciate if you would let me know as soon as possible, so that we can make the required changes.

Katrina

Laurynn

  
157 Iowa Memorial Union  
Iowa City, Iowa 52242-1317  
319-335-3059 Fax 319-353-2245  
[getinvolved@uiowa.edu](mailto:getinvolved@uiowa.edu)

Hi Laurynn,

We forwarded the original email to the current leadership team. Both [REDACTED] and I are no longer serving on the team. I believe they were working on updating this information, but I have CC'd them on this email.

Thanks,

[REDACTED]

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "King, Laurynn L" <laurynn-king@uiowa.edu>

Date: 6/12/18 8:44 AM (GMT-06:00)

To: "[REDACTED]" <[REDACTED]@uiowa.edu>, "[REDACTED]" <[REDACTED]@uiowa.edu>

Subject: InterVarsity Graduate Christian Fellowship Governing Documents

[REDACTED] -

I am following up to several communications our office has sent regarding InterVarsity Graduate Christian Fellowship Governing Documents on campus. Our office has you listed as contacts for this student organization.

We've sent a few e-mails, and also left voicemails, over the past few months regarding the need to update the organization's governing documents to include the University of Iowa's Human Rights clause. **The updated document(s) are due tomorrow, June 13<sup>th</sup> or your student organization will be placed on unregistered status.**

Please let me know a status update on these documents, or if you have any questions regarding the updates, and I can assist you.

Thank you in advance,

Laurynn



---

**Laurynn King**

*she, her, hers*

Administrative Services Coordinator  
Center for Student Involvement & Leadership  
[laurynn-king@uiowa.edu](mailto:laurynn-king@uiowa.edu)  
<http://csil.uiowa.edu>

Relator // Competition // Futuruistic // Woo // Belief

<image002.jpg>

157 Iowa Memorial Union  
Iowa City, Iowa 52242-1317  
319-335-3059 Fax 319-353-2245  
[getinvolved@uiowa.edu](mailto:getinvolved@uiowa.edu)

---

Notice: This UI Health Care e-mail (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521 and is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately and delete or destroy all copies of the original message and attachments thereto. Email sent to or from UI Health Care may be retained as required by law or regulation. Thank you.

---



KIM REYNOLDS  
GOVERNOR

**OFFICE OF THE GOVERNOR**

ADAM GREGG  
LT GOVERNOR

March 27, 2019

The Honorable Paul Pate  
Secretary of State of Iowa  
State Capitol  
Des Moines, Iowa 50319

Dear Mr. Secretary,

I hereby transmit:

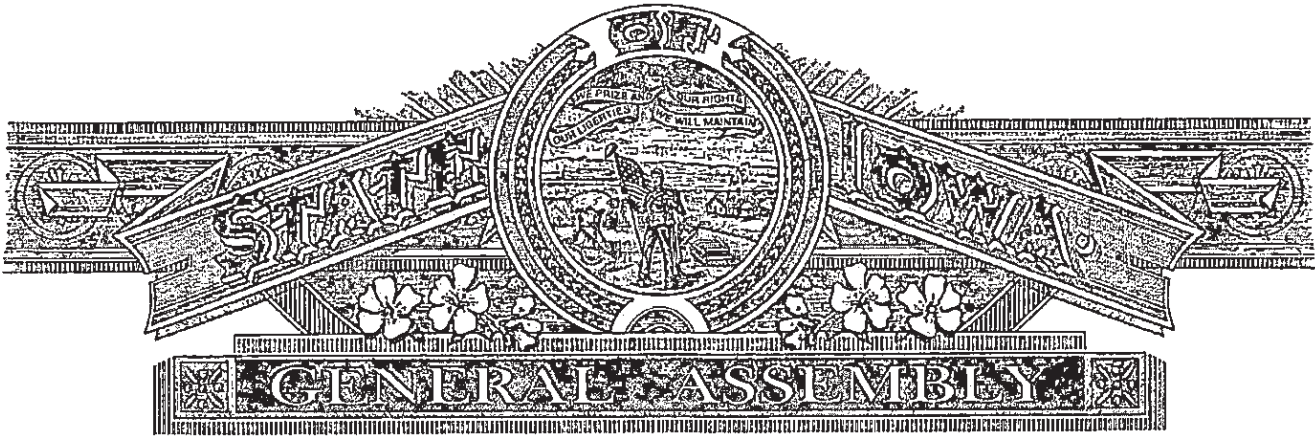
Senate File 274, an Act relating to speech and expression at public institutions of higher education, providing for remedies, and including effective date provisions.

The above House File is hereby approved on this date.

Sincerely,

  
Kim Reynolds  
Governor of Iowa

cc: Secretary of the Senate  
Clerk of the House



Senate File 274

AN ACT

RELATING TO SPEECH AND EXPRESSION AT PUBLIC INSTITUTIONS OF  
HIGHER EDUCATION, PROVIDING FOR REMEDIES, AND INCLUDING  
EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 261H.1 Definitions.

As used in this chapter, unless the context otherwise  
requires:

1. "*Benefit*" with respect to a student organization at  
a public institution of higher education means any of the  
following:

- a. Recognition.
- b. Registration.
- c. Use of facilities for meetings or speaking purposes.
- d. Use of channels of communication.
- e. Access to funding sources that are otherwise available  
to other student groups.

2. "*Campus community*" means students, administrators,  
faculty, and staff at a public institution of higher education  
and guests invited to a public institution of higher education  
by the institution's students, administrators, faculty, or  
staff.

3. "*Materially and substantially disrupts*" means when  
a person, with the intent to or with knowledge of doing  
so, engages in violent or other disorderly conduct that  
significantly hinders a previously scheduled or reserved

activity occurring on university grounds, buildings, and facilities. *"Materially and substantially disrupts"* does not include conduct that is protected under the first amendment to the Constitution of the United States, including but not limited to lawful protests and counterprotests.

4. *"Outdoor areas of campus"* means the generally accessible outside areas of campus where students, administrators, faculty, and staff at a public institution of higher education are commonly allowed, such as grassy areas, walkways, or other similar common areas and does not include areas outside health care facilities including both stand-alone facilities and mixed-use facilities that are embedded within another facility, veterinary medicine facilities, a facility or outdoor area used by the institution's athletics program or teams, or other outdoor areas where access is restricted to a majority of the campus community. In recognition of the healing environment that is essential to its clinical purposes, the areas outside health care facilities, including both stand-alone facilities and mixed-use facilities that are embedded within another facility, are not designated public forums.

5. *"Public institution of higher education"* means a community college established under chapter 260C or an institution of higher learning governed by the state board of regents.

6. *"Student"* means an individual who is enrolled on a full-time or part-time basis at a public institution of higher education.

7. *"Student organization"* means a group officially recognized at or officially registered by a public institution of higher education, or a group seeking such official recognition or official registration, comprised of students who are admitted and in attendance at the public institution of higher education, and who receive, or are seeking to receive, student organization benefits or privileges through the public institution of higher education.

## Sec. 2. NEW SECTION. 261H.2 Policy adoption.

The state board of regents and the board of directors of each community college shall adopt a policy that includes all of the following statements:

1. That the primary function of an institution of higher

education is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. This statement shall provide that, to fulfill this function, the institution must strive to ensure the fullest degree of intellectual freedom and free expression allowed under the first amendment to the Constitution of the United States.

2. a. That it is not the proper role of an institution of higher education to shield individuals from speech protected by the first amendment to the Constitution of the United States, which may include ideas and opinions the individual finds unwelcome, disagreeable, or even offensive.

b. That it is the proper role of an institution of higher education to encourage diversity of thoughts, ideas, and opinions and to encourage, within the bounds of the first amendment to the Constitution of the United States, the peaceful, respectful, and safe exercise of first amendment rights.

3. That students and faculty have the freedom to discuss any problem that presents itself, assemble, and engage in spontaneous expressive activity on campus, within the bounds of established principles of the first amendment to the Constitution of the United States, and subject to reasonable time, place, and manner restrictions that are consistent with established first amendment principles.

4. That the outdoor areas of campus of an institution of higher education are public forums, open on the same terms to any invited speaker subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.

**Sec. 3. NEW SECTION. 261H.3 Protected activities.**

1. Noncommercial expressive activities protected under the provisions of this chapter include but are not limited to any lawful oral or written means by which members of the campus community may communicate ideas to one another, including but not limited to all forms of peaceful assembly, protests, speeches including by invited speakers, distribution of literature, circulating petitions, and publishing, including

publishing or streaming on an internet site, audio or video recorded in outdoor areas of campus.

2. A member of the campus community who wishes to engage in noncommercial expressive activity in outdoor areas of campus shall be permitted to do so freely, subject to reasonable time, place, and manner restrictions, and as long as the member's conduct is not unlawful, does not impede others' access to a facility or use of walkways, and does not disrupt the functioning of the public institution of higher education, subject to the protections of subsection 1. The public institution of higher education may designate other areas of campus available for use by the campus community according to institutional policy, but in all cases access to designated areas of campus must be granted on a viewpoint-neutral basis within the bounds of established first amendment principles.

3. A public institution of higher education shall not deny benefits or privileges available to student organizations based on the viewpoint of a student organization or the expression of the viewpoint of a student organization by the student organization or its members protected by the first amendment to the Constitution of the United States. In addition, a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission.

4. This section shall not be interpreted as limiting the right of student expression in a counter demonstration held in an outdoor area of campus as long as the conduct at the counter demonstration is not unlawful, does not materially and substantially prohibit the free expression rights of others in an outdoor area of campus or disrupt the functioning of the public institution of higher education, and does not impede others' access to a facility or use of walkways, subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.



5. This chapter shall not be interpreted as preventing public institutions of higher education from prohibiting, limiting, or restricting expression that the first amendment of the Constitution of the United States does not protect, including but not limited to a threat of serious harm and expression directed or likely directed to provoke imminent unlawful actions; or from prohibiting harassment, including but not limited to expression which is so severe, pervasive, and subjectively and objectively offensive that the expression unreasonably interferes with an individual's access to educational opportunities or benefits provided by a public institution of higher education.

Sec. 4. NEW SECTION. 261H.4 Public forums on campus — freedom of association.

1. The outdoor areas of campuses of public institutions of higher education in this state shall be deemed public forums. Public institutions of higher education may maintain and enforce clear, published, reasonable viewpoint-neutral time, place, and manner restrictions that are narrowly tailored in furtherance of a significant institutional interest, but shall allow members of the campus community to engage in spontaneous expressive activity and to distribute literature. Restrictions instituted by a public institution of higher education under this section shall provide for ample alternative means of expression.

2. Except as provided in this chapter, and subject to reasonable time, place, and manner restrictions, a public institution of higher education shall not designate any area of campus a free-speech zone or otherwise create policies restricting expressive activities to a particular outdoor area of campus.

3. Nothing in this chapter shall be construed to grant individuals the right to engage in conduct that intentionally, materially, and substantially disrupts the expressive activity of a person or student organization if the public institution of higher education has reserved space in an outdoor area of campus for activity by the person or student organization in accordance with this chapter.

Sec. 5. NEW SECTION. 261H.5 Remedies — statute of limitations — immunity.

1. A member of the campus community aggrieved by a violation of this chapter may file a complaint with the governing body of the public institution of higher education.

2. A member of the campus community aggrieved by a violation of this chapter may assert such violation as a defense or counterclaim in a disciplinary action or in a civil or administrative proceeding brought against the member of the campus community.


3. A member of the campus community shall bring a claim for violation of this chapter pursuant to this section not later than one year after the day the cause of action accrues.

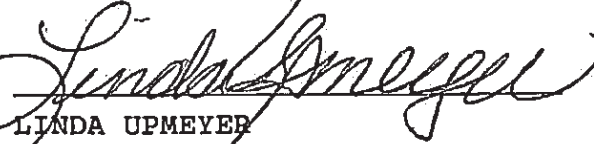
4. This section shall not be interpreted to limit any other remedies available to a member of the campus community.

5. Nothing in this section shall be construed to make any administrator, officer, employee, or agent of a public institution of higher education personally liable for acts taken pursuant to the individual's official duties.


Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.


  
CHARLES SCHNEIDER  
President of the Senate

  
LINDA UPMEYER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 274, Eighty-eighth General Assembly.

  
W. CHARLES SMITHSON  
Secretary of the Senate

Approved March 27<sup>th</sup>, 2019

  
KIM REYNOLDS  
Governor



KEY	
Spiritual & Religious Organization - Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status	
Social Fraternity/Sorority with Title IX Exemption; Submitted compliant constitution/bylaws during compliance review	
Had non-compliant constitution/bylaws when BLinC lawsuit filed; have since submitted compliant constitution/bylaws	
Had compliant constitution/bylaws when BLinC lawsuit was filed and have remained compliant OR is a new org registered after BLinC lawsuit filed	
Organization Name	Compliant Constitution/Bylaws as of 4/05/2019
Fraternal Values Society	NO LONGER REGISTERED-based on lack of student interest
Kappa Alpha Psi	NO LONGER REGISTERED-based on lack of student interest
Delta Chi	NOT REGISTERED-suspended min. 4 yrs for violating UI policies unrelated to Human Rights policy/clause
Kappa Sigma	NOT REGISTERED-suspended min. 4 yrs for violating UI policies unrelated to Human Rights policy/clause
Sigma Nu	NOT REGISTERED-suspended min. 4 yrs for violating UI policies unrelated to Human Rights policy/clause
Sigma Alpha Epsilon	NOT REGISTERED-suspended min. 4 yrs for violating UI policies unrelated to Human Rights policy/clause
To Write Love on Her Arms at The University of Iowa	NO - Failed to submit compliant governing docs and has been deregistered
Institute of Electrical and Electronic Engineers	NO - Failed to submit compliant governing docs and has been deregistered
Phi Beta Lambda	NO - Failed to submit compliant governing docs and has been deregistered
Persatuan Mahasiswa Indonesia di Amerika Serikat (Indonesian Student Organization)	NO - Failed to submit compliant governing docs and has been deregistered
German Club	NO - Failed to submit compliant governing docs and has been deregistered
Japanese Students and Scholars Club	NO - Failed to submit compliant governing docs and has been deregistered
Revolution Dance Company	NO - Failed to submit compliant governing docs and has been deregistered
Code the Change	NO - Failed to submit compliant governing docs and has been deregistered
MEDLIFE (Medicine, Education and Development for Low Income Families Everywhere)	NO - Failed to submit compliant governing docs and has been deregistered
CMA EDU	NO - Failed to submit compliant governing docs and has been deregistered
Cookie Dokie	NO - Failed to submit compliant governing docs and has been deregistered
NASP Graduate Student Organization	Requested De-Registration
Global Buddies	Requested De-Registration
Students Today, Leaders Forever	Requested De-Registration
Baha'i Campus Association	Requested De-Registration
Ask Prayer Ministry	Requested De-Registration
2nd Amendment Law Group	Failed to Re-register
Asian Fitness Association	Failed to Re-register
Cardiothoracic Surgery Interest Group	Failed to Re-register
Economics Forum	Failed to Re-register
English Club	Failed to Re-register
FeelGood	Failed to Re-register
Feminist Union	Failed to Re-register
Filipino American Student Association	Failed to Re-register
Hawkeyes for DREAM Iowa	Failed to Re-register
Health and Wellness Society	Failed to Re-register
Herky C.A.R.E.S.	Failed to Re-register
Iconic and Chic Gazette - The	Failed to Re-register
National Association of Women MBAs	Failed to Re-register
Perfusion Interest Organization	Failed to Re-register
Photography Club (UI)	Failed to Re-register
President's Leadership Society	Failed to Re-register

Saudi Students Club	Failed to Re-register
Student Golf Club (Iowa)	Failed to Re-register
United Asian Collective	Failed to Re-register
Agape Chinese Student Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Athletes in Action	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Bridges International (UI Chapter)	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Business Leaders in Christ	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Campus Bible Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Campus Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Chabad Jewish Student Association	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Chi Alpha Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Chinese Student Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Christian Legal Society	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Christian Medical Association	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Christian Pharmacy Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Cru	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Geneva Campus Ministry	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Greek Intervarsity	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Hillel (University of Iowa)	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Imam Mahdi Organization	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
International Neighbors at Iowa	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
InterVarsity Graduate Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
J. Reuben Clark Law Society	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Latter-day Saint Student Association	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Love Works	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Lutheran Campus Ministry	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Multiethnic Undergrad Hawkeye InterVarsity	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Muslim Students Association	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Newman Catholic Student Center	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Orthodox Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Ratio Christi	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Salt Company - The	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Sikh Awareness Club	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
St. Paul's University Center	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Tau Omega Catholic Service Fraternity	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Twenty Four Seven	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Wall-Breakers	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Young Life	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Acacia Fraternity	YES
Alpha Chi Omega	YES
Alpha Delta Pi	YES
Alpha Epsilon Phi	YES
Alpha Epsilon Pi	YES
Alpha Kappa Alpha Sorority, Inc.	YES
alpha Kappa Delta Phi	YES
Alpha Phi	YES

Alpha Phi Alpha	YES
Alpha Sigma Phi	YES
Alpha Tau Omega	YES
Alpha Xi Delta	YES
Beta Theta Pi	YES
Chi Omega	YES
Delta Delta Delta	YES
Delta Gamma	YES
Delta Lambda Phi	YES
Delta Phi Lambda	YES
Delta Sigma Phi	YES
Delta Sigma Theta	YES
Delta Tau Delta	YES
Delta Upsilon	YES
Delta Zeta	YES
Gamma Phi Beta	YES
Gamma Rho Lambda	YES
Kappa Alpha Theta	YES
Kappa Kappa Gamma	YES
Lambda Chi Alpha	YES
Lambda Theta Nu Sorority, Inc.	YES
Lambda Theta Phi Latin Fraternity, Inc.	YES
Phi Beta Sigma	YES
Phi Delta Theta	YES
Phi Gamma Delta (FIJI)	YES
Phi Kappa Psi	YES
Phi Kappa Theta	YES
Pi Alpha Phi	YES
Pi Beta Phi	YES
Pi Kappa Alpha (PIKE)	YES
Pi Kappa Phi	YES
Sigma Chi	YES
Sigma Lambda Beta	YES
Sigma Lambda Gamma	YES
Sigma Phi Epsilon	YES
Sigma Pi	YES
Tau Kappa Epsilon (TKE)	YES
Zeta Beta Tau	YES
Zeta Phi Beta Sorority, Inc.	YES
Zeta Tau Alpha	YES
Academy of Managed Care Pharmacy (AMCP) Student Chapter at the University of Iowa (UI)	YES
Active Minds at The University of Iowa	YES
Actuarial Science Club	YES
African Student Association	YES
Alpha Kappa Psi Professional Business Fraternity	YES
Alpha Phi Omega-Omicron (APO)	YES

Amateur Radio Club (University of Iowa)	YES
American Academy of Pediatric Dentistry	YES
American Advertising Federation (f/k/a known as Students in Advertising)	YES
American Association of Petroleum Geologists	YES
American Association of Public Health Dentistry University of Iowa Student Chapter	YES
American Association of Women Dentists	YES
American Chemical Society Student Chapter (U of I)	YES
American College of Clinical Pharmacy Student Chapter (University of Iowa)	YES
American Constitutional Society for Law and Policy, University of Iowa College of Law Chapter	YES
American Institute of Aeronautics and Astronautics	YES
American Marketing Association (U of I chapter)	YES
American Medical Women's Assoc - UI Stdtd Branch (AMWA)	YES
American Pharmacists Association - Academy of Student Pharmacists	YES
American Rehabilitation Counseling Association (UI)	YES
American Sign Language Club (ASL Club)	YES
American Society of Civil Engineers (ASCE)	YES
American Society of Mechanical Engineers	YES
American Wind Energy Association (Student Chapter)	YES
Amnesty International (U of I)	YES
Anime and Manga Club	YES
Anthropology Club (University of Iowa)	YES
Asian American Student Union f/k/a Asian Pacific American Student Association (U of I)	YES
Associated Residence Halls (ARH)	YES
Association for Computing Machinery Student Chapter	YES
Association for India's Development-IOWA	YES
Association for Multicultural Scientists	YES
Association of Graduate Students in English (AGSE)	YES
Association of Nursing Students (UIANS)	YES
Association of Pre-Physician Assistant Students	YES
B Sides	YES
Badminton Club (U of I)	YES
Baseball Club (Iowa Hawkeye)	YES
Bass Fishing Team (Iowa)	YES
Be The Match on Campus-UI	YES
Best Buddies	YES
Big Brothers Big Sisters at Iowa	YES
Bijou Theater	YES
Bike Friends (University of Iowa) (f/k/a Recreational Bicycling Club - UI)	YES
Biochemistry Majors Club (University of Iowa)	YES
Biomedical Engineering Student Society	YES
Biostatistics Student Organization	YES
Black Student Union	YES
Book of the Month Club	YES
Breakers (U of I)	YES
Bruce Gronbeck Rhetoric Society	YES
Camp Adventure Youth Services	YES

Campus Activities Board (CAB)	YES
Carver College of Medicine Student Government	YES
Carver College of Medicine-Medicus Mentorship Program	YES
Chi Epsilon	YES
Chi Sigma Iota Counseling Academic & Prof. Honor Society Int'l; Rho Upsilon Chapter	YES
Child Life Student Association (UI)	YES
Chinese Dance Club	YES
Chinese in Iowa City	YES
Chinese Music Club	YES
Chinese Students and Scholars Association (CSSA)	YES
Circle K International	YES
Club Cheerleading	YES
College of Education Graduate Student Executive Committee	YES
College of Medicine Emergency Medicine Interest Group (University of Iowa)	YES
College of Pharmacy Student Leadership Council	YES
College Republicans	YES
Colleges Against Cancer (U of I)	YES
Collegiate 4-H (The University of Iowa)	YES
Communication Studies Student Association	YES
Continental Crossings	YES
Craft, Critique, Culture Conference Planning Committee	YES
Cricket Club	YES
Crisis Center	YES
Dance Club (University of Iowa)	YES
Dance Marathon	YES
DeGowin Blood Center Student Organization (University of Iowa)	YES
Delta Sigma Pi (Professional Business Fraternity)	YES
Disc Golf Club	YES
Earthwords	YES
Eats And Treats	YES
Ed on Campus	YES
Electrochemical Society Student Chapter at Iowa	YES
Emergency Medical Services Student Interest Organization (University of Iowa)	YES
Engineering Student Council	YES
English Society (University of Iowa)	YES
Environmental Coalition (U of I)	YES
Epidemiology Student Association	YES
EPX Studio	YES
EQUAL Meds (f/k/a Med Iowa's Queer Students (MEDIQS))	YES
Eta Sigma Phi National Classics Honor Society	YES
Exchanges	YES
Family Medicine Interest Group	YES
Financial Management Association	YES
Fine Arts Council	YES
First Generation Iowa	YES
FLARES (Foreign Language Acquisition Research and Education Students)	YES

Gamma Iota Sigma	YES
Gardeners (University of Iowa)	YES
Global Health Club	YES
Golden Key International Honour Society	YES
Graduate & Professional Student Government	YES
Graduate Association of Political Science	YES
Graduate History Society (GHS)	YES
Graduate Philosophical Society (U of I)	YES
Graduate Student Anthropology Association (U of I)	YES
Graduate Student Senate	YES
Graduate Women in Science - Iowa City Chapter (f/k/a GWIS - Iota Chi)	YES
Greater China Business Association	YES
Habitat for Humanity Campus Chapter (U of I)	YES
Hawkapellas - Iowa	YES
Hawkeye Athletic Training Association (HATA)	YES
Hawkeye Ballroom Dance Company	YES
Hawkeye Caucus	YES
Hawkeye Flying Club	YES
Hawkeye History Corps	YES
Hawkeye Sparkles (University of Iowa)	YES
Hawkeyes Fighting Alzheimer's	YES
Hawkeyes for Israel	YES
HawkeYes Plan Events - HYPE (f/k/a Student Event Planners Association - UI)	YES
Hawks Nest	YES
HawkTrade	YES
Heart Workshop	YES
HFES Student Chapter at Iowa	YES
Hispanic Dental Association (Iowa Chapter)	YES
Hong Kong Student Association	YES
I-Envision Entrepreneurship	YES
Immunity Campaign	YES
Indian Student Alliance (ISA)	YES
Institute of Industrial and Systems Engineers (IISE)	YES
Integrative Medicine Interest Group	YES
Intellectual Property Law Society	YES
Interfraternity Council (IFC)	YES
International Law Student Association (f/k/a International Law-school Student Association)	YES
Intersection	YES
Iowa Agni	YES
Iowa American Student Dental Association (IASDA)	YES
Iowa Andhi	YES
Iowa Edge Student Organization - The	YES
Iowa Forum for Graduate Medievalists	YES
Iowa Journal of Cultural Studies	YES
Iowa Kendo Kumdo Club	YES
Iowa Men's Hockey	YES

Iowa Print Group	YES
Iowa Student Association of Healthcare Leaders	YES
Iowa Student Athlete Advisory Committee	YES
Iowa Student Medical Research Club	YES
Iowa Surgical Interest Group	YES
Iowa-Illinois Industrial Hygiene Student Association (I3HSA)	YES
Japan Karate-Do Organization of University of Iowa	YES
Journalism and Mass Communication Graduate Student Association	YES
Judo Club (University of Iowa)	YES
Juggalos (U of I)	YES
Kappa Psi Pharmaceutical Fraternity	YES
Knitting Club (UI)	YES
Korean Conversation Group	YES
Korean U Iowa Students Association	YES
KRUI-FM	YES
Latina/o Graduate Student Association	YES
Latino Medical Student Association - Univ of Iowa Roy J. & Lucille A. Carver College of Medicine	YES
League of Legends Club (UI)	YES
Leopold Society	YES
Library & Info Science Std Chapter of American Lib Assoc. (LISSO)	YES
Malaysian Student Society	YES
Master of Business Administration Association (MBAA)	YES
Math Graduate Board (MGB)	YES
Medicus Pre-Medical Society	YES
Microbiology Undergraduate Student Association	YES
Minority Association of Pre-medical Students	YES
Mock Trial Club (U of I)	YES
Multicultural Business Student Association	YES
Multicultural Greek Council	YES
Multicultural Nursing Association	YES
Multi-Ethnic Engineering And Science Association	YES
Musicology Society (University of Iowa)	YES
National Alliance on Mental Illness on Campus at Carver College of Medicine	YES
National Association for the Advancement of Colored People (UI Chapter of NAACP)	YES
National Association of Black Journalists - Unity (UI)	YES
National Community Pharmacists Association	YES
National Pan-Hellenic Council (NPHC)	YES
National Residence Hall Honorary	YES
National Society of Black Engineers (NSBE)	YES
National Society of Collegiate Scholars	YES
National Student Speech Language Hearing Association (NSSLHA)	YES
Native American Student Association	YES
Net Impact	YES
Net Impact U Iowa	YES
Nightingale Writers' Group	YES
NOBCChE (Natnl Org. for the Professional Advancement/Black Chemists & Chemical Engineers)	YES



Old Gold A Cappella	YES
Olympic Weightlifting Club (University of Iowa)	YES
Omicron Delta Kappa	YES
ONE at University of Iowa	YES
Order of Omega	YES
Organization for the Active Support of International Students (OASIS)	YES
Organization for Women Law Students & Staff (OWLSS)	YES
Orthopedic Surgery Interest Group	YES
Outlaws	YES
Pain Management, Substance Use Disorders, Palliative Care (U of I)	YES
Pakistani Student Association	YES
Panhellenic Council (PHC)	YES
PAWS - UI (Promoting Animal Welfare in Society)	YES
Pediatric Pharmacy Advocacy Group at the University of Iowa	YES
Percussion Society (U of I)	YES
Persian Student Organization	YES
Phi Alpha Delta Law Fraternity, International Hammond Chapter	YES
Phi Alpha Delta Pre-Law Fraternity	YES
Phi Delta Chi Pharmacy Fraternity	YES
Phi Eta Sigma (Freshman Honor Society)	YES
Phi Gamma Nu Professional Business Fraternity	YES
Phi Lambda Sigma	YES
Phi Mu Alpha Sinfonia Men's Music Fraternity, Iota Gama Chapter	YES - additionally this organization has OCR Title IX exemption as a Social Fraternity/Sorority
Phi Sigma Pi National Honor Fraternity	YES
Physical Therapy Student Organization	YES
PMBA Student Association, Des Moines (University of Iowa)	YES
Powerlifting (University of Iowa)	YES
Pre-Dental Club (U of I)	YES
Pre-Occupational Therapy Club	YES
Pre-Physical Therapy Organization	YES
Product Design Studio	YES
Psi Chi International Honor Society in Psychology	YES
Public Relations Student Society of America (PRSSA)	YES
Real Estate Club (The)	YES
Red Shamrock Student Organization	YES
Religion Graduate Students Organization	YES
Rex Montgomery Physician Assistant Student Society	YES
Rho Chi Society: Delta Chapter	YES
Rho Lambda	YES
RiverRun	YES
Robotics Club (University of Iowa)	YES
Rugby Club (Men's)	YES
Rugby Club at Iowa (Women's)	YES
Running Club (University of Iowa)	YES
Sailing Club (Iowa)	YES
SCOPE Productions (Student Commission on Programming Entertainment)	YES

Semper Fidelis Society	YES
Shooting Sports Club	YES
Sigma Alpha Iota - Zeta Epsilon (Female Choir)	YES - additionally this organization has OCR Title IX exemption as a Social Fraternity/Sorority
Sigma Alpha Lambda	YES
Sigma Nu Tau Entrepreneurship Honors Society	YES
Sigma Tau Delta International English Honors Society, Alpha Tau Iota Chapter of Iowa	YES
SistaSpeak	YES
Ski & Snowboard Club (U of I)	YES
Soccer (Iowa Women's)	YES
Social Work Student Association	YES
Society for Human Resource Management	YES
Society of Automotive Engineers	YES
Society of Black Graduate & Professional Students (BGAPS)	YES
Society of Composers, Inc. Student Chapter	YES
Society of Hispanic Professional Engineers	YES
Society of Physics Students	YES
Society of Women Engineers	YES
Sound Awareness for Everyone (University of Iowa - student affiliate group)	YES
Special Olympics (University of Iowa Chapter)	YES
Spectrum UI	YES
Sport and Recreation Management Club	YES
Sri Lankan Students' Association (SLSA)	YES
STAR (Students To Assist Recruitment)	YES
Stars and Stripes Club	YES
Student Academy of Audiology	YES
Student Advancement Network	YES
Student Advocates for Planned Parenthood	YES
Student Iowa School Counseling Association	YES
Student National Medical Association	YES
Student National Pharmaceutical Association	YES
Student Society of Health-System Pharmacists (University of Iowa)	YES
Student United Way	YES
Student Video Productions (SVP)	YES
Students for Human Rights	YES
Students for Interprofessional Practice and Education (f/k/a Students for Interprofessional Education)	YES
Students for Life	YES
Students in Technology and Sciences	YES
Students International Meditation Society	YES
Students Supporting Israel	YES
Swing Dance Club	YES
Tabletop RPG Organization (The U of I)	YES
Taiwanese Student Association	YES
Tau Beta Pi	YES
Tau Sigma Military Dental Club	YES
Tennis Club (Hawkeye)	YES
Tennis Club (International)	YES

Thai Student Association	YES
Therapeutic Recreation Student Association	YES
Theta Tau-Professional Engineering Fraternity	YES
Tippie Senate	YES
Tippie Technology and Innovation Assoc.	YES
Trans Alliance - UI	YES
Transnational Law & Contemporary Problems	YES
Triathlon Club (U of I)	YES
Turkish Student Association	YES
Turning Point USA	YES
Tzu Chi Collegiate Association	YES
UI Students for Disability Advocacy & Awareness (f/k/a Hawkeye Accessibility Ambassador Org)	YES
UISight	YES
Ultimate Frisbee Club (Iowa Hawkeye Men's)	YES
Undergraduate Art History Society	YES
Undergraduate Dance Organization	YES
United Nations Association (University of Iowa)	YES
University Democrats	YES
University of Iowa Men's Club Volleyball	YES
University of Iowa Men's Soccer Club	YES
University of Iowa Men's Water Polo Club Team	YES
University of Iowa Table Tennis Club	YES
University of Iowa Taekwondo Club	YES
University Theatres Student Representatives	YES
Veterans Association (U of I)	YES
Vietnamese Student Association	YES
Voices of Soul	YES
Volleyball (Women's LadyHawk)	YES
Walk It Out	YES
Water Polo Club (U of I - Women's)	YES
Wilderness Medicine Interest Group	YES
Wishmakers (University of Iowa)	YES
Women in Business	YES
Women in Computing Sciences	YES
Women in Science and Engineering (WISE) Ambassadors	YES
Women's Ice Hockey	YES
World Languages Graduate Organization	YES
Young Americans for Liberty	YES
International Law Society	YES
Pharmacy Ambassadors	YES
Pharmacy Communicators Association	YES
Reaching OUT in Business	YES
Tippie Students for Service (f/k/a Tippie Community Collective)	YES
5050 in 2020 @ Iowa	YES
AAUW at Iowa	YES
Advocates for Cross Cultural Experiences (ACCE)	YES

ALMA (Association of Latinos Moving Ahead)	YES
American College of Veterinary Pharmacists	YES
American Institute of Chemical Engineers - University of Iowa Student Chapter	YES
Anime, Comics & Games Association	YES
Anthropomorphic Furry Friends	YES
Arab Students Association	YES
Archery Club	YES
Art Hawks	YES
Artineers	YES
Asian Pacific American Medical Student Association	YES
Association of Graduate Nursing Students	YES
Astronomy Club	YES
Auto Club	YES
Backpack Project	YES
Ballet Club at Iowa	YES
Bertrand Russell Society - Iowa Chapter	YES
Biological Interests Organization (University of Iowa)	YES
Black Law Student Association, Alexander G. Clark Sr. & Jr. Chapter (U of Iowa College of Law)	YES
Board Game Club	YES
Body Image and Eating Disorder Awareness	YES
Bowling Club (U of I)	YES
Brandyou Fashion Channel	YES
Brazilian Jiu-Jitsu Club (Hawkeye)	YES
Camp Kesem	YES
Caribbean Student Association	YES
CHAARG at Iowa	YES
Chess Club	YES
Children of the Clay - The (f/k/a Ceramics Society)	YES
Chronic Illness Alliance	YES
Clothing Closet at Iowa	YES
College Diabetes Network at Iowa	YES
College of Law Federalist Society	YES
Communication Studies Graduate Student Association	YES
Competitive Club Golf Team (Iowa)	YES
Computer Comfort	YES
Cosplay Club at Iowa	YES
Dean's Student Advisory Committee	YES
Debate Club (U of I)	YES
Dental Practice Management Club	YES
Enactus at Iowa	YES
Environmental Law Society	YES
eSports Club at Iowa	YES
Euchre Club at Iowa	YES
Exercise is Medicine	YES
Fair Trade at Iowa	YES
Federal Reserve Challenge at Iowa	YES

Female Alliance of Civil Engineers	YES
Fencing Club (U of I)	YES
Fight Inclined Student Thespians	YES
Figure Skating Club (Black and Gold)	YES
FIRST Alumni Club	YES
First-Gen Progressionals @ Iowa Law	YES
Food Pantry at Iowa	YES
Fools Magazine	YES
From Cover To Cover	YES
Futures Trading Challenge	YES
Goalball Club	YES
Graduate Organization of Higher Education and Student Affairs (GOHESA)	YES
Graduate Social Work Student Association	YES
Guitar Club at Iowa	YES
HackIowa	YES
Hallyu@Iowa	YES
Hawkeye Model UN delegation	YES
Hawkeye Optimist Chapter	YES
Hawkeye Water for Change! (f/k/a Hawkeye Water to Thrive)	YES
Hawkeyes for Humanity	YES
Hawks for Choice	YES
Hawks for McGuire	YES
Hispanic/Latino Law Student Association	YES
Homecoming Council	YES
House of Lorde: a space for Black Queer Individuals	YES
Human Rights Student Collective	YES
Human Trafficking Initiative	YES
IC RED	YES
INFORMS Iowa Student Chapter	YES
International Genetically Engineered Machine	YES
International Student Outdoor Recreation Association	YES
InvestHer	YES
Iowa Comic Book Club	YES
Iowa Formula	YES
Iowa Grillmasters	YES
Iowa Health Administration Club	YES
Iowa Improv Club	YES
Iowa Marine Autonomous Racing Club	YES
Iowa National Lawyers Guild	YES
Iowa Neuroscience Club	YES
Iowa Quiz Bowl	YES
Iowa Student Bar Association	YES
Iowa Student Chapter of the American String Teachers Association	YES
Iowa Student Psychology Association (ISPA)	YES
Iowa Students for Refugees	YES
Iowa Trumpet Guild	YES

Iowa Woodworking	YES
Iowa Young Americans for Freedom Chapter	YES
Japanese Academic and Cultural Society	YES
Jazz Club	YES
Jewish Law Students Association	YES
Journal of Corporation Law	YES
Journal of Gender, Race & Justice	YES
Lacrosse (U of I - Men's)	YES
Lacrosse (U of I - Women's)	YES
League of United Latin American Citizens Collegiate Council #373	YES
LGBT Advocates for Public Health Equity	YES
Media Entertainment & Lifestyle	YES
Middle East Law Students Association	YES
Mindful@Iowa	YES
Moneythink	YES
MPR Dance Crew	YES
Multiracial Student Association	YES
Narwhal Finance Group	YES
National Association for Music Education	YES
National Retail Federation Student Association	YES
National Science Teachers Association Chapter at Iowa	YES
Nepalese Student Association	YES
Neuroscience Journal Club	YES
Omega Chi Epsilon	YES
Operation Smile at Iowa	YES
oSTEM@Iowa	YES
Pi Sigma Alpha - Political Honors Society at Iowa	YES
Pre-Health International Association	YES
Pre-Optometry Club (U of I)	YES
Pre-Veterinary Club	YES
Quidditch Club	YES
Radiation Sciences Student Organization	YES
WAYS of REACH	YES
Rock Climbing Club	YES
Roosevelt Network	YES
Russian-Speaking Students and Scholars Association	YES
Sales & Consulting Club	YES
Sales Engineering Club	YES
Salsa Dance Club	YES
Secular Students at Iowa	YES
Slavic Student Alliance	YES
Softball Club (University of Iowa)	YES
South Asian Student Alliance	YES
Spike Ball Club	YES
Sports Law Society of the University of Iowa	YES
Sports Stocks	YES

Starts With Soap	YES
Strength in Numbers	YES
Student Association of the Environmental Sciences	YES
Student National Dental Association	YES
Student Photography Organization	YES
Students Against Casteism	YES
Students Care	YES
Students for Boys and Girls Club of Iowa City	YES
Students for Pat Wronkiewicz	YES
Students for Reynolds	YES
Students in Design (UI)	YES
Teddy Bear Clinic	YES
The Celi-Yaks Club	YES
The Game of Thrones Club	YES
The Gymnastics Club at Iowa	YES
The Lower House	YES
Track and Field Club (Iowa)	YES
Traditional Jujutsu Club (Iowa)	YES
Transfers Leading Change	YES
Translate Iowa Project - The	YES
UISG (University of Iowa Student Government)	YES
Ultimate Frisbee (Women's)	YES
Under Your Wing	YES
Undergraduate Political Science Association	YES
Undergraduate Public Health Organization	YES
Unified for Uganda	YES
Urban and Regional Planning Student Association	YES
USITT Student Chapter	YES
UStart	YES
Vegan Society UIowa	YES
Vertical Cinema	YES
Veteran's Legal Association	YES
Water Ski Team (U of I)	YES
Werewolf Club	YES
Women's Club Basketball	YES
Young Democratic Socialists at Iowa	YES
Young Women for America at Iowa	YES



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

**INTERVARSITY CHRISTIAN )  
FELLOWSHIP/USA, and INTERVARSITY )  
GRADUATE CHRISTIAN FELLOWSHIP, )**

**Plaintiffs,**

**VS.**

**THE UNIVERSITY OF IOWA; BRUCE HARRELD, in his official capacity as President of the University of Iowa and in his individual capacity; MELISSA S. SHIVERS, in her official capacity as Vice President for Student Life and in her individual capacity; WILLIAM R. NELSON, in his official capacity as Associate Dean of Student Organizations, and in his individual capacity; ANDREW KUTCHER, in his official Capacity as Coordinator for Student Organization Development; and THOMAS R. BAKER, in his official capacity as Student Misconduct and Title IX Investigator and in His individual capacity,**

## Defendants.

**CASE NO. 3:18-CV-00080**

**SUPPLEMENT TO DEFENDANTS’  
STATEMENT OF ADDITIONAL  
MATERIAL FACTS  
IN RESISTANCE TO PLAINTIFF’S  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

COME NOW Defendants, by and through the undersigned counsel, and supplement their Statement of Additional Material Facts in response to Plaintiff's Motion for Partial Summary Judgment, pursuant to the Court's Order of March 12, 2019, and state to the Court as follows:

## TESTIMONY OF MS. KATRINA SCHROCK

65. Katrina Schrock was deposed in the above-captioned matter on March 28, 2019. Schrock 6:1–5; App. 170.

66. At the time of the events at issue in the Petition, Ms. Schrock was a graduate student at the University of Iowa, and was also employed as a Resident Assistant (“RA”). Schrock 8:11–20; App. 171.

67. In fall of 2017, Ms. Schrock was a member of InterVarsity Graduate Christian Fellowship on the University of Iowa campus. Schrock 10:9–13; App. 172.

68. In May of 2018, Ms. Schrock became President of InterVarsity Graduate Christian Fellowship at the University of Iowa. Schrock 10:24–11:2; App. 172-173; Kummer 36:17–22; App. 201.

69. In her role as InterVarsity President, Ms. Schrock was responsible for “organizing events and other aspects of regular InterVarsity scheduling.” Schrock 11:3–7; App. 173.

70. Ms. Schrock received emails intended for the InterVarsity Graduate Christian Fellowship at her university student email account. Schrock 15:7–11; App. 176.

71. In her deposition, Ms. Schrock testified that she stayed on campus during the summer months. Schrock 12:5–7; App. 176.

72. Though she did not take classes in the summer, her work as an RA continued through the summer months. Schrock 12:15–13:1; App. 174-175.

73. On or about June 1, 2018, Ms. Schrock received an email from Andy Kutcher, the Coordinator for Student Organization Development at the Center for Student Involvement and Leadership (“CSIL”). Schrock 13:9–12; App. 175.

74. The June 1, 2018, email provided that CSIL had identified “that the Constitution of InterVarsity Graduate Christian Fellowship either does not include current language related to the University of Iowa Human Rights Clause or it is missing in its entirety.” Kummer Depo Exhibit 1; App. 205.

75. Ms. Schrock did not respond to the June 1, 2018 email. Schrock 16:16–20; App. 177.

76. The email further provided that “[a]ll RSOs are required to have [the human rights] Clause included verbatim in their constitution or bylaws.” Kummer Depo Exhibit 1; App. 205.

77. CSIL, through its email, instructed InterVarsity that it must update its current governing documents to include the required Human Rights Policy. Kummer Depo Exhibit 1; App. 205.

78. Ms. Schrock later received email correspondence from Mr. Kutcher specifically addressing several clauses in its group constitution which violated the University of Iowa’s Human Rights Policy. Kummer Depo Exhibit 2; App. 208.

79. During her deposition, Ms. Schrock admitted that she was not very familiar with InterVarsity’s constitution at the time she received CSIL’s emails regarding the Human Rights Policy. Schrock 25:2–5; App. 181.

80. Ms. Schrock did not know whether InterVarsity’s constitution was a national constitution or a local constitution. Schrock 25:9–12; App. 181.

81. Though she was not very familiar with InterVarsity’s constitution, she was aware or at some point became aware that in order for a student group to be in compliance with the University’s Human Rights Policy, the group could not maintain leadership restrictions. Schrock 27:19–28:4; App. 182-183.

82. Ms. Schrock agreed that the University has the power to enforce its policies and regulations, and that students on campus are subject to the University’s rules. Schrock 34:17–35:14; App. 184-185.

83. Ms. Schrock indicated that she believes that the benefits provided to registered student groups by the University include using the University's email system to send mass emails, using the Iowa Memorial Union for recruitment fairs free of charge, and using University property to hold meetings. Schrock 19:23–21:12; App. 178-180.

84. InterVarsity was eventually deregistered in the summer of 2018 for failing to submit a group constitution which complied with the University's Human Rights Policy, and Ms. Schrock did not personally take any steps to get the group reregistered. Schrock 46:1–17; App. 187.

85. Nevertheless, InterVarsity was eventually reregistered. Schrock 45:15–17; App. 186.

86. Despite having been deregistered in summer 2018, InterVarsity was permitted to participate in the fall 2018 recruitment fair for student groups. Schrock 45:22–46:21; App. 186-187.

87. InterVarsity did not pay rent at the fall 2018 recruitment fair. Schrock 47:2–3; App. 188.

88. InterVarsity was permitted to set up a table at the fall 2018 recruitment fair and to recruit members. Schrock 47:4–7; App. 188.

89. At the fall 2018 recruitment fair, InterVarsity was allowed to represent that it was an active student group on campus. Schrock 47:21–48:3; App. 188-189.

90. Though she was aware that InterVarsity was still a registered student organization in January of 2018, Ms. Schrock was not certain whether InterVarsity had even participated in the recruitment fair that month. Schrock 48:11–23; App. 189.

91. Despite Plaintiff's claims that the University's actions have damaged the number of members in the group, Ms. Schrock testified that the number of students participating as members in InterVarsity on the University of Iowa campus did not change between January 2018—at which time the University had taken no action against the group—and fall of 2018. Schrock 49:12–50:4; App. 190-191.

92. Despite Plaintiff's claims that the group's reputation had been damaged by the University's actions, Ms. Schrock could think of only one student who had approached her to ask about the lawsuit. Schrock 50:10–24; App. 191.

93. InterVarsity still has access to an email address through which it can send mass mailings. Schrock 51:9–15; App. 192.

94. InterVarsity is still permitted to utilize University property, such as conference rooms, for meetings. Schrock 51:16–18; App. 192.

#### **TESTIMONY OF MR. KEVIN KUMMER**

95. Mr. Kummer was deposed on March 28, 2019.

96. Mr. Kummer is a senior campus staff member with InterVarsity Christian Fellowship USA, and his position is located on the University of Iowa campus. Kummer 7:15–8:2; App. 194.

97. Mr. Kummer has no employment connection with the University of Iowa, but he is subject to University policies including the Human Rights Policy. Kummer 10:2–12:8; App. 196-198.

98. In his capacity as InterVarsity campus staff, Mr. Kummer served as an advisor to the InterVarsity Graduate Christian Fellowship. Kummer 55:17–56:1; App. 202-203.

99. Mr. Kummer testified that a person who did not share InterVarsity's Christian beliefs could be a member of the group, and could even seek a leadership role, though they would not likely be selected as a leader. Kummer 20:16–20; 22:10–24; App. 199-200.

#### **CURRENT ENFORCEMENT OF THE HUMAN RIGHTS POLICY**

100. On March 27, 2019, Governor Kim Reynolds signed Senate File 274 ("SF 274"). Senate File 274; App. 216.

101. SF 274 mandates that "a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission." SF 274, Sec. 3(3); App. 220.

102. SF 274 took effect upon enactment. SF 247, Sec. 7; App. 222.

103. As a result of this new law, the University of Iowa will immediately cease to enforce its Human Rights Policy in regard to student group's selection of their leaders.

104. The Student Organization Compliance Chart as of April 5, 2019. Chart; App. 223.

**THOMAS J. MILLER**  
Attorney General of Iowa

**/s/GEORGE A. CARROLL**  
George A. Carroll  
Assistant Attorney General  
Hoover Building, Second Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319  
PHONE: (515) 281-8583  
E-MAIL: [George.carroll@ag.iowa.gov](mailto:George.carroll@ag.iowa.gov)  
ATTORNEYS FOR DEFENDANTS

*Original filed electronically. Copy electronically served on all parties of record.*

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on April 10, 2019:

- |   |  |
|---|--|
| <input type="checkbox"/> U.S. Mail  | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery  | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express  | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> ECF System Participant (Electronic Service) |  |

Signature: /s/Betty Christensen

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

INTERVARSITY CHRISTIAN )	CASE NO. 3:18-CV-00080
FELLOWSHIP/USA, and INTERVARSITY )	
GRADUATE CHRISTIAN FELLOWSHIP, )	
)	
Plaintiffs, )	
)	
vs. )	
)	
THE UNIVERSITY OF IOWA; BRUCE )	DEFENDANTS' SUPPLEMENTAL
HARRELD, in his official capacity as )	APPENDIX TO
President of the University of Iowa and in his )	DEFENDANTS' RESISTANCE
individual capacity; MELISSA S. SHIVERS, )	TO PLAINTIFF'S MOTION FOR
in her official capacity as Vice President for )	PARTIAL SUMMARY JUDGMENT
Student Life and in her individual capacity; )	
WILLIAM R. NELSON, in his official )	
capacity as Associate Dean of Student )	
Organizations, and in his individual capacity;) )	
ANDREW KUTCHER, in his official )	
Capacity as Coordinator for Student )	
Organization Development; and THOMAS )	
R. BAKER, in his official capacity as Student )	
Misconduct and Title IX Investigator and in )	
His individual capacity, )	
)	
Defendants. )	
)	

<i><b>Document</b></i>	<i><b>Page(s)</b></i>
Deposition Excerpts from Katrina Schrock (6,8,10,11,12,13,15,16,19,20,21, 25,27,28,34,35,45,46,47,48,49,50,51).....	169
Deposition Excerpts from Kevin Kummer (7,8,10,11,12,20,22,36,55,56) .....	193
Deposition Exhibit 1 from Kevin Kummer Deposition.....	204
Deposition Exhibit 2 from Kevin Kummer Deposition.....	207
Senate File 274 .....	216
Student Organization Compliance Chart as of April 5, 2019 .....	223



**THOMAS J. MILLER**  
Attorney General of Iowa

**/s/GEORGE A. CARROLL**  
George A. Carroll  
Assistant Attorney General  
Hoover Building, Second Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319  
PHONE: (515) 281-8583  
FAX: (515) 281-7219  
E-MAIL: [George.carroll@ag.iowa.gov](mailto:George.carroll@ag.iowa.gov)  
ATTORNEYS FOR DEFENDANTS

*Original filed electronically.*

*Copy electronically served on all parties of record.*

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on April 10, 2019:

- |   |  |
|---|--|
| <input type="checkbox"/> U.S. Mail  | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery  | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express  | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> ECF System Participant (Electronic Service) |  |

Signature: /s/Betty Christensen



COURT REPORTING

LEGAL VIDEOGRAPHY

VIDEOCONFERENCING

TRIAL PRESENTATION

MOCK JURY SERVICES

LEGAL TRANSCRIPTION

COPYING AND SCANNING

LANGUAGE INTERPRETERS

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

INTERVARSITY CHRISTIAN FELLOWSHIP/USA, et al.,

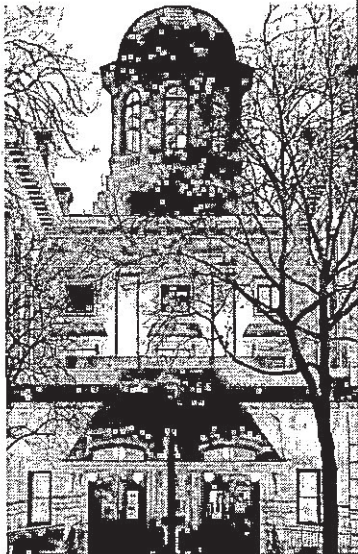
Plaintiffs,

vs.

Civil Action No. 18-cv-00080-SMR-SBJ

THE UNIVERSITY OF  
IOWA, et al.,

Defendants.



DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

DEPOSITION OF

KATRINA SCHROCK

TAKEN ON  
THURSDAY, MARCH 28, 2019  
9:18 A.M.

UNIVERSITY PARK RESEARCH CENTER  
2500 CROSSPARK ROAD, ROOM W219  
CORALVILLE, IOWA 52241

## 1 DEPOSITION OF

2 KATRINA SCHROCK

3 TAKEN ON

4 THURSDAY, MARCH 28, 2019

5 9:18 A.M.

6  
7 KATRINA SCHROCK, having been first duly sworn, was  
8 examined and testified as follows:

9 MR. CARROLL: Before we begin I want to  
10 make a statement on the record.

11 Previously, earlier this morning I deposed  
12 Mr. Kummer, who is associated with InterVarsity  
13 Christian Fellowship. He is now present in the room  
14 for the deposition of Ms. Schrock. Counsel --  
15 opposing counsel has indicated that he's the  
16 corporate representative and that's why he's present  
17 in this room. And I'm going to make the record that  
18 then that will be the corporate representative at  
19 trial because he is subject to recall for further  
20 testimony and he would be subject to ordinary  
21 sequestration rules under the Federal Rules of Civil  
22 Procedure.

23 So that is my record.

24 MR. BLOMBERG: And then can I speak to  
25 that?

NAEGELI

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2411

InterVarsity-Def Resist to MSJ Appendix

000170

1 of them.

2 Let me finish my question before you speak  
3 so that we're not speaking at the same time. Okay?  
4 If I ask you for a yes or no style of question,  
5 please provide a yes or no answer as opposed to a  
6 mm-hmm or nodding the head that we're used to in  
7 normal conversations. And finally, if you don't  
8 understand my question, just ask me to rephrase it.  
9 Okay?

10 A. Yes.

11 Q. Okay. Ms. Schrock, what is your status  
12 with the University of Iowa?

13 A. I am a graduate student.

14 Q. In what program?

15 A. I'm in the physics program.

16 Q. And are you an employee of the University  
17 of Iowa?

18 A. I am an employee.

19 Q. Are you a TA or RA?

20 A. I am an RA.

21 Q. Okay. And where did you go to undergrad?

22 A. I attended undergrad at Messiah College in  
23 Pennsylvania.

24 Q. Did you come directly to the University of  
25 Iowa to attend graduate school?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2412

University-Def Resist to MSJ Appendix

000171

1 first interaction with InterVarsity was?

2 A. October 2017.

3 Q. Okay. Did you otherwise know the -- the  
4 previous president?

5 A. Yes, I did.

6 Q. Okay. Through school or just the  
7 university community?

8 A. We attend church together.

9 Q. Okay. Did you become a member of  
10 InterVarsity in the timeframe of fall of 2017?

11 A. Yes, I did.

12 Q. And what was your membership at that time?

13 A. I was an attendee.

14 Q. Okay. Is there a -- generally the same  
15 physical location for meetings?

16 A. Yes.

17 Q. Okay. Where is that?

18 A. We meet typically at First Mennonite  
19 Church.

20 Q. And I'm familiar with the University of  
21 Iowa, or excuse me, Iowa City. Where is that?

22 A. It's near -- it's on Myrtle. Myrtle and  
23 Greenwood, that intersection.

24 Q. Okay. What is your current role with  
25 InterVarsity?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2418

InterVarsity-Def Resist to MSJ Appendix

000172



1 A. As I stated, I am the student president of  
2 the Iowa chapter.

3 Q. And what does the student president mean?

4 A. I interact with the university on behalf  
5 of InterVarsity. The InterVarsity chapter. I also  
6 help to organize events and other aspects of regular  
7 InterVarsity scheduling.

8 Q. Is there any individual, one or two  
9 individuals at Iowa -- when I say Iowa, I mean the  
10 University of Iowa. Are there any individuals that  
11 you regularly work with as president?

12 A. I have regularly communicated with Andy  
13 Kutcher and the Student Organizations staff in  
14 general.

15 Q. Okay. When you communicate, is it email  
16 or in person?

17 A. Typically it's email communication.

18 Q. Okay. Have you been to the Student  
19 Organizations or Center for Student Life in the  
20 Union?

21 A. Yes, I have.

22 Q. Okay. Was that related to InterVarsity?

23 A. Yes, it was.

24 Q. Okay. How many times have you been to the  
25 Union for that purpose?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2114

InterVarsity-Def Resist to MSJ Appendix

000173

1 A. Twice.

2 Q. Okay. In your Ph.D. program -- do you  
3 already have your master's then?

4 A. I do not.

5 Q. Okay. Are you on campus in the summer  
6 months?

7 A. Yes, I am.

8 Q. Are you still a TA or RA during the summer  
9 months?

10 A. Yes, I am.

11 Q. And in that position you get, regardless  
12 of how people call it, you kind of get a stipend;  
13 right?

14 A. Yes, I do.

15 Q. Okay. And with that stipend you, if  
16 you're provided it you're expected to be on campus  
17 in the summer months?

18 A. Yes, I am.

19 Q. Do you also do studies during the summer  
20 months?

21 A. No, I do not.

22 Q. So you're not taking classes?

23 A. No.

24 Q. Are you working on your master's thesis in  
25 the summer months?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2415

InterVarsity-Def Resist to MSJ Appendix

000174

1 A. No.

2 Q. Okay. What was your first involvement  
3 with -- well, let me back up.

4 You understand why we're here today?

5 A. Yes.

6 Q. Okay. What was your first involvement  
7 with the University of Iowa and its attempt to  
8 change InterVarsity's constitution?

9 A. The first that I had heard about it was an  
10 email at the beginning of June.

11 Q. And do you recall who that email was from?

12 A. I believe it was from Mr. Kutcher.

13 Q. Okay. Do you have -- who has the original  
14 exhibits for this one?

15 I'm going to show you some exhibits that  
16 were marked previously.

17 A. Okay.

18 Q. Okay. This is what we refer to as Exhibit  
19 1.

20 A. Okay.

21 Q. So would you look to what I'll call the  
22 second page of Exhibit 1? Are you familiar with  
23 that document?

24 A. Yes, I am.

25 Q. And did you receive it in the time period

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2416

InterVarsity-Def Resist to MSJ Appendix

000175



1 Q. Okay. And that's the email account that  
2 you get all kinds of notices from Iowa; right?

3 A. Yes, it is.

4 Q. Like yesterday you got a notice there was  
5 going to be a tornado siren drill; right?

6 A. Yes.

7 Q. I mean, you read it, didn't you? So you  
8 know what I'm asking. So everything related to  
9 InterVarsity is coming to your student email  
10 account?

11 A. Yes, it is.

12 Q. Does the University of Iowa have -- well,  
13 let me back up.

14 Do you have a personal email account?

15 A. I do.

16 Q. Does the University of Iowa related to  
17 InterVarsity ever use your personal email account to  
18 contact you?

19 A. They do not.

20 Q. What, if anything, did you do with this  
21 email upon receipt?

22 A. I did not personally do anything with this  
23 email.

24 Q. And do you know where the email went?

25 A. Could you clarify the question?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2117

InterVarsity-Def Resist to MSJ Appendix

000176

1 Q. It has -- whoever it's to has been  
2 redacted. Do you -- you didn't do anything personal  
3 with it. Do you know where this email went? Or to  
4 whom, actually?

5 A. As I stated, it would have gone to  
6 previous leaders.

7 Q. Okay. And today, if the University of  
8 Iowa were to contact you as the president of  
9 InterVarsity, would they also send it to others or  
10 would they expect you to distribute to other  
11 leaders, if you know?

12 A. I'm not certain but I believe that they  
13 would send it to myself, perhaps the other leaders,  
14 but definitely at least to myself and then expect it  
15 to get to the group that way.

16 Q. And so this Exhibit B, did you take -- did  
17 you personally take any action to respond to the  
18 University of Iowa?

19 A. I personally did not take any action to  
20 respond to this specific email.

21 Q. Okay. And if you could look to Exhibit 2,  
22 please.

23 And again, go to the first -- second page  
24 but first page.

25 A. Mm-hmm.

1 Q. So you would have seen this?

2 A. Yes.

3 Q. Because it was forwarded?

4 A. Yes.

5 Q. Okay. And then when we move up to the  
6 next email, are you now part of this email chain, or  
7 it's at least being forwarded to you?

8 A. Yes, I am.

9 Q. Okay. Now, go to the next page. I see  
10 your -- now I see your name responding to Laurynn.  
11 Is that fair?

12 A. That is fair.

13 Q. Okay. So when we look at this, "I was  
14 under the impression that the InterVarsity Graduate  
15 Christian Fellowship's constitution had been updated  
16 with the human rights clause and submitted to  
17 OrgSync."

18 What did you understand OrgSync to be?

19 A. OrgSync I understood to be the web-based  
20 service that the university uses to track and list  
21 and generally communicate files and such with  
22 registered Student Organizations of the university.

23 Q. Okay. And as a Registered Student  
24 Organization through the University of Iowa,  
25 InterVarsity receives certain benefits; correct?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2419

InterVarsity-Def Resist to MSJ Appendix

000178

1 A. That is correct.

2 Q. Okay. For example, you can use its email  
3 system to do mass emails?

4 A. Yes.

5 Q. You understand that that system is being  
6 provided by the University of Iowa?

7 A. Yes, I do.

8 Q. Okay. And InterVarsity can actually  
9 access the Iowa Memorial Union for their recruitment  
10 fairs free of charge?

11 A. Yes.

12 Q. Okay. Are there other benefits that the  
13 university -- excuse me, InterVarsity would be  
14 eligible for that they choose not to use?

15 A. Not to my knowledge.

16 Q. Okay. For example, could you use  
17 university property to hold your meetings as opposed  
18 to the private church?

19 A. Yes, they could.

20 Q. Okay. And can you use those facilities  
21 without paying rent?

22 A. I'm uncertain but I believe so.

23 Q. Okay. Are you aware that other private  
24 groups that aren't registered with the University of  
25 Iowa would have to pay to rent the Union?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2120

InterVarsity-Def Resist to MSJ Appendix

000179

1 A. Yes, I am aware.

2 Q. Do you agree that those are University of  
3 Iowa funded benefits that are being provided to  
4 InterVarsity?

5 A. Yes.

6 Q. Regardless of the source of the funding,  
7 it is coming through the University of Iowa;  
8 correct?

9 A. Yes.

10 Q. I mean, indirectly, some of it's coming  
11 from your tuition.

12 A. Yes.

13 Q. So when we look at what I see to be your  
14 email to Laurynn, you indicate that it was your  
15 impression that the updated human rights clause had  
16 been loaded into OrgSync; correct?

17 A. Yes.

18 Q. Okay. And the human rights clause is the  
19 University of Iowa's clause that says, in essence,  
20 no discrimination?

21 A. Yes.

22 Q. Okay. Did you, with this email where it's  
23 under your -- I was under the impression, did you  
24 load it into OrgSync?

25 A. I did not.

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2121

InterVarsity-Def Resist to MSJ Appendix

000180



1 A. Correct.

2 Q. Did you -- at this point in time, how  
3 familiar were you with the InterVarsity's  
4 constitution?

5 A. I was not very familiar with it.

6 Q. How big of a document is it?

7 A. I can't list the exact number of pages off  
8 of my head but it's not terribly long.

9 Q. Okay. Is that a national constitution  
10 that's submitted to the group to get approval by  
11 campuses across the United States?

12 A. I do not know.

13 Q. Okay. You understand InterVarsity is a  
14 national group?

15 A. Yes, I do.

16 Q. Okay. Do you know approximately how many  
17 campuses it has functions or functions as a group?

18 A. I do not know but I am aware that it's  
19 quite a few.

20 Q. Right. It's a relatively large group, is  
21 it not?

22 A. To my knowledge, yes.

23 Q. Okay. So now at this point, at 10:43, Mr.  
24 Kutcher is identifying -- at this stage I see  
25 several issues; correct?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2122

InterVarsity-Def Resist to MSJ Appendix

000181

1 A. Correct.

2 Q. And when I say are you writing this, you  
3 are writing this or you're just forwarding what  
4 somebody else wrote?

5 A. I am writing this.

6 Q. Okay. And you write, "While I understand  
7 that this leadership restriction can be construed as  
8 a difference in treatment, it is also important to  
9 have Christian leadership in a Christian  
10 organization."

11 At some point in time were you told that  
12 the University of Iowa would not allow InterVarsity  
13 to select leaders based on religious beliefs?

14 A. Could you restate the question, please?

15 Q. Yes. At some point in time, and all of  
16 this unfolded rather quickly, would you agree to  
17 that?

18 A. I would agree.

19 Q. Okay. At some point in time were you  
20 aware that the University of Iowa said to be in  
21 compliance with the human rights policy you can't  
22 have leadership restrictions?

23 A. Yes, I was aware that we could not have  
24 leadership restrictions.

25 Q. And were you aware that the University of

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2428

InterVarsity-Def Resist to MSJ Appendix

000182

1 Iowa was saying to comply with the human rights  
2 policy you can't in any manner have leadership  
3 restrictions?

4 A. Yes, I was aware.

5 Q. Now, during this time period, and not  
6 pending the lawsuit now, did you read the human  
7 rights policy in detail?

8 A. Yes, I did.

9 Q. Okay. And you understand that the  
10 University of Iowa's human rights policy says you  
11 cannot treat people differently based on certain  
12 criteria?

13 A. Yes.

14 Q. Okay. And so one of the criteria is race;  
15 correct?

16 A. Correct.

17 Q. Disability?

18 A. Correct.

19 Q. Age?

20 A. Correct.

21 Q. Okay. Religion?

22 A. Correct.

23 Q. Creed?

24 A. Correct.

25 Q. How can a nonbeliever -- do you understand

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2424

University of Iowa v. Schrock

000183



1 Q. Okay. And so if we go up on this page,  
2 excuse me, June 12, 11:19, do you see that?

3 A. Yes. Yes, I do.

4 Q. Okay. So now this is more -- well, from  
5 is generic but it's obviously signed off on by Andy  
6 to you; correct?

7 A. That is correct.

8 Q. And if you want to take a moment to look  
9 at it.

10 A. All right. I read it.

11 Q. Okay. And is it fair to say that the  
12 University of Iowa is telling your group,  
13 InterVarsity -- I'll call it InterVarsity -- that  
14 your leadership requirements are contrary to the  
15 University of Iowa human rights policy?

16 A. That is fair.

17 Q. Okay. Do you have a -- if you do, that's  
18 fine, if you don't, that's fine. Do you have an  
19 opinion on whether the University of Iowa can  
20 enforce its policies and regulations?

21 MR. BLOMBERG: Objection; calls for legal  
22 conclusion.

23 You may answer if you can.

24 THE WITNESS: Could you restate the  
25 question, please?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2125

InterVarsity-Def Assist to MSJ Appendix

000184

1 BY MR. CARROLL:

2 Q. Yes. You're a student at the University  
3 of Iowa; correct?

4 A. Yes.

5 Q. For example, you're subject to many rules  
6 and regulations as a student; correct?

7 A. Correct.

8 Q. Okay. Is it fair for the University of  
9 Iowa to have those rules and regulations that govern  
10 you as a student?

11 A. Yes.

12 Q. Okay. And those rules and regulations are  
13 quite broad, are they not?

14 A. They are.

15 Q. Okay. For example, your stipend, there  
16 are certain restrictions on how you can use the  
17 funds and what you're supposed to do if you use the  
18 funds; correct?

19 A. Not to my knowledge.

20 Q. Well, you're a teaching assistant for an  
21 academic year?

22 A. No, I'm a research assistant.

23 Q. Research assistant. But if you take the  
24 stipend, it's fair for the university to expect you  
25 to be at work?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2426

InterVarsity-Def Assist to MSJ Appendix

000185

1 Q. Okay. Then other than talking to your  
2 attorneys or potential attorneys, once you somehow  
3 became aware that InterVarsity was deregistered, who  
4 did you talk to?

5 A. Most any conversation about this was  
6 limited to InterVarsity, specifically Mr. Kummer and  
7 our leadership team.

8 Q. Okay. So once you were aware that  
9 InterVarsity was deregistered, did you take any  
10 steps to get reregistered?

11 A. I personally did not take any steps.

12 Q. Are you aware if anybody did other than  
13 attorneys?

14 A. I am not aware.

15 Q. Okay. Are you aware that InterVarsity was  
16 reregistered?

17 A. Yes, I am aware.

18 Q. And what was the time gap, if you know,  
19 between deregistration and reregistration?

20 A. I'm not certain of the exact time gap but  
21 I do believe it was a couple months.

22 Q. Okay. The -- so with the assumption  
23 you're deregistered in the summer of 2018 --

24 A. Yes.

25 Q. -- was InterVarsity to participate in the

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2427

InterVarsity-Def Resist to MSJ Appendix

000186

1 fall recruitment fair at the Union?

2 A. Yes.

3 Q. Okay. And isn't it -- that fair occurs  
4 generally in September of the fall semester? Maybe  
5 late August?

6 A. I believe it was late August.

7 Q. Okay. But it's pretty much when school  
8 started; is that fair?

9 A. That is fair.

10 Q. Okay. And was InterVarsity a Registered  
11 Student Organization to participate in the  
12 recruitment fair?

13 A. We --

14 MR. BLOMBERG: Objection. I'm not sure  
15 that we -- that it was university's position that  
16 they were registered or being treated as registered,  
17 but just, you can answer if you can.

18 THE WITNESS: To my knowledge, we were  
19 allowed to. I do not know if we were considered as  
20 a Registered Student Organization, but we were  
21 permitted to participate.

22 BY MR. CARROLL:

23 Q. Okay. And that was the same benefit you  
24 had, InterVarsity had as a registered group;  
25 correct?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2128

InterVarsity-Def Resist to MSJ Appendix

000187

1 A. Yes.

2 Q. Did you pay rent?

3 A. No, we did not.

4 Q. Were you allowed to put up a table?

5 A. Yes, we were.

6 Q. And you were allowed to recruit students?

7 A. Yes, we were.

8 Q. And were you allowed to represent on that  
9 table that you had, like any other group, were you  
10 allowed to indicate that you were a viable student  
11 organization on campus?

12 A. I'm not sure what you mean by "viable  
13 student organization."

14 Q. Well, there's been some testimony in this  
15 record that you were listed as defunct and that it  
16 impacted membership and other things. But at the --  
17 if you're deregistered in June and you're allowed to  
18 participate in the recruitment fair in late August  
19 of the same year, correct, 2018?

20 A. Correct.

21 Q. Okay. At that fair, were you allowed to  
22 indicate that we are viable in the sense of we are a  
23 student group and we are on campus, just like the  
24 table next to you, and here's what we offer?

25 A. Yes.

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2429

InterVarsity-Def Resist to MSJ Appendix

000188



1 Q. Okay. And the University of Iowa didn't  
2 interfere with that in any manner, did they?

3 A. They did not.

4 Q. Okay. Did they provide you the same  
5 benefits that you had in others, what I call the  
6 fall and winter fairs?

7 A. Yes.

8 Q. Okay. So the winter fair is generally  
9 when school starts again in January?

10 A. Yes.

11 Q. Okay. So in January of 2018, you were --  
12 InterVarsity was a Registered Student Organization?

13 A. In January of 2018? Yes.

14 Q. Yes. And you participated in that, what I  
15 call the winter fair; correct?

16 A. I was not on leadership at that point so I  
17 don't know.

18 Q. Okay. You don't know if InterVarsity even  
19 appeared at the fair?

20 A. I have no knowledge --

21 Q. Okay.

22 A. -- about InterVarsity's presence at that  
23 fair.

24 Q. Okay. And did you participate in the  
25 August fair?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2186

InterVarsity-Def Resist to MSJ Appendix

000189

1 A. Of which year?

2 Q. 2018?

3 A. Yes.

4 Q. Okay. Were you physically at the Union?

5 A. Yes, I was.

6 Q. And did you physically recruit students?

7 A. Yes, we did.

8 Q. Okay. How was that recruiting fall?

9 A. We had a few students come up to us and  
10 express interest but not many of them ended up  
11 joining the group.

12 Q. What's your current membership? And what  
13 I mean by that, numbers?

14 A. To my knowledge our current membership is  
15 about 20 members.

16 Q. And how many did you have in the fall of  
17 2018?

18 A. It would be about the same for fall of  
19 2018.

20 Q. Okay. And how about, if you know, when  
21 you first became involved in InterVarsity, what was  
22 the current membership?

23 A. I don't know numbers of membership at that  
24 point. But I did notice that the monthly meetings  
25 were larger at that point than they are currently.

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2481

InterVarsity-Def Resist to MSJ Appendix 000190



1 Q. Okay. And in January 2018, the university  
2 had taken no action against InterVarsity; is that  
3 fair?

4 A. That is fair.

5 Q. Okay. So do you attribute the lowering of  
6 membership to the University of Iowa or maybe a  
7 general lack of student interest?

8 A. I don't have the experience to speak to  
9 that.

10 Q. Okay. The -- have you had any students --  
11 first of all I'll limit it to students. Have you  
12 had any students talk to you about the InterVarsity  
13 lawsuit?

14 A. Yes.

15 Q. And who? I don't need names. How many  
16 students?

17 A. There was one student specifically at a  
18 recruitment fair --

19 Q. Okay.

20 A. -- who inquired.

21 Q. They inquired about the lawsuit?

22 A. They inquired about what was going on with  
23 our situation. Were we allowed to be there? That  
24 kind of vein of questioning.

25 Q. And clearly you were there.

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

1 A. Yes.

2 Q. So you were allowed to be there.

3 A. Yes. More of a confirmation that they  
4 were allowing us to be there.

5 Q. And as we speak today, you are officially  
6 registered, you are allowed to function as a RSO on  
7 University of Iowa campus, InterVarsity; correct?

8 A. To my knowledge, yes.

9 Q. Okay. And has there been any -- the email  
10 account still exists for your access?

11 A. Could you specific which email account  
12 you're referring to?

13 Q. Yes. The one that University of Iowa  
14 provides to have mass mailings?

15 A. Yes.

16 Q. Okay. And if you wanted to, InterVarsity  
17 could utilize space on campus, conference rooms?

18 A. To my knowledge, yes.

19 Q. Do you know who you would talk to, for  
20 example, if you wanted to hold, as opposed to the  
21 private church you described, if you wanted to have  
22 it on campus so maybe it was more convenient for  
23 students who don't have cars, for example, who would  
24 you talk to to see about a room at the Union or, you  
25 know, there's a lot -- well, maybe you don't know

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2188

InterVarsity-Def Resist to MSJ Appendix

000192



COURT REPORTING

LEGAL VIDEOGRAPHY

VIDEOCONFERENCING

TRIAL PRESENTATION

MOCK JURY SERVICES

LEGAL TRANSCRIPTION

COPYING AND SCANNING

LANGUAGE INTERPRETERS



**NAEGELI**  
*Expect Excellence*

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

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

INTERVARSITY CHRISTIAN FELLOWSHIP/USA, et al.,

Plaintiffs,

vs.

Civil Action No. 18-cv-00080-SMR-SBJ

THE UNIVERSITY OF  
IOWA, et al.,

Defendants.

DEPOSITION OF

KEVIN KUMMER

TAKEN ON

THURSDAY, MARCH 28, 2019

8:02 A.M.

UNIVERSITY PARK RESEARCH CENTER  
2500 CROSSPARK ROAD, ROOM W219  
CORALVILLE, IOWA 52241

1 Q. Unlike that.

2 A. Yes.

3 Q. It just makes it difficult.

4 A. Right.

5 Q. The second thing is let me finish speaking  
6 before you answer my question. Even if you know  
7 what I'm asking, again, it's for the court reporter  
8 because you can't take two people down at the same  
9 time.

10 A. Right.

11 Q. If you don't understand my question, just  
12 ask me to restate it so that we're talking the same  
13 things today.

14 A. Okay..

15 Q. Okay? What is your current employment  
16 status?

17 A. I'm considered a senior campus staff  
18 member with InterVarsity Christian Fellowship USA.

19 Q. And who is your employer?

20 A. InterVarsity Christian Fellowship USA.

21 Q. Okay. And where -- where is their  
22 corporate headquarters, if that's what you call  
23 them?

24 A. Yeah, Madison, Wisconsin.

25 Q. Okay. And are you physically located in

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2185

InterVarsity Christian Fellowship USA - Madison, WI  
Assist to MSJ Appendix 000194

1 Iowa City?

2 A. Yes.

3 Q. And you work for -- I'll just shorten it,  
4 InterVarsity if that's okay?

5 A. That's fine. Yes, I do work for  
6 InterVarsity.

7 Q. Okay. Full time?

8 A. Full time.

9 Q. Okay. And where are you physically  
10 housed?

11 A. Me; personally, or InterVarsity?

12 Q. Yeah. I don't mean where you live at  
13 home.

14 A. Okay.

15 Q. Where do you go to work every day?

16 A. Okay. There is no particular center for  
17 InterVarsity. InterVarsity is interdenominational  
18 and so unlike say the Methodists or the Catholics or  
19 the Lutherans, we don't have a campus center. So  
20 when I go to work it's often a coffee house or  
21 somebody's, you know, area on campus, that kind of a  
22 thing.

23 Q. Okay. And can you just briefly tell me  
24 what InterVarsity's mission is?

25 A. Yeah. InterVarsity's mission is to

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2186

InterVarsity-Def Resist to MSJ Appendix 000195



1 InterVarsity.

2 Q. Okay. And do you have any employment  
3 connection with the University of Iowa?

4 A. No.

5 Q. Okay. So are you subject to any  
6 University of Iowa procedures, policies,  
7 regulations?

8 A. Yes.

9 Q. And which ones?

10 A. We're part of the Association of Campus  
11 Ministers, which while that's not a University of  
12 Iowa entity, those are the network of campus  
13 ministers that the university administration relates  
14 to. And there are various things that we -- we  
15 respect others' groups. We don't proselytize from  
16 their groups. We don't -- we don't go on to campus  
17 in people's dorms or living units uninvited, that  
18 kind of a thing. There are various kinds of -- I  
19 can't tell you every single policy, but basically  
20 it's a policy of mutual respect and operating within  
21 the university's parameters.

22 Q. Okay. And the university parameters, are  
23 you familiar with them?

24 A. I'm familiar with some. I'm sure I'm not  
25 familiar with all. Sure.

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2487

000196

1 Q. For example, you understand that you need  
2 permission to go into University of Iowa dormitory?

3 A. Yes.

4 Q. Okay. You understand that those buildings  
5 are locked?

6 A. Yes.

7 Q. Okay. So if you wanted to go into a  
8 dormitory and hold a meeting, for example, with your  
9 group or potential new group members, who do you go  
10 to to get permission?

11 A. We have student leaders, and the student  
12 leaders are the ones that would set up the meetings  
13 and get permission.

14 Q. Okay. And so then the permission would be  
15 granted -- the student leaders would ask for it but  
16 perhaps you'd be included?

17 A. I might be or I might not be. Yeah.

18 Q. Okay. Now, you understand if you're on  
19 university property, for example, a dormitory, you  
20 are subject to all University of Iowa rules and  
21 regulations?

22 A. Yes.

23 Q. Okay. For example, you understand alcohol  
24 is prohibited in a dormitory?

25 A. Yes.

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2188

University of Iowa - Resist to MSJ Appendix

000197



1 Q. Okay. It's a very simple example but it  
2 is a university rule, even though many people that  
3 live in the dorms are of legal age.

4 A. Right.

5 Q. Okay. And then there's other rules, for  
6 example. Are you familiar with the University of  
7 Iowa's human rights policy?

8 A. Yes.

9 Q. How are you familiar with that?

10 A. It's something that each year we include  
11 in our constitution and we include with  
12 attentiveness.

13 Q. Okay. And what's your understanding of  
14 the University of Iowa human rights policy?

15 A. Well, in a nutshell, that we treat every  
16 single person regardless of their religious, ethnic,  
17 cultural, sexual orientation, et cetera, with  
18 respect and hospitality and --

19 Q. Okay.

20 A. -- graciousness, value.

21 Q. And let me show you what's -- if you could  
22 mark this.

23 Do you want to just keep going on the  
24 numbers, or how do you want to do it? What's more  
25 convenient?

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2189

InterVarsity-Def Resist to MSJ Appendix 000198

1 there as an advisor but I don't have authority in  
2 making those decisions. I would be part of the  
3 discussion and the process, and people would be  
4 talked to, interviewed.

5 Q. Okay. So if I understand your answer, the  
6 current leaders select their successors?

7 A. They do in general. Sometimes if we have  
8 a surplus of leaders, which is a nice luxury that's  
9 not normally there, we'd have something we call a  
10 nominating committee. So they would be senior  
11 people in the group, including someone from the  
12 leadership team who would be set aside to do the  
13 same thing as right now because we don't have a  
14 surplus of leaders, the leadership team is  
15 responsible.

16 Q. So can I be, for lack of a better term,  
17 excuse me, a nonbeliever and be a member?

18 A. Yes.

19 Q. Okay. Can I attempt to be a leader?

20 A. You could.

21 Q. At any stage do the members select their  
22 leadership?

23 A. They all have input. And we -- we all  
24 have input, and we tend to operate on the basis of  
25 trying to have consensus. And so we don't have a

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2140

InterVarsity-Def Resist to MSJ Appendix

000199

1 able to do that. Yeah.

2 Q. So the rest of these categories in the  
3 human rights clause, for example, leadership, you  
4 couldn't discriminate on race; correct?

5 A. Correct.

6 Q. Color?

7 A. You can go through the whole list. There  
8 would be no basis there that we would discriminate  
9 on.

10 Q. Okay. And so when I get to religion and  
11 creed, can I be -- can I literally be a nonbeliever  
12 and be a leader of InterVarsity?

13 A. Not likely, no.

14 Q. Well, there's a distinction here. Not  
15 likely being selected.

16 A. I was going to say, there are people who  
17 exercise leadership within the group who are not  
18 necessarily believers. Not that they would be  
19 official, you know, designated leaders.

20 Q. Okay. So let's go with official.

21 A. Okay.

22 Q. Can I be an official leader and be a  
23 nonbeliever?

24 A. No.

25 Q. And why not?

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2111

InterVarsity-Def Resist to MSJ Appendix

000200

1 Q. Yes?

2 A. Mm-hmm.

3 Q. Okay. Do you see, who is the email from?

4 A. Andrew Kutcher.

5 Q. Okay. And who is it to?

6 A. Katrina Schrock.

7 Q. And who is Katrina Schrock?

8 A. She is the -- this year's 2018-2019  
9 chapter president of InterVarsity Graduate Christian  
10 Fellowship.

11 Q. Okay. Is she a University of Iowa  
12 student?

13 A. She is. She's a graduate student.

14 Q. All right. And would this -- is this an  
15 appropriate individual for Mr. Kutcher to email to?

16 A. It is.

17 Q. Is she, at this time, June of 2018, would  
18 she have been the contact person?

19 A. She would have just started. In May is  
20 when we do the transitions, so one of her first  
21 experiences of interacting with the university  
22 administration was this one.

23 Q. But this is clearly -- I guess my question  
24 is, it went to the right person, didn't it?

25 A. If it went to Katrina, it did. Yes. Uh-

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2442

InterVarsity Def Resist to MSJ Appendix

000201

1 MR. BLOMBERG: -- June 12th at 11:25 a.m.

2 email?

3 THE WITNESS: Let me take a look back  
4 here. It looks like I'm cc'd --

5 BY MR. CARROLL:

6 Q. You should have a page number at the top,  
7 so if you can use it that way, that would be  
8 helpful.

9 A. I am cc'd on page two at the top.

10 Q. And is this the time period you're still  
11 on vacation?

12 A. Mm-hmm. Mm-hmm.

13 Q. Yes?

14 A. Yes. Forgive me for continuing to say mm-  
15 hmm. Yes.

16 Q. Okay.

17 A. Yes. There are a couple of these and it  
18 looks like not every single one, but perhaps most of  
19 them I am cc'd, which is not unusual. I get things  
20 as the advisor to this group, and I've gotten things  
21 as advisor, you know, when I've been advisor to  
22 other groups in the past. I don't see myself on  
23 every single one but on a number of these. I was  
24 not back in the country during any of the time that  
25 these particular emails are listed here and I did

**NAEGELI**

DEPOSITION AND TRIAL



(800) 528-3335

NAEGELIUSA.COM

IVCF App. 2148

InterVarsity Def Resist to MSJ Appendix

000202



1 not really respond to anything until I did get back.

2 Q. Okay.

3 A. Because when I'm on vacation I attempt to  
4 not.

5 Q. Were you -- excuse me.

6 At some point you -- or I'll ask you --  
7 did you come to the understanding that the  
8 University of Iowa deregistered InterVarsity?

9 A. Oh, yes.

10 Q. How did you become aware of that?

11 A. Once I got back I did hear about this from  
12 my student leaders and others. And then, of course,  
13 I became aware because the university falsely put on  
14 the webpage that we had been -- what was it,  
15 derecognized due to lack of interest. I can't  
16 remember the exact wording here. It's in mine there  
17 but that was astonishing to look at that since we  
18 had never requested to be taken off, which is the  
19 way the language was.

20 Q. And you're saying you saw that on a  
21 university website?

22 A. Mm-hmm.

23 Q. Okay.

24 A. I went to go on our OrgSync page and I  
25 couldn't get into it even though I'm an

**NAEGELI**

DEPOSITION AND TRIAL



(800)528-3335

NAEGELIUSA.COM

IVCF App. 2114

000203

## EXHIBIT B

EXHIBIT 1	
DEPONENT NAME: Kummer	DATE: 3/28/19



**From:** Kutcher, Andrew M

**Sent:** Friday, June 1, 2018 3:09 PM

**To:** [REDACTED]

**Subject:** Registered Student Organization Compliance - Action Required

**NOTE: This communication is being sent to all Primary and Secondary Representatives, and Advisors, as they are listed on a Registered Student Organization's (RSO) OrgSync portal. YOUR ATTENTION AND IMMEDIATE ACTION IS REQUIRED.**

Dear [REDACTED],

The Center for Student Involvement and Leadership (CSIL) has identified that the constitution of InterVarsity Graduate Christian Fellowship either does not include the current language related to the University of Iowa Human Rights Clause or it is missing in its entirety. All RSOs are required to have this Clause included verbatim in their constitution or bylaws.

**Human Rights Clause:**

*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.*

Your RSO must update your current governing documents to include the required Human Rights Clause to continue as a RSO now and in the future. Additionally, RSO governing documents may not include language that is considered contradictory to the Human Rights Clause. Any language considered contradictory, must be removed. Once you have made this update, you must submit all governing documents to CSIL using the form linked here: <https://orgsync.com/14241/forms/311661>

If you have language in your constitution or bylaws that is outdated, often found in the membership section, you simply need to remove the old language and insert the required new language listed above. If you realize you do not have any part of the Human Right Clause, it needs to be inserted **VERBATIM**, within the membership section.

The deadline to submit changes is **June 15, 2018, or your RSO will be de-registered**. If de-registered, registration can be reinstated by submitting governing documents with required language to CSIL, using the link above. RSOs will receive feedback on their updates, and the submitting person will be updated via email if additional changes are required.

We recognize many RSOs require a vote of the membership to ratify governing documents. We ask you to insert the Human Rights Clause into your governing documents with the understanding you will hold a vote of confirmation once the fall semester commences. If allowed by your constitution or bylaws, you may hold an electronic vote of confirmation immediately.

**Please see the [FAQs](#) for more information.**

Thank you for your attention and timely action to address this issue. Please to contact to CSIL staff at [csil-student-org@uiowa.edu](mailto:csil-student-org@uiowa.edu) should you have any questions.

Andy Kutcher

---

Andy Kutcher, M.Ed.  
*he, him, his*

Coordinator for Student Organization Deveopment  
Center for Student Involvement & Leadership  
[andrew-kutcher@uiowa.edu](mailto:andrew-kutcher@uiowa.edu)  
<http://csil.uiowa.edu>  
Adaptability | Harmony | Positivity | Consistency | Arranger

**IMU** Center for Student  
Involvement  
& Leadership  
145 Iowa Memorial Union  
Iowa City, Iowa 52242-1317  
319-335-3059 Fax 319-353-2245  
[getinvolved@uiowa.edu](mailto:getinvolved@uiowa.edu)

Schedule an appointment with me

---

Notice: This UI Health Care e-mail (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521 and is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately and delete or destroy all copies of the original message and attachments thereto. Email sent to or from UI Health Care may be retained as required by law or regulation. Thank you.

---

## EXHIBIT D

EXHIBIT	
2	
DEPONENT NAME:	DATE:
Kummer	3/28/19

**From:** Kutcher, Andrew M

**Sent:** Wednesday, June 13, 2018 4:02 AM

**To:** Schrock, Katrina N <[REDACTED]@uiowa.edu>

**Cc:** Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; [REDACTED]  
<[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]  
[REDACTED]@uiowa.edu>; kkummer50@[REDACTED]; King, Laurynn L <laurynn-king@uiowa.edu>

**Subject:** Re: InterVarsity Graduate Christian Fellowship Governing Documents

Hi Katrina,

We encouraged groups to get there governing documents submitted by the 13th in order for us to have time to review them and provide feedback prior to the 15th deadline. The 15th is our deadline for groups not wanting to be deregistered.

The form to submit will remain open for groups that go deregistered to submit after June 15. If a group goes deregistered they will become reregistered when they submit governing documents compliant with the Human Rights Clause.

Hope this makes sense. Please let me know what questions you have.

Best,

Andy

On Jun 12, 2018, at 11:45 PM, Schrock, Katrina N <[REDACTED]@uiowa.edu> wrote:

Andy,

In an email from Laurynn this morning we were told "**The updated document(s) are due tomorrow, June 13<sup>th</sup> or your student organization will be placed on unregistered status.**" However, an earlier email from you, dated June 1<sup>st</sup>, said: "The deadline to submit changes is **June 15, 2018, or your RSO will be de-registered.** If de-registered, registration can be reinstated by using the link above to submit governing documents with the Human Rights Clause and no language that is considered contradictory to the Human Rights Clause." Can you please confirm that we have until the close of business on June 15?

Thank you,

Katrina

**From:** Student Organization Help & Information

**Sent:** Tuesday, June 12, 2018 4:05 PM

**To:** Schrock, Katrina N <[REDACTED]@uiowa.edu>; Student Organization Help & Information <CSIL-

Student-Org@uiowa.edu>; Kutcher, Andrew M <andrew-kutcher@uiowa.edu>

Cc: [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <s[REDACTED]@uiowa.edu>; [REDACTED]  
[REDACTED] <[REDACTED]@uiowa.edu>; kkummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Hi Katrina,

I just received word that we would not approve the change in language you proposed. Student orgs are free to express whatever language they desire in their mission/purpose, but the University and the Center for Student Involvement and Leadership must enforce our Human Rights Clause when it comes to leadership and membership.

I also wanted to let you know that I am out of the office starting tomorrow and will be back in on Tuesday. I will be doing my best to check email while away and would be happy to answer any further questions or address any concerns. I've copied my University Andemail address to this email in order to be able to follow up.

Best,

Andy

**From:** Schrock, Katrina N

**Sent:** Tuesday, June 12, 2018 11:25 AM

**To:** Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

Cc: [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED]  
[REDACTED] <[REDACTED]@uiowa.edu>; kkummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Andy,

Thank you for your clarification! Obviously, I will need to discuss any changes with the rest of the leadership team, but I do have a question. Would changing the language of the constitution from "must subscribe..." to something like "are requested to subscribe..." or "are strongly encouraged to subscribe..." make it so that the constitution is no longer contradictory? Again, I will need to discuss changes, but your input on this matter is greatly appreciated.

Thank you,

Katrina

**From:** Student Organization Help & Information

**Sent:** Tuesday, June 12, 2018 11:19 AM

**To:** Schrock, Katrina N <[REDACTED]@uiowa.edu>; Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; kummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Katrina,

I recognize the wish to have leadership requirements based on Christian beliefs, however Registered Student Organizations are considered University of Iowa programs and thus must follow the Human Rights Clause in its entirety. Having a restriction on leadership related to religious beliefs is contradictory to that clause.

I'm happy to chat further about this and provide any information I can.

Best,

Andy

---

Andy Kutcher, M.Ed.

*he, him, his*

Coordinator for Student Organization Development  
Center for Student Involvement & Leadership  
[andrew-kutcher@uiowa.edu](mailto:andrew-kutcher@uiowa.edu)  
<http://csil.uiowa.edu>

<image001.jpg>145 Iowa Memorial  
Union  
Iowa City, Iowa 52242-1317  
319-335-3059 Fax 319-353-2245  
[getinvolved@uiowa.edu](mailto:getinvolved@uiowa.edu)

Adaptability | Harmony | Positivity | Consistency | Arranger

[Schedule an appointment with me](#)

**From:** Schrock, Katrina N

**Sent:** Tuesday, June 12, 2018 11:02 AM

**To:** Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; kummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Andy,

I would guess that the issues you see involve potential contradictions to the part of the Human Rights Clause that states: "In no aspect of its programs shall there be any difference in the treatment of

persons...". From my reading, the language of the constitution does not contradict the later part of the Clause, which states: "...equal access to membership, programming, facilities, and benefits shall be open to all persons". Membership, events, and other facets of the group are not restricted – the only restriction is specifically for leadership positions.

While I understand that this leadership restriction can be construed as a difference in treatment, it is also important to have Christian leadership in a Christian organization. We do not in any way discourage those who may not subscribe to the basis of faith in Article II from participating in IVGCF as members, but we do recognize that having Christian leadership is important to the fulfillment of our purpose.

The above are my thoughts, but I am open to having further dialogue on the matter.

Katrina

**From:** Student Organization Help & Information

**Sent:** Tuesday, June 12, 2018 10:43 AM

**To:** Schrock, Katrina N <[REDACTED]@uiowa.edu>; Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; kummer50@[REDACTED]

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Katrina,

On my initial review I see several issues. As part of compliance with the Human Rights Clause, organizations cannot have any language deemed contradictory to that Clause. I'm seeing potential contradictory language in Articles II, III, IV and VII. The language is directly related to the ability to become a member or to hold leadership positions.

Please let me know your thoughts, questions or concerns. I want to make sure this is clear.

Best,

Andy

**From:** Schrock, Katrina N

**Sent:** Tuesday, June 12, 2018 10:27 AM

**To:** Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED] <[REDACTED]@uiowa.edu>; [REDACTED]



██████████ <██████████@uiowa.edu>; kkummer50@██████████

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Andy,

I've now used the form you linked to submit the updated constitution. Please let me know if there is anything else you need from us, and thank you for your quick reply and for checking into the submission.

Katrina

**From:** Student Organization Help & Information

**Sent:** Tuesday, June 12, 2018 10:06 AM

**To:** Schrock, Katrina N <██████████@uiowa.edu>; King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** ██████████ <██████████@uiowa.edu>; ██████████ <██████████@uiowa.edu>; ██████████ <██████████@uiowa.edu>; kkummer50@██████████; Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Hi Katrina,

Did you use the OrgSync form (<https://orgsync.com/14241/forms/311661>) to submit? I'm not seeing your submission in the form or on the InterVarsity Graduate Christian Fellowship's OrgSync portal.

Best,

Andy

**From:** Schrock, Katrina N

**Sent:** Tuesday, June 12, 2018 9:25 AM

**To:** King, Laurynn L <laurynn-king@uiowa.edu>

**Cc:** ██████████ <██████████@uiowa.edu>; ██████████ <██████████@uiowa.edu>; ██████████ <██████████@uiowa.edu>; kkummer50@██████████; Student Organization Help & Information <CSIL-Student-Org@uiowa.edu>

**Subject:** RE: InterVarsity Graduate Christian Fellowship Governing Documents

Laurynn,

I was under the impression that the InterVarsity Graduate Christian Fellowship's constitution had been updated with the Human Rights clause, and submitted to OrgSync on either the 1<sup>st</sup> or 2<sup>nd</sup> of June. If this is not the case, I would appreciate if you would let me know as soon as possible, so that we can make the required changes.

Katrina

Laurynn

<image002.jpg>  
157 Iowa Memorial Union  
Iowa City, Iowa 52242-1317  
319-335-3059 Fax 319-353-2245  
[getinvolved@uiowa.edu](mailto:getinvolved@uiowa.edu)

Hi Laurynn,

We forwarded the original email to the current leadership team. Both [REDACTED] and I are no longer serving on the team. I believe they were working on updating this information, but I have CC'd them on this email.

Thanks,

[REDACTED]

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "King, Laurynn L" <laurynn-king@uiowa.edu>

Date: 6/12/18 8:44 AM (GMT-06:00)

To: "[REDACTED]" <[REDACTED]@uiowa.edu>, "[REDACTED]" <[REDACTED]@uiowa.edu>

Subject: InterVarsity Graduate Christian Fellowship Governing Documents

[REDACTED] -

I am following up to several communications our office has sent regarding InterVarsity Graduate Christian Fellowship Governing Documents on campus. Our office has you listed as contacts for this student organization.

We've sent a few e-mails, and also left voicemails, over the past few months regarding the need to update the organization's governing documents to include the University of Iowa's Human Rights clause. **The updated document(s) are due tomorrow, June 13<sup>th</sup> or your student organization will be placed on unregistered status.**

Please let me know a status update on these documents, or if you have any questions regarding the updates, and I can assist you.

Thank you in advance,

Laurynn

---

**Laurynn King**

*she, her, hers*

Administrative Services Coordinator  
Center for Student Involvement & Leadership  
[laurynn-king@uiowa.edu](mailto:laurynn-king@uiowa.edu)  
<http://csil.uiowa.edu>

Relator // Competition // Futuruistic // Woo // Belief

<image002.jpg>

157 Iowa Memorial Union  
Iowa City, Iowa 52242-1317  
319-335-3059 Fax 319-353-2245  
[getinvolved@uiowa.edu](mailto:getinvolved@uiowa.edu)

---

Notice: This UI Health Care e-mail (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521 and is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately and delete or destroy all copies of the original message and attachments thereto. Email sent to or from UI Health Care may be retained as required by law or regulation. Thank you.

---



KIM REYNOLDS  
GOVERNOR

**OFFICE OF THE GOVERNOR**

ADAM GREGG  
LT GOVERNOR

March 27, 2019

The Honorable Paul Pate  
Secretary of State of Iowa  
State Capitol  
Des Moines, Iowa 50319

Dear Mr. Secretary,

I hereby transmit:

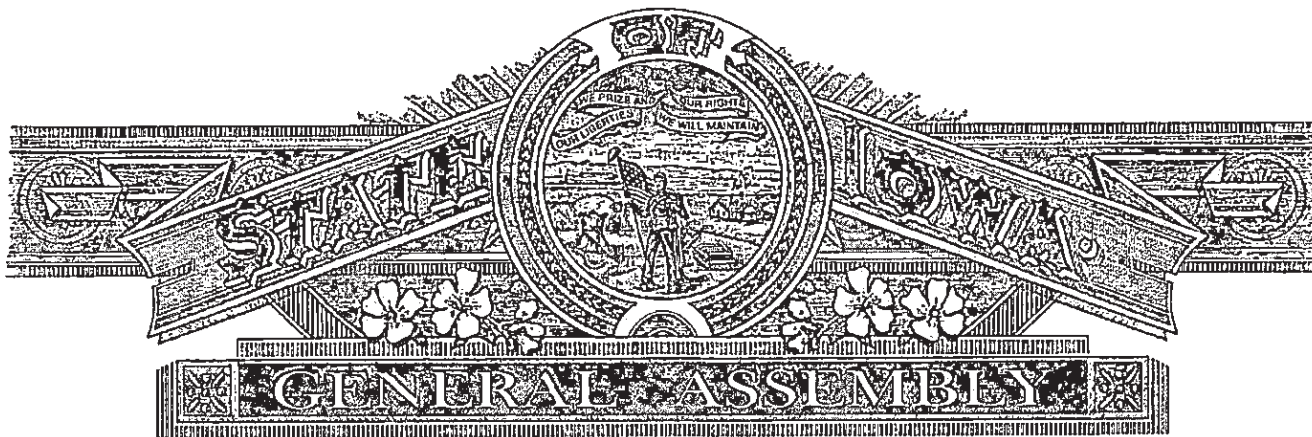
Senate File 274, an Act relating to speech and expression at public institutions of higher education, providing for remedies, and including effective date provisions.

The above House File is hereby approved on this date.

Sincerely,

  
Kim Reynolds  
Governor of Iowa

cc: Secretary of the Senate  
Clerk of the House



Senate File 274

AN ACT

RELATING TO SPEECH AND EXPRESSION AT PUBLIC INSTITUTIONS OF  
HIGHER EDUCATION, PROVIDING FOR REMEDIES, AND INCLUDING  
EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 261H.1 Definitions.

As used in this chapter, unless the context otherwise  
requires:

1. "*Benefit*" with respect to a student organization at  
a public institution of higher education means any of the  
following:

- a. Recognition.
- b. Registration.
- c. Use of facilities for meetings or speaking purposes.
- d. Use of channels of communication.
- e. Access to funding sources that are otherwise available  
to other student groups.

2. "*Campus community*" means students, administrators,  
faculty, and staff at a public institution of higher education  
and guests invited to a public institution of higher education  
by the institution's students, administrators, faculty, or  
staff.

3. "*Materially and substantially disrupts*" means when  
a person, with the intent to or with knowledge of doing  
so, engages in violent or other disorderly conduct that  
significantly hinders a previously scheduled or reserved

activity occurring on university grounds, buildings, and facilities. *"Materially and substantially disrupts"* does not include conduct that is protected under the first amendment to the Constitution of the United States, including but not limited to lawful protests and counterprotests.

4. *"Outdoor areas of campus"* means the generally accessible outside areas of campus where students, administrators, faculty, and staff at a public institution of higher education are commonly allowed, such as grassy areas, walkways, or other similar common areas and does not include areas outside health care facilities including both stand-alone facilities and mixed-use facilities that are embedded within another facility, veterinary medicine facilities, a facility or outdoor area used by the institution's athletics program or teams, or other outdoor areas where access is restricted to a majority of the campus community. In recognition of the healing environment that is essential to its clinical purposes, the areas outside health care facilities, including both stand-alone facilities and mixed-use facilities that are embedded within another facility, are not designated public forums.

5. *"Public institution of higher education"* means a community college established under chapter 260C or an institution of higher learning governed by the state board of regents.

6. *"Student"* means an individual who is enrolled on a full-time or part-time basis at a public institution of higher education.

7. *"Student organization"* means a group officially recognized at or officially registered by a public institution of higher education, or a group seeking such official recognition or official registration, comprised of students who are admitted and in attendance at the public institution of higher education, and who receive, or are seeking to receive, student organization benefits or privileges through the public institution of higher education.

## Sec. 2. NEW SECTION. 261H.2 Policy adoption.

The state board of regents and the board of directors of each community college shall adopt a policy that includes all of the following statements:

1. That the primary function of an institution of higher



education is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. This statement shall provide that, to fulfill this function, the institution must strive to ensure the fullest degree of intellectual freedom and free expression allowed under the first amendment to the Constitution of the United States.

2. a. That it is not the proper role of an institution of higher education to shield individuals from speech protected by the first amendment to the Constitution of the United States, which may include ideas and opinions the individual finds unwelcome, disagreeable, or even offensive.

b. That it is the proper role of an institution of higher education to encourage diversity of thoughts, ideas, and opinions and to encourage, within the bounds of the first amendment to the Constitution of the United States, the peaceful, respectful, and safe exercise of first amendment rights.

3. That students and faculty have the freedom to discuss any problem that presents itself, assemble, and engage in spontaneous expressive activity on campus, within the bounds of established principles of the first amendment to the Constitution of the United States, and subject to reasonable time, place, and manner restrictions that are consistent with established first amendment principles.

4. That the outdoor areas of campus of an institution of higher education are public forums, open on the same terms to any invited speaker subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.

**Sec. 3. NEW SECTION. 261H.3 Protected activities.**

1. Noncommercial expressive activities protected under the provisions of this chapter include but are not limited to any lawful oral or written means by which members of the campus community may communicate ideas to one another, including but not limited to all forms of peaceful assembly, protests, speeches including by invited speakers, distribution of literature, circulating petitions, and publishing, including

publishing or streaming on an internet site, audio or video recorded in outdoor areas of campus.

2. A member of the campus community who wishes to engage in noncommercial expressive activity in outdoor areas of campus shall be permitted to do so freely, subject to reasonable time, place, and manner restrictions, and as long as the member's conduct is not unlawful, does not impede others' access to a facility or use of walkways, and does not disrupt the functioning of the public institution of higher education, subject to the protections of subsection 1. The public institution of higher education may designate other areas of campus available for use by the campus community according to institutional policy, but in all cases access to designated areas of campus must be granted on a viewpoint-neutral basis within the bounds of established first amendment principles.

3. A public institution of higher education shall not deny benefits or privileges available to student organizations based on the viewpoint of a student organization or the expression of the viewpoint of a student organization by the student organization or its members protected by the first amendment to the Constitution of the United States. In addition, a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission.

4. This section shall not be interpreted as limiting the right of student expression in a counter demonstration held in an outdoor area of campus as long as the conduct at the counter demonstration is not unlawful, does not materially and substantially prohibit the free expression rights of others in an outdoor area of campus or disrupt the functioning of the public institution of higher education, and does not impede others' access to a facility or use of walkways, subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.

5. This chapter shall not be interpreted as preventing public institutions of higher education from prohibiting, limiting, or restricting expression that the first amendment of the Constitution of the United States does not protect, including but not limited to a threat of serious harm and expression directed or likely directed to provoke imminent unlawful actions; or from prohibiting harassment, including but not limited to expression which is so severe, pervasive, and subjectively and objectively offensive that the expression unreasonably interferes with an individual's access to educational opportunities or benefits provided by a public institution of higher education.

Sec. 4. NEW SECTION. 261H.4 Public forums on campus — freedom of association.

1. The outdoor areas of campuses of public institutions of higher education in this state shall be deemed public forums. Public institutions of higher education may maintain and enforce clear, published, reasonable viewpoint-neutral time, place, and manner restrictions that are narrowly tailored in furtherance of a significant institutional interest, but shall allow members of the campus community to engage in spontaneous expressive activity and to distribute literature. Restrictions instituted by a public institution of higher education under this section shall provide for ample alternative means of expression.

2. Except as provided in this chapter, and subject to reasonable time, place, and manner restrictions, a public institution of higher education shall not designate any area of campus a free-speech zone or otherwise create policies restricting expressive activities to a particular outdoor area of campus.

3. Nothing in this chapter shall be construed to grant individuals the right to engage in conduct that intentionally, materially, and substantially disrupts the expressive activity of a person or student organization if the public institution of higher education has reserved space in an outdoor area of campus for activity by the person or student organization in accordance with this chapter.

Sec. 5. NEW SECTION. 261H.5 Remedies — statute of limitations — immunity.

1. A member of the campus community aggrieved by a violation of this chapter may file a complaint with the governing body of the public institution of higher education.

2. A member of the campus community aggrieved by a violation of this chapter may assert such violation as a defense or counterclaim in a disciplinary action or in a civil or administrative proceeding brought against the member of the campus community.


3. A member of the campus community shall bring a claim for violation of this chapter pursuant to this section not later than one year after the day the cause of action accrues.


4. This section shall not be interpreted to limit any other remedies available to a member of the campus community.

5. Nothing in this section shall be construed to make any administrator, officer, employee, or agent of a public institution of higher education personally liable for acts taken pursuant to the individual's official duties.


Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.


  
CHARLES SCHNEIDER  
President of the Senate

  
LINDA UPMEYER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 274, Eighty-eighth General Assembly.

  
W. CHARLES SMITHSON  
Secretary of the Senate

Approved March 27<sup>th</sup>, 2019

  
KIM REYNOLDS  
Governor

KEY	
Spiritual & Religious Organization - Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status	
Social Fraternity/Sorority with Title IX Exemption; Submitted compliant constitution/bylaws during compliance review	
Had non-compliant constitution/bylaws when BLinC lawsuit filed; have since submitted compliant constitution/bylaws	
Had compliant constitution/bylaws when BLinC lawsuit was filed and have remained compliant OR is a new org registered after BLinC lawsuit filed	
Organization Name	Compliant Constitution/Bylaws as of 4/05/2019
Fraternal Values Society	NO LONGER REGISTERED-based on lack of student interest
Kappa Alpha Psi	NO LONGER REGISTERED-based on lack of student interest
Delta Chi	NOT REGISTERED-suspended min. 4 yrs for violating UI policies unrelated to Human Rights policy/clause
Kappa Sigma	NOT REGISTERED-suspended min. 4 yrs for violating UI policies unrelated to Human Rights policy/clause
Sigma Nu	NOT REGISTERED-suspended min. 4 yrs for violating UI policies unrelated to Human Rights policy/clause
Sigma Alpha Epsilon	NOT REGISTERED-suspended min. 4 yrs for violating UI policies unrelated to Human Rights policy/clause
To Write Love on Her Arms at The University of Iowa	NO - Failed to submit compliant governing docs and has been deregistered
Institute of Electrical and Electronic Engineers	NO - Failed to submit compliant governing docs and has been deregistered
Phi Beta Lambda	NO - Failed to submit compliant governing docs and has been deregistered
Persatuan Mahasiswa Indonesia di Amerika Serikat (Indonesian Student Organization)	NO - Failed to submit compliant governing docs and has been deregistered
German Club	NO - Failed to submit compliant governing docs and has been deregistered
Japanese Students and Scholars Club	NO - Failed to submit compliant governing docs and has been deregistered
Revolution Dance Company	NO - Failed to submit compliant governing docs and has been deregistered
Code the Change	NO - Failed to submit compliant governing docs and has been deregistered
MEDLIFE (Medicine, Education and Development for Low Income Families Everywhere)	NO - Failed to submit compliant governing docs and has been deregistered
CMA EDU	NO - Failed to submit compliant governing docs and has been deregistered
Cookie Dokie	NO - Failed to submit compliant governing docs and has been deregistered
NASP Graduate Student Organization	Requested De-Registration
Global Buddies	Requested De-Registration
Students Today, Leaders Forever	Requested De-Registration
Baha'i Campus Association	Requested De-Registration
Ask Prayer Ministry	Requested De-Registration
2nd Amendment Law Group	Failed to Re-register
Asian Fitness Association	Failed to Re-register
Cardiothoracic Surgery Interest Group	Failed to Re-register
Economics Forum	Failed to Re-register
English Club	Failed to Re-register
FeelGood	Failed to Re-register
Feminist Union	Failed to Re-register
Filipino American Student Association	Failed to Re-register
Hawkeyes for DREAM Iowa	Failed to Re-register
Health and Wellness Society	Failed to Re-register
Herky C.A.R.E.S.	Failed to Re-register
Iconic and Chic Gazette - The	Failed to Re-register
National Association of Women MBAs	Failed to Re-register
Perfusion Interest Organization	Failed to Re-register
Photography Club (UI)	Failed to Re-register
President's Leadership Society	Failed to Re-register

Saudi Students Club	Failed to Re-register
Student Golf Club (Iowa)	Failed to Re-register
United Asian Collective	Failed to Re-register
Agape Chinese Student Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Athletes in Action	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Bridges International (UI Chapter)	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Business Leaders in Christ	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Campus Bible Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Campus Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Chabad Jewish Student Association	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Chi Alpha Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Chinese Student Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Christian Legal Society	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Christian Medical Association	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Christian Pharmacy Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Cru	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Geneva Campus Ministry	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Greek Intervarsity	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Hillel (University of Iowa)	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Imam Mahdi Organization	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
International Neighbors at Iowa	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
InterVarsity Graduate Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
J. Reuben Clark Law Society	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Latter-day Saint Student Association	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Love Works	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Lutheran Campus Ministry	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Multiethnic Undergrad Hawkeye InterVarsity	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Muslim Students Association	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Newman Catholic Student Center	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Orthodox Christian Fellowship	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Ratio Christi	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Salt Company - The	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Sikh Awareness Club	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
St. Paul's University Center	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Tau Omega Catholic Service Fraternity	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Twenty Four Seven	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Wall-Breakers	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Young Life	Stopped review pending direction from court in BLinC/InterVarsity litigation - Registered Status
Acacia Fraternity	YES
Alpha Chi Omega	YES
Alpha Delta Pi	YES
Alpha Epsilon Phi	YES
Alpha Epsilon Pi	YES
Alpha Kappa Alpha Sorority, Inc.	YES
alpha Kappa Delta Phi	YES
Alpha Phi	YES

Alpha Phi Alpha	YES
Alpha Sigma Phi	YES
Alpha Tau Omega	YES
Alpha Xi Delta	YES
Beta Theta Pi	YES
Chi Omega	YES
Delta Delta Delta	YES
Delta Gamma	YES
Delta Lambda Phi	YES
Delta Phi Lambda	YES
Delta Sigma Phi	YES
Delta Sigma Theta	YES
Delta Tau Delta	YES
Delta Upsilon	YES
Delta Zeta	YES
Gamma Phi Beta	YES
Gamma Rho Lambda	YES
Kappa Alpha Theta	YES
Kappa Kappa Gamma	YES
Lambda Chi Alpha	YES
Lambda Theta Nu Sorority, Inc.	YES
Lambda Theta Phi Latin Fraternity, Inc.	YES
Phi Beta Sigma	YES
Phi Delta Theta	YES
Phi Gamma Delta (FIJI)	YES
Phi Kappa Psi	YES
Phi Kappa Theta	YES
Pi Alpha Phi	YES
Pi Beta Phi	YES
Pi Kappa Alpha (PIKE)	YES
Pi Kappa Phi	YES
Sigma Chi	YES
Sigma Lambda Beta	YES
Sigma Lambda Gamma	YES
Sigma Phi Epsilon	YES
Sigma Pi	YES
Tau Kappa Epsilon (TKE)	YES
Zeta Beta Tau	YES
Zeta Phi Beta Sorority, Inc.	YES
Zeta Tau Alpha	YES
Academy of Managed Care Pharmacy (AMCP) Student Chapter at the University of Iowa (UI)	YES
Active Minds at The University of Iowa	YES
Actuarial Science Club	YES
African Student Association	YES
Alpha Kappa Psi Professional Business Fraternity	YES
Alpha Phi Omega-Omicron (APO)	YES



Amateur Radio Club (University of Iowa)	YES
American Academy of Pediatric Dentistry	YES
American Advertising Federation (f/k/a known as Students in Advertising)	YES
American Association of Petroleum Geologists	YES
American Association of Public Health Dentistry University of Iowa Student Chapter	YES
American Association of Women Dentists	YES
American Chemical Society Student Chapter (U of I)	YES
American College of Clinical Pharmacy Student Chapter (University of Iowa)	YES
American Constitutional Society for Law and Policy, University of Iowa College of Law Chapter	YES
American Institute of Aeronautics and Astronautics	YES
American Marketing Association (U of I chapter)	YES
American Medical Women's Assoc - UI Stdtd Branch (AMWA)	YES
American Pharmacists Association - Academy of Student Pharmacists	YES
American Rehabilitation Counseling Association (UI)	YES
American Sign Language Club (ASL Club)	YES
American Society of Civil Engineers (ASCE)	YES
American Society of Mechanical Engineers	YES
American Wind Energy Association (Student Chapter)	YES
Amnesty International (U of I)	YES
Anime and Manga Club	YES
Anthropology Club (University of Iowa)	YES
Asian American Student Union f/k/a Asian Pacific American Student Association (U of I)	YES
Associated Residence Halls (ARH)	YES
Association for Computing Machinery Student Chapter	YES
Association for India's Development-IOWA	YES
Association for Multicultural Scientists	YES
Association of Graduate Students in English (AGSE)	YES
Association of Nursing Students (UIANS)	YES
Association of Pre-Physician Assistant Students	YES
B Sides	YES
Badminton Club (U of I)	YES
Baseball Club (Iowa Hawkeye)	YES
Bass Fishing Team (Iowa)	YES
Be The Match on Campus-UI	YES
Best Buddies	YES
Big Brothers Big Sisters at Iowa	YES
Bijou Theater	YES
Bike Friends (University of Iowa) (f/k/a Recreational Bicycling Club - UI)	YES
Biochemistry Majors Club (University of Iowa)	YES
Biomedical Engineering Student Society	YES
Biostatistics Student Organization	YES
Black Student Union	YES
Book of the Month Club	YES
Breakers (U of I)	YES
Bruce Gronbeck Rhetoric Society	YES
Camp Adventure Youth Services	YES

Campus Activities Board (CAB)	YES
Carver College of Medicine Student Government	YES
Carver College of Medicine-Medicus Mentorship Program	YES
Chi Epsilon	YES
Chi Sigma Iota Counseling Academic & Prof. Honor Society Int'l; Rho Upsilon Chapter	YES
Child Life Student Association (UI)	YES
Chinese Dance Club	YES
Chinese in Iowa City	YES
Chinese Music Club	YES
Chinese Students and Scholars Association (CSSA)	YES
Circle K International	YES
Club Cheerleading	YES
College of Education Graduate Student Executive Committee	YES
College of Medicine Emergency Medicine Interest Group (University of Iowa)	YES
College of Pharmacy Student Leadership Council	YES
College Republicans	YES
Colleges Against Cancer (U of I)	YES
Collegiate 4-H (The University of Iowa)	YES
Communication Studies Student Association	YES
Continental Crossings	YES
Craft, Critique, Culture Conference Planning Committee	YES
Cricket Club	YES
Crisis Center	YES
Dance Club (University of Iowa)	YES
Dance Marathon	YES
DeGowin Blood Center Student Organization (University of Iowa)	YES
Delta Sigma Pi (Professional Business Fraternity)	YES
Disc Golf Club	YES
Earthwords	YES
Eats And Treats	YES
Ed on Campus	YES
Electrochemical Society Student Chapter at Iowa	YES
Emergency Medical Services Student Interest Organization (University of Iowa)	YES
Engineering Student Council	YES
English Society (University of Iowa)	YES
Environmental Coalition (U of I)	YES
Epidemiology Student Association	YES
EPX Studio	YES
EQUAL Meds (f/k/a Med Iowa's Queer Students (MEDIQS))	YES
Eta Sigma Phi National Classics Honor Society	YES
Exchanges	YES
Family Medicine Interest Group	YES
Financial Management Association	YES
Fine Arts Council	YES
First Generation Iowa	YES
FLARES (Foreign Language Acquisition Research and Education Students)	YES

Gamma Iota Sigma	YES
Gardeners (University of Iowa)	YES
Global Health Club	YES
Golden Key International Honour Society	YES
Graduate & Professional Student Government	YES
Graduate Association of Political Science	YES
Graduate History Society (GHS)	YES
Graduate Philosophical Society (U of I)	YES
Graduate Student Anthropology Association (U of I)	YES
Graduate Student Senate	YES
Graduate Women in Science - Iowa City Chapter (f/k/a GWIS - Iota Chi)	YES
Greater China Business Association	YES
Habitat for Humanity Campus Chapter (U of I)	YES
Hawkapellas - Iowa	YES
Hawkeye Athletic Training Association (HATA)	YES
Hawkeye Ballroom Dance Company	YES
Hawkeye Caucus	YES
Hawkeye Flying Club	YES
Hawkeye History Corps	YES
Hawkeye Sparkles (University of Iowa)	YES
Hawkeyes Fighting Alzheimer's	YES
Hawkeyes for Israel	YES
HawkeYes Plan Events - HYPE (f/k/a Student Event Planners Association - UI)	YES
Hawks Nest	YES
HawkTrade	YES
Heart Workshop	YES
HFES Student Chapter at Iowa	YES
Hispanic Dental Association (Iowa Chapter)	YES
Hong Kong Student Association	YES
I-Envision Entrepreneurship	YES
Immunity Campaign	YES
Indian Student Alliance (ISA)	YES
Institute of Industrial and Systems Engineers (IISE)	YES
Integrative Medicine Interest Group	YES
Intellectual Property Law Society	YES
Interfraternity Council (IFC)	YES
International Law Student Association (f/k/a International Law-school Student Association)	YES
Intersection	YES
Iowa Agni	YES
Iowa American Student Dental Association (IASDA)	YES
Iowa Andhi	YES
Iowa Edge Student Organization - The	YES
Iowa Forum for Graduate Medievalists	YES
Iowa Journal of Cultural Studies	YES
Iowa Kendo Kumdo Club	YES
Iowa Men's Hockey	YES

Iowa Print Group	YES
Iowa Student Association of Healthcare Leaders	YES
Iowa Student Athlete Advisory Committee	YES
Iowa Student Medical Research Club	YES
Iowa Surgical Interest Group	YES
Iowa-Illinois Industrial Hygiene Student Association (I3HSA)	YES
Japan Karate-Do Organization of University of Iowa	YES
Journalism and Mass Communication Graduate Student Association	YES
Judo Club (University of Iowa)	YES
Juggalos (U of I)	YES
Kappa Psi Pharmaceutical Fraternity	YES
Knitting Club (UI)	YES
Korean Conversation Group	YES
Korean U Iowa Students Association	YES
KRUI-FM	YES
Latina/o Graduate Student Association	YES
Latino Medical Student Association - Univ of Iowa Roy J. & Lucille A. Carver College of Medicine	YES
League of Legends Club (UI)	YES
Leopold Society	YES
Library & Info Science Std Chapter of American Lib Assoc. (LISSO)	YES
Malaysian Student Society	YES
Master of Business Administration Association (MBAA)	YES
Math Graduate Board (MGB)	YES
Medicus Pre-Medical Society	YES
Microbiology Undergraduate Student Association	YES
Minority Association of Pre-medical Students	YES
Mock Trial Club (U of I)	YES
Multicultural Business Student Association	YES
Multicultural Greek Council	YES
Multicultural Nursing Association	YES
Multi-Ethnic Engineering And Science Association	YES
Musicology Society (University of Iowa)	YES
National Alliance on Mental Illness on Campus at Carver College of Medicine	YES
National Association for the Advancement of Colored People (UI Chapter of NAACP)	YES
National Association of Black Journalists - Unity (UI)	YES
National Community Pharmacists Association	YES
National Pan-Hellenic Council (NPHC)	YES
National Residence Hall Honorary	YES
National Society of Black Engineers (NSBE)	YES
National Society of Collegiate Scholars	YES
National Student Speech Language Hearing Association (NSSLHA)	YES
Native American Student Association	YES
Net Impact	YES
Net Impact U Iowa	YES
Nightingale Writers' Group	YES
NOBCChE (Natnl Org. for the Professional Advancement/Black Chemists & Chemical Engineers)	YES

Old Gold A Cappella	YES
Olympic Weightlifting Club (University of Iowa)	YES
Omicron Delta Kappa	YES
ONE at University of Iowa	YES
Order of Omega	YES
Organization for the Active Support of International Students (OASIS)	YES
Organization for Women Law Students & Staff (OWLSS)	YES
Orthopedic Surgery Interest Group	YES
Outlaws	YES
Pain Management, Substance Use Disorders, Palliative Care (U of I)	YES
Pakistani Student Association	YES
Panhellenic Council (PHC)	YES
PAWS - UI (Promoting Animal Welfare in Society)	YES
Pediatric Pharmacy Advocacy Group at the University of Iowa	YES
Percussion Society (U of I)	YES
Persian Student Organization	YES
Phi Alpha Delta Law Fraternity, International Hammond Chapter	YES
Phi Alpha Delta Pre-Law Fraternity	YES
Phi Delta Chi Pharmacy Fraternity	YES
Phi Eta Sigma (Freshman Honor Society)	YES
Phi Gamma Nu Professional Business Fraternity	YES
Phi Lambda Sigma	YES
Phi Mu Alpha Sinfonia Men's Music Fraternity, Iota Gama Chapter	YES - additionally this organization has OCR Title IX exemption as a Social Fraternity/Sorority
Phi Sigma Pi National Honor Fraternity	YES
Physical Therapy Student Organization	YES
PMBA Student Association, Des Moines (University of Iowa)	YES
Powerlifting (University of Iowa)	YES
Pre-Dental Club (U of I)	YES
Pre-Occupational Therapy Club	YES
Pre-Physical Therapy Organization	YES
Product Design Studio	YES
Psi Chi International Honor Society in Psychology	YES
Public Relations Student Society of America (PRSSA)	YES
Real Estate Club (The)	YES
Red Shamrock Student Organization	YES
Religion Graduate Students Organization	YES
Rex Montgomery Physician Assistant Student Society	YES
Rho Chi Society: Delta Chapter	YES
Rho Lambda	YES
RiverRun	YES
Robotics Club (University of Iowa)	YES
Rugby Club (Men's)	YES
Rugby Club at Iowa (Women's)	YES
Running Club (University of Iowa)	YES
Sailing Club (Iowa)	YES
SCOPE Productions (Student Commission on Programming Entertainment)	YES

Semper Fidelis Society	YES
Shooting Sports Club	YES
Sigma Alpha Iota - Zeta Epsilon (Female Choir)	YES - additionally this organization has OCR Title IX exemption as a Social Fraternity/Sorority
Sigma Alpha Lambda	YES
Sigma Nu Tau Entrepreneurship Honors Society	YES
Sigma Tau Delta International English Honors Society, Alpha Tau Iota Chapter of Iowa	YES
SistaSpeak	YES
Ski & Snowboard Club (U of I)	YES
Soccer (Iowa Women's)	YES
Social Work Student Association	YES
Society for Human Resource Management	YES
Society of Automotive Engineers	YES
Society of Black Graduate & Professional Students (BGAPS)	YES
Society of Composers, Inc. Student Chapter	YES
Society of Hispanic Professional Engineers	YES
Society of Physics Students	YES
Society of Women Engineers	YES
Sound Awareness for Everyone (University of Iowa - student affiliate group)	YES
Special Olympics (University of Iowa Chapter)	YES
Spectrum UI	YES
Sport and Recreation Management Club	YES
Sri Lankan Students' Association (SLSA)	YES
STAR (Students To Assist Recruitment)	YES
Stars and Stripes Club	YES
Student Academy of Audiology	YES
Student Advancement Network	YES
Student Advocates for Planned Parenthood	YES
Student Iowa School Counseling Association	YES
Student National Medical Association	YES
Student National Pharmaceutical Association	YES
Student Society of Health-System Pharmacists (University of Iowa)	YES
Student United Way	YES
Student Video Productions (SVP)	YES
Students for Human Rights	YES
Students for Interprofessional Practice and Education (f/k/a Students for Interprofessional Education)	YES
Students for Life	YES
Students in Technology and Sciences	YES
Students International Meditation Society	YES
Students Supporting Israel	YES
Swing Dance Club	YES
Tabletop RPG Organization (The U of I)	YES
Taiwanese Student Association	YES
Tau Beta Pi	YES
Tau Sigma Military Dental Club	YES
Tennis Club (Hawkeye)	YES
Tennis Club (International)	YES

Thai Student Association	YES
Therapeutic Recreation Student Association	YES
Theta Tau-Professional Engineering Fraternity	YES
Tippie Senate	YES
Tippie Technology and Innovation Assoc.	YES
Trans Alliance - UI	YES
Transnational Law & Contemporary Problems	YES
Triathlon Club (U of I)	YES
Turkish Student Association	YES
Turning Point USA	YES
Tzu Chi Collegiate Association	YES
UI Students for Disability Advocacy & Awareness (f/k/a Hawkeye Accessibility Ambassador Org)	YES
UISight	YES
Ultimate Frisbee Club (Iowa Hawkeye Men's)	YES
Undergraduate Art History Society	YES
Undergraduate Dance Organization	YES
United Nations Association (University of Iowa)	YES
University Democrats	YES
University of Iowa Men's Club Volleyball	YES
University of Iowa Men's Soccer Club	YES
University of Iowa Men's Water Polo Club Team	YES
University of Iowa Table Tennis Club	YES
University of Iowa Taekwondo Club	YES
University Theatres Student Representatives	YES
Veterans Association (U of I)	YES
Vietnamese Student Association	YES
Voices of Soul	YES
Volleyball (Women's LadyHawk)	YES
Walk It Out	YES
Water Polo Club (U of I - Women's)	YES
Wilderness Medicine Interest Group	YES
Wishmakers (University of Iowa)	YES
Women in Business	YES
Women in Computing Sciences	YES
Women in Science and Engineering (WISE) Ambassadors	YES
Women's Ice Hockey	YES
World Languages Graduate Organization	YES
Young Americans for Liberty	YES
International Law Society	YES
Pharmacy Ambassadors	YES
Pharmacy Communicators Association	YES
Reaching OUT in Business	YES
Tippie Students for Service (f/k/a Tippie Community Collective)	YES
5050 in 2020 @ Iowa	YES
AAUW at Iowa	YES
Advocates for Cross Cultural Experiences (ACCE)	YES



ALMA (Association of Latinos Moving Ahead)	YES
American College of Veterinary Pharmacists	YES
American Institute of Chemical Engineers - University of Iowa Student Chapter	YES
Anime, Comics & Games Association	YES
Anthropomorphic Furry Friends	YES
Arab Students Association	YES
Archery Club	YES
Art Hawks	YES
Artineers	YES
Asian Pacific American Medical Student Association	YES
Association of Graduate Nursing Students	YES
Astronomy Club	YES
Auto Club	YES
Backpack Project	YES
Ballet Club at Iowa	YES
Bertrand Russell Society - Iowa Chapter	YES
Biological Interests Organization (University of Iowa)	YES
Black Law Student Association, Alexander G. Clark Sr. & Jr. Chapter (U of Iowa College of Law)	YES
Board Game Club	YES
Body Image and Eating Disorder Awareness	YES
Bowling Club (U of I)	YES
Brandyou Fashion Channel	YES
Brazilian Jiu-Jitsu Club (Hawkeye)	YES
Camp Kesem	YES
Caribbean Student Association	YES
CHAARG at Iowa	YES
Chess Club	YES
Children of the Clay - The (f/k/a Ceramics Society)	YES
Chronic Illness Alliance	YES
Clothing Closet at Iowa	YES
College Diabetes Network at Iowa	YES
College of Law Federalist Society	YES
Communication Studies Graduate Student Association	YES
Competitive Club Golf Team (Iowa)	YES
Computer Comfort	YES
Cosplay Club at Iowa	YES
Dean's Student Advisory Committee	YES
Debate Club (U of I)	YES
Dental Practice Management Club	YES
Enactus at Iowa	YES
Environmental Law Society	YES
eSports Club at Iowa	YES
Euchre Club at Iowa	YES
Exercise is Medicine	YES
Fair Trade at Iowa	YES
Federal Reserve Challenge at Iowa	YES

Female Alliance of Civil Engineers	YES
Fencing Club (U of I)	YES
Fight Inclined Student Thespians	YES
Figure Skating Club (Black and Gold)	YES
FIRST Alumni Club	YES
First-Gen Progressionals @ Iowa Law	YES
Food Pantry at Iowa	YES
Fools Magazine	YES
From Cover To Cover	YES
Futures Trading Challenge	YES
Goalball Club	YES
Graduate Organization of Higher Education and Student Affairs (GOHESA)	YES
Graduate Social Work Student Association	YES
Guitar Club at Iowa	YES
HackIowa	YES
Hallyu@Iowa	YES
Hawkeye Model UN delegation	YES
Hawkeye Optimist Chapter	YES
Hawkeye Water for Change! (f/k/a Hawkeye Water to Thrive)	YES
Hawkeyes for Humanity	YES
Hawks for Choice	YES
Hawks for McGuire	YES
Hispanic/Latino Law Student Association	YES
Homecoming Council	YES
House of Lorde: a space for Black Queer Individuals	YES
Human Rights Student Collective	YES
Human Trafficking Initiative	YES
IC RED	YES
INFORMS Iowa Student Chapter	YES
International Genetically Engineered Machine	YES
International Student Outdoor Recreation Association	YES
InvestHer	YES
Iowa Comic Book Club	YES
Iowa Formula	YES
Iowa Grillmasters	YES
Iowa Health Administration Club	YES
Iowa Improv Club	YES
Iowa Marine Autonomous Racing Club	YES
Iowa National Lawyers Guild	YES
Iowa Neuroscience Club	YES
Iowa Quiz Bowl	YES
Iowa Student Bar Association	YES
Iowa Student Chapter of the American String Teachers Association	YES
Iowa Student Psychology Association (ISPA)	YES
Iowa Students for Refugees	YES
Iowa Trumpet Guild	YES

Iowa Woodworking	YES
Iowa Young Americans for Freedom Chapter	YES
Japanese Academic and Cultural Society	YES
Jazz Club	YES
Jewish Law Students Association	YES
Journal of Corporation Law	YES
Journal of Gender, Race & Justice	YES
Lacrosse (U of I - Men's)	YES
Lacrosse (U of I - Women's)	YES
League of United Latin American Citizens Collegiate Council #373	YES
LGBT Advocates for Public Health Equity	YES
Media Entertainment & Lifestyle	YES
Middle East Law Students Association	YES
Mindful@Iowa	YES
Moneythink	YES
MPR Dance Crew	YES
Multiracial Student Association	YES
Narwhal Finance Group	YES
National Association for Music Education	YES
National Retail Federation Student Association	YES
National Science Teachers Association Chapter at Iowa	YES
Nepalese Student Association	YES
Neuroscience Journal Club	YES
Omega Chi Epsilon	YES
Operation Smile at Iowa	YES
oSTEM@Iowa	YES
Pi Sigma Alpha - Political Honors Society at Iowa	YES
Pre-Health International Association	YES
Pre-Optometry Club (U of I)	YES
Pre-Veterinary Club	YES
Quidditch Club	YES
Radiation Sciences Student Organization	YES
WAYS of REACH	YES
Rock Climbing Club	YES
Roosevelt Network	YES
Russian-Speaking Students and Scholars Association	YES
Sales & Consulting Club	YES
Sales Engineering Club	YES
Salsa Dance Club	YES
Secular Students at Iowa	YES
Slavic Student Alliance	YES
Softball Club (University of Iowa)	YES
South Asian Student Alliance	YES
Spike Ball Club	YES
Sports Law Society of the University of Iowa	YES
Sports Stocks	YES

Starts With Soap	YES
Strength in Numbers	YES
Student Association of the Environmental Sciences	YES
Student National Dental Association	YES
Student Photography Organization	YES
Students Against Casteism	YES
Students Care	YES
Students for Boys and Girls Club of Iowa City	YES
Students for Pat Wronkiewicz	YES
Students for Reynolds	YES
Students in Design (UI)	YES
Teddy Bear Clinic	YES
The Celi-Yaks Club	YES
The Game of Thrones Club	YES
The Gymnastics Club at Iowa	YES
The Lower House	YES
Track and Field Club (Iowa)	YES
Traditional Jujutsu Club (Iowa)	YES
Transfers Leading Change	YES
Translate Iowa Project - The	YES
UISG (University of Iowa Student Government)	YES
Ultimate Frisbee (Women's)	YES
Under Your Wing	YES
Undergraduate Political Science Association	YES
Undergraduate Public Health Organization	YES
Unified for Uganda	YES
Urban and Regional Planning Student Association	YES
USITT Student Chapter	YES
UStart	YES
Vegan Society UIowa	YES
Vertical Cinema	YES
Veteran's Legal Association	YES
Water Ski Team (U of I)	YES
Werewolf Club	YES
Women's Club Basketball	YES
Young Democratic Socialists at Iowa	YES
Young Women for America at Iowa	YES

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

**INTERVARSITY CHRISTIAN  
FELLOWSHIP/USA, and INTE  
GRADUATE CHRISTIAN FEL**

**Plaintiffs,**

**VS.**

THE UNIVERSITY OF IOWA; BRUCE HARRELD, in his official capacity as President of the University of Iowa and in his individual capacity; MELISSA S. SHIVERS, in her official capacity as Vice President for Student Life and in her individual capacity; WILLIAM R. NELSON, in his official capacity as Associate Dean of Student Organizations, and in his individual capacity; ANDREW KUTCHER, in his official Capacity as Coordinator for Student Organization Development; and THOMAS R. BAKER, in his official capacity as Student Misconduct and Title IX Investigator and in His individual capacity,

### Defendants.

**CASE NO. 3:18-CV-00080**

**DEFENDANTS' MOTION  
FOR PARTIAL SUMMARY  
JUDGMENT**

**COME NOW** Defendants, by and through counsel, and move the Court for partial summary judgment, by stating to the Court as follows:

1. The individual Defendants move for summary judgment on Plaintiff's claims for declaratory and injunctive relief based on the doctrine of qualified immunity.
2. The individual and State Defendants move for summary judgment on Counts I and II of Plaintiff's Petition, as those claims fail to state a claim upon which relief can be granted.

3. The individual and State Defendants move for summary judgment on Plaintiff's claims brought under the Iowa Constitution, for Plaintiff's failure to exhaust its administrative remedies.

4. The individual Defendants and State Defendants move for summary judgment on Plaintiff's claims for declaratory and injunctive relief, as they are now moot subsequent to the Governor's signing of Senate File 274 on March 27, 2019.

5. The material facts are undisputed.

6. Defendants are entitled to judgment as a matter of law on all of the claims outlined above and in the Brief attached hereto.

**WHEREFORE**, Defendants urge the Court to grant summary judgment on Plaintiff's claims as outlined above.

**THOMAS J. MILLER**  
Attorney General of Iowa

**/s/GEORGE A. CARROLL**  
George A. Carroll  
Assistant Attorney General  
Hoover Building, Second Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319  
PHONE: (515) 281-8583  
FAX: (515) 281-7219  
E-MAIL: [George.carroll@ag.iowa.gov](mailto:George.carroll@ag.iowa.gov)  
**ATTORNEYS FOR DEFENDANTS**

*Original filed electronically.*  
*Copy electronically served on all parties of record.*

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on April 12, 2019:

- |   |  |
|---|--|
| <input type="checkbox"/> U.S. Mail  | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery  | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express  | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> ECF System Participant (Electronic Service) |  |

Signature: /s/Betty Christensen

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

---

<b>INTERVARSITY CHRISTIAN FELLOWSHIP/USA, and INTERVARSITY GRADUATE CHRISTIAN FELLOWSHIP,</b>	)	<b>CASE NO. 3:18-CV-00080</b>
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>THE UNIVERSITY OF IOWA; BRUCE HARRELD, in his official capacity as President of the University of Iowa and in his individual capacity; MELISSA S. SHIVERS, in her official capacity as Vice President for Student Life and in her individual capacity; WILLIAM R. NELSON, in his official capacity as Associate Dean of Student Organizations, and in his individual capacity; ANDREW KUTCHER, in his official Capacity as Coordinator for Student Organization Development; and THOMAS R. BAKER, in his official capacity as Student Misconduct and Title IX Investigator and in His individual capacity,</b>	)	<b>DEFENDANTS' UNDISPUTED MATERIAL FACTS IN SUPPORT OF THEIR MOTION FOR PARTIAL SUMMARY JUDGMENT</b>
	)	
<b>Defendants.</b>	)	
	)	

---

**COME NOW**, Defendants, by and through the undersigned counsel, and for their  
Statement of Undisputed Material Facts, pursuant to Federal Rule of Civil Procedure 56, state:

1. Attached is the Affidavit of Joseph Barry (Attachment 1).
2. Attached is Senate File 274, which is now law in Iowa (Attachment 2).



**THOMAS J. MILLER**  
Attorney General of Iowa

**/s/GEORGE A. CARROLL**  
George A. Carroll  
Assistant Attorney General  
Hoover Building, Second Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319  
PHONE: (515) 281-8583  
FAX: (515) 281-7219  
E-MAIL: [George.carroll@ag.iowa.gov](mailto:George.carroll@ag.iowa.gov)  
ATTORNEYS FOR DEFENDANTS

*Original filed electronically.*

*Copy electronically served on all parties of record.*

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on April 12, 2019:

- |   |  |
|---|--|
| <input type="checkbox"/> U.S. Mail  | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery  | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express  | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> ECF System Participant (Electronic Service) |  |

Signature: /s/Betty Christensen



## STATE OF IOWA

KIM REYNOLDS, GOVERNOR  
ADAM GREGG, LT. GOVERNOR

**STATE APPEAL BOARD**  
DAVID ROEDERER, DIRECTOR, DEPT. OF MANAGEMENT  
MICHAEL L. FITZGERALD, TREASURER OF STATE  
ROB SAND, AUDITOR OF STATE

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

INTERVARSITY CHRISTIAN )  
FELLOWSHIP/USA, and INTERVARSITY )  
GRADUATE CHRISTIAN FELLOWSHIP, )

Plaintiffs, )

vs. )

THE UNIVERSITY OF IOWA; BRUCE )  
HARRELD, in his official capacity as )  
President of the University of Iowa and in his )  
individual capacity; MELISSA S. SHIVERS, )  
in her official capacity as Vice President for )  
Student Life and in her individual capacity; )  
WILLIAM R. NELSON, in his official )  
capacity as Associate Dean of Student )  
Organizations, and in his individual capacity; )  
ANDREW KUTCHER, in his official )  
Capacity as Coordinator for Student )  
Organization Development; and THOMAS )  
R. BAKER, in his official capacity as Student )  
Misconduct and Title IX Investigator and in )  
His individual capacity, )

Defendants. )

CASE NO. 3:18-CV-00080

AFFIDAVIT OF  
JOSEPH BARRY

STATE OF IOWA )  
 ) ss  
COUNTY OF POLK )



## STATE OF IOWA

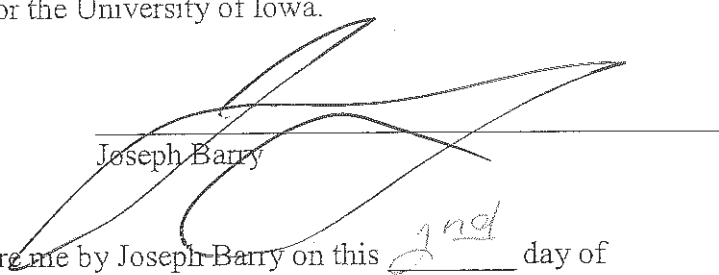
KIM REYNOLDS, GOVERNOR  
ADAM GREGG, LT. GOVERNOR

## STATE APPEAL BOARD

DAVID ROEDERER, DIRECTOR, DEPT. OF MANAGEMENT  
MICHAEL L. FITZGERALD, TREASURER OF STATE  
ROB SAND, AUDITOR OF STATE

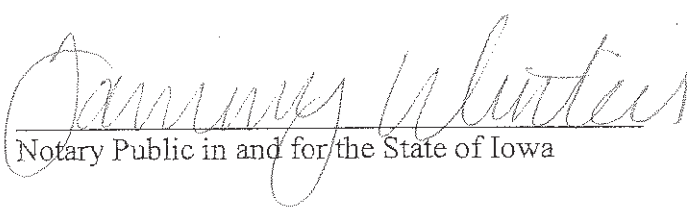
I, Joseph Barry, do depose and state that I am the Executive Secretary to the State Appeal Board. That, in my capacity as Executive Secretary, I have knowledge and record of all claims filed pursuant to Chapter 669 of The Code of Iowa.

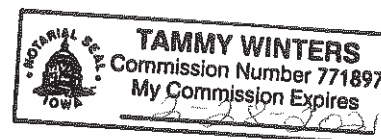
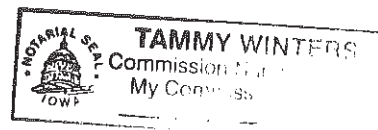
I hereby certify that there is no record of a claim having been filed in this office by or in behalf of InterVarsity Christian Fellowship/USA and/or InterVarsity Graduate Christian Fellowship against the State of Iowa or the University of Iowa.

  
Joseph Barry

Subscribed and sworn to before me by Joseph Barry on this 2nd day of

April, 2019.

  
Notary Public in and for the State of Iowa





KIM REYNOLDS  
GOVERNOR

**OFFICE OF THE GOVERNOR**

ADAM GREGG  
LT GOVERNOR

March 27, 2019

The Honorable Paul Pate  
Secretary of State of Iowa  
State Capitol  
Des Moines, Iowa 50319

Dear Mr. Secretary,

I hereby transmit:

Senate File 274, an Act relating to speech and expression at public institutions of higher education, providing for remedies, and including effective date provisions.

The above House File is hereby approved on this date.

Sincerely,

  
Kim Reynolds  
Governor of Iowa

cc: Secretary of the Senate  
Clerk of the House



Senate File 274

AN ACT

RELATING TO SPEECH AND EXPRESSION AT PUBLIC INSTITUTIONS OF  
HIGHER EDUCATION, PROVIDING FOR REMEDIES, AND INCLUDING  
EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 261H.1 Definitions.

As used in this chapter, unless the context otherwise  
requires:

1. "*Benefit*" with respect to a student organization at  
a public institution of higher education means any of the  
following:

- a. Recognition.
- b. Registration.
- c. Use of facilities for meetings or speaking purposes.
- d. Use of channels of communication.
- e. Access to funding sources that are otherwise available  
to other student groups.

2. "*Campus community*" means students, administrators,  
faculty, and staff at a public institution of higher education  
and guests invited to a public institution of higher education  
by the institution's students, administrators, faculty, or  
staff.

3. "*Materially and substantially disrupts*" means when  
a person, with the intent to or with knowledge of doing  
so, engages in violent or other disorderly conduct that  
significantly hinders a previously scheduled or reserved

activity occurring on university grounds, buildings, and facilities. *"Materially and substantially disrupts"* does not include conduct that is protected under the first amendment to the Constitution of the United States, including but not limited to lawful protests and counterprotests.

4. *"Outdoor areas of campus"* means the generally accessible outside areas of campus where students, administrators, faculty, and staff at a public institution of higher education are commonly allowed, such as grassy areas, walkways, or other similar common areas and does not include areas outside health care facilities including both stand-alone facilities and mixed-use facilities that are embedded within another facility, veterinary medicine facilities, a facility or outdoor area used by the institution's athletics program or teams, or other outdoor areas where access is restricted to a majority of the campus community. In recognition of the healing environment that is essential to its clinical purposes, the areas outside health care facilities, including both stand-alone facilities and mixed-use facilities that are embedded within another facility, are not designated public forums.

5. *"Public institution of higher education"* means a community college established under chapter 260C or an institution of higher learning governed by the state board of regents.

6. *"Student"* means an individual who is enrolled on a full-time or part-time basis at a public institution of higher education.

7. *"Student organization"* means a group officially recognized at or officially registered by a public institution of higher education, or a group seeking such official recognition or official registration, comprised of students who are admitted and in attendance at the public institution of higher education, and who receive, or are seeking to receive, student organization benefits or privileges through the public institution of higher education.

**Sec. 2. NEW SECTION. 261H.2 Policy adoption.**

The state board of regents and the board of directors of each community college shall adopt a policy that includes all of the following statements:

1. That the primary function of an institution of higher



education is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. This statement shall provide that, to fulfill this function, the institution must strive to ensure the fullest degree of intellectual freedom and free expression allowed under the first amendment to the Constitution of the United States.

2. a. That it is not the proper role of an institution of higher education to shield individuals from speech protected by the first amendment to the Constitution of the United States, which may include ideas and opinions the individual finds unwelcome, disagreeable, or even offensive.

b. That it is the proper role of an institution of higher education to encourage diversity of thoughts, ideas, and opinions and to encourage, within the bounds of the first amendment to the Constitution of the United States, the peaceful, respectful, and safe exercise of first amendment rights.

3. That students and faculty have the freedom to discuss any problem that presents itself, assemble, and engage in spontaneous expressive activity on campus, within the bounds of established principles of the first amendment to the Constitution of the United States, and subject to reasonable time, place, and manner restrictions that are consistent with established first amendment principles.

4. That the outdoor areas of campus of an institution of higher education are public forums, open on the same terms to any invited speaker subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.

**Sec. 3. NEW SECTION. 261H.3 Protected activities.**

1. Noncommercial expressive activities protected under the provisions of this chapter include but are not limited to any lawful oral or written means by which members of the campus community may communicate ideas to one another, including but not limited to all forms of peaceful assembly, protests, speeches including by invited speakers, distribution of literature, circulating petitions, and publishing, including



publishing or streaming on an internet site, audio or video recorded in outdoor areas of campus.

2. A member of the campus community who wishes to engage in noncommercial expressive activity in outdoor areas of campus shall be permitted to do so freely, subject to reasonable time, place, and manner restrictions, and as long as the member's conduct is not unlawful, does not impede others' access to a facility or use of walkways, and does not disrupt the functioning of the public institution of higher education, subject to the protections of subsection 1. The public institution of higher education may designate other areas of campus available for use by the campus community according to institutional policy, but in all cases access to designated areas of campus must be granted on a viewpoint-neutral basis within the bounds of established first amendment principles.

3. A public institution of higher education shall not deny benefits or privileges available to student organizations based on the viewpoint of a student organization or the expression of the viewpoint of a student organization by the student organization or its members protected by the first amendment to the Constitution of the United States. In addition, a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission.

4. This section shall not be interpreted as limiting the right of student expression in a counter demonstration held in an outdoor area of campus as long as the conduct at the counter demonstration is not unlawful, does not materially and substantially prohibit the free expression rights of others in an outdoor area of campus or disrupt the functioning of the public institution of higher education, and does not impede others' access to a facility or use of walkways, subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.

5. This chapter shall not be interpreted as preventing public institutions of higher education from prohibiting, limiting, or restricting expression that the first amendment of the Constitution of the United States does not protect, including but not limited to a threat of serious harm and expression directed or likely directed to provoke imminent unlawful actions; or from prohibiting harassment, including but not limited to expression which is so severe, pervasive, and subjectively and objectively offensive that the expression unreasonably interferes with an individual's access to educational opportunities or benefits provided by a public institution of higher education.

Sec. 4. NEW SECTION. 261H.4 Public forums on campus — freedom of association.

1. The outdoor areas of campuses of public institutions of higher education in this state shall be deemed public forums. Public institutions of higher education may maintain and enforce clear, published, reasonable viewpoint-neutral time, place, and manner restrictions that are narrowly tailored in furtherance of a significant institutional interest, but shall allow members of the campus community to engage in spontaneous expressive activity and to distribute literature. Restrictions instituted by a public institution of higher education under this section shall provide for ample alternative means of expression.

2. Except as provided in this chapter, and subject to reasonable time, place, and manner restrictions, a public institution of higher education shall not designate any area of campus a free-speech zone or otherwise create policies restricting expressive activities to a particular outdoor area of campus.

3. Nothing in this chapter shall be construed to grant individuals the right to engage in conduct that intentionally, materially, and substantially disrupts the expressive activity of a person or student organization if the public institution of higher education has reserved space in an outdoor area of campus for activity by the person or student organization in accordance with this chapter.

Sec. 5. NEW SECTION. 261H.5 Remedies — statute of limitations — immunity.

1. A member of the campus community aggrieved by a violation of this chapter may file a complaint with the governing body of the public institution of higher education.

2. A member of the campus community aggrieved by a violation of this chapter may assert such violation as a defense or counterclaim in a disciplinary action or in a civil or administrative proceeding brought against the member of the campus community.


3. A member of the campus community shall bring a claim for violation of this chapter pursuant to this section not later than one year after the day the cause of action accrues.


4. This section shall not be interpreted to limit any other remedies available to a member of the campus community.

5. Nothing in this section shall be construed to make any administrator, officer, employee, or agent of a public institution of higher education personally liable for acts taken pursuant to the individual's official duties.


Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.


  
CHARLES SCHNEIDER  
President of the Senate

  
LINDA UPMEYER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 274, Eighty-eighth General Assembly.

  
W. CHARLES SMITHSON  
Secretary of the Senate

Approved March 27<sup>th</sup>, 2019

  
KIM REYNOLDS  
Governor

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

INTERVARSITY CHRISTIAN  
FELLOWSHIP/ USA, *et al.*,

*Plaintiffs,*

v.

THE UNIVERSITY OF IOWA, *et al.*,

*Defendants.*

Civ. Action No. 18-cv-00080

**PLAINTIFFS' RESPONSE TO  
SUPPLEMENT TO DEFENDANT'S  
STATEMENT OF ADDITIONAL  
MATERIAL FACTS IN RESISTANCE  
TO PLAINTIFFS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT  
[DKT 47-1]**

**TESTIMONY OF MS. KATRINA SCHROCK**

65. Katrina Schrock was deposed in the above-captioned matter on March 28, 2019. Schrock 6:1–5; App. 170.

**RESPONSE: Admit.**

66. At the time of the events at issue in the Petition, Ms. Schrock was a graduate student at the University of Iowa, and was also employed as a Resident Assistant (“RA”). Schrock 8:11–20; App. 171.

**RESPONSE: Admit that at the time of the events at issue in the Petition, Ms. Schrock was a graduate student at the University of Iowa. Denied that Ms. Schrock was employed as a Resident Assistant. Ms. Schrock was employed as a Research Assistant. IVCF App. 2235 [Schrock Dep. 35:20-22].**

67. In fall of 2017, Ms. Schrock was a member of InterVarsity Graduate Christian Fellowship on the University of Iowa campus. Schrock 10:9–13; App. 172.

**RESPONSE: Admit.**

68. In May of 2018, Ms. Schrock became President of InterVarsity Graduate Christian Fellowship at the University of Iowa. Schrock 10:24–11:2; App. 172-173; Kummer 36:17–22; App. 201.

**RESPONSE: Admit.**

69. In her role as InterVarsity President, Ms. Schrock was responsible for “organizing events and other aspects of regular InterVarsity scheduling.” Schrock 11:3–7; App. 173.

**RESPONSE: Admit. Deny that those responsibilities constitute all of her responsibilities, or that she was asked to provide a complete list of duties. See IVCF App. 1982-84 [Schrock Decl. ¶¶ 13-26] (listing duties).**

70. Ms. Schrock received emails intended for the InterVarsity Graduate Christian Fellowship at her university student email account. Schrock 15:7–11; App. 176.

**RESPONSE: Admit that at some point after becoming the president for InterVarsity, Ms. Schrock began to receive emails intended for InterVarsity at her university student email account. IVCF App. 2230 [Schrock Dep. 14:10-25].**

71. In her deposition, Ms. Schrock testified that she stayed on campus during the summer months. Schrock 12:5–7; App. 176.

**RESPONSE: Admit.**

72. Though she did not take classes in the summer, her work as an RA continued through the summer months. Schrock 12:15–13:1; App. 174-175.

**RESPONSE: Admit, subject to Plaintiffs’ response to Statement of Fact No. 66. See also IVCF App. 2229 [Schrock Dep. 12:5-10].**

73. On or about June 1, 2018, Ms. Schrock received an email from Andy Kutcher, the Coordinator for Student Organization Development at the Center for Student Involvement and Leadership (“CSIL”). Schrock 13:9–12; App. 175.

**RESPONSE: Denied. Ms. Schrock testified that she first heard about an email she believed to be from Mr. Kutcher in early June but that the email would have been sent to InterVarsity’s previous leaders. IVCF App. 2229, 2230 [Schrock Dep. 13:9-12, 14:14-21, 15:20-23].**

74. The June 1, 2018, email provided that CSIL had identified “that the Constitution of InterVarsity Graduate Christian Fellowship either does not include current language related to the University of Iowa Human Rights Clause or it is missing in its entirety.” Kummer Depo Exhibit 1; App. 205.

**RESPONSE: Admit.**

75. Ms. Schrock did not respond to the June 1, 2018 email. Schrock 16:16–20; App. 177.

**RESPONSE: Admit. Ms. Schrock testified that she did not respond to the June 1, 2018 email because it had not been sent to her, but was sent to InterVarsity’s previous leaders. IVCF App. 2230 [Schrock Dep. 14:14-21, 15:20-23]. IVCF’s leaders did submit an updated constitution for InterVarsity on June 2, updating the Human Rights Clause as requested. IVCF App. 1985 [Schrock Decl. ¶ 31].**

76. The email further provided that “[a]ll RSOs are required to have [the human rights] Clause included verbatim in their constitution or bylaws.” Kummer Depo Exhibit 1; App. 205.

**RESPONSE. Admit.**

77. CSIL, through its email, instructed InterVarsity that it must update its current governing documents to include the required Human Rights Policy. Kummer Depo Exhibit 1; App. 205.

**RESPONSE. Admit.**

78. Ms. Schrock later received email correspondence from Mr. Kutcher specifically addressing several clauses in its group constitution which violated the University of Iowa's Human Rights Policy. Kummer Depo Exhibit 2; App. 208.

**RESPONSE. Admit.**

79. During her deposition, Ms. Schrock admitted that she was not very familiar with InterVarsity's constitution at the time she received CSIL's emails regarding the Human Rights Policy. Schrock 25:2–5; App. 181.

**RESPONSE. Admit.**

80. Ms. Schrock did not know whether InterVarsity's constitution was a national constitution or a local constitution. Schrock 25:9–12; App. 181.

**RESPONSE. Admit.**

81. Though she was not very familiar with InterVarsity's constitution, she was aware or at some point became aware that in order for a student group to be in compliance with the University's Human Rights Policy, the group could not maintain leadership restrictions. Schrock 27:19–28:4; App. 182-183.

**RESPONSE: Denied. Ms. Schrock testified that she was aware that “*the University said*” that “to be in compliance with the human rights policy” InterVarsity could not have leadership restrictions. IVCF App. 2233 [Schrock Dep. 27:19-28:4].**

82. Ms. Schrock agreed that the University has the power to enforce its policies and regulations, and that students on campus are subject to the University's rules. Schrock 34:17–35:14; App. 184-185.



**RESPONSE: Denied. Ms. Schrock agreed with opposing counsel’s statements that students at the University of Iowa are subject to “many rules and regulations” and that it is “fair” for the University to have rules and regulations that govern its students. She did not testify that the University “has the power to enforce its policies and regulations.” Ms. Schrock’s responses were subject to counsel’s objection to the extent the questions called for a legal conclusion. IVCF App. 2235 [Schrock Dep. 34:17-35:11].**

83. Ms. Schrock indicated that she believes that the benefits provided to registered student groups by the University include using the University’s email system to send mass emails, using the Iowa Memorial Union for recruitment fairs free of charge, and using University property to hold meetings. Schrock 19:23–21:12; App. 178-180.

**RESPONSE: Admit. Ms. Schrock also agreed with opposing counsel’s concession that these “benefits” come “indirectly” from her own tuition. IVCF App. 2231 [Schrock Dep. 21:2-12].**

84. InterVarsity was eventually deregistered in the summer of 2018 for failing to submit a group constitution which complied with the University’s Human Rights Policy, and Ms. Schrock did not personally take any steps to get the group reregistered. Schrock 46:1–17; App. 187.

**RESPONSE: Denied that the deposition testimony cited supports the assertions made. Admitted that InterVarsity was eventually deregistered in the summer of 2018 for refusing to remove its religious requirements for its leaders. Admitted that Ms. Schrock testified that she did not personally take any additional steps to get the group reregistered, IVCF App. 2237 [Schrock Dep. 45:1-17], as she had already been told that InterVarsity could not be registered without abandoning its religious requirements for leaders.**

85. Nevertheless, InterVarsity was eventually reregistered. Schrock 45:15–17; App. 186.

**RESPONSE:** Denied. Ms. Schrock clarified that she was uncertain whether InterVarsity was actually re-registered or just “permitted to participate” pending the outcome of the lawsuit. IVCF App. 2238 [Schrock Dep. 46:10-47:1]. The University has repeatedly admitted that it has not re-registered InterVarsity pending this litigation, and the testimony of a University Rule 30(b)(6) witness on March 28—the same day as Ms. Schrock’s deposition—was that the University still rejected InterVarsity’s constitution as noncompliant. IVCF App. 2427 [Shivers Dep. 144:15-19].

86. Despite having been deregistered in summer 2018, InterVarsity was permitted to participate in the fall 2018 recruitment fair for student groups. Schrock 45:22–46:21; App. 186–187.

**RESPONSE:** Admit that after this Court twice entered a preliminary injunction against the University in a related case and after InterVarsity threatened to file a motion for a temporary restraining order in this case, the University permitted InterVarsity to participate as a registered student group on campus pending the outcome of this lawsuit. IVCF App. 2020-2021. Even at that time, the University emphasized that InterVarsity’s ability to participate as a registered student group was temporary. *Id.*

87. InterVarsity did not pay rent at the fall 2018 recruitment fair. Schrock 47:2–3; App. 188.

**RESPONSE:** Admit that after this Court entered a preliminary injunction against the University in a related case and after InterVarsity threatened to file a motion for a temporary restraining order in this case, the University permitted InterVarsity to participate as a student group on campus pending the outcome of this lawsuit. IVCF App. 2020-2021. Even at that time, the University emphasized that InterVarsity’s ability to participate as a registered student group was temporary. *Id.*

88. InterVarsity was permitted to set up a table at the fall 2018 recruitment fair and to recruit members. Schrock 47:4–7; App. 188.

**RESPONSE:** Admit that after this Court entered a preliminary injunction against the University in a related case and after InterVarsity threatened to file a motion for a temporary restraining order in this case, the University permitted InterVarsity to participate as a student group on campus pending the outcome of this lawsuit. IVCF App. 2020-2021. Even at that time, the University emphasized that InterVarsity’s ability to participate as a registered student group was temporary. *Id.*

89. At the fall 2018 recruitment fair, InterVarsity was allowed to represent that it was an active student group on campus. Schrock 47:21–48:3; App. 188-189.

**RESPONSE:** Admit that after this Court entered a preliminary injunction against the University in a related case and after InterVarsity threatened to file a motion for a temporary restraining order in this case, the University permitted InterVarsity to participate as a student group on campus pending the outcome of this lawsuit. IVCF App. 2020-2021. Even at that time, the University emphasized that InterVarsity’s ability to participate as a registered student group was temporary. *Id.*

90. Though she was aware that InterVarsity was still a registered student organization in January of 2018, Ms. Schrock was not certain whether InterVarsity had even participated in the recruitment fair that month. Schrock 48:11–23; App. 189.

**RESPONSE:** Admit that Ms. Schrock testified that “I was not on leadership at that point so I don’t know” if InterVarsity participated in the University’s winter fair in 2018. IVCF App. 2238 [Schrock Dep. 48:11-23]. Ms. Schrock testified that she had “no knowledge . . . about InterVarsity’s presence at that fair.” *Id.*

91. Despite Plaintiff's claims that the University's actions have damaged the number of members in the group, Ms. Schrock testified that the number of students participating as members in InterVarsity on the University of Iowa campus did not change between January 2018—at which time the University had taken no action against the group—and fall of 2018. Schrock 49:12–50:4; App. 190-191.

92. **RESPONSE:** Denied. Ms. Schrock testified that InterVarsity's "current membership is about 20 members," that "in the fall of 2018," which was *after* the University's adverse action, membership was "about the same," but that in the spring of 2018, *before* the University's adverse action "the monthly meetings were larger at that point than they are currently." IVCF App. 2238 [Schrock Dep. 49:12-25]. The drop in numbers has been more significant than at any other time in Mr. Kummer's twenty-two years at the University. IVCF App. 2152 [Kummer Dep. 63:14-16].

93. Despite Plaintiff's claims that the group's reputation had been damaged by the University's actions, Ms. Schrock could think of only one student who had approached her to ask about the lawsuit. Schrock 50:10–24; App. 191.

94. **RESPONSE:** Admit that Ms. Schrock identified "one student specifically at a recruitment fair" who inquired about InterVarsity's status: "Were we allowed to be there? That kind of vein of questioning." IVCF App. 2239 [Schrock Dep. 50:10-24]. Kevin Kummer identified another student who is "fairly terrified" and "[d]oesn't want to have her/his name associated with [the lawsuit] in any way because she/he is terrified of retaliation within the University," IVCF App. 2152 [Kummer Dep. 63:22-25], and another who is "quite concerned" about what impact the entire situation arising from the derecognition will have on her, IVCF App. 2152 [Kummer Dep. 64:1-3].

95. InterVarsity still has access to an email address through which it can send mass mailings. Schrock 51:9–15; App. 192.

**RESPONSE: Admit.**

96. InterVarsity is still permitted to utilize University property, such as conference rooms, for meetings. Schrock 51:16–18; App. 192.

**RESPONSE: Admit.**

#### **TESTIMONY OF MR. KEVIN KUMMER**

97. Mr. Kummer was deposed on March 28, 2019.

**RESPONSE: Admit.**

98. Mr. Kummer is a senior campus staff member with InterVarsity Christian Fellowship USA, and his position is located on the University of Iowa campus. Kummer 7:15– 8:2; App. 194.

**RESPONSE: Admit that Mr. Kummer is a senior campus staff member with InterVarsity Christian Fellowship USA. Admit that Mr. Kummer is “physically located in Iowa City.” IVCF App. 2138 [Kummer Dep. 7:15-8:2].**

99. Mr. Kummer has no employment connection with the University of Iowa, but he is subject to University policies including the Human Rights Policy. Kummer 10:2–12:8; App. 196-198.

**RESPONSE: Admit that Mr. Kummer has no employment connection with University of Iowa. Admit that he is subject to *lawful* University policies while working on the University campus.**

100. In his capacity as InterVarsity campus staff, Mr. Kummer served as an advisor to the InterVarsity Graduate Christian Fellowship. Kummer 55:17–56:1; App. 202-203.

**REPONSE: Admit.**

101. Mr. Kummer testified that a person who did not share InterVarsity's Christian beliefs could be a member of the group, and could even seek a leadership role, though they would not likely be selected as a leader. Kummer 20:16–20; 22:10–24; App. 199-200.

**RESPONSE: Admit that Mr. Kummer testified that a person who did not share InterVarsity's Christian beliefs could be a member of the group. Admit that Mr. Kummer testified that a non-believer could "attempt to be a leader." Denied that there is any possibility that a non-believer could actually be selected as a leader. Mr. Kummer testified that a "nonbeliever" cannot be an "official leader" because InterVarsity "is a Christian faith-based organization" and its leaders have to be Christian. IVCF App. 2141, 2142 [Kummer Dep. 20:16-20, 22:10-23:24].**

#### **CURRENT ENFORCEMENT OF THE HUMAN RIGHTS POLICY**

102. On March 27, 2019, Governor Kim Reynolds signed Senate File 274 ("SF 274"). Senate File 274; App. 216.

**RESPONSE: Admit.**

103. SF 274 mandates that "a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission." SF 274, Sec. 3(3); App. 220.

**RESPONSE: Admit.**

104. SF 274 took effect upon enactment. SF 247, Sec. 7; App. 222.

**RESPONSE: Admit.**

105. As a result of this new law, the University of Iowa will immediately cease to enforce its Human Rights Policy in regard to student group's selection of their leaders.

**RESPONSE: Denied. Defendants cite no sworn testimony or other evidence to support this assertion. Defendants' Rule 30(b)(6) witness testified on March 28, 2019, the day after SF 247 took effect, that the University's policy against religious leadership requirements remained unchanged, and that if InterVarsity resubmitted the same constitution as the one it submitted in Summer 2018, it would deregistered, and for the same reasons. IVCF App. 2298 [Kutcher Dep. 123:19-124:5]; see also IVCF App. 2427 [Shivers Dep. 143:20-144:19] (noting that there had been no change to the University's policy and that InterVarsity's constitution was still noncompliant).**

106. The Student Organization Compliance Chart as of April 5, 2019. Chart; App. 223.

**RESPONSE: Denied. Defendants have provided no testimony verifying the chart at "App. 223" or explaining the significance of changes made from the different charts concerning which their Rule 30(b)(6) witnesses provided testimony at the University's deposition on March 28, 2019. See IVCF App. 2298-2300 [Kutcher Dep. 124:24-130:10]; IVCF App. 2363 [Kutcher Dep., Exhibit 18]; IVCF App. 2377 [Kutcher Dep., Exhibit 19].**

Respectfully submitted,

/s/ Eric S. Baxter

Eric S. Baxter\*

*Lead Counsel*

Daniel H. Blomberg\*

The Becket Fund for Religious Liberty  
1200 New Hampshire Ave. NW, Suite 700  
Washington, DC, 20036  
(202) 955-0095 PHONE  
(202) 955-0090 FAX  
[ebaxter@becketlaw.org](mailto:ebaxter@becketlaw.org)



Christopher C. Hagenow  
William R. Gustoff  
Hagenow & Gustoff, LLP  
600 Oakland Rd. NE  
Cedar Rapids, IA 52402  
(515) 868-0212 phone  
(888) 689-1995 fax  
*chagenow@whgllp.com*

***Counsel for Plaintiff***

*\*Admitted pro hac vice*

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

INTERVARSITY CHRISTIAN  
FELLOWSHIP/ USA, *et al.*,

*Plaintiffs,*

v.

THE UNIVERSITY OF IOWA, *et al.*,

*Defendants.*

Civ. Action No. 18-cv-00080

**PLAINTIFFS' SUPPLEMENTAL  
STATEMENT OF MATERIAL FACTS  
IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

219. Kevin Kummer is a senior campus staff member with InterVarsity Christian Fellowship USA and is assigned to work with student groups at the University of Iowa. IVCF App. 2138 [Kummer Dep. 7:15- 8:2].

220. He has been with InterVarsity at the University of Iowa for twenty-two years, during which time the University never had a problem with InterVarsity's religious standards for its leaders until the summer of 2018. IVCF App. 2146 [Kummer Dep. 39:3-16, 40:25-41:7].

221. Katrina Schrock is a Ph.D. candidate and research assistant in the physics program at the University of Iowa. IVCF App. 2228 [Schrock Dep. 8:11-9:3].

222. She became the president of InterVarsity Graduate Christian Fellowship in May 2018. IVCF App. 2229 [Schrock Dep. 10:24-11:2]; IVCF App. 2145 [Kummer Dep. 36:17-22].

223. One of the first things Katrina had to address was the University's threat to deregister InterVarsity. Just after she took over the leadership, the outgoing leaders emailed her the University's email threatening to deregister InterVarsity. IVCF App. 2230 [Schrock Dep. 14:17-21, 16:3-6]; IVCF App. 2145 [Kummer Dep. 36:17-22].

224. Katrina would not have agreed to be a leader if she had known the University was going to deregister InterVarsity because she would have feared that standing up against the University could have a negative impact on her career and on her time at the University. IVCF App. 2240 [Schrock Dep. 55:8-25].

225. The University's deregistration of InterVarsity has negatively affected her efforts to find new leaders. IVCF App. 2240 [Schrock Dep. 56:2-4].

226. She did not get the same kind of leadership experience as other leaders because she had to focus so much attention defending InterVarsity instead of carrying out InterVarsity's mission. IVCF App. 2240 [Schrock Dep. 56:5-16].

227. Dealing with the deregistration was a significant distraction, took up a lot of time at meetings, and detracted from Katrina's and other leaders' ability to prepare for ministry in the coming year with InterVarsity. IVCF App. 2240 [Schrock Dep. 57:9-25].

228. Even before this lawsuit commenced, InterVarsity USA's paid staff expended more than 40 hours over the summer responding in one way or another to the deregistration. IVCF App. 2152 [Kummer Dep. 62:10-21, 64:18-24]; *see also* IVCF App. 2609-11 (listing over \$4,000 in attorneys fees paid by InterVarsity USA to its outside counsel to try to retain and then regain registration before the start of the lawsuit).

229. As a result, Katrina is hesitant to ask others to take over the leadership because she doesn't have a good basis to give them idea of what to expect as a leader and doesn't want to put people in the same situation she is in. IVCF App. 2240 [Schrock Dep. 56:5-16].

230. The deregistration also negatively impacted activities that InterVarsity normally would have had. For example, they usually would have had a few activities over the summer but were

only able to have one, partially because they were preoccupied dealing with the deregistration. IVCF App. 2241 [Schrock Dep. 58:1-7]; IVCF App. 2152 [Kummer Dep. 62:21-25].

231. Some students were likely dissuaded from joining InterVarsity because it was deregistered. Deregistration would have made Katrina hesitant to be a member because she would not have known the details and would have been skeptical to join a group that was deregistered by the University. IVCF App. 2240 [Schrock Dep. 56:22-57:8].

232. After deregistering InterVarsity, the University placed a statement on InterVarsity's webpage on the University's website stating that InterVarsity was defunct "due to lack of interest." IVCF App. 2150, 2152 [Kummer Dep. 56:6-57:11, 62:25-63:2].

233. This message was false. IVCF App. 2150-51 [Kummer Dep. 57:18-58:4].

234. The message would have had a negative impact on students who visited the site because they wouldn't have understood what was really going on and the message would have created uncertainty. IVCF App. 2152 [Kummer Dep. 63:5-9].

235. It affected InterVarsity's ability to conduct its summer gatherings and prepare for the fall, because the uncertainty about recognition or derecognition meant that it was not able to publicize the way it normally would have. IVCF App. 2152 [Kummer Dep. 63:9-14].

236. In August 2019, Katrina represented InterVarsity at the University's student group recruitment fair. IVCF App. 2238 [Schrock Dep. 48:24-49:7].

237. A few students approached Katrina and expressed interest, but not many of them ended up joining the group. IVCF App. 2238 [Schrock Dep. 49:8-11].

238. At least one student approached Katrina at the recruitment fair to ask "what was going on with our situation. Were we allowed to be there? That kind of vein of questioning." IVCF App. 2239 [Schrock Dep. 50:10-24].

239. Other members of InterVarsity have experienced anxiety about the potential negative impact on them from the University, academically and in terms of career choices. IVCF App. 2152 [Kummer Dep. 63:18-22].

240. One student in particular is fairly terrified and doesn't want his/her name associated with the lawsuit in any way because he/she is terrified of retaliation within the University. IVCF App. 2152 [Kummer Dep. 63:22-25].

241. Another person also is quite concerned about what impact the entire situation arising from the derecognition will have on her. IVCF App. 2152 [Kummer Dep. 64:1-3].

242. Attendance at InterVarsity's monthly meetings was larger in the year before the University deregistered InterVarsity than in the year after. IVCF App. 2238 [Schrock Dep. 49:20-25].

243. The drop in numbers has been more significant than at any other time in Mr. Kummer's twenty-two years at the University. IVCF App. 2152 [Kummer Dep. 63:14-16].

244. In the past InterVarsity had an average membership in the mid- to upper-thirties. IVCF App. 2152 [Kummer Dep. 64:9-16].

245. Now there are only about twenty-one regular members. IVCF App. 2152 [Kummer Dep. 64:16-17].

246. In short, because of the derecognition, InterVarsity has had frightened students, smaller numbers, a smaller leadership pool to draw from, and fewer opportunities to publicize its activities. IVCF App. 2152 [Kummer Dep. 64:3-7].

247. It has been an emotionally wearing process for everyone who has been involved. IVCF App. 2152 [Kummer Dep. 64:7-8].

248. It is particularly important to InterVarsity to be able to recruit students at the recruitment fairs and communicate with students via the University's mass email system. Otherwise it would be difficult to find new members as graduate students frequently are not on campus except for classes and work. IVCF App. 2241 [Schrock Dep. 58:16-25].

#### **DEPOSITION OF ANDREW KUTCHER**

249. Andrew Kutcher testified in his personal capacity, and also testified as the University's Rule 30(b)(6) witness for the following issues:

- a. Student organizations that have been refused registration, deregistered, penalized, or placed on any sort of suspended status since 2017, including any investigations into those organizations;
- b. All registered student organizations at the University, including Greek groups and sports clubs, that have employed criteria for leadership positions, membership, or participation related to any protected class under the University's Human Rights Clause or political affiliation.
- c. The University's decision to deregister InterVarsity and any other group that was deregistered in Summer 2018, along with any other decision to deregister, suspend, or otherwise alter the registered status of any student group since that time;
- d. Two documents from the *BLinC* litigation listing all registered student organizations and identifying their registration status.

250. Mr. Kutcher understood the University's RSO policy in January 2018 to forbid religious student groups from requiring that their leaders be religious. IVCF App. 2276 [Kutcher Dep. 36:16-24].

251. Mr. Kutcher understood the court's January 2018 ruling in *BLinC* to mean that the University could not selectively enforce its RSO policy against certain RSOs and not others, such as forbidding a religious group from requiring its leaders to be religious while permitting other groups to select leaders based on protected criteria in the University's Human Rights Clause. IVCF App. 2277 [Kutcher Dep. 38:6-23].

252. He met with Dr. Bill Nelson about what the January 2018 *BLinC* ruling meant. IVCF App. 2277 [Kutcher Dep. 39:12-16].

253. Mr. Kutcher thought that it would cause concerns under the First Amendment if the University did not enforce its policy in an even-handed way. IVCF App. 2285 [Kutcher Dep. 72:24-73:3].

254. Mr. Kutcher helped conduct the review of RSO constitutions that started in January 2018, following the court order. IVCF App. 2277 [Kutcher Dep. 40:8-15].

255. Mr. Kutcher eventually reviewed all RSO constitutions, which was at least 500 constitutions. IVCF App. 2277-78 [Kutcher Dep. 41:24-42:3].

256. The University reviewed religious groups first, and Mr. Kutcher participated in that review. All of the other RSOs were reviewed together. IVCF App. 2278 [Kutcher Dep. 43:1-16].

257. Mr. Kutcher compiled a list of all religious organizations at the direction of Dr. Nelson and submitted it to him before Feb. 7, 2018. IVCF App. 2278 [Kutcher Dep. 44:1-17]. Religious RSOs were the only ones compiled into a specific list by the University as a part of the review. IVCF App. 2278 [Kutcher Dep. 45:12-18].

258. The University's review revealed that, though all RSO constitutions had initially been reviewed and approved by University staffs, the current RSOs had a low rate of compliance with the RSO policy. IVCF App. 2279 [Kutcher Dep. 46:7-47:17].



259. Mr. Kutcher sent out emails on April 20, 2018, to some RSOs that the University's review had determined to be noncompliant with the RSO policy, encouraging them to update their constitutions to become compliant. IVCF App. 2280-81 [Kutcher Dep. 52:15-53:5; Kutcher Dep. 54:18-55:9].

260. Mr. Kutcher mistakenly failed to email many RSOs that the University deemed noncompliant, including InterVarsity, on April 20. IVCF App. 2280 [Kutcher Dep. 53:4-5].

261. He discovered his mistake on May 31, 2018, when Dr. Melissa Shivers told him to finish up ensuring RSO compliance. IVCF App. 2281 [Kutcher Dep. 54:23-55:1].

262. So he emailed all of the remaining student groups on June 1, 2018. He gave them until June 15, 2018, to become compliant. IVCF App. 2282 [Kutcher Dep. 60:4-7].

263. The University determined as a part of its review that InterVarsity Graduate's constitution did not comply with the RSO policy because it did not have an up-to-date version of the Human Rights Clause and because its religious leadership requirements violated the policy because the University viewed those requirements to discriminate based on religion. IVCF App. 2280 [Kutcher Dep. 50:9-17].

264. The University's June 1 email did not specify any concerns with InterVarsity's leadership requirements. IVCF App. 2176-78 [Kummer Dep. Exhibit 1]; *see also* IVCF App. 2480-81 [Shivers Dep. Exhibit 3].

265. The June 1 email was the University's first communication to InterVarsity regarding noncompliance. IVCF App. 2282 [Kutcher Dep. 61:11-21].

266. But on June 12, the University sent InterVarsity another email stating that it had repeatedly tried to contact InterVarsity "over the past few months" regarding noncompliance, and set a new June 13 deadline. IVCF App. 2282-83 [Kutcher Dep. 61:1-62:1].

267. When InterVarsity responded via email on June 12, Mr. Kutcher explained for the first time that InterVarsity's religious leadership requirements violated RSO policy. IVCF App. 2283 [Kutcher Dep. 62:7-63:20].

268. He explained that the RSO policy meant that a Christian group could not ask its leaders to be Christians. IVCF App. 2283 [Kutcher Dep. 63:1-20].

269. Mr. Kutcher does not recall having sent similar instructions to RSOs that discriminate based sex, sexual orientation, race, or veteran's status in their leadership and membership policies.

270. Mr. Kutcher was the primary point of contact for the University with RSOs on this issue, and any emails sent along those lines to groups like Hawkapellas, Love Works, UI Veteran's Association, Iowa Edge, Spectrum UI, Women in Science and Engineering, and the Caribbean Student Association would have come from him and would be in his sent box. IVCF App. 2281-82, 2287 [Kutcher Dep. 55:13-57:22; 78:4-13].

271. He reviewed his sent box repeatedly in order to produce documents in response to the *BLinC* and *InterVarsity* litigation, including as recently as 2-3 weeks before the deposition. IVCF App. 2283-84, 2287 [Kutcher Dep. 64:13-66:3; 78:14-80:14].

272. He did not recall seeing emails to any of those groups similar to the ones he sent InterVarsity regarding its leadership requirements. IVCF App. 2288 [82:10-14].

273. For instance, even though Hawkapellas' constitution only allows women to sing in its acapella group, Mr. Kutcher did not email them to instruct them to change their constitution and the University did not deregister them. IVCF App. 2284 [Kutcher Dep. 68:11-69:25]. The same was true for Women in Science and Engineering constitution, which "encouraged" its members to be "a woman." IVCF App. 2300 [Kutcher Dep. 132:10-23].

274. InterVarsity asked whether the University would accommodate its religious leadership requirements or consider an alteration in the requirements, including by perhaps allowing it to “strongly encourage” its leaders to be Christians. IVCF App. 2181, 2350 [Kummer Dep. Exhibit 2; Kutcher Dep. Exhibit 15].

275. Mr. Kutcher relayed the request to the University’s general counsel. He did not suggest any other alternatives or accommodations. IVCF App. 2286 [Kutcher Dep. 75:10-16].

276. The University’s general counsel responded within three hours that the alteration was not permissible. IVCF App. 2286 [Kutcher Dep. 74:24-75:2].

277. The University deregistered InterVarsity on or about June 18. IVCF App. 2288 [Kutcher Dep. 85:14-25].

278. The deregistration was consistent with the University’s view that the RSO policy forbids InterVarsity from requesting that its leaders be Christians. IVCF App. 2289 [Kutcher Dep. 87:24-88:3].

279. The University created a list of all 38 RSOs that it deregistered and identified publicly online as “defunct” as result of its review, and a larger list of RSOs with constitutions that the University considered noncompliant. Love Works was not on either list. IVCF App. 2289 [Kutcher Dep. 88:4-89:24].

280. Hawkapellas, UI Veteran’s Association, Iowa Edge, Spectrum UI, Women in Science and Engineering, and the Caribbean Student Association were not deregistered or identified as “defunct.” IVCF App. 2289-90 [Kutcher Dep. 89:25-91:6]; *see also* IVCF App. 2492-93 [Shivers Dep. Exhibit 7].

281. The University also produced a list of compliant RSOs in the *BLinC* litigation on February 1, 2019. IVCF App. 2363-76 [Kutcher Dep. Exhibit 18].

282. That document lists as compliant—among others—Hawkapellas, Intersection, Iowa Edge, Love Works, SistaSpeak, UI Veteran’s Association, and the men’s and women’s ultimate frisbee sports clubs. IVCF App. 2299 [Kutcher Dep. 128:1-129:14].

283. Mr. Kutcher confirmed that he had created the document and that it was an accurate list of compliant organizations. IVCF App. 2299 [Kutcher Dep. 129:15-17].

284. Mr. Kutcher was aware that the *BLinC* district court had entered another injunction against the University on June 28, 2018. IVCF App. 2288 [Kutcher Dep. 83:8-12].

285. At that time, he continued to understand that it was not permissible to treat religious RSOs less favorably than other RSOs. IVCF App. 2288 [Kutcher Dep. 85:9-12].

286. The University locked InterVarsity’s webpage and put a message on the page that the group was defunct and that the group had requested to be deregistered due to lack of interest from students. IVCF App. 2150, 2152 [Kummer Dep. 56:6-57:11, 62:25-63:2].

287. Mr. Kutcher agreed that this message could have been harmful for InterVarsity and that it would have harmed InterVarsity’s ability to attract new members. IVCF App. 2290 [Kutcher Dep. 92:17-93:1].

288. Mr. Kutcher admitted that deregistration would have had important negative implications for student groups, harming their ability to reserve space, communicate to students, recruit students, and generally be healthy student groups. IVCF App. 2293 [Kutcher Dep. 105:6-22].

289. He agreed that this would be true even over the course of the summer. IVCF App. 2293 [Kutcher Dep. 105:19-21].

290. When asked what harms from InterVarsity’s leadership requirement justified deregistering InterVarsity, Mr. Kutcher identified only one: the exclusion from leadership of an

individual who wanted to lead InterVarsity but didn't share InterVarsity's beliefs. IVCF App. 2290 [Kutcher Dep. 93:6-16].

291. Mr. Kutcher admitted that he knew of no way to quantify this alleged harm, that he was aware of no attempt by the University to quantify this harm, that he wasn't even aware of how many leadership positions InterVarsity had, that he wouldn't have any reason to contest that it was just 4-5 positions, and that InterVarsity allowed all students to be members. IVCF App. 2290-91 [Kutcher Dep. 93:17-95:13].

292. He further admitted that he was not aware of any complaints by students. IVCF App. 2292 [Kutcher Dep. 98:16-23].

293. By contrast, Mr. Kutcher admitted that the University had exempted fraternities and sororities from its RSO policy, allowing Greek groups to exclude *thousands* of students every year from both leadership *and* membership positions on the basis of their sex. IVCF App. 2291, 2294 [Kutcher Dep. 94:3-96:2; 107:6-11].

294. He also admitted that this constituted significantly more harm to the University's putative interest in preventing exclusion. IVCF App. 2291 [Kutcher Dep. 96:8-12].

295. Mr. Kutcher suggested that some of the harm from Greek groups' exclusions might be alleviated because women excluded by fraternities could apply to enter sororities and vice versa. IVCF App. 2291-92 [Kutcher Dep. 96:13-98:9].

296. But he admitted that he was not aware of any attempt by the University to analyze that question, any written report explaining the University's reasoning, or any consideration of whether a similar arrangement might work in the religious context (*i.e.*, ensuring that there were other types of religious groups available to students). *Id.*

297. He also admitted that he never looked into any of those issues. *Id.*

298. Mr. Kutcher further admitted that he was unaware of any complaints against InterVarsity in its previous 25 years as an RSO at the University, nor of any student that had ever complained about being excluded from InterVarsity's leadership because of its religious requirements. IVCF App. 2292 [Kutcher Dep. 98:10-23].

299. And he admitted that he was unaware of any harms since August 2018 that had been caused by allowing InterVarsity to continue to operate with its religious leadership standards intact. *Id.*

300. Mr. Kutcher admitted that the University allowed political and ideological RSOs to require their leaders to agree with their political or ideological beliefs. IVCF App. 2296 [Kutcher Dep. 115:1-9].

301. For instance, a political group could exclude leadership candidates who do not hold its political beliefs about poverty alleviation, but a religious group could not ask its leaders to hold substantively similar beliefs that were rooted in religious conviction, such as the Parable of the Good Samaritan. IVCF App. 2296 [115:21-116:7].

302. Mr. Kutcher further admitted that, from the perspective of an excluded student, there was not any difference between being excluded from leadership by a political/ideological group or a religious group. IVCF App. 2296 [Kutcher Dep. 114:14-115:20].

303. The University is just willing to accept that harm when it comes from a political or ideological group but not from a religious group. *Id.*

304. The University was aware that Iowa State University permitted its registered student groups to require their leaders to share each group's strongly held beliefs, and that the Iowa State policy would have allowed InterVarsity to remain registered if it had been implemented at the University of Iowa. IVCF App. 2292-93 [Kutcher Dep. 99:7-102:5].

305. Mr. Kutcher was not aware of any attempt by the University to study the effects of Iowa State's policy to see if it was causing any harms that would justify the University's decision not to adopt that same policy. *Id.*

306. He was not aware of any special circumstances or difference in interests between the two universities, or any internal discussions about those kinds of considerations, that would explain the University of Iowa's decision not to adopt Iowa State's approach. *Id.*

307. Mr. Kutcher also didn't have any reason to think that Iowa State was any less subject to state and federal law than the University. *Id.*

308. Mr. Kutcher was not aware of any attempt by the University to consider alternatives to complete deregistration of InterVarsity. IVCF App. 2293 [Kutcher Dep. 102:13-22].

309. The University only gave InterVarsity two options: either drop the religious leadership requirements or be deregistered. *Id.*

310. There was no attempt by the University to specifically consider InterVarsity's situation and provide an accommodation. IVCF App. 2293 [Kutcher Dep. 103:6-19].

311. The University has no evidence demonstrating that an accommodation for InterVarsity would harm its interests in any significant way. *Id.*

312. The University did not consider any alternatives to granting fraternities and sororities a complete exemption. IVCF App. 2297 [Kutcher Dep. 120:19-21].

313. The University has no system to monitor the complete exemption it granted to fraternities and sororities to assess whether it causes the type of exclusionary harm the University claims it has an interest in preventing. IVCF App. 2297 [Kutcher Dep. 120:13-18].



314. In addition to exempting social fraternities and sororities, the University exempts honor and service fraternities and sororities, including ones that restrict membership based on sex. IVCF App. 2297 [Kutcher Dep. 120:20-121:22].

315. In addition to its exemptions for fraternities and sororities, the University chose to exempt Love Works and House of Lorde from its RSO policy because they provide a safe space for minorities. IVCF App. 2294-95 [Kutcher Dep. 109:6-110:17]. As of the University's March 28 deposition, this exemption was still in place. *Id.* at 109:19-110:3, 113:6-11.

316. Love Works was permitted to require its leaders to agree with its religious beliefs, and House of Lorde was permitted to require participants to identify as black or queer. IVCF App. 2295 [Kutcher Dep. 110:12-112:7].

317. If the University had required either group to admit leaders who disagreed with their missions, that would have undermined the missions of those groups and harmed their ability to provide a safe space for their members. *Id.*

318. Mr. Kutcher admitted that the same would be true for religious groups.

319. He agreed that it would impair the message of a Jewish group if they had to have their Passover celebration led by a Muslim, and that it would impair the ability of a Muslim group to celebrate Eid Al-Fitr if it had to be led by a Christian. IVCF App. 2295 [Kutcher Dep. 113:12-20].

320. He likewise admitted that it would significantly impair the message of an InterVarsity prayer or Bible study if the person leading didn't believe what he or she was saying. IVCF App. 2296 [Kutcher Dep. 114:1-12].

321. He agreed that it would expose Christian groups to charges of hypocrisy if their leaders didn't sincerely believe the group's faith, and thus that it was reasonable for InterVarsity to want their leaders to sincerely believe in InterVarsity's faith. *Id.*

322. Mr. Kutcher could not think of any reason why the University could accommodate Love Works's religious leadership standards and not InterVarsity's. IVCF App. 2293 [Kutcher Dep. 104:17-21].

323. In light of the January 23, 2018 injunction and the June 28, 2018 injunction, it concerned Mr. Kutcher that the two religious groups had been treated differently under the RSO policy. IVCF App. 2293 [Kutcher Dep. 104:22-105:2].

324. He was concerned that the differential treatment violated the First Amendment. *Id.* at 105:3-5.

325. Just 11 days after it filed its February 1, 2019 list of compliant RSOs in the *BLinC* litigation, the University filed another list. IVCF App. 2377-86 [Kutcher Dep Exhibit 19].

326. The new list purported to place Love Works's constitution in the "stopped review" category that other religious student groups were in, but it had not all been deemed noncompliant. IVCF App. 2299-2300, 2301 [Kutcher Dep. 129:18-130:9; 136:4-25].

327. The change was artificial, as Love Works's constitution had not only *already* been approved and never been deregistered, but had been repeatedly and explicitly defended in federal court as consistent with University policy. *Id.*

328. The change in categories did not result from a change in University policy or a new review of Love Works's constitution. *Id.*

329. Counsel for the University simply instructed Mr. Kutcher to move Love Works from one category to the other. *Id.*

330. Mr. Kutcher was also aware of the February 6, 2019 permanent injunction issued against the University in favor of *BLinC*. IVCF App. 2298 [Kutcher Dep. 122:1-123:18].

331. He has not taken any steps to implement the ruling, nor is he aware of any steps being taken in his office to implement the ruling. *Id.*

332. He is not even sure that anyone else in his office has seen the ruling; he himself only found it on a website online. *Id.*

333. Accordingly, Mr. Kutcher testified that the University's policy against InterVarsity's Christian leadership requirement remained unchanged. IVCF App. 2298 [Kutcher Dep. 123:19-124:5].

334. Mr. Kutcher testified that, if InterVarsity resubmitted the same constitution as the one it submitted in Summer 2018, it would deregistered, and for the same reasons. *Id.*

#### **DEPOSITION OF MELISSA SHIVERS**

335. Dr. Melissa Shivers testified in her personal capacity, and also testified as the University's Rule 30(b)(6) witness for the following issues:

- a. the University's policies and procedures regarding RSOs, including fraternities, sororities, and sports clubs, and including all funding and benefits made available to RSOs;
- b. The adoption, interpretation, and enforcement of the University's Human Rights Policy, its Nondiscrimination Statement, and its Statement of Policy for RSOs;
- c. The University's efforts since the commencement of this lawsuit to enforce its Human Rights Policy.

336. Dr. Shivers supervised Bill Nelson, who in turn supervised Mr. Kutcher. IVCF App. 2402 [Shivers Dep. 43:22-44:1].

337. As the Vice President for Student Life, Dr. Shivers agreed that participation in student group fairs was important for groups to be able to recruit new members. IVCF App. 2396 [Shivers Dep. 18:10-20].

338. Dr. Shivers read the January 23, 2018 ruling granting a preliminary injunction in *BLinC*, as did Dr. Nelson. IVCF App. 2397 [Shivers Dep. 25:7-26:25].

339. She expected that Mr. Kutcher also read it, since he was intimately involved. IVCF App. 2398 [Shivers Dep. 26:21-25].

340. Dr. Shivers understood the ruling to mean that the University could not selectively enforce its RSO policy against certain RSOs, and she met with Dr. Nelson and Mr. Kutcher to ensure they had a common understanding of the application of the ruling to the University's RSO policy. IVCF App. 2399 [Shivers Dep. 29:16-31:10].

341. Dr. Shivers also read the June 28, 2018 preliminary injunction ruling in the *BLinC* case, and she understood it to be based on the court's perception that the University was not equally applying its policy. IVCF App. 2404 [Shivers Dep. 53:19-54:24].

342. After meeting with Dr. Shivers, Dr. Nelson and Mr. Kutcher, among others, began performing a review of all RSO constitutions. IVCF App. 2399 [Shivers Dep. 32:3-17].

343. Dr. Shivers asked that Dr. Nelson provide her a list of all religious RSOs so that they could determine if there were any other religious groups that had religious leadership requirements like *BLinC*'s. IVCF App. 2400 [Shivers Dep. 34:14-21]; IVCF App. 2401 [Shivers Dep. 39:7-24]; *see also* Exhibit 2 to Shivers Deposition.

344. Dr. Shivers confirmed that the University determined that InterVarsity's constitution was noncompliant because it asked its leaders to be Christians. IVCF App. 2404 [Shivers Dep. 52:5-20].

345. Dr. Shivers recognized that this determination was in conflict with the First Amendment's protection of freedom of religion. IVCF App. 2405 [Shivers Dep. 56:22-57:11].

346. Specifically, Ms. Shivers understood that, under the First Amendment, there should be no pressure from the state to intervene as it relates to religion. *Id.*

347. Dr. Shivers also agreed that it would be “problematic” and “challenging” and “a problem” if the University had deregistered InterVarsity due to its religious leadership requirements while registering other religious groups that also had religious leadership requirements. IVCF App. 2410 [Shivers Dep. 76:17-78:8].

348. Dr. Shivers is also aware that the University had exempted sports clubs and social fraternities and sororities from full compliance with the RSO’s human rights clause. IVCF App. 2411-12 [Shivers Dep. 81:4-13, 82:11-20].

349. Dr. Shivers is also aware that the University allows political and ideological groups to select leaders based on political or ideological beliefs.

350. For instance, a political group could require its leaders to share its *political* beliefs supporting poverty alleviation, even though a religious group could not require its *religious* beliefs supporting poverty alleviation. IVCF App. 2420 [Shivers Dep. 117:12-19].

351. But Dr. Shivers nonetheless approved of the decision to deregister InterVarsity because the University. IVCF App. 2406-07 [Shivers Dep. 61:21-62:17].

352. She could have overridden the deregistration decision, but she did not. *Id.*

353. Nor did she object to it. *Id.*

354. Dr. Shivers primarily worked with Dr. Nelson and Mr. Kutcher on the decision to deregister InterVarsity. IVCF App. 2406 [Shivers Dep. 60:18-61:23].

355. President Harreld was also aware of the decision. *Id.*

356. Dr. Shivers is not aware of any times when President Harreld pushed back on any of the deregistration decisions, whether to question them or to order a different course. IVCF App. 2418 [Shivers Dep. 106:19-25].

357. The University's primary purpose in requiring InterVarsity to abandon its religious leadership requirement was to adopt a general policy for RSOs. IVCF App. 2407 [Shivers Dep. 64:17-25].

358. The University did not discuss any specific evidence regarding harms that would result if it allowed InterVarsity to continue requiring its leaders to be Christians. IVCF App. 2407-08 [Shivers Dep. 65:6-66:18].

359. Dr. Shivers does not recall having a conversation where the University weighed whether allowing InterVarsity to maintain its leadership requirement would harm individual students or the student body. *Id.*

360. The University did not set up a process to review or consider such evidence. *Id.*

361. Dr. Shivers did not review any written document gathering such evidence, and she does not have such a document in her possession. *Id.*

362. Dr. Shivers also did not identify any specific harms caused by allowing religious groups generally to select leaders who shared the groups' faiths. *Id.*

363. Dr. Shivers is not aware of any deliberation process where the University considered alternative ways to accommodate InterVarsity, such as whether to permit it to strongly encourage its leaders to share its faith. IVCF App. 2408 [Shivers Dep. 69:7-12].

364. In the last eight months since InterVarsity was temporarily allowed to resume functioning as an RSO, Dr. Shivers is not aware of any harms caused by InterVarsity's continued selection of

leaders who agree with its faith nor has she received any reports or indications suggesting that it has harmed the University. IVCF App. 2408 [Shivers Dep. 66:24-67:7].

365. Dr. Shivers has not tried to gather information about harm to the University resulting from accommodating InterVarsity, nor has she instructed anyone to gather that kind of information. IVCF App. 2408 [Shivers Dep. 67:11-17].

366. Dr. Shivers agreed that it would be important for the leader of a Bible study to sincerely believe that the study was leading to the truth, and the leader of a prayer to believe in the God that the group was praying to. IVCF App. 2414 [Shivers Dep. 93:14-24].

367. Similarly, she agreed that it would change the nature of what was being taught and would influence the message if a Christian led a Muslim group's study of the Koran. IVCF App. 2415 [Shivers Dep. 95:1-15].

368. Dr. Shivers admitted that it would change the message and community of a religious group if its leaders did not share what the group believed, since it would make it hard for the recipients of the leaders' teaching to trust their guidance. IVCF App. 2415 [Shivers Dep. 96:14-97:2].

369. Dr. Shivers was not able to articulate why the University accommodated other types of RSOs or how the University had determined that accommodation of those RSOs did not harm its interests. IVCF App. 2415 [Shivers Dep. 99:6-20].

370. For instance, she did not know why the University permitted political groups to select leaders based on political beliefs. IVCF App. 2416, 2419-20 [Shivers Dep. 99:15-20; 113:20-114:21].



371. Similarly, she could not recall any discussions regarding the exemption for sports clubs or any reconsideration of the exemption in light of the University's RSO human rights clause. IVCF App. 2417 [Shivers Dep. 103:3-105:2].

372. Nor could she identify any basis for granting social fraternities and sororities an exemption other than Title IX. IVCF App. 2421 [Shivers Dep. 121:13-20].

373. Thus, even though 16-17% of the University's undergraduate student body participate in social fraternities and sororities, and even though participation increases graduation rates, IVCF App. 2423 [Shivers Dep. 126:17-127:19], the University had no better reason for allowing the exemption other than "alignment" with Title IX, *id.* at 2421 [Shivers Dep. 121:13-20].

374. Further, Dr. Shivers admitted that she was not aware of any attempt by the University to determine whether requiring integration of social fraternities and sororities would harm those groups. IVCF App. 2423 [Shivers Dep. 127:2-7].

375. Similarly, she was not aware of any effort by the University to determine whether discontinuing the exemption would harm the University's interests. IVCF App. 2423-24 [Shivers Dep. 129:9-130:20].

376. Finally, Dr. Shivers was unaware of any effort by the University to consider whether gradations between full registration or full deregistration of social fraternities and sororities might better serve its interests. IVCF App. 2424 [Shivers Dep. 130:25-131:6].

377. Dr. Shivers was also aware that other public universities, including Iowa State and Ohio State, had policies that allowed RSOs to select leaders that agreed with the groups' missions, including on the basis of religion. IVCF App. 2425-27 [Shivers Dep. 136:24-142:4].

378. She did not identify any reason why the University could not adopt those policies instead of deregistering InterVarsity. *Id.*

379. Dr. Shivers has reviewed the February 6, 2019 ruling granting a permanent injunction to BLinC, as have Dr. Nelson and Mr. Kutcher. IVCF App. 2427 [Shivers Dep. 142:5-143:17].

380. President Harreld is also aware of the ruling. *Id.*

381. Dr. Shivers' office has not taken any steps to implement the decision since it came down. *Id.*

382. It has not changed the substance of its policies in response to the ruling, including any of its policies regarding RSO leadership selection. IVCF App. 2427 [Shivers Dep. 143:20-144:14].

383. As of March 27, 2019, InterVarsity's constitution was still deemed noncompliant with University policy. IVCF App. 2427 [Shivers Dep. 144:15-19].

384. Ms. Shivers was aware of the Iowa legislation and that it could offer guidance to the policy but had no specific plans to implement it or any timeframe for doing so. IVCF App. 2427 [Shivers Dep. 144:20-145:13].

Respectfully submitted,

/s/ Eric S. Baxter

Eric S. Baxter\*

*Lead Counsel*

Daniel H. Blomberg\*

The Becket Fund for Religious Liberty  
1200 New Hampshire Ave. NW, Suite 700

Washington, DC, 20036

(202) 955-0095 PHONE

(202) 955-0090 FAX

*ebaxter@becketlaw.org*

Christopher C. Hagenow

William R. Gustoff

Hagenow & Gustoff, LLP

600 Oakland Rd. NE

Cedar Rapids, IA 52402

(515) 868-0212 phone

(888) 689-1995 fax

*chagenow@whgllp.com*

***Counsel for Plaintiff***

*\*Admitted pro hac vice*