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. 1

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APPENDIX INDEX

VOLUME 1

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STAYED,APPEAL

U.S. District Court
Southern District of Iowa (Eastern)
CIVIL DOCKET FOR CASE #: 3:18-cv-00080-SMR-SBJ

Intervarsity Christian Fellowship/USA et al v. The University of Iowa et al
Assigned to: Judge Stephanie M. Rose
Referred to: Magistrate Judge Stephen B. Jackson, Jr
Case in other court: 8th CCA, 19-03389
IASD, 3-17-cv-80
Cause: 42:1983 Civil Rights Act

Date Filed: 08/06/2018
Jury Demand: Both
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

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Plaintiff

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William R Gustoff
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V.

Defendant

The University of Iowa

represented by **George A Carroll**
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Defendant

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Defendant

Melissa S Shivers
in her official capacity as Vice President for Student Life and in her individual capacity

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Defendant

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in his official capacity as Associate Dean of Student Organizations and in his individual capacity

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Defendant

Andrew Kutcher
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Defendant

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Date Filed	#	Docket Text
01/24/2020	87	TEXT ORDER CONTINUING FINAL PRETRIAL CONFERENCE: Given the case is currently stayed 86 , the Final Pretrial Conference set for January 29, 2020, shall be and is hereby continued until further order of the Court. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 1/24/2020. (jeb) (Entered: 01/24/2020)
11/20/2019	86	TEXT ORDER granting 85 Motion to Stay. This matter shall be stayed until the United States Court of Appeals for the Eighth Circuit issues its mandate in relation to Defendants' appeal of the Court's Order on the parties' cross-motions for summary judgment. Signed by Judge Stephanie M. Rose on 11/20/2019. (jch) (Entered: 11/20/2019)
11/13/2019	85	Unresisted MOTION to Stay by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa.Motions referred to Stephen B. Jackson, Jr. Responses due by 11/27/2019. (Thompson, Jeffrey) (Entered: 11/13/2019)
11/06/2019	84	Documents Sent re 79 Notice of Appeal, : One Copy of Transcript 76 sent to the 8th CCA. (vr) (Entered: 11/06/2019)
11/06/2019	83	USCA Scheduling Order as to 79 Notice of Appeal, filed by Melissa S Shivers, Thomas R. Baker, William R Nelson, Bruce Harreld, Andrew Kutcher, The University of Iowa. (vr) (Entered: 11/06/2019)
11/06/2019	82	USCA Case Number 19-3389 for 79 Notice of Appeal, filed by Melissa S Shivers, Thomas R. Baker, William R Nelson, Bruce Harreld, Andrew Kutcher, The University of Iowa. (vr) (Entered: 11/06/2019)
10/31/2019	81	NOTIFICATION OF APPEAL and NOA Supplement by District Court Clerk to USCA re 79 Notice of Appeal, filed on 10/25/2018. (vr) (Entered: 10/31/2019)
10/30/2019	80	ORDER directing Defendants to file a motion to stay district court proceedings pending appeal, if desired, by no later than November 13, 2019. Signed by Judge Stephanie M. Rose on 10/30/2019. (jch) (Entered: 10/30/2019)
10/25/2019	79	NOTICE OF APPEAL as to 74 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment by Thomas R. Baker, Bruce Harreld, Andrew

		Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa. Fee paid in the amount of $505 receipt number 0863-3959530. (Thompson, Jeffrey) (Entered: 10/25/2019)
10/25/2019	78	NOTICE of Appearance by Jeffrey S. Thompson on behalf of All Defendants (Thompson, Jeffrey) (Entered: 10/25/2019)
10/18/2019	77	STATUS REPORT *Regarding Remaining Claims* by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (Baxter, Eric) (Entered: 10/18/2019)
09/30/2019	76	TRANSCRIPT of Proceedings re 72 Motion Hearing, held on September 25, 2019 before Judge Stephanie M. Rose. Court Reporter: Kelli Mulcahy, Telephone Number: (515)284-6219. Page No(s).: 1 - 39. Transcript may be viewed at court public terminal or purchased through Court Reporter before deadline for Release of Transcript Restriction. After that date it may be obtained through court reporter, Clerk's Office, or PACER.. Redaction Request due 10/24/2019. Redacted Transcript Deadline set for 11/4/2019. Release of Transcript Restriction set for 1/2/2020. (Mulcahy, Kelli) (Entered: 09/30/2019)
09/27/2019	74	ORDER granting in part and denying in part the parties' respective motions for partial summary judgment, 21 , 51 . See attached Order for particulars. Signed by Judge Stephanie M. Rose on 9/27/2019. (jch) (Entered: 09/27/2019)
09/26/2019	73	RESPONSE to Motion re 21 MOTION for Partial Summary Judgment filed by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa. Replies due by 10/3/2019. (Attachments: # 1 Exhibit Chart 2/12/19, # 2 Exhibit Chart 4/05/19)(Carroll, George) (Entered: 09/26/2019)
09/25/2019	72	Minute Entry for proceedings held before Judge Stephanie M. Rose: Motion Hearing held on 9/25/2019 re 21 MOTION for Partial Summary Judgment filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship, 51 MOTION for Summary Judgment filed by Melissa S Shivers, Thomas R. Baker, William R Nelson, Bruce Harreld, Andrew Kutcher, The University of Iowa. (Court Reporter Kelli Mulcahy.) (kmc) (Entered: 09/25/2019)
09/25/2019	71	NOTICE by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship *of Supplemental Authority* (Attachments: # 1 Exhibit A)(Baxter, Eric) (Entered: 09/25/2019)
09/13/2019	70	NOTICE by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship *of Supplemental Authority* (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Baxter, Eric) (Entered: 09/13/2019)
09/04/2019	69	TEXT ORDER granting 68 Unresisted Motion to Reschedule Hearing re 67 . The Court has RE-set the hearing on the parties' cross-motions for summary judgment, 21 and 51 , for 9/25/2019 at 03:00 PM by Phone Hearing. Counsel shall call 1-888-808-6929 and enter code 2486346. Signed by Judge Stephanie M. Rose on 9/4/2019. (mkh) (Entered: 09/04/2019)
09/04/2019	68	Unresisted MOTION to Reschedule Hearing Date re 67 Order,, Set Deadlines/Hearings, by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship.Motions referred to Stephen B. Jackson, Jr. Responses due by 9/18/2019. (Baxter, Eric) (Entered: 09/04/2019)
08/30/2019	67	TEXT ORDER Setting Hearing on Motions: The Court will hold a hearing on the parties' cross-motions for summary judgment, 21 and 51 , on 9/18/2019 at 03:00 PM by Phone Hearing. Counsel shall call 1-888-808-6929 and enter code 2486346. Hearing will be held before Judge Stephanie M. Rose. Signed by Judge Stephanie M. Rose on 8/30/2019. (mkh) (Entered: 08/30/2019)

07/26/2019	66	REPLY *to Plaintiff's Supplemental Statement of Facts* re 21 MOTION for Partial Summary Judgment filed by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa.(Carroll, George) (Entered: 07/26/2019)
07/24/2019	65	STATEMENT *of Second Supplemental Material Facts* by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (Attachments: # 1 Appendix V-B)(Baxter, Eric) Modified on 7/25/2019 to Link to Motion 21 (kmc). (Entered: 07/24/2019)
07/23/2019	64	TEXT ORDER granting 61 Plaintiffs' Motion for Leave to File Supplemental Appendix and Statement of Facts. For the reasons set forth in the motion, plaintiffs are hereby granted leave to file their supplemental appendix and supplemental statement of facts and shall do so by July 26, 2019. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 7/23/2019. (jeb) (Entered: 07/23/2019)
07/15/2019	63	REPLY *in Support* re 61 MOTION for Leave to File *Supplemental Appendix and Statement of Facts* filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship.(Baxter, Eric) (Entered: 07/15/2019)
07/12/2019	62	RESPONSE to Motion re 61 MOTION for Leave to File *Supplemental Appendix and Statement of Facts* filed by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa. Replies due by 7/19/2019.(Carroll, George) (Entered: 07/12/2019)
06/28/2019	61	MOTION for Leave to File *Supplemental Appendix and Statement of Facts* by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship.Motions referred to Stephen B. Jackson, Jr. Responses due by 7/12/2019. (Attachments: # 1 Second Supplemental Statement of Facts, # 2 Supplemental Appendix)(Baxter, Eric) (Entered: 06/28/2019)
05/03/2019	60	RESPONSE to Motion re 51 MOTION for Summary Judgment filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. Replies due by 5/10/2019.(Baxter, Eric) (Entered: 05/03/2019)
04/22/2019	59	REPLY to Defendants' Supplemental Brief re 21 MOTION for Partial Summary Judgment filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (kmc) (Entered: 04/22/2019)
04/18/2019	58	TEXT ORDER granting 55 Plaintiffs' Unopposed Motion for Leave to File an Overlength Supplemental Reply Brief. Pursuant to Local Rule 7(h), the Clerk of Court is directed to detach and docket the brief attached to the motion. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 4/18/2019. (jeb) (Entered: 04/18/2019)
04/17/2019	57	STATEMENT *of Supplemental Material Facts* by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (Attachments: # 1 Appendix IV-B, # 2 Appendix V-A)(Baxter, Eric) Modified on 4/18/2019 to Link to Motion 21 (kmc). (Entered: 04/17/2019)
04/17/2019	56	STATEMENT *in Response to Defendant's Supplemental Statement of Facts* by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (Baxter, Eric) Modified on 4/18/2019 to Link to Motion 21 (kmc). (Entered: 04/17/2019)
04/17/2019	55	MOTION to file overlength brief by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship.Motions referred to Stephen B. Jackson, Jr. Responses due by 5/1/2019. (Attachments: # 1 Proposed Brief)(Baxter, Eric) (Entered: 04/17/2019)
04/15/2019	54	BRIEF by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa in Support of 51 MOTION for Partial Summary

		Judgment . (kmc) (Entered: 04/15/2019)
04/12/2019	53	TEXT ORDER granting 52 Defendants' Motion to File Overlength Brief. Pursuant to Local Rule 7(h), the Clerk of Court is directed to detach and docket the brief attached to the motion. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 4/12/2019. (jeb) (Entered: 04/12/2019)
04/12/2019	52	MOTION to file overlength brief by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa.Motions referred to Stephen B. Jackson, Jr. Responses due by 4/26/2019. (Attachments: # 1 Brief in Support)(Carroll, George) (Entered: 04/12/2019)
04/12/2019	51	MOTION for Summary Judgment by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa. Responses due by 5/3/2019. (Attachments: # 1 Statement of Undisputed Facts, # 2 Affidavit, # 3 Senate File 274) (Carroll, George) (Entered: 04/12/2019)
04/11/2019	50	SUPPLEMENTED BRIEF by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa In Support of Their Resistance to 21 MOTION for Partial Summary Judgment . (kmc) (Entered: 04/11/2019)
04/10/2019	49	TEXT ORDER granting 48 Defendants' Motion to File Overlength Brief. Pursuant to Local Rule 7(h), the Clerk of Court is directed to detach and docket the brief attached to the motion. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 4/10/2019. (jeb) (Entered: 04/10/2019)
04/10/2019	48	MOTION to file overlength brief by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa.Motions referred to Stephen B. Jackson, Jr. Responses due by 4/24/2019. (Attachments: # 1 Brief in Support)(Carroll, George) (Entered: 04/10/2019)
04/10/2019	47	RESPONSE to Motion re 21 MOTION for Partial Summary Judgment filed by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa. Replies due by 4/17/2019. (Attachments: # 1 Statement of Facts, # 2 Appendix)(Carroll, George) (Entered: 04/10/2019)
03/12/2019	46	ORDER granting 31 Defendants' Rule 56(d) Motion for Continuance. Defendants allowed until April 11, 2019, to file supplemental response to Plaintiffs' Motion for Partial Summary Judgment 21 . Plaintiffs have 7 days after service of supplement response to file reply. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 3/12/2019. (jeb) (Entered: 03/12/2019)
03/08/2019	45	STATUS REPORT *Joint Report of the Parties* by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (Attachments: # 1 Exhibit)(Baxter, Eric) (Entered: 03/08/2019)
02/27/2019	44	TEXT ORDER FOR JOINT REPORT: In light of the recent ruling entered in the related case of Business Leaders in Christ v. The University of Iowa, Civil No. 3:17-cv-00080-SMR-SBJ, counsel shall confer as to the potential effect of such ruling on pending matters in this action, specifically Plaintiffs' Motion for Partial Summary Judgment, Dkt. 21 , and Defendants' Rule 56(d) Motion for Continuance, Dkt. 31 . Counsel shall file a joint report to the Court by no later than March 8, 2019, as to the parties' perspectives, whether agreed to or not, for proceeding on those motions. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 2/27/2019. (jeb) (Entered: 02/27/2019)
02/05/2019	43	NOTICE of Appearance by William R Gustoff on behalf of Intervarsity Christian Fellowship/USA (Gustoff, William) (Entered: 02/05/2019)
02/05/2019	42	REPLY re 31 MOTION to Continue *Under Rule 56(d)* filed by Thomas R. Baker, Bruce

		Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa. (Carroll, George) (Entered: 02/05/2019)
01/24/2019	41	RESPONSE to Motion re 31 MOTION to Continue *Under Rule 56(d)* filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. Replies due by 1/31/2019. (Attachments: # 1 Exhibit)(Baxter, Eric) (Entered: 01/24/2019)
01/23/2019	40	REPLY BRIEF re 21 MOTION for Partial Summary Judgment filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (Attachments: # 1 Reply to Plaintiffs' Statement of Facts, # 2 Response to Defendants' Statement of Facts) (kmc) (Entered: 01/23/2019)
01/23/2019	39	BRIEF of Proposed Amici Curiae by Jewish Coalition for Religious Liberty, Asma Uddin in support of 21 MOTION for Partial Summary Judgment . (kmc) (Entered: 01/23/2019)
01/23/2019	38	TEXT ORDER granting 37 Plaitiffs' Unopposed Motion for Leave to File an Overlength Reply Brief. Pursuant to Local Rule 7(h), the Clerk of Court is directed to detach and docket the reply brief, and supporting materials, attached to the motion. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 1/23/2019. (jeb) (Entered: 01/23/2019)
01/22/2019	37	MOTION to file overlength brief by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship.Motions referred to Stephen B. Jackson, Jr. Responses due by 2/5/2019. (Attachments: # 1 Proposed Memorandum, # 2 Reply to Plaintiffs' Statement of Facts, # 3 Response to Defendants' Statement of Facts)(Baxter, Eric) (Entered: 01/22/2019)
01/15/2019	36	BRIEF by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa in Support of their Resistance to Plaintiff's MOTION for Partial Summary Judgment 21 . (kmc) (Entered: 01/15/2019)
01/15/2019	35	TEXT ORDER granting 34 Defendants' Motion for Leave to File Overlength Brief in Resistance to Plaintiff's Motion for Partial Summary Judgment. Pursuant to Local Rule 7(h), the Clerk of Court is directed to detach and docket the brief attached to the motion. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 1/15/2019. (jeb) (Entered: 01/15/2019)
01/15/2019	34	MOTION to file overlength brief by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa.Motions referred to Stephen B. Jackson, Jr. Responses due by 1/29/2019. (Attachments: # 1 Brief in Support)(Carroll, George) (Entered: 01/15/2019)
01/15/2019	33	RESPONSE to Motion re 21 MOTION for Partial Summary Judgment filed by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa. Replies due by 1/22/2019. (Attachments: # 1 Statement of Material Facts, # 2 Response to Pltf Statement of Facts, # 3 Appendix)(Carroll, George) (Entered: 01/15/2019)
01/14/2019	32	TEXT ORDER granting 28 Motion for Leave to File Brief of Proposed Amici Curiae Jewish Coalition for Religious Liberty and Asma Uddin in Support ofPlaintiff's Motion for Summary Judgment. The Clerk of Court is directed to detach and docket the brief attached to the motion. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 1/14/2019. (jeb) (Entered: 01/14/2019)
01/11/2019	31	MOTION to Continue *Under Rule 56(d)* by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa.Motions referred to Stephen B. Jackson, Jr. Responses due by 1/25/2019. (Attachments: # 1 Memorandum in Support, # 2 Affidavit)(Carroll, George) (Entered: 01/11/2019)
12/26/2018	30	TEXT ORDER granting 29 Motion for Leave to Appear Pro Hac Vice Josh Dixon. Signed

		by Magistrate Judge Stephen B. Jackson, Jr on 12/26/2018. (slg) (Entered: 12/26/2018)
12/21/2018	29	MOTION for Leave to Appear Pro Hac Vice Receipt Number: 0863-3683883 Fee paid in the amount of $100. by Jewish Coalition for Religious Liberty, Asma Uddin. (Attachments: # 1 ECF form)(Beattie, Brett) (Entered: 12/21/2018)
12/21/2018	28	First MOTION for Leave to File *BRIEF OF PROPOSED AMICI CURIAE JEWISH COALITION FOR RELIGIOUS LIBERTY AND ASMA UDDIN IN SUPPORT OF PLAINTIFFS MOTION FOR SUMMARY JUDGMENT* by Jewish Coalition for Religious Liberty, Asma Uddin.Motions referred to Stephen B. Jackson, Jr. Responses due by 1/4/2019. (Attachments: # 1 Supplement PROPOSED AMICI CURIAE JEWISH COALITION FOR RELIGIOUS LIBERTY AND ASMA UDDIN IN SUPPORT OF PLAINTIFFS MOTION FOR SUMMARY JUDGMENT, # 2 Text of Proposed Order Proposed Order Allowing Leave to Submit Amici Curiae Brief)(Beattie, Brett) (Entered: 12/21/2018)
12/21/2018	27	NOTICE of Appearance by Brett J Beattie on behalf of Jewish Coalition for Religious Liberty, Asma Uddin (Beattie, Brett) (Entered: 12/21/2018)
12/19/2018	26	TEXT ORDER granting 25 Defendants' unopposed Motion for Extension of Time to Resist Plaintiff's Motion for Partial Summary Judgment. As requested, defendants shall have until January 15, 2019, to respond to Plaintiff's Motion for Partial Summary Judgment 21 . Signed by Magistrate Judge Stephen B. Jackson, Jr. on 12/19/2018. (jeb) (Entered: 12/19/2018)
12/19/2018	25	MOTION for Extension of Time to File *Resistance to Plaintiff's Motion for Partial Summary Judgment* by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa.Motions referred to Stephen B. Jackson, Jr. Responses due by 1/2/2019. (Carroll, George) (Entered: 12/19/2018)
12/17/2018	24	Brief in Support by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship re 21 MOTION for Partial Summary Judgment (bp) (Entered: 12/17/2018)
12/17/2018	23	TEXT ORDER granting 22 Plaintiffs' Motion for Leave to File an Overlength Brief in Support of Plaintiffs' Motion for Summary Judgment. The Clerk of Court is directed to detach and file the overlength brief attached to the motion. Signed by Magistrate Judge Stephen B. Jackson, Jr on 12/17/2018. (dm) (Entered: 12/17/2018)
12/13/2018	22	MOTION to file overlength brief by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship.Motions referred to Stephen B. Jackson, Jr. Responses due by 12/27/2018. (Attachments: # 1 Memorandum in Support)(Baxter, Eric) (Entered: 12/13/2018)
12/13/2018	21	MOTION for Partial Summary Judgment by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. Responses due by 1/3/2019. (Attachments: # 1 Statement of Material Facts Statement of Material Facts, # 2 Appendix Vol I-A, # 3 Appendix Vol I-B, # 4 Appendix Vol II-A, # 5 Appendix Vol II-B, # 6 Appendix Vol III-A, # 7 Appendix Vol III-B, # 8 Appendix Vol IV-A)(Baxter, Eric) (Entered: 12/13/2018)
11/08/2018		Set Hearings: Jury Trial set for 2/25/2020 09:00 AM in Davenport - Room 120 - 1st Floor before Judge Stephanie M. Rose. Jury Trial set for 2/26/2020 09:00 AM in Davenport - Room 120 - 1st Floor before Judge Stephanie M. Rose. Jury Trial set for 2/27/2020 09:00 AM in Davenport - Room 120 - 1st Floor before Judge Stephanie M. Rose. Jury Trial set for 2/28/2020 09:00 AM in Davenport - Room 120 - 1st Floor before Judge Stephanie M. Rose. (bp) (Entered: 11/08/2018)
11/07/2018	20	ORDER REGARDING FINAL PRETRIAL CONFERENCE REQUIREMENTS. See order for deadlines and form. Signed by Magistrate Judge Stephen B. Jackson, Jr. on

		11/7/2018. (jeb) (Entered: 11/07/2018)
11/07/2018	19	SCHEDULING AND TRIAL SETTING ORDER. Jury Trial set for 2/25/2020 9:00 AM in Davenport Courthouse before Judge Stephanie M. Rose. Estimated length 4 days. Final Pretrial Conference set for 1/29/2020 1:30 PM in Davenport Courthouse before Magistrate Judge Stephen B. Jackson, Jr. Initial Disclosures due by 1/3/2019. Motions to Add Parties due by 3/1/2019. Motions to Amend Pleadings due by 3/1/2019. Plaintiffs Expert Witness Disclosures due by 1/3/2019. Defendants Expert Witness Disclosures due by 2/4/2019. Plaintiffs Rebuttal Expert Witness Disclosures due by 3/4/2019. Discovery Deadline 6/28/2019. Dispositive Motion Deadline 8/27/2019. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 11/7/2018. (jeb) (Entered: 11/07/2018)
11/07/2018	18	TEXT MINUTE ENTRY for proceedings held before Magistrate Judge Stephen B. Jackson, Jr.: Telephonic Scheduling Conference held on 11/7/2018. Attorneys Eric Baxter & Daniel Blomberg appeared for plaintiffs. Attorney George Carroll appeared for defendants. Scheduling order to be entered. Total Court Time: 20 minutes. (jeb) (Entered: 11/07/2018)
11/02/2018	17	PROPOSED SCHEDULING ORDER AND DISCOVERY PLAN . (Baxter, Eric) (Entered: 11/02/2018)
10/26/2018	16	TEXT ORDER SETTING TELEPHONIC SCHEDULING CONFERENCE: A Telephonic Scheduling Conference shall be held on November 7, 2018, at 2:00 p.m. before Magistrate Judge Stephen B. Jackson, Jr. The parties shall confer and file a proposed scheduling order and discovery plan as provided under L.R. 16 by November 2, 2018. To join the conference, counsel shall call 866-590-5055 and utilize access code 8811585. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 10/26/2018. (jeb) (Entered: 10/26/2018)
10/19/2018	15	ANSWER to Complaint by Thomas R. Baker, Bruce Harreld, Andrew Kutcher, William R Nelson, Melissa S Shivers, The University of Iowa.(Carroll, George) (Entered: 10/19/2018)
09/11/2018	14	WAIVER OF SERVICE Returned Executed filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship; William R Nelson waiver served on 8/22/2018, answer due 10/22/2018. (Baxter, Eric) (Entered: 09/11/2018)
09/11/2018	13	WAIVER OF SERVICE Returned Executed filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship; Thomas R. Baker waiver served on 8/22/2018, answer due 10/22/2018. (Baxter, Eric) (Entered: 09/11/2018)
09/11/2018	12	WAIVER OF SERVICE Returned Executed filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship; Melissa S Shivers waiver served on 8/22/2018, answer due 10/22/2018. (Baxter, Eric) (Entered: 09/11/2018)
09/11/2018	11	WAIVER OF SERVICE Returned Executed filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship; Bruce Harreld waiver served on 8/22/2018, answer due 10/22/2018. (Baxter, Eric) (Entered: 09/11/2018)
09/11/2018	10	WAIVER OF SERVICE Returned Executed filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship; Andrew Kutcher waiver served on 8/22/2018, answer due 10/22/2018. (Baxter, Eric) (Entered: 09/11/2018)
09/11/2018	9	WAIVER OF SERVICE Returned Executed filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship; The University of Iowa waiver served on 8/22/2018, answer due 10/22/2018. (Baxter, Eric) (Entered: 09/11/2018)
09/10/2018	8	TEXT ORDER granting 7 Motion to Withdraw as Plaintiffs' Counsel by Attorney Dummermuth. Pursuant to Local Rule 83(d)(6), attorney Matt M. Dummermuth shall be

		allowed to withdraw as counsel and is relieved of his duties in this case. Signed by Magistrate Judge Stephen B. Jackson, Jr. on 9/10/2018. (jeb) (Entered: 09/10/2018)
09/07/2018	7	MOTION to Withdraw as Attorney *for Plaintiffs by Attorney Matt Dummermuth* by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship.Motions referred to Stephen B. Jackson, Jr. Responses due by 9/21/2018. (Dummermuth, Matt) (Entered: 09/07/2018)
09/07/2018	6	NOTICE of Appearance by Christopher D. Hagenow on behalf of All Plaintiffs (Hagenow, Christopher) (Entered: 09/07/2018)
08/07/2018		Judge Stephanie M. Rose added. Senior Judge Robert W. Pratt no longer assigned to case. (kjw) (Entered: 08/07/2018)
08/07/2018	5	TEXT ORDER granting 2 Motion for Leave to Appear Pro Hac Vice Eric S. Baxter; granting 3 Motion for Leave to Appear Pro Hac Vice Daniel H. Blomberg. Signed by Magistrate Judge Stephen B. Jackson, Jr on 8/7/2018. (kjw) (Entered: 08/07/2018)
08/06/2018	4	Corporate Disclosure/Statement of Interest by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (Dummermuth, Matt) (Entered: 08/06/2018)
08/06/2018	3	MOTION for Leave to Appear Pro Hac Vice Receipt Number: 0863-3562800 Fee paid in the amount of $75. by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (Dummermuth, Matt) (Entered: 08/06/2018)
08/06/2018	2	MOTION for Leave to Appear Pro Hac Vice Receipt Number: 0863-3562799 Fee paid in the amount of $75. by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. (Dummermuth, Matt) (Entered: 08/06/2018)
08/06/2018	1	COMPLAINT against All Defendants Filing fee paid in the amount of $ 400, receipt number 0863-3562795., filed by Intervarsity Christian Fellowship/USA, Intervarsity Graduate Christian Fellowship. Notice of Dismissal for lack of Service deadline set for 11/5/2018. Rule 16 Notice of Dismissal set for 11/5/2018. (Attachments: # 1 Exhibit Ex. A -- IVGCF Constitution 6-2-2018, # 2 Exhibit Ex. B -- UI Email 6-1-2018, # 3 Exhibit Ex. C -- UI FAQs, # 4 Exhibit Ex. D -- IVGCF Emails 6-12-2018, # 5 Exhibit Ex. E -- UI Kutcher Email)(Dummermuth, Matt) (Entered: 08/06/2018)

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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** **DEFENDANTS' ANSWER**

COME NOW the Defendants, The University of Iowa, Bruce Harreld, Melissa Shivers, William Nelson, Andrew Kutcher and Thomas Baker, and state:

1. Paragraph 1 is denied.

2. Paragraph 2 is denied for lack of information upon which to form a belief.

3. Paragraph 3 is denied for lack of information upon which to form a belief.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

9. Paragraph 9 is denied.

10. Paragraph 10 is denied.

11. Paragraph 11 is denied.

12. Paragraph 12 is denied for lack of information upon which to form a belief.

13. Paragraph 13 is admitted.

14. Paragraph 14 is admitted.

15. Paragraph 15 is admitted.

16. Paragraph 16 is denied for lack of information upon which to form a belief.

17. Paragraph 17 is admitted as to the extent the University of Iowa is a public university. Defendant does not understand what Plaintiff means by the term "arm of the state."

18. Paragraph 18 is admitted.

19. Paragraph 19 is admitted.

20. Paragraph 20 is admitted.

21. Paragraph 21 is admitted.

22. Paragraph 22 is admitted.

23. Paragraph 23 is denied.

24. Paragraph 24 is denied for lack of information upon which to form a belief.

25. Paragraph 25 is denied for lack of information upon which to form a belief.

26. Paragraph 26 is denied for lack of information upon which to form a belief.

27. Paragraph 27 is denied for lack of information upon which to form a belief.

28. Paragraph 28 is denied.

29. Paragraph 29 is denied.

30. Paragraph 30 is denied for lack of information upon which to form a belief.

31. Paragraph 31 is denied for lack of information upon which to form a belief.

32. Paragraph 32 is denied for lack of information upon which to form a belief.

33. Paragraph 33 is denied for lack of information upon which to form a belief.

34. Paragraph 34 is denied for lack of information upon which to form a belief.

35. Paragraph 35 is denied for lack of information upon which to form a belief.

36. Paragraph 36 is denied for lack of information upon which to form a belief.

37. Paragraph 37 is denied for lack of information upon which to form a belief.

38. Paragraph 38 is admitted.

39. Paragraph 39 is denied for lack of information upon which to form a belief.

40. Paragraph 40 is denied for lack of information upon which to form a belief.

41. Paragraph 41 is denied for lack of information upon which to form a belief.

42. Paragraph 42 is denied for lack of information upon which to form a belief.

43. Paragraph 43 is denied for lack of information upon which to form a belief.

44. Paragraph 44 is denied for lack of information upon which to form a belief.

45. Paragraph 45 is denied for lack of information upon which to form a belief.

46. Paragraph 46 is denied for lack of information upon which to form a belief.

47. Paragraph 47 is denied.

48. Paragraph 48 is admitted.

49. Paragraph 49 is admitted.

50. Paragraph 50 is admitted.

51. Paragraph 51 is admitted.

52. Paragraph 52 is admitted.

53. Paragraph 53 is denied for lack of information upon which to form a belief.

54. Paragraph 54 is denied for lack of information upon which to form a belief.

55. Paragraph 55 is denied.

56. Paragraph 56 is denied.

57. Paragraph 57 is admitted.

58. Paragraph 58 is denied.

59. Paragraph 59 is denied.

60. Paragraph 60 is denied.

61. Paragraph 61 is denied.

62. Paragraph 62 is admitted.

63. Paragraph 63 is denied.

64. Paragraph 64 is denied.

65. Paragraph 65 is admitted.

66. Paragraph 66 is admitted.

67. Paragraph 67 is denied.

68. Paragraph 68 is denied.

69. Paragraph 69 is admitted.

70. Paragraph 70 is admitted.

71. Paragraph 71 is admitted.

72. Paragraph 72 is admitted.

73. Paragraph 73 is admitted.

74. Paragraph 74 is denied.

75. Paragraph 75 is denied.

76. Paragraph 76 is denied for lack of information upon which to form a belief.

77. Paragraph 77 is denied for lack of information upon which to form a belief.

78. Paragraph 78 is admitted.

79. Paragraph 79 is denied.

80. Paragraph 80 is denied.

81. Paragraph 81 is denied.

82. Paragraph 82 is denied.

83. Paragraph 83 is denied.

84. Paragraph 84 is denied.

85. Paragraph 85 is denied.

86. Paragraph 86 is denied.

87. Paragraph 87 is denied for lack of information upon which to form a belief.

88. Paragraph 88 is denied for lack of information upon which to form a belief..

89. Paragraph 89 is denied for lack of information upon which to form a belief.

90. Paragraph 90 is denied for lack of information upon which to form a belief.

91. Paragraph 91 is denied for lack of information upon which to form a belief.

92. Paragraph 92 is denied for lack of information upon which to form a belief.

93. Paragraph 93 is denied.

94. Paragraph 94 is admitted.

95. In response to Paragraph 95, the Defendants reincorporate their responses to paragraphs 1 through 94 of the Complaint as though fully set forth herein.

96. Paragraph 96 is denied.

97. Paragraph 97 is denied for lack of information upon which to form a belief.

98. Paragraph 98 is denied for lack of information upon which to form a belief.

99. Paragraph 99 is denied for lack of information upon which to form a belief.

100. Paragraph 100 is denied for lack of information upon which to form a belief.

101. Paragraph 101 is denied.

102. Paragraph 102 is denied.

103. Paragraph 103 is denied.

104. In response to Paragraph 104, the Defendants reincorporate their responses to paragraphs 1 through 103 of the Complaint as though fully set forth herein.

105. Paragraph 105 is denied.

106. Paragraph 106 is denied for lack of information upon which to form a belief.

107. Paragraph 107 is denied for lack of information upon which to form a belief.

108. Paragraph 108 is denied for lack of information upon which to form a belief.

109. Paragraph 109 is denied for lack of information upon which to form a belief.

110. Paragraph 110 is denied.

111. Paragraph 111 is denied.

112. In response to Paragraph 112, the Defendants reincorporate their responses to paragraphs 1 through 111 of the Complaint as though fully set forth herein.

113. Paragraph 113 is denied.

114. Paragraph 114 is denied.

115. Paragraph 115 is denied.

116. Paragraph 116 is denied.

117. Paragraph 117 is denied.

118. Paragraph 118 is denied.

119. Paragraph 119 is denied.

120. Paragraph 120 is denied.

121. In response to Paragraph 121, the Defendants reincorporate their responses to paragraphs 1 through 120 of the Complaint as though fully set forth herein.

122. Paragraph 122 is denied.

123. Paragraph 123 is denied for lack of information upon which to form a belief.

124. Paragraph 124 is denied.

125. Paragraph 125 is denied.

126. Paragraph 126 is denied for lack of information upon which to form a belief.

127. Paragraph 127 is denied for lack of information upon which to form a belief.

128. Paragraph 128 is denied for lack of information upon which to form a belief.

129. Paragraph 129 is denied.

130. Paragraph 130 is denied.

131. Paragraph 131 is denied.

132. Paragraph 132 is denied.

133. Paragraph 133 is denied.

134. In response to Paragraph 134, the Defendants reincorporate their responses to paragraphs 1 through 133 of the Complaint as though fully set forth herein.

135. Paragraph 135 is denied.

136. Paragraph 136 is denied.

137. Paragraph 137 is denied.

138. Paragraph 138 is denied.

139. Paragraph 139 is denied.

140. In response to Paragraph 140, the Defendants reincorporate their responses to paragraphs 1 through 139 of the Complaint as though fully set forth herein.

141. Paragraph 141 is denied.

142. Paragraph 142 is denied for lack of information upon which to form a belief.

143. Paragraph 143 is denied for lack of information upon which to form a belief.

144. Paragraph 144 is denied for lack of information upon which to form a belief.

145. Paragraph 145 is denied for lack of information upon which to form a belief.

146. Paragraph 146 is denied for lack of information upon which to form a belief.

147. Paragraph 147 is denied.

148. Paragraph 148 is denied.

149. In response to Paragraph 149, the Defendants reincorporate their responses to paragraphs 1 through 148 of the Complaint as though fully set forth herein.

150. Paragraph 150 is denied for lack of information upon which to form a belief.

151. Paragraph 151 is denied for lack of information upon which to form a belief.

152. Paragraph 152 is denied for lack of information upon which to form a belief.

153. Paragraph 153 is denied for lack of information upon which to form a belief.

154. Paragraph 154 is denied.

155. In response to Paragraph 155, the Defendants reincorporate their responses to paragraphs 1 through 154 of the Complaint as though fully set forth herein.

156. Paragraph 156 is denied.

157. Paragraph 157 is denied.

158. Paragraph 158 is denied.

159. Paragraph 159 is denied.

160. In response to Paragraph 160, the Defendants reincorporate their responses to paragraphs 1 through 159 of the Complaint as though fully set forth herein.

161. Paragraph 161 is denied.

162. Paragraph 162 is denied.

163. Paragraph 163 is denied for lack of information upon which to form a belief.

164. Paragraph 164 is denied.

165. In response to Paragraph 165, the Defendants reincorporate their responses to paragraphs 1 through 164 of the Complaint as though fully set forth herein.

166. Paragraph 166 is denied.

167. Paragraph 167 is denied.

168. Paragraph 168 is denied for lack of information upon which to form a belief.

169. Paragraph 169 is denied.

170. Paragraph 170 is denied.

171. Paragraph 171 is denied.

172. In response to Paragraph 172, the Defendants reincorporate their responses to paragraphs 1 through 171 of the Complaint as though fully set forth herein.

173. Paragraph 173 is admitted.

174. Paragraph 174 is admitted.

175. Paragraph 175 is denied.

176. Paragraph 176 is denied.

177. Paragraph 177 is denied.

178. Paragraph 178 is denied.

179. In response to Paragraph 179, the Defendants reincorporate their responses to paragraphs 1 through 178 of the Complaint as though fully set forth herein.

180. Paragraph 180 is admitted.

181. Paragraph 181 is denied for lack of information upon which to form a belief.

182. Paragraph 182 is denied.

183. Paragraph 183 is denied for lack of information upon which to form a belief.

184. Paragraph 184 is denied for lack of information upon which to form a belief.

185. Paragraph 185 is denied.

186. In response to Paragraph 186, the Defendants reincorporate their responses to paragraphs 1 through 185 of the Complaint as though fully set forth herein.

187. Paragraph 187 is admitted.

188. Paragraph 188 is denied for lack of information upon which to form a belief.

189. Paragraph 189 is denied.

190. In response to Paragraph 190, the Defendants reincorporate their responses to paragraphs 1 through 189 of the Complaint as though fully set forth herein.

191. Paragraph 191 is admitted.

192. Paragraph 192 is denied for lack of information upon which to form a belief.

193. Paragraph 193 is denied for lack of information upon which to form a belief.

194. Paragraph 194 is denied.

195. Paragraph 195 is denied.

196. Paragraph 196 is denied.

197. In response to Paragraph 197, the Defendants reincorporate their responses to paragraphs 1 through 196 of the Complaint as though fully set forth herein.

198. Paragraph 198 is denied.

199. Paragraph 199 is denied.

200. Paragraph 200 is denied.

201. Paragraph 201 is denied.

202. Paragraph 202 is denied.

203. Paragraph 203 is denied.

204. In response to Paragraph 204, the Defendants reincorporate their responses to paragraphs 1 through 203 of the Complaint as though fully set forth herein.

205. Paragraph 205 is denied.

206. Paragraph 206 is denied for lack of information upon which to form a belief.

207. Paragraph 207 is denied for lack of information upon which to form a belief.

208. Paragraph 208 is denied.

209. Paragraph 209 is denied.

210. Paragraph 210 is denied.

211. In response to Paragraph 211, the Defendants reincorporate their responses to paragraphs 1 through 210 of the Complaint as though fully set forth herein.

212. Paragraph 212 is admitted.

213. Paragraph 213 is denied.

214. Paragraph 214 is denied.

215. Paragraph 215 is denied.

AFFIRMATIVE DEFENSES

1. Plaintiffs fail to state a claim upon which relief may be granted.

2. Plaintiffs have failed to mitigate their damages.

3. Defendants deny that any unlawful activity as asserted by Plaintiffs in their Complaint occurred.

4. Any actions taken by the Defendants were taken for compelling or legitimate state interests.

5. The individual Defendants are entitled to qualified immunity.

6. Plaintiffs have failed to exhaust administrative remedies.

WHEREFORE, Defendants request the Court to dismiss Plaintiffs' Complaint and Demand for Jury Trial and assess the costs of this action to Plaintiffs.

THOMAS J. MILLER
Attorney General of Iowa

/s/GEORGE A. CARROLL
George A. Carroll
Assistant Attorney General
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E-MAIL: 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 October 19, 2018:

- ☐ U.S. Mail
- ☐ FAX
- ☐ Hand Delivery
- ☐ Overnight Courier
- ☐ Federal Express
- ☐ Other
- ☒ 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 FELLOWSHIP/USA, *et al.*, *Plaintiffs*, v. THE UNIVERSITY OF IOWA, *et al*., *Defendants*.	Civil Action No. 18-cv-00080 **PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT** **ORAL ARGUMENT REQUESTED**

Pursuant to Federal Rule of Civil Procedure 56 and Local Rules 7 and 56, Plaintiffs InterVarsity Christian Fellowship/USA and InterVarsity Graduate Christian Fellowship (collectively, "InterVarsity") move for summary judgment on the following claims: its Free Speech Claims (Counts VII-VIII), Free Association Claim (Count VI), Free Exercise Claims (Counts III-IV), and Religion Clause Claims (Counts I-II). *See also* Fed. R. Civ. P. 56(b) ("a party may file a motion for summary judgment at any time until 30 days after the close of all discovery").

I. Defendants infringed InterVarsity's Free Speech, Freedom of Association, and Free Exercise rights without sufficient justification.

A. Defendants infringed InterVarsity's rights under the Free Speech Clause (Counts VII-VIII).

Defendants have adopted a policy interpretation banning InterVarsity from accessing a forum for speech, and their restriction is both unreasonable in light of the purposes of the forum and discriminates against InterVarsity's religious viewpoint.

B. Defendants infringed InterVarsity's right to freedom of association (Count VI).

InterVarsity is an expressive association, and Defendants forbid InterVarsity from associating with leaders who agree with and can express its religious viewpoints with integrity, which significantly harms InterVarsity's ability to express its viewpoints.

C. Defendants infringed InterVarsity's rights under the Free Exercise Clause (Counts III-IV).

Defendants policy interpretation discriminates against InterVarsity's sincere religious beliefs and religious exercise in a manner that is neither neutral nor generally applicable.

D. Defendants cannot justify their infringements of InterVarsity's rights.

Defendants have not and cannot prove that their infringements on InterVarsity's First Amendment rights are narrowly tailored to a compelling government interest, and thus have violated those rights under clearly established federal law.

II. Defendants' interference with InterVarsity's leadership selection violates the Religion Clauses (Counts I-II).

InterVarsity is a religious group whose mission is marked by clear and obvious religious characteristics, and its officers are its religious leaders who minister to its members, personify its beliefs, and play an important role in conveying InterVarsity's religious message and carrying out its religious mission. Defendants accordingly violated InterVarsity's clearly established rights under the Free Exercise Clause to shape its own faith and mission through its appointments of religious leadership, and its Establishment Clause right against government entanglement in the same.

IN SUPPORT OF THIS MOTION, InterVarsity has attached a Brief in Support of Partial Summary Judgment, a Statement of Material Facts, and an Appendix. Contemporaneously with this motion, and pursuant to Local Rule 7(h), InterVarsity is also filing a motion for leave to file an overlength brief. Per Local Rule 5A(g)(8), InterVarsity is delivering a bound and tabbed paper copy of all of these filings to the Court.

InterVarsity requests oral argument on this motion.

WHEREFORE, InterVarsity requests that this Court grant summary judgment to InterVarsity on the claims listed above, and:

a. Declare and enter judgment that the First Amendment to the United States Constitution requires Defendants not to discriminate against InterVarsity or withhold registered status based on InterVarsity's religious leadership selection policies;

b. Declare and enter judgment that Defendants' enforcement of the University's policy against InterVarsity violated InterVarsity's clearly established constitutional rights;

c. Declare and enter judgment that the individual-capacity Defendants are personally liable for these violations and that their qualified immunity affirmative defense fails as it relates to these claims;

d. Issue a permanent injunction prohibiting enforcement of the University's Human Rights Policy against InterVarsity based on the content of InterVarsity's religious leadership selection policies;

e. Award InterVarsity nominal damages to which it is entitled by law;

f. and set a trial for the determination of further damages against the individual-capacity Defendants.

Respectfully submitted,

/s/ *Eric S. Baxter*
Eric S. Baxter*
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Daniel H. Blomberg*
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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 **PLAINTIFFS' STATEMENT OF MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

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

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].

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. ¶¶ 8-10].

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].

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].

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].

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.*

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].

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].

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].

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]

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].

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].

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].

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. 255:13-256:5-16]; App. 1987 [Schrock Decl.¶¶ 39-42].

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].

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.

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.

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.

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].

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].

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].

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.

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.

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.

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.

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].

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/community-policies/nondiscrimination-statement.

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.

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.

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.

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].

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].

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].

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

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.

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.

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

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*.

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 Uiowa 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**).

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.

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

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").

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.

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").

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.

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.

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.

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].

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. 21:15-22:11]; *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").

h. *Sports club funds that discriminate based on sex*. *See* App. 0464 [Petty Dep.33:11-34:22]; App. 0546-54 (**Women's Water Polo Club**, **Men's Rugby Club**, **Men's Water Polo Club**, **Men's Volleyball Club**);

i. *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").

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.

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.

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

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.

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

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

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].

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.

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.

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.

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.

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

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.

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.

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. 54:2-24]; App. 0079 (emphasis in original).

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].

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].

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.

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.

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.

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

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.

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.

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.

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

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].

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.

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.

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.

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.

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.

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.

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 pre-condition 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].

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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 all-comers policy. App. 0038 [Baker Dep. 147:7-148:4].

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.

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.

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. 15:8-12]; App. 0646 [Estell Dep. 44:2-6].

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.

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.

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.

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].

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

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].

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].

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].

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].

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.

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.

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

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.

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.

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].

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.

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].

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.

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.

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].

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].

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].

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.

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

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.

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].

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].

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. 46:2-47:25].

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].

130. Ms. 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. 102:8-25].

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].

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].

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].

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

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. 97:10-

100:15]; 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).

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].

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").

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, 134:8-25].

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).

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].

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

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].

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).

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. 40:21-42:9]; 0077.

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].

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].

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, 202:1-24]; *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").

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].

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].

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].

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.

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].

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").

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].

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

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].

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].

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].

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].

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.

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, 197:19-198:9].

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].

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].

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. 30:20-31:4].

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].

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].

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. 53:24-54:2].

168. **Error! Bookmark not defined.**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].

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.

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).

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).

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).

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].

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.

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].

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.

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. 186:1-6]; App. 0408.

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.

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.

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.

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.

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.

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.

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].

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].

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.

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. 210:12-211:25].

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*.

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].

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].

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. 246:25-248:24]; App. 0422; App. 2007, 2015 [Schrock Decl.Ex. D & E].

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].

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].

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].

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].

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].

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.*

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].

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].

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].

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.].

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").

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].

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.

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].

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].

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].

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].

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).

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. 0105-06 [Cervantes Dep. 32:2-34:17]; App. 0244.

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).

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*.

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).

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*.

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

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 Lamba Theta Nu, Lamba Theta Phi, and Sigma Lamba Beta as having 100% Hispanic/Latino(a) membership); *see also* App. 2087-2110 (University webpages describing historically African-American and Hispanic/Latino chapters).

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.

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.

Respectfully submitted,

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

INTERVARSITY CHRISTIAN FELLOWSHIP/ USA, and INTERVARSITY GRADUATE CHRISTIAN FELLOWSHIP, *Plaintiffs*, v. 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*.	Civ. Action No. 18-cv-00080 **APPENDIX VOLUME I-A** **OF PLAINTIFFS' STATEMENT OF MATERIAL FACTS IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

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

BUSINESS LEADERS IN CHRIST, Plaintiff, vs. THE UNIVERSITY OF IOWA, et al., Defendants.	CIVIL ACTION NO. 17-cv-00080-SMR-SBJ
	DEPOSITION OF THOMAS BAKER

Deposition of THOMAS BAKER, taken at UI Research Park, 2500 Crosspark Road, Coralville, Iowa, commencing at 8:30 a.m., August 16, 2018, before Tracy A. Hamm, Certified Shorthand Reporter and Notary Public in and for the State of Iowa.

APPEARANCES

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THOMAS BAKER,

witness herein, called as a witness by Plaintiff, after having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. BAXTER:

Q. Good morning. Could you please state your name for the record.

A. Sure. Thomas Robert Baker.

Q. And you're employed at the University of Iowa, correct?

A. Correct.

Q. And how long have you been employed there?

A. I've been employed on a part-time basis since 1985 and a full-time basis since 1988.

Q. And what responsibilities have you had there?

A. During the entire time I've worked in the -- I work in the Office of the Dean of Students, so I -- my supervisor was the dean of students. My role started with student discipline and continues to be student discipline, and there were some other responsibilities that have been assigned to me over the years, and the -- from my -- my role has changed, my title has changed several times because the role I play has changed.

Q. Can we walk through those quickly. So in 1985 you started; is that right?

A. That's right.

Q. And what was your title then?

A. I was a graduate assistant.

Q. Okay. And you reported directly to the dean of students at that time --

A. Yeah.

Q. -- as well?

A. That's right.

Q. And just so we both know, I'm going to ask you just to be careful to let me finish my sentences. I'll try --

A. All right.

MR. CARROLL: Even there, and it's only for her (indicating).

BY MR. BAXTER:

Q. I'll try to do the same when you're speaking, and let's make sure any answers you have are "yes," "no," not "uh-huh" or "huh-uh" because that doesn't transcribe well for the reporter, okay?

And going back, did you say in 1985 you reported directly to the dean of students?

A. Correct.

Q. And then in 1988 you took on a full-time position?

A. Correct.

Q. And what was your title then?

A. I was the assistant to the dean of students.

Q. And what beyond student conduct was part of your responsibilities then?

A. I -- I don't recall exactly. My primary role was investigating student misconduct cases, and I -- the part of my job description that says "other duties as assigned" was just dependent upon what the particular needs of the office were at the time.

Q. And when you say you had responsibility over student misconduct, did that involve registered student organizations, or just misconduct by individual students?

A. Misconduct by individual students.

Q. And do you remember when your title next changed?

A. I believe it was 1997 I became the assistant dean of students and the associate counselor.

Q. And how did that change your responsibilities?

A. I don't know -- I -- my responsibilities didn't change other than the fact that with the associate counsel role, I was the liaison with the General Counsel's office. In fact, I've been operating as a liaison to the General Counsel's office before that, but my day-to-day work didn't change. Before the change in 1997 I was reviewing contracts. If there was a matter involving a student organization that had violated student organization roles, I might -- rules, I might be assigned to investigate that, but there were a number of different responsibilities that flowed from the legal work

related to Student Services.

Q. And beyond sometimes investigating student organization misconduct, what would those have been?

A. I'm sorry, I'm not sure I understand your question.

Q. You stated that there were other roles that flowed -- other roles concerning student organizations that flowed from your role as the associate counselor and you mentioned that one of those was investigating student organization complaints; were there other specific responsibilities with regard to student organizations?

A. No; I was not involved in the day-to-day work of advising student organizations.

Q. And when you say you sometimes were asked to investigate issues concerning student organizations, what specifically did that entail?

A. Reports of hazing by a fraternity or a sorority. We had a death in a fraternity house in 1995, so we investigated the circumstances of that.

Q. And you would conduct the actual factual investigation?

A. Correct.

Q. And what was the process for students to appeal from your findings?

A. I don't recall exactly. I believe if a sanction was imposed on a student organization, there was an appeal

process, but I don't recall ever talking internally within the University. I don't recall which offices heard which types of cases. For example, it may have been dependent upon whether it was a derecognition or whether it was probation or something like that.

Q. Okay. You mentioned in 1996 you had a title change and "associate counsel" was added to your title; do you remember when your title was next changed after that?

A. I believe it was 2002; my new title was associate dean of students without the associate counselor.

Q. And what was the impact of that change?

A. There was no impact on my day-to-day work other than just identifying myself as the associate dean instead of the assistant dean.

Q. And do you know why the "associate counselor" title was removed?

A. I don't know for certain. I presumed at the time that the fact that the --

MR. CARROLL: Let's note that someone just entered the room. Are you here for the deposition?

MR. LEVIN: Yeah. Yes, I thought they started at 9:00, so I apologize for --

MR. BAXTER: This is Nate Levin.

MR. CARROLL: I thought you were out of town. Apparently not. Okay.

THE WITNESS: Shall I continue?

BY MR. BAXTER:

Q. Please.

A. Okay. The -- I presumed that at the time in 2002 when my title was changed that because the office of the General Counsel was expanding, the number of lawyers that -- a decision was made to have Student Services' legal issues involving someone in the General Counsel's office, not just the liaison to the office, so, in other words, I reported still to the dean of students. The dean of students was my supervisor. The -- after my -- after the change in 2002, the associate general counsel who advised on Student Services matters reported to the general counsel.

Q. So during the time you were serving as what you called the liaison to the General Counsel's office, were you otherwise involved in the regular work of the General Counsel's office?

A. No.

Q. And did you consider any of the work that you did during that time to be subject to the attorney-client privilege or work product privilege?

A. I'm not sure what product privilege is. In terms of the attorney-client privilege, there may have been situations that I was involved with in that period from 1997 to 2002 that had a privilege associated with it, but my day-to-day work did

not ordinarily fall under the umbrella of attorney-client.

Q. You mention in 2002 you had a title change when "associate counsel" title was removed. Do you remember when your next title change was after that?

A. 2009 the director of student -- "director of the Student Conduct Office" was added to my title, so as of 2009 I was the associate dean of students and the director of the Student Conduct Office.

Q. And how did that impact your day-to-day responsibilities?

A. Well, the title change itself didn't impact my responsibilities. What did impact my day-to-day responsibilities was the fact that the vice president's office was split into two parts. Prior to 2009 the dean of students was also the vice president for Student Services, so in 2009 a separate dean of students title was created, and I reported to the new dean of students instead of the vice president. So I had a different supervisor, and I also -- we also shifted room arrangements because the Conduct Office was expanding personnel.

Q. And you mentioned earlier that at one point you were the assistant dean, and then you were the associate dean; was there any significance in the difference between those titles?

A. I don't believe so. I mean obviously there was a pay grade difference, but I don't recall getting any new

responsibilities in 2002.

Q. In general, what's the difference between an assistant dean and an associate dean?

A. There's no difference in terms of the human resources terminology. So, in other words, whereas a faculty member, it's a big difference between an assistant professor and an associate professor, but in the HR world, for student affairs it's -- it simply denotes that you're at a higher pay grade.

Q. And --

A. That's my understanding.

Q. And in both positions you reported directly to the dean?

A. Correct; the dean of students.

Q. And 2009 do you remember when your title changed next?

A. I think it was in 2016, the "director of Student Conduct Office" was removed from my title. I was being assigned more and more to do Title IX investigations, and I was no longer functioning as a director and so I was once again the associate dean of students.

Q. And has your title changed since then?

A. Yes; as a matter of fact, May 1 of 2018 I -- my title is student misconduct and Title IX investigator.

Q. And who do you report to in that role?

A. I report to the associate dean of students.

Q. Did you consider that to be a demotion?

A. No.

Q. Why not?

A. The decision was discussed with my supervisor and the vice president, and they explained that it was -- that the title was changing because I was no longer supervising anyone, and they wanted a title that fit my day-to-day work which was investigating Title IX cases.

Q. But is it fair to say that you now report to the person who previous -- is it fair to say that you now report to the person who holds the position you previously held as associate dean?

A. No; I don't -- the person that I report to now was the assistant dean of students when I was the associate dean of students.

Q. And at that time did that person report to you?

A. No; we each reported to the dean of students.

Q. Okay. But that individual's title changed from assistant to associate?

A. Correct.

Q. And who is that individual?

A. Angie Reams, R-e-a-m-s.

Q. I'm going to ask you to look at what's been previously marked as Exhibit 2, and do you recognize this document?

MR. CARROLL: Yeah, the tab -- excuse me. The tab is going to be -- they're not marked, but the tab means Exhibit 2, so you're at the right exhibit.

THE WITNESS: Okay. This is the Notice of Deposition, I believe.

BY MR. BAXTER:

Q. Correct, this is the Notice of the Rule 30(b)(6) deposition, and if you flip to the third page which is labeled "Exhibit A," have you seen this document before?

A. I believe I've seen this.

Q. It's my understanding that you've been designated today to be the witness to speak on behalf of the University for topics number 5 and 8; is that correct?

A. I can speak to both points 5 and 8. I don't understand the "30(b)(6)" designation, but I can certainly speak to topics 5 and 8.

Q. Okay. And did you do anything -- besides speaking with your attorneys, did you do anything to prepare to speak on topics number 5 and 8?

A. I reviewed the interrogatories. I reviewed my file on the Christian Legal Society. I reviewed some of the documents related to the BLinC case.

Q. And besides your attorneys, did you speak to anyone in preparation for your deposition today?

A. No.

Q. At some point were you asked to gather documents for this litigation?

A. Yes, I was; in January of 2018 I received several email requests from attorneys to produce documents.

Q. And did you receive instruction not to destroy any documents that might be relevant to this litigation?

A. Yes.

Q. And what did you do to respond to the instructions that you were given to gather documents?

A. I looked through several files that I had. I looked through the BLinC file, and I -- so, in other words, I looked at paper copies. I also looked in my computer. I organized email messages into a folder, and I created a new subdirectory to place electronic documents in for storage and reference later, and I also asked a staff member to scan the documents from the Christian Legal Society files.

Q. And what search terms or parameters did you use to identify email communications that might be relevant?

A. I don't recall for certain. I know that I used "BLinC" as the acronym is spelled. I did not -- I don't recall what I did with the Christian Legal Society documents. I believe I had the Christian Legal Society electronic documents in a folder already. Most -- because it was 2004, most of the Christian Legal Society documents are hard copies,

so I would have searched under "BLinC." I would have gone to my -- the subdirectory I had already created for Christian Legal Society, and I also -- after making a list of the staff members that I communicated with about the BLinC case, I searched my email under each name to see if there were any emails that were about BLinC that didn't have the word "BLinC" in them, and if there were any -- I don't recall if there were or weren't any, but those would have been stored in the subdirectory.

MR. BAXTER: Okay. I'm going to give you a document that the reporter will mark as Exhibit Number 7.

Here's (indicating) an extra copy if you'd like it.

MR. CARROLL: No, this is -- it's already in there.

MR. BAXTER: Oh, it's already in there?

MR. CARROLL: Yeah. Tom's answers, right?

MR. BAXTER: Yes.

MR. CARROLL: Yeah, you don't need to mark it. That was marked previously.

BY MR. BAXTER:

Q. So just to clarify the record, the document's previously marked and is in the binder as Exhibit 7, correct?

A. Correct.

Q. And do you recognize this document?

A. Yes, I do.

Q. And what is it?

A. These are my responses to the interrogatories.

Q. And at the time you wrote these, did you understand that your answers were being given under oath?

A. Yes.

Q. If you could flip to your answer to Interrogatory Number 1 on page 3, do you see that?

A. Yes.

Q. These are the individuals you've identified with whom you've communicated concerning BLinC or this litigation, correct?

A. Correct.

Q. And since you've completed these answers, is there anyone else that you've thought of that you've spoke with about this litigation?

A. No.

Q. What was the extent of your communication with Kenneth Brown?

A. Very limited. I was asked to communicate with Professor Brown in January 2018 after the suit was filed to gather documents and to determine if there was any information that the associate dean's office had in the Tippie College of Business.

Q. And do you recall what Mr. Brown's -- the substance of any of Mr. Brown's responses to your discussions with him?

A. I don't recall specifically. I know he did reply to

my email. I may have talked to him on the phone; I don't recall for sure. As far as I remember, there weren't any documents that Professor Brown had.

Q. What was the extent of your communication with Lyn Redington?

A. Well, because she was my supervisor, there were several times when we spoke or communicated by email. The first time in the case involving BLinC that Dean Redington spoke to me was to tell me that she wanted me to sit in on the investigation being conducted by Connie Cervantes and then to share the findings of Connie's investigation with Dr. Nelson.

Q. Did she tell you why she wanted you to sit in on that investigation?

A. She did; I asked her to clarify what my role was, and what I recall from the conversation was that she was asking me to serve as a liaison role.

Q. A liaison between whom?

A. Between the EOD office, Connie Cervantes; and the CSIL office, Dr. Nelson's office.

Q. Was this an unusual step for her to ask you to participate in this way?

A. Well, it was unusual in the sense that we had never had a Human Rights Policy investigation, a complaint filed before, so I had never served that role before, and it was the first time that we had a formal complaint filed against -- by

an individual against a student organization.

Q. As you recall, was there just one investigation, or two investigations the first time Dr. Redington asked you to serve as a liaison?

A. Could you repeat your question.

Q. When Dr. Redington asked you to serve as a liaison between the EOD office and CSIL -- that's C-S-I-L -- was that just concerning the BLinC investigation, or was there any other complaint or investigation that she approached you about?

A. Oh, it just concerned the BLinC investigation -- oh, pardon me. The -- there was a second organization that Mr. Miller in his complaint accused a student organization with the name 24:7, so the EOD office conducted two investigations; one complainant, two different organizations were accused of a Human Rights Policy violation. The same investigator investigated both cases, and I -- so Dr. Redington asked me to observe Connie's interviews both with 24:7 and with BLinC.

Q. And did you learn about both investigations at the same time, or at different times?

A. Same time.

Q. What was the scope of your interaction with Andy Kutcher?

A. I spoke with Andy Kutcher or he spoke with me, I

don't recall who initiated the discussion, but this would have been in January 2018. Following the lawsuit, Andy was assigned to track down some documents, and he and I spoke about a pretty specific issue; if I recall, it had to do with student organization fairs that BLinC had participated in.

Q. Do you recall what documents Andy had been asked to locate?

A. I don't recall.

Q. And do you recall what the substance of the conversation was?

A. I don't.

Q. You mentioned that it had to do with the student fair?

A. Yes, student organization fair; this is the event where all registered student organizations are invited to set up a table to -- so that students who are looking to join groups could talk to them if they're interested in membership.

Q. Did the conversation involve BLinC's participation in the student fair?

A. Yes.

Q. And do you remember what Andy's position was on their involvement?

A. No, I don't remember what he found.

Q. And do you remember what you said about their participation in the fair?

A. Well, I'm not involved in facilitating student organization fairs, so I had no information to give to Andy about whether BLinC participated or didn't participate.

Q. Please turn to the next page of this document.

A. (The witness complied.)

Q. Here you've identified email addresses and social media platforms you've used to communicate with anyone about BLinC or this lawsuit, correct?

A. Correct.

Q. Did you ever communicate with anyone about BLinC or this lawsuit on social media?

A. No.

Q. Would you have ever used any personal email addresses?

A. No.

Q. This is the only avenue besides in-person conversations that you would have communicated with others about BLinC or this lawsuit?

A. Correct.

Q. Turning to the second page, do you see here that you indicated that you did not participate in the decision to deregister BLinC; is that correct?

MR. CARROLL: Excuse me just for a moment. You said "second page." Can you just -- it's page 5, correct?

MR. BAXTER: This is the next page, correct, page 5,

response to Interrogatory Number 3.

MR. CARROLL: Thank you.

THE WITNESS: Yes, I did not participate in the decision to deregister BLinC.

BY MR. BAXTER:

Q. And then turning to the next page in response to Interrogatory Number 4, you indicate that the decision to deregister was made by Dr. Redington and/or Dr. Nelson; is that correct?

A. Correct.

Q. And what's your basis for that statement?

A. Because under our procedure for student organization misconduct, Dr. Nelson as the director of the CSIL office had the primary responsibility for issuing decisions, and Dr. Redington as the dean of students was the person who heard appeals.

Q. If there were others who were involved in the decision, would you have known about it?

A. No.

Q. And you didn't consider your discussions with Dr. Redington to be part of the decision to deregister BLinC?

A. I had discussions with Dr. Redington before -- early on in the process when the case was under investigation by EOD, but when Dr. Nelson was deciding what decision to make, Dr. Redington did not consult with me about the decision to

deregister or not deregister.

Q. Did you ever give your opinion as to whether BLinC should be deregistered or not?

A. No.

Q. And did either Dr. Redington or Dr. Nelson ever request your opinion or advice on that question?

A. No.

Q. I'm going to ask you now to look at documents previously identified as Exhibit Number 46 behind tab 46.

I'm going to have you go back, I'm sorry, to Exhibit 40.

A. Okay. (The witness complied.)

Q. Which has also been previously marked. Do you recognize this letter?

A. Let me review it.

I don't recall this letter. It wasn't in my file, my personal file, on -- pardon me, my file as the associate dean with regard to Christian Legal Society. The -- this document, Exhibit 40, references the Christian Legal Society, and it's dated 1999. The first document that I have in my file about the Christian Legal Society I believe is dated 2003, so I'm not -- I'm not sure that I recall seeing this before.

Q. So you think -- just to be clear, you think that someone other than you would have produced this document?

A. I believe so, unless I was -- did a poor job in organizing my files.

Q. I'm going to ask you to flip to the document that's been previously marked as Exhibit 41.

A. (The witness complied.)

Q. This is a memo from Alice Mathis to Philip Jones, correct?

A. Correct.

Q. And you were cc'd on this memo, correct?

A. Correct.

Q. Do you have any recollection of this document?

A. I do not.

Q. And you don't think you produced it from your file?

A. Correct.

Q. Who is Alice Mathis?

A. Alice Mathis was the CSIL director for Dr. Nelson.

Q. And who is Philip Jones?

A. Philip Jones is my supervisor, the vice president for Student Services and dean of students.

Q. And this document is dated 1999, correct?

A. Correct.

Q. You see in the second sentence where it says: "Based on a legal review, there appear to be no First Amendment violations in the organization's constitution for local participation in a religious organization"?

A. I see the sentence that you're referencing.

Q. Do you have any idea what that's referring to?

A. I don't know that for certain. As you know, the First Amendment includes a number of different provisions, and I don't -- doesn't look like it's specified what aspect of the First Amendment is being implied.

Q. So am I correct that you have no personal recollection of what this memo is about?

A. Correct.

Q. And in preparation for this deposition, nobody showed you this document or explained to you what it was referring to?

A. Correct.

Q. I'm going to ask you to look at the document labeled -- or behind tab number tab number 42 which has previously been marked as Exhibit 42.

A. (The witness compiled.)

Q. Do you recognize this document?

A. Yes; these are my handwritten notes January 7th, 2004. I made the notes during a phone conversation from a local attorney, Craig Nierman, who was representing the Christian Legal Society.

Q. And what was the purpose of that phone call?

A. Mr. Nierman called me to express concerns about the status of the Christian Legal Society.

Q. And what had triggered his concern?

A. I believe the student -- one of the Student Government committees had noticed that the Christian Legal Society had not included their -- had not included the University Human Rights Policy in their constitution. The decision to change the status of the Christian Legal Society by the Student Government committee had been made in late 2003, I believe, and Mr. Nierman was representing Christian Legal Society and called and had some questions. To be honest with you, I'm --

Q. And I can direct your attention to the document later. I'm just right now looking for your recollection without looking at the document --

A. Okay.

Q. -- what you were -- do you have any other recollection about why he had called?

A. No.

Q. And when you mentioned that the Student Government, I think you said, had changed the status of Christian Legal Society on campus, what do you mean by that?

A. Well, the rules require that every student organization that's registered include the Human Rights Policy verbatim in the group's constitution, so in order to maintain their status as a registered organization, there's a -- you might call it an audit, a check, done by -- at that time it

was done by a committee and Student Government to make sure that student organizations had included their -- their Human Rights Policy in their constitution.

Q. Is it your understanding that all student organization constitutions were reviewed for compliance in that record?

A. Could you repeat your question.

Q. At that time, so in 2004, you said there was a committee that reviewed -- would have reviewed for Christian Legal Society's compliance in its constitution meaning whether it had included the Human Rights Policy; is that correct?

A. I'm sorry, could you repeat it one more time.

Q. You mentioned a committee that was responsible for reviewing constitutions; is that correct?

A. Correct.

Q. And you suggested, if I understood you correctly, that that committee would have noticed that Christian Legal Society's constitution didn't have the complete Human Rights Policy in it; is that correct?

A. Correct; as I recall, it didn't have any language from the Human Rights Policy in their constitution, and I don't know how they noticed that. I don't know -- I didn't advise the committee. I don't know what the committee's charge was, but the committee realized that there was -- that the language that was in their constitution wasn't in their

constitution and changed their status on that basis.

Q. So you have no idea whether that committee was reviewing all student constitutions or whether it just noticed the omission in Christian Legal Society's constitution; is that correct?

A. Correct.

Q. And do you recall what exactly or how exactly the committee had changed Christian Legal Society's status?

A. I don't recall specifically how they communicated that. I assume it was a written document; whether it was a letter, whether it was an email, I don't know.

Q. And I'm going to refer to Christian Legal Society as "CLS" going forward.

A. Okay.

Q. But at that time was CLS deregistered, or was there some other change in their status?

A. I don't recall if they were formally deregistered. I know that they were notified that the discrepancy needed to be corrected, so as to what their status was during this time period, whether they were eligible to use University facilities, whether they were eligible to apply for finances, I don't know.

Q. And when did you first hear about the change in status?

A. It was when Mr. Nierman called me on January 7th,

2004.

Q. Okay. And looking at your notes on Exhibit 42, do you see where it says at the top: "Group submitted constitution to OSL," "Big I" in non-discrimination clause"?

A. The "I" circled is my shorthand for "issue," so -- quotation marks means that Mr. Nierman used the phrase "big issue."

Q. Okay. And then the next lines say: "Draft didn't mention religion or sex orientation. Homosexual conduct is incompatible with relig beliefs. OSL wouldn't reconsider to rejection"; is that correct?

A. Right. Obviously the grammar there is askew, and "OSL" refers to the Office of Student Life which was the previous name of what's now the CSIL office.

Q. And what were your notes referring to here?

A. Those three lines that you referenced?

Q. Correct.

A. This again would have been -- I would have been writing down what Mr. Nierman was telling me.

Q. Do his -- do those comments bring to your recollection what the substance of your conversation was with him?

A. I don't recall our conversation specifically. I know that in a general sense he was concerned about the CLS and their religious beliefs.

Q. And was he referring to religious beliefs concerning sexual orientation, or something else?

A. My understanding was that sexual orientation was one of the concerns. I don't recall if there may have been other categories listed in the Human Rights Policy that he was concerned about, but for sure I wrote down "sexual orientation," and that's my memory that -- my general memory is that he was asking about the group's religious beliefs and the Human Rights Policy as it applied to protect sexual orientation.

Q. And at that time was sexual orientation actually included in the Human Rights Policy as a protected category?

A. I can't remember. I don't remember -- I know it was changed at some point in time. I don't recall what year it was changed.

Q. So at some point it wasn't in the Human Rights Policy, and then it was added later; is that correct?

A. Correct.

Q. And do you have any general sense of when that would have happened?

A. No.

Q. And you don't recall whether it was before or after this phone call?

A. Correct.

Q. Your notes also indicate that -- it says, quote:

"Rumors that Muslim groups allowed to discrim"; do you see that?

A. Uh-huh. Yes.

Q. And then it says: "(He doesn't disagree with this exception - I do)," correct?

A. Yes.

Q. What was that referring to?

A. I -- I don't know. I can speculate about what I was thinking when I wrote that, but that parenthetical phrase was my habit at the time of making personal notes to myself.

Q. So at that time was it your understanding that Muslim groups were allowed to exclude, for example, members or leaders who weren't Muslim?

A. No, I didn't know anything about Muslim groups. I had never -- it had never been reported to me that their -- what Muslim groups were doing or were not doing.

Q. And at this time had you had any involvement with student groups on campus?

A. Any in --

Q. Any involvement with student groups on campus.

MR. CARROLL: Just so I'm clear, when you say "at this time," do you mean in '04?

BY MR. BAXTER:

Q. In the time you were taking these notes in January of 2004.

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A. Any involvement in student groups -- my only involvement with student groups was in my capacity as investigator. I didn't meet with student groups to talk about student events other than issues that had contractual implications or --

Q. Were you involved in the registration as to organizations?

A. No.

Q. Why would the earlier matter we discussed where -- I'm sorry, why would -- in this matter, why would the committee that was responsible for reviewing compliance of student constitutions -- why would their issues have come to you?

A. Well, the issue came to me because of Mr. Nierman's phone call.

Q. And do you know why he would have called you instead of someone else?

A. I don't.

Q. And at that time did you have any understanding of how the Human Rights Policy was applied to the student organizations?

A. Yes; I have had several conversations over the years with my supervisor, the dean of students, about the history of the Human Rights Policy and so, yes, I was familiar with the Human Rights Policy.

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Q. Okay. And in what -- have you had opportunity to interpret the Human Rights Policy as it applied to student organizations at this time?

A. You mean previous to CLS?

Q. Correct.

A. I don't recall.

Q. Okay. And what -- at that time what would your understanding have been concerning student groups; did you have any opinion or would you have had any opinion as to whether, for example, a Muslim student group could exclude students from either membership or leadership positions who were not Muslim?

A. Could you repeat your question.

Q. At the time of this phone call from Mr. Nierman, would you have had any understanding of whether the Human Rights Policy allowed, for example, a Muslim group to exclude non-Muslims from membership?

A. It was not an issue that I had considered before this case, before Mr. Nierman called, so the -- it was -- the issues about religious groups and their membership requirements did become something that I studied and had conversations with -- about after January 7th, but as of January 7th when Mr. Nierman called me, I don't recall that issues about discrimination involving religious groups had come up before.

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Q. And do you have any recollection of what exceptions he was referring to that you disagreed -- that you had disagreed with?

A. Could you repeat your question.

Q. You mentioned here in your note that he disagreed with an exception, and you -- that he did -- he doesn't disagree with an exception, and you said "I do"; what exception was being referred to there?

A. I don't know. The term that I'm confused by is the term "exception," so I'm not sure what -- based on these notes, I can't reconstruct the dialogue that I had with Mr. Nierman, so I'm not -- I don't -- I can speculate, but I don't have a recollection of what specifically I was noting.

Q. Understanding that you're speculating, please tell me what you would guess this is about.

A. Well, it may have --

MR. CARROLL: Tom, if you don't know, don't speculate. You're not required to speculate. If you know, you have to answer it under oath.

THE WITNESS: Okay. Well, I don't know.

MR. BAXTER: I mean you can actually answer my question. It's in the record that he's speculating. Are you instructing him not to answer?

MR. CARROLL: I am.

MR. BAXTER: Okay.

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Q. In the margin do you see where it says something about "pigeon hole"?

A. Yes.

Q. Can you make out what that says in the margin?

A. Unfortunately there's a hole of a different sort here. It's hard to -- I can't -- I can't decipher what's there. The part that I can make out it says "black student," and I don't recall -- I can't decipher the word below "black student."

Q. Does it say "immutable characteristics"?

A. Oh, yeah, "immutable characteristics."

Q. And do you have any recollection what you were referring to there?

A. Well, the conversations that I had previously with the dean of students involved the notion of immutable characteristics as to why -- what is the core principle of the Human Rights Policy, and so notions about immutable characteristics, what your eye color is, what your skin color is, things like that that -- that's the -- that was my understanding, that those were principles that the Human Rights Policy was designed to protect from differential treatment.

Q. And who was that that you had that conversation with?

A. Philip Jones.

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Q. And he at the time was the dean of students; is that correct?

A. Correct.

Q. And when had that conversation taken place?

A. No idea.

Q. Before, or after this call?

A. Oh, before. These notes in the margins, typically I make them during the conversation.

Q. And why would you have been having a discussion with him about the Human Rights Policy before this call?

A. Well, we had personal conversations about a lot of topics related to race and social justice. Vice President Jones had been -- was born in 1940, and he was in the generation that participated in many protests during the 1960s; he came to the University of Iowa, was hired within a few years after the Human Rights Policy was promulgated. He and I shared a lot of personal discussions about what it was like during the 1960s protests about civil rights and race discrimination. So, in other words, we had a general dialogue going on about race discrimination, about other forms of discrimination, and in the context of those conversations he would mention from time to time the Human Rights Policy.

Q. And do you have any recollection why you would have made notes about that conversation in connection with this call?

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A. I don't.

Q. I'm going to ask you to look at the exhibit that's been marked as Number 43.

A. (The witness complied.)

Q. Do you recognize this document?

A. I do; this is a template that my office used in 2004 to record incoming phone calls. This note shows that Linda McGuire had called for me; I was out when she called, and she wanted me to return the call. Linda McGuire was the associate dean in the College of Law. As the associate dean in the College of Law, she worked with groups like the Christian -- like the CLS and the -- where -- the Message notes, this is my handwriting, and I made these notes presumably during the phone call when I called her back.

Q. So the "TB" at the top, that refers to you; is that correct?

A. That's right.

Q. Okay. And then can you read what these notes say.

A. Okay. I'll read this verbatim. "She only uses the Office of Student Life recognition procedure," parenthetical phrase, "(her practice) but not sure about past" -- I assume that's CLS had presence in the law school and "just discovering some issues & more." That says "policing recently," something is crossed out, and the next phrase says -- hard to decipher here. Looks like "no old constitution

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she's seen. She's got old handbooks."

Q. Do you recall what was the purpose of this call or the message?

A. I don't. It was January 30th. I don't know if she was calling me back to a phone call I had made to her, so -- I don't know what the purpose was.

Q. And did you have a follow-up conversation with her?

A. You mean -- I mean I did have a conversation with her. I called her back.

Q. Okay.

A. Are you asking if I had another conversation with her later?

Q. Well, let's start with, you called her back in response to this message, correct?

A. No -- well, I called her back in response to that she had telephoned and asked me to call her back.

Q. So where it says "Message," are those your notes from when you called her?

A. Yes; when she and I spoke on the phone, those were my notes.

Q. And do you have any recollection of what the substance of that conversation was?

A. No.

Q. And did you call her again in response to this topic?

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A. I don't recall.

Q. I'm going to ask you to look at what's previously been marked as Exhibit 44.

A. (The witness complied.)

Q. Are you familiar with this document?

A. Yes; Exhibit 44 is the first letter I received from Mr. Nierman following his January 7th, 2004, telephone call; this document's dated January 30th, 2004.

Q. And did you review this document in preparation for your deposition?

A. I did look through it, scan it; I didn't read it word-for-word.

Q. Do you recall what the essence of the letter was or why Mr. Nierman was writing you?

A. Could I take a minute to look through this?

Q. Please.

A. Okay. Um --

MR. CARROLL: Wait for the question.

BY MR. BAXTER:

Q. Have you had a chance to finish reviewing the document?

A. Yes.

Q. And do you recall now what the purpose of this letter was?

A. Mr. Nierman requests at the end of the letter that

the University create a -- what he calls a formal written exemption for religious groups from the religion, creed, sexual orientation, and gender identity language of the University's required membership clause.

Q. And this was a result of the Student Organization Recognition Board's rejection of CLS's constitution in October of 2003; is that correct?

A. That's my understanding.

Q. And this is the same issue that -- is this the same issue that Mr. Nierman called you about previously?

A. Yes.

Q. And this letter indicates that CLS had been on campus and recognized as an official student organization at least since 1980; is that correct?

A. It --

Q. I'm looking --

A. Yes, it is; page 2.

Q. Yes. And you have no reason to question that CLS had been around campus all that time, correct?

A. I don't have any reason to question that.

Q. And that same paragraph indicates that the constitution was rejected because of a technical error in filling out the recognition form and the failure to include the University's membership clause in the group's proposed constitution; is that correct?

A. That's what Mr. Nierman writes here as I understand it.

Q. And as far as you know, was that membership clause the same thing as what we would -- or similar to what we would now call the Human Rights Policy?

A. Correct.

Q. Okay. And then Mr. Nierman was asking for an exception not to include certain language within that clause, correct?

A. That's my understanding of what he was requesting at the conclusion of his letter.

Q. And specifically he sought an assurance that the University would create a formal written exception for religious groups from the religion, creed, sexual orientation, and gender identity language of the membership clause; is that correct?

A. That's my understanding of what he intended when he wrote that in the last paragraph.

Q. Okay. And when you received this letter, do you remember what your reaction was?

A. Well, my reaction was that I had something concrete that I could share with my colleagues, and I know that I distributed this letter to other individuals at the University of Iowa. Since the letter was addressed to me and not to Vice President Jones, I would have shared the letter with

Vice President Jones, and I know I shared it also with Mark Schantz, the general counsel.

Q. And how do you spell "Schantz"?

A. "Schantz" is spelled S-c-h-a-n-t-z.

Q. And do you have any recollection of how Dean Jones responded to this letter?

A. There was a letter that I drafted on February 20th --

Q. Before you get to that letter, did you have any conversations with Dean Jones?

A. Yes.

Q. And what was the substance of those conversations?

A. Well, the substance of the conversations were topics that were outlined in my February 20th email.

Q. And do you have any recollection without looking at that email what those were?

A. No.

Q. And you said the date on that email was February 20th, or March 20th?

A. Memo; it was a formal letter February 20th.

Q. I'm going to ask you to take a look at the document that's previously been marked as Exhibit 45; do you recognize this document?

A. I do; I looked at it yesterday.

Q. And what is it?

A. These are notes that I took the -- when I looked at this yesterday, I didn't see any date, and I didn't see any names of people who I discussed with.

Q. And you have no further recollection of what this document is based on the substance perhaps?

A. Well, the -- some of the names of cases, for example, indicate -- Widmar, Rosenberger, indicate that whoever was in this discussion, we were talking about constitutional law, and Human Rights Policy is mentioned.

Q. Okay. The -- at the top do you see where it says: "No judicial decision on point. In fact, cases demonstrate we're following principle of content neutrality"; is that correct?

A. Correct.

Q. And what was that referring to?

A. Well, I don't recall what it refers to specifically in the conversation that was going on.

Q. This document would have referred to the ongoing issue with CLS, correct?

A. Correct; it was in the CLS file.

Q. Okay. And so what principle were you following at the time of the CLS investigation or issue that arose?

A. I -- I'm -- I don't know what you mean when you say "principle."

Q. Okay. Well, in that note you said "cases

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demonstrate we're following principle of" what looks like "constitutional" -- or something "neutrality" -- "content neutrality," correct?

A. "Following principle of content neutrality."

Q. So what principle were you following at that time or how were you following a principle of content neutrality?

A. The -- as I understand the note, it means that the principle of content neutrality needs to be followed when the Human Rights Policy is enforced.

Q. Okay. This says "we are following" in the present tense, correct?

A. Correct.

Q. So at the time you wrote this note, did you have an understanding of what principle you were following or how you were following it?

A. Well, I don't -- I don't know specifically what it applied to because this is not dated.

Q. But you had agreed already that this was concerning the CLS matter, correct?

A. Correct.

Q. So you know roughly it would have taken place in early 2004, correct?

A. I don't know that for certain.

Q. Okay. Well, let's walk through this, then, and see if it triggers your memory. You see at the top it says: "It

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is discrim behavior to reject students as members based on sex orientation"?

A. Correct, that's what I wrote.

Q. Okay. And do you remember what that was referring to?

A. No.

Q. Do you recall if it was referring to the CLS investigation?

A. Oh, presumably it was referring to the CLS -- to Mr. Nierman's letter.

Q. Okay. And so at this time you believed it was discriminatory behavior for CLS to reject students as members based on their sexual orientation, correct?

A. Yes.

Q. And then do you see the next line; can you read what that says.

A. "You're not claiming that you can't select heterosexuals only as leaders. You're not claiming unequal treatment regarding Muslim groups."

Q. Okay. Does that trigger any memory of what this conversation was about?

A. No.

Q. Does that suggest to you that these were notes from a conversation with Mr. Nierman or someone else representing CLS?

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A. No, this was not -- to my rec -- I don't recall having any other conversation with Mr. Nierman on the phone after the January 7th phone call.

Q. When it says "you're not claiming that you can't select homosexuals only as leaders," does the "your" suggest to CLS?

A. That -- that may be what this -- what the "your" refers to; yes, it could be CLS.

Q. And would it be your normal habit to refer to "your" if you weren't having a conversation with that person?

A. I've -- that -- I have done that before in -- when I put together notes in an argument that I'm making, I have before used this style of saying "your," "you are."

Q. Okay. And can you read what the next sentence says.

A. "You're claiming that your group has the constitutional right to discriminate regarding membership."

Q. Can you read the next line, please.

A. I'm not sure what that is. Starts out: "It should have special privileges to discriminate because it's a religious organization."

Q. And then the next line, please.

A. "U of I Human Rights Policy is applied content-neutral," and then there's those cases that -- Supreme Court cases, Widmar, Rosenberger; is that Gohn, G-o-h-n? That's an Eighth Circuit case if that's what that is.

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Q. And then the next line, please.

A. "If we treat you differently, then it's preferential treatment and viewpoint discrimination."

Q. So were these arguments that you were making in response to Mr. Nierman's letter?

A. I can't say for sure.

Q. But that -- is there any reason why this wouldn't be that?

A. Again, if I knew who this discussion was -- this could have even been my own sort of soliloquy of writing notes to myself in anticipation of typing up a memorandum.

Q. Specifically this was in response to the situation with CLS, correct?

A. Correct.

Q. And then can you read what the next line says starting with the notes in the margin.

A. "Start. You have equal access to the Human Rights Policy is designed to" -- pardon me. Let me rephrase that. That's an ampersand. So the line says: "Start. You have equal access & the Human Rights Policy is designed to ensure equal access if we're treating you" -- "your group differently than other groups."

Q. Okay. And do you recall what point you were trying to make there?

A. I don't.

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Q. Okay. Read the next line.
A. "Human Rights Policy," says "on applies to membership"; that -- not sure what that --
Q. Do you think that was supposed to mean "only applies to membership"?
A. Could be.
Q. Is that your understanding at that time, that the Human Rights Policy only applied to membership?
A. I don't know.
Q. And then the next sentence says what?
A. "Doesn't require that you agree with philosophy or definition of sexual orientation."
Q. And the next sentence?
A. "Doesn't preclude you from asking prospective officers to subscribe a statement of faith."
Q. And the next sentence?
A. "Doesn't preclude your group from establishing reasonable leadership qualifications consistent with the purpose of your organization."
Q. So this is a fair summary of how you understood the Human Rights Policy to apply at that time, correct?
A. No, I wouldn't say that. Again, I -- because I don't know the context for me making these notes, I don't know what my purpose was.
Q. So you might have just been saying these for some

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reason that had no relation to the CLS situation?
A. No, I'm sure these had -- pertained to the CLS situation.
Q. Okay. What else might you have meant in saying the HR Policy doesn't preclude you from asking prospective officers to subscribe to a Statement of Faith; what else might you have meant besides that that's how the Human Rights Policy would be applied at that time?
A. But -- what I'm saying is that these notes are not my conclusions. This -- these notes that I took were thoughts that I -- in a rough draft. I was not transcribing what somebody else was telling me I don't think. I was writing down ideas about ways to explain how the Human Rights Policy applied, but they were not -- these do not necessarily reflect my conclusions at the time. My conclusions were reflected in the February 20th memo.
Q. Okay. And when you say you were writing a draft, was this a draft of that letter perhaps?
A. No; to me a draft of a letter is -- contains complete sentences. This may have been -- I mean I sometimes did an outline of a letter, points that I would include in a letter, but this is not a draft of a letter.
Q. Okay. You had mentioned a draft; what did you mean by that when you said that?
A. I think you asked me if this was a draft of a

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letter.
Q. That's because you mentioned that this might be a draft of something.
A. But when I say -- the notes, notes that I took, whether these were notes I wrote to myself, by myself, whether these were notes I wrote during a conversation with someone else, this would have been preparation for typing a formal letter of the type that was sent on February 20th. What I don't know is whether or not these were notes I made before February 20th or if these were notes that I made after February 20th.
Q. Little further down in the document it says -- there's an "F" with a circle around it, and then it says "not a group since 1980"; is that correct?
A. Correct; and the "F" is my abbreviation for "fact."
Q. And so when it says "fact not a group since 1980?", question mark, do you remember what you were trying to convey there?
A. I don't.
Q. Did you ever find out if CLS had been a group since 1980?
A. I may have; if I did, I don't remember what the finding was.
Q. Okay. And then you see it says page 2: "Not a conflict between voting and accepting a member"; do you see

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that?
A. Yes.
Q. And do you know what page 2 would have referred to?
A. I don't.
Q. The next line -- can you read the next line.
A. "A homosexual could believe it is sinful to engage in homosexual sex."
Q. Okay. And do you know if that was a reflection of your own beliefs at the time, or someone else's?
A. I don't know.
Q. Okay. Is that statement consistent with your personal beliefs?
MR. CARROLL: Well, I'm going to object. This witness isn't here to testify about his personal beliefs whether religious-based or anything; you can ask him as a representative of the University of Iowa, but --
If you're comfortable answering, you can. If you don't want to answer it, you don't have to.
MR. BAXTER: George, we noticed him as a normal witness. He's obligated to respond to anything he has knowledge to. In addition, he can respond on the specific topics based on his 30(b)(6) knowledge.
MR. CARROLL: Right. He does not have to testify to his personal beliefs because that is not part of this lawsuit.
MR. BAXTER: He's required to testify to anything

that is relevant or can lead to admissible relevant evidence, and his personal beliefs on this issue are relevant, and I would like an answer to the question.

MR. CARROLL: If you're comfortable, you can answer it, and if not, don't answer it. We'll address it with a federal magistrate.

THE WITNESS: I prefer not to discuss my personal opinions.

MR. CARROLL: That's fine.

BY MR. BAXTER:

Q. As a University official, why would that statement have been important for you to include in these notes?

A. I don't recall why.

Q. But you obviously thought it was important, correct?

A. Well, I don't know how -- if I thought it was important or not. Again, these are random thoughts on principles. I -- so I can't infer 14 years later what my thought was at the time as to why I wrote it.

Q. Okay. But you did make these notes in your official capacity, correct?

A. Yes.

Q. Okay. On the bottom do you see where it says: "Page 3 no right to define membership"?

A. "On basis of immutable characteristics (e.g. race)."

Q. And then it says: "Meanwhile - not a recognized group," correct?

A. Correct.

Q. And so is it your understanding at this time that BLinC -- that CLS was not a recognized group?

A. Yes. Well, again, I don't know when this was -- when I took these notes. It could have been that they weren't a recognized group at the time or it could have meant something else.

Q. Okay. And do you have any recollection now of what "page 3" refers to?

A. No.

Q. After you received the call from Mr. Nierman and learned that CLS was being asked to include the full Human Rights Policy in its constitution, did you take any other action to ensure that all student constitutions were reviewed for compliance with the HR Policy?

A. I don't recall. I did not. I don't -- I don't recall. I may have looked through some other group constitutions; I don't have a memory of that.

Q. I'm going to ask you to look at the documents behind tab 46 and previously labeled as Exhibit 46.

A. (The witness complied.)

Q. Do you recognize this document?

A. Yes.

Q. Okay. What is this?

A. This was my letter dated February 20th, 2004, in response to Mr. Nierman's letter to me January 30th.

Q. Okay. And what was the basic gist of this letter?

A. This explains the position of the Office of the Vice President for Student Services with regard to how the University policy on human rights applies.

Q. I'm going to ask you to look at the third paragraph toward the middle; do you see the sentence that starts out "Creed and sexual orientation"?

A. Correct.

Q. It says that they are specifically listed as examples of categories that deprive a person from consideration as an individual, correct?

A. Correct.

Q. So is it fair to assume that those categories were included in the Human Rights Policy as it existed at that time?

A. Yes.

Q. And did you have an understanding at that time of what "creed" meant?

A. I did not have an understanding of what the drafters of the Human Rights Policy intended. I would have referred to the dictionary if I had a question about what "creed" entailed.

Q. Okay. Then the next sentence says: "Religious and religious affiliation are not specifically identified in the Policy," correct?

A. Correct.

Q. Why were they not included alongside other categories?

A. The policy when it was promulgated in 1963 was not a discussion that I was part of. In the conversations I've had with various people about the history of the Human Rights Policy, that question never came up. The -- I had always presumed that creed included religious principles and associations and --

Q. Could it also include nonreligious principles and association?

A. Certainly.

Q. I'm going to ask you to flip to the next page of the document.

A. (The witness complied.)

Q. The second sentence on this page -- well, the first sentence says: "Contrary to your letter, the Human Rights policy does not prohibit student groups from establishing membership criteria," correct?

A. Correct.

Q. And it says: "A student religious group is entitled to require a statement of faith as a pre-condition for joining the group," correct?

A. Correct.
Q. And next sentence: "Asking prospective members to sign the CLS statement of faith would not violate the UI Human Rights policy," correct?
A. Right.
Q. So any group could ask -- at that time any group -- student group could ask a student to sign a Statement of Faith before letting them join, correct?
A. I -- that's not what it says here.
Q. How do you understand what it says?
A. It says: "A student religious group is entitled to require a statement of faith," and then it says: "Asking prospective members to sign the CLS statement of faith would not violate the Human Rights policy."
Q. So at that time it was the University's policy that any religious group could condition membership on a student signing a Statement of Faith, correct?
A. I'm not sure what you intend when you say "a condition of membership." What this letter says is that they could require a Statement of Faith as a precondition for joining the group.
Q. Okay. So everything in this statement is true, correct?
A. Correct.
Q. And was anything changed in the Human Rights Policy

from the time this letter was written to the time of the BLinC investigation?
A. I have no idea.
Q. Okay. And why wouldn't you know that if you were responsible for investigating student group complaints?
A. Because I never investigated a Human Rights Policy complaint.
Q. But if there had been a change of policy, wouldn't that have fallen under your responsibilities to know that?
A. It would have fallen under my responsibilities to find the most recent version of a policy and to use that applicable version in the investigation, but there's no -- there's no practice of training investigators when a policy changes. The training that involves is to know where to go to find the policy if there is a complaint that's filed that implicates the policy.
Q. But you weren't just an investigator at that time in 2004; you were the associate dean of students, correct?
A. That was my title, associate dean of students.
Q. And who at that time would have had responsibility for any changes in the Human Rights Policy?
A. I don't know today. I believe the Human Rights Policy was part of the Operations Manual, and there's -- anything that's in the Operations Manual there's a protocol that it goes through to be amended.

Q. Okay. And what does that protocol involve?
A. I don't know.
Q. Okay. And is it your position, then, that there could have been changes made either to the Human Rights Policy or to its interpretation that could have been made and nobody at the University would have informed you about it?
A. Correct.
Q. Does that surprise you as all, or do you think that's normal procedure for the University?
A. I -- given the multitude of proceed -- policies -- excuse me. Given the multitude of policies, whether it was a Human Rights Policy or whether it was any other policy, it was not standard practice to notify every person who is an associate dean about which policies are being changed. So, again, you said your question was whether I was surprised?
Q. Would you be surprised to know that there were changes to the Human Rights Policy or its interpretation that wouldn't have been communicated to you?
A. No, I would not have been surprised because I had never previously been notified when changes were being considered. I was not a person who had a responsibility to approve a change in the policy.
Q. Okay. But as best you know, there has been no change to the Human Rights Policy or its interpretation since this letter was written; is that correct?

A. Repeat the question.
Q. As far as you know, has there been any change made to how the Human Rights Policy was written since you wrote this letter?
A. I don't know of any changes. It wouldn't surprise me if there had been a change made, but -- in a 15-year time period.
Q. And as far as you know, have there been any changes made as to how the Human Rights Policy is interpreted since this letter was written?
A. The only thing that sticks out in my mind about a change in policy interpretation has to do with organizations that are all male and all female when Philip Jones worked until 2008, and during the time that Phil Jones was the vice president, he insisted that the gender component of the Human Rights Policy be applied to nonresidential groups. If -- for example, if there was a prelaw society that only allowed female members or only allowed male members, he would have -- he would not have approved of that. At some point after Vice President Jones left, it came to my attention somehow that there was a -- I think there was a music social fraternity, something like that, that only had male members, and the group was -- had been recognized, so I -- whoever made that decision to recognize them as far as I knew had a different interpretation of the Human Rights Policy.

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Q. So just to make sure I understand, it's your understanding that Dean Jones would not have allowed that student group to be registered, correct?

A. Right, if it's a nonresidential group, the -- so, in other words, Vice President Jones allowed sororities that were part of the Greek system meaning that they had a residential space.

MR. CARROLL: Would this be a good time to take a break?

MR. BAXTER: Sure.

MR. CARROLL: I mean it's 10:00. We've been going an hour and a half.

(A recess was taken.)

MR. BAXTER: Okay. We'll go back on the record.

Q. Before the break, Mr. Baker, we were talking about Dean Jones' views of sex discrimination as it applied to residential and nonresidential student groups, correct?

A. Correct.

Q. And during the break, did you speak to anyone other than your lawyer concerning this matter?

A. I didn't speak to anyone.

Q. And did you review any documents?

A. No.

Q. I believe you testified that Dean Jones would have prohibited an on-campus group -- I'm sorry, a registered

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student organization that was nonresidential meaning that it was a non-fraternity or sorority from excluding members based on sex, correct?

A. Correct.

Q. But there was during that time at least one student group you were aware of, I think you said a music social group, that was allowed to discriminate on the basis of sex?

A. Well, not during the time of Dean Jones.

Q. Okay. When did they first come on campus?

A. I have no idea.

Q. What period of time were you referring to when you said there was that group on campus?

A. It would have been the time after I -- my office was moved -- well, when I was separated from the vice president's office in 2009 when my -- when the Student Conduct Office was created and they moved the Student Conduct Office, I was no longer in the vice president's office, and so it would have been sometime after my moving out of the vice president's office.

Q. And how was that brought to your attention?

A. I don't recall.

Q. And during Dean Jones' tenure, was there any effort to enforce that view that nonresidential groups should not be allowed to discriminate on the basis of sex?

A. I don't know what Dean Jones did; I was not present

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when he spoke to the CSIL office about the Human Rights Policy.

Q. Are you referring to a specific conversation you had with him, or just conversation --

A. Just conversations in general.

Q. Just let me finish my sentence before you --

A. Okay.

Q. But he -- during Dean Jones' tenure until -- well, when did Dean Jones leave the University of Iowa?

A. July 2008.

Q. And prior to that time did you report to Dean Jones?

A. Correct.

Q. And if he had sought to enforce his views on sex discrimination by nonresidential student groups, would you have been involved in those discussions?

A. Perhaps but dependent upon what Dean Jones wanted to do.

Q. Okay. Who else might he have turned to for that?

A. Well, the director of what's now the CSIL office.

Q. Okay. And do you know why Dean Jones made an exception for fraternities and sororities?

A. We did not have a conversation about that. I had always presumed that it was related to the Title IX regulations, to the federal Title IX regulations.

Q. And were you ever aware of a situation where a

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student group that had a name suggested it was for men or women only, that that was ever brought to Dean Jones' or your attention?

A. I don't ever recall it coming up as a concern. I don't ever recall a group being required to change its name because of gender.

Q. And at that time do you know if there were student groups that specified in their names that they were for one gender or another?

A. Could you repeat the question again.

Q. During Dean Jones' tenure, were you aware that there were student groups that were for men only or women only other than fraternities or sororities?

A. No.

Q. So you weren't aware, for example, if there was a Women in Engineering club or anything like that?

A. If there was, it was not something that came to my attention.

Q. Okay. I'm going to refer you back to the letter at tab 46, the large paragraph in the middle that starts out "Implicit in the Human Rights Policy."

A. Yes.

Q. Could you take a moment to review that paragraph.

A. (The witness complied.) Okay.

Q. This statement indicates that the University's

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policy at that time was that CLS could require its student members to live by the organization's Statement of Faith, correct?

A. Correct; it says -- the last sentence I think captures this way, it says that: "You may not refuse to accept as a member a homosexual law student who professes to be a Christian and is prepared to sign your organization's statement of faith and observe the CLS group rules for member behavior."

Q. So just for clarity, if a member of CLS at that time had engaged in homosexual conduct and CLS expelled the member for that policy, it was the University's policy at this time that that would not violate the Human Right Policy, correct?

A. I believe at that time that that was my understanding.

Q. And that was the University's understanding, correct, in this letter?

A. Well, I don't know about the University's understanding. I mean the Human Rights Committee -- as far as I know, the Human Rights Committee never weighed in on this. This was the statement from the Division of Student Life.

Q. Okay. This was the official statement of the dean of students, correct?

A. Correct.

Q. Okay. And what's the -- you mentioned the

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Committee on Human Rights, correct?

A. Yes.

Q. What's the Committee on Human Rights?

A. Committee on Human Rights was formed when the human rights was promulgated in 1963; it was made up of faculty. I don't recall if there were students on the committee. There may have been students or other staff members, but it was a group that received complaints, and I don't know exactly how they function, but it was a standing committee within the University.

Q. Was it your position that they had final word on how the Human Rights Policy is interpreted?

A. I don't know if we even still have a committee. The -- I don't -- and I -- I don't recall -- it was never clear to me what the relationship was between Philip Jones and the Human Rights Policy Committee.

Q. Okay. Is it your position that Philip Jones said something in a letter like this to CLS that it might not have been the position of the University?

A. Correct.

Q. He didn't have the authority to speak for the University.

A. No, that's not what I said.

Q. Well, did Dean Jones have authority to speak for the University in writing this letter to CSL -- or CLS?

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A. He did, but --

Q. Okay. So what he said, then, would have been the position of the University, correct?

A. No; it would have been the position of the vice president for Student Life and dean of students.

Q. Well, you just said he had authority to speak for the University when he wrote this letter; is that not correct?

A. No, that's not what I mean when I said he had authority to speak for the University. What Dean Jones said did not mean necessarily that the Human Rights Policy Committee would agree with him.

Q. So is it your position that CLS could have acted on this letter and still been deregistered by the University?

A. It was theoretically possible.

Q. Okay. So it's your position that you can't rely on a letter that you get from the dean of students telling the student group that that student group is registered to be on campus?

A. No, I believe they can rely on this letter because the Dean of Students office is responsible for overseeing student organization recognition.

Q. Okay. Then why do you think that a -- that a separate committee could come and counteract what the dean said?

A. Could you repeat your question.

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Q. Sure. You just told me that Dean Jones had authority to speak for the University on this issue that a student group could rely on what he said in this letter but that a Committee on Human Rights that existed at the time could have ignored what he said and deregistered the student group; is that correct?

A. Well, I'm not sure if the committee would have deregistered the group. The committee could have heard the complaint from what I understand.

Q. Okay. And they could have changed the policy as it was interpreted by Dean Jones?

A. Possibly. That was a possibility I -- never came up.

Q. And to be clear, no one ever did correct what Dean Jones said in this letter, correct?

A. Correct.

Q. So as far as you know, this is the final word from the University on what HR Policy meant at the time this letter was written.

A. Correct.

Q. I'm going to ask you to look at the document that's been previously marked as Exhibit 47.

A. (The witness complied.)

Q. Do you recognize this document?

A. Yes.

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Q. What is it?
A. This is a document signed by Dean Jones dated April 30th; it's addressed to Steven Aden who by this time had taken over representation of CLS. This is a letter that explained that the group was eligible now to be re-recognized as long as they resubmitted their revised constitution.
Q. Okay. And you were cc'd on this letter, correct?
A. Correct.
Q. Did you help draft it?
A. I did help draft it.
Q. Okay. Do you see in the second paragraph, the third sentence reads: "As long as prospective members are treated as individuals and not categorically barred from applying for membership, organizational leaders may require members to accept the CLS statement of faith as a condition for participation"; you see that?
A. Yes.
Q. What was meant by "as long as they were not categorically banned"?
A. Categorically banned meaning that if someone self-identified as being gay, that they would not refuse membership simply because they self-identified as being gay.
Q. Okay. But they could be denied membership if they lived actively as a gay individual, correct?
A. If that's what the CLS Statement of Faith said.

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Q. Okay. And as far as you know, there's been no change to that understanding of the Human Rights Policy since April 30, 2004, correct?
A. I don't know of any change.
Q. Okay. I'm going to ask you to take a look at the document that's been identified as Number 51.
A. (The witness complied.)
Q. Do you recognize this document?
A. I looked at it yesterday. This, of course, pertains to Iowa State University.
Q. Okay. Do you know why this was produced?
A. It was in the CLS file. Because of the passage of time, I don't require (sic) why I put this in the CLS file in my files.
Q. Okay. I'm going to ask you to look at the document that's been identified as Number 53.
A. (The witness complied.)
Q. Do you know what this document -- are you familiar with this document?
A. This is the October 21, 2008, memo?
Q. Correct.
A. Okay. Yeah, the -- let me --
MR. CARROLL: We don't have -- I don't -- not sure --
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BY MR. BAXTER:
Q. So this is a single-page document, correct?
A. Oh, I guess it is.
Q. Is it your understanding that there should have been a second page?
A. I don't know. I did look at this yesterday, and I don't remember if there was a second page or not.
Q. Okay. Did this come from your file?
A. This was in my CLS file.
Q. Okay. And could you -- we'll make a note of this, but could you check to make sure there's not a second page to this document.
A. Will do.
Q. Okay. And do you recognize what this document is?
A. Give me just a few minutes -- a few seconds to reread this.
Okay. The gist of this October 21, 2008, memo is in the last sentence of the second paragraph where it says: "Once the student budget committee has made a preliminary determination with respect to the CLS funding request, please inform my office immediately before communicating the determination to CLS"; this memo was -- comes from Dr. Rocklin who had been as of October 2008 vice president for Student Services and dean of students for about three months.
Q. Had he taken Dean Jones' position?

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A. Correct.
Q. And why -- do you know why this letter -- were you involved in the drafting of this letter?
A. I did talk with Dr. Rocklin about issues going on at the time. I don't recall who drafted this.
Q. Okay. And what were the issues going on at the time?
A. Well, there was a concern, as I recall, that CLS might be denied funding by the Student Budgeting Committee, and so the -- this memo went to the financial officers 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.
Q. Do you remember why there was a question about CLS getting student funding?
A. I don't recall specifically. I have a memory that there were some students within Student Government who wanted CLS to be derecognized or defunded.
Q. And do you know why they wanted -- why they were targeting CLS?
A. I don't recall in this specific time in 2008. There were a number of times between 2006 or 2007 and 2008, but my memory is is that the student organization leader -- pardon me, the Student Government leader -- some of the Student Government leaders who wanted CLS to be deregistered or

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defunded objected to the information in their constitution about sexual relationships outside of marriage.

Q. And do you remember, how did that come to the attention of the dean's office?

A. I believe it was somebody in the CSIL office got wind that there were some people who objected to CLS as a group.

Q. And what was the position of the dean and his office in response to those issues?

A. Well, the dean's position was that the student -- was to, first of all, remind the student group of the -- of their responsibility as University agents to comply with constitutional standards, and so this letter was written the way that it was to enable the Student Budget Committee members to do the right thing with -- as background guidance, and so -- in other words, the Budgeting Committee still has to decide what -- I mean the Budget Committee dynamic is that there's always more requests for money than there is money in the pot, and so every group or just about every group was scrutinized -- the budget requests were scrutinized carefully, and oftentimes the amount that they requested was not granted in full, so what -- what's going on here from an administrative standpoint is that the vice president says, "I want to" -- "tell me what your preliminary determination is with respect to their funding, and don't communicate your

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decision to CLS until someone has had a chance to review your preliminary decision."

Q. And what was the reason for that preliminary review?

A. To make sure that there was not an apparent constitutional infraction.

Q. So at the time of this letter it was the position of the dean's office, of Dean Rocklin's office, that the constitution required equal access to funding without consideration of CLS's viewpoints, correct?

A. Correct; as long as the student group was recognized, they had -- they have the same rights to -- access to funding.

Q. Okay. And as far as you know, the University of Iowa continues to comply with the Constitution in that regard, correct?

A. Correct.

Q. I'll ask you to turn the page if I need you to.

I'm going to ask you to look at the document identified as 54.

A. (The witness complied.)

Q. Do you recognize this document?

A. I scanned this document yesterday; this is a series of emails Patrick Cebrzynski emailed -- Patrick was the chief financial officer of U of I Student Government. Several -- going through the pages on Exhibit 54.

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So this -- so the message from Patrick was dated October 26th, so this was five days after the memo from Dr. Rocklin had been issued, so my understanding is that this was the response by UISG to the October 21 memo.

Q. And if you look at the second page of this document, number 1415 at the bottom --

A. Yes.

Q. -- at the very bottom from Templeton, Richard says: "Only activity listed in query back to FYO4 is January through June 2007," so this appears to be a look back at what funding CLS received; is that correct?

A. I honestly don't know what exactly that reference is. This is not an area of administration that I was ever involved in.

Q. Okay. And then right above that you see where Patrick forwarded the email to you?

A. Uh-huh.

Q. Have you read that?

A. Are you asking if I read it in 2008?

Q. I'm asking if you are familiar with what's in this document right now, this email.

A. I mean I'm familiar with the fact that there was information forwarded to me.

Q. Do you know what that information was or why it was being forwarded to you?

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A. It was being forwarded to me as part of the information in the October 21 memo.

Q. As I understood your description of the October 21 memo, the purpose was to make sure that going forward, CLS would have equal access to funding, and this appears to be a look back -- in some places it says fiscal year 2007 or 2004, and I'm wondering why there was a look back into the funding of CLS for that period.

A. I don't know.

Q. Okay. And then at the very top you -- Bill Nelson forwarded a portion of this email again saying: "FYI below re: CLS and UISG supplemental funding"; do you know what that refers to?

A. This is the --

Q. The first document.

A. Okay. No.

Q. Ask you to look at Document 55.

A. (The witness complied.)

Q. Are you familiar with this document?

A. Let me look at it quickly.

Yes, I did scan this yesterday. So the series of email messages that I believe originated with Jonathan Landon -- and Jonathan on the second page identifies himself as the president of the CLS, and the date of this email is October 9, 2008, so this -- Mr. Landon's email which he sent to Maison

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Bleam who at that time was the president of UISG, Student Government -- this predates the October 21 memo, and so on October 9 Mr. Landon sent this to Mr. Bleam, then Mr. Bleam says: "I will have Abby Gruel (phonetic) contact you regarding the issue," and then the last thread here is that Dr. Nelson is -- who was copied on -- I don't know when Dr. Nelson was copied, but -- oh, I'm sorry. Mr. Bleam, the president of UISG, forwarded this to Dr. Nelson on October 17th, and then Dr. Nelson forwarded it to me with no message.

Q. Okay. And I'm going to ask you to look at Document Number 56.

A. (The witness complied.)

Q. And you see at the bottom of this page where it says "from Patrick," sent Thursday, October 23rd?

A. October 23rd?

Q. And then there's nothing on the second -- there's no second page, correct?

A. Oh, I see. Yeah, so October 23rd would have been two days after the memo was sent.

Q. Okay. And it appears that there's more to this email that should be included here, correct?

A. Yeah, I -- everything -- we can double-check, but I noticed yesterday when I looked through the documents that I'm not sure that we had a complete record that was put in the file in 2008. So I'll check to see if we do have a second

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page, but it's possible that we don't.

Q. Okay. And you think that this is something that you pulled from your hard file, not from your electronic files?

A. I don't know. The -- I believe this was from my hard files.

MR. BAXTER: Okay. I'm just going to request for the record -- we'll make note of it -- that a complete copy of this email be produced either from the hard file or from the University's electronic files.

MR. CARROLL: If it exists.

BY MR. BAXTER:

Q. I'm going to ask you to take a look at Exhibit Number 57.

A. (The witness complied.)

Q. Okay. Do you recognize this document?

A. Okay. This is dated October 28th, 2008; this is a memo from Dr. Rocklin to Patrick Cebrzynski and Michael Currie, the same two government leaders who he wrote to on October 21. So this is a week after the October 21 memo, and the second -- the gist of this memo is that he says: "Please proceed to allocate funds to cover the $550 in expenses in a timely manner, and notify me when the funds have been disbursed."

Q. So do you know what happened between October 21st and October 28th that necessitated this letter?

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A. I mean there were a series of emails shared. There was discussion involving Dr. Nelson. I -- that -- Carroll Reasoner is copied on this letter. I assume that the General Counsel's office was consulted with, but the -- the information that was reviewed indicated that there may not have been an equitable distribution of funds, and so that's why Dr. Rocklin wrote this memo; that's my understanding.

Q. And do you know if this is a separate issue or the same issue that was addressed in the October 21st memo?

A. I believe it's the same issue, but I could be wrong.

Q. Ask you to look at Document Number 58.

A. (The witness complied.)

Q. Do you know what this document is?

A. Yes, I scanned through this yesterday; this is a document -- I'm not sure if it's a letter or electronic mail, but it's signed by Elizabeth Van Deusen who is the president of an organization of students at the University of Iowa College of Law called the OutLaws. There is also a reference at the top of the letter to -- I think these are three other student organizations at the law college, Law Students for Reproductive Justice, Iowa Campaign For Human Rights, and American Constitution Society.

Q. Did you receive or review this communication at or around the time that it was sent?

A. It was dated February 26th, 2009; I do recall that I

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read this. I just don't recall when I read it.

Q. But you read it sometime prior to this litigation?

A. To the BLinC litigation?

Q. Correct.

A. Yes.

Q. And do you know how the OutLaws group would have known about the funding decision that was made with respect to CLS?

A. I don't.

Q. Is that information published?

A. I assume it is.

Q. You don't have any personal knowledge of whether it is or not?

A. I don't.

Q. Okay. And do you know what action the University took in response to this letter?

A. I don't recall off the top of my head. I --

Q. Okay. I'm going to ask you to look at Document Number 59.

A. (The witness complied.)

Q. And this is a single-page document with no signature, correct?

A. (No response.)

Q. Do you recognize this document?

A. I do. I think like the document that we referenced

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a few minutes ago, this was just one page. We may want to double-check to make sure there's not a second page.

Q. I'm going to ask you to take a look at a document that's been previously identified as Number 220; I believe it's in the back folder of the second binder.

MR. CARROLL: I'm only going to two --

MR. BAXTER: I think there wasn't a number for it. I think it's in the back envelope -- or the back pocket.

MR. CARROLL: Yeah.

BY MR. BAXTER:

Q. And that is marked Exhibit 220, correct?

A. Okay.

Q. Is this that same document with the second page?

A. Yes.

Q. And could you describe what this document is.

A. So this is a letter dated March 6th which would have been about ten days after Ms. Van Deusen wrote the letter to Mike Currie. The letter is signed by Tom Rocklin, not by Michael Currie. The letter is addressed to the president of the four organizations, so it's addressed not just to Ms. Van Deusen but to the president and co-presidents of the Lawsuit for Reproductive Justice, Iowa Campaign for Human Rights, and the American Constitution Society. This is Dr. Rocklin's explanation that -- as to why the CLS is a recognized group and what it means for them to be a recognized

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group in terms of equal access to funding.

Q. And have you had a chance to review this letter in preparation for your deposition?

A. Yes.

Q. Okay. And this letter affirms what was in your February 2004 letter that the policy on human rights does not prohibit student groups from establishing membership criteria, correct?

A. Well, I'm going to reread this 2009 memo and see if it references membership criteria. Yes, it does in the second paragraph.

Q. Okay.

A. Talks about the policy does not prohibit student groups from establishing membership criteria.

Q. And then it says -- the next sentence states the Democrats are not required to admit self-identified Republicans, correct?

A. Correct.

Q. And that while the Human Rights Policy does prohibit discrimination on the basis of sexual orientation, the University is obliged to protect the First Amendment rights of CLS to espouse the group's basic tenets, right?

A. Correct.

Q. And as you state there -- or the author here states that the First Amendment protects student group's right to

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have a Statement of Faith as a precondition for joining the group, correct?

A. Yes.

Q. And that the CLS, towards the end of that paragraph, can require prospective members to adhere to group rules in order to become members, correct?

A. So you're saying later on in the document --

Q. Where it says: "The current CLS constitution does state that prospective members must adhere to group rules in order to become members," correct?

A. Correct.

Q. And then it goes on to say that: "This membership expectation cannot be nullified by the University in a manner that violates the First Amendment."

A. Correct.

Q. So at this time you knew that CLS had a First Amendment right to have membership requirements for its student members, correct?

A. No, that's not what that says. It says that the group's membership expectations cannot be nullified in a manner that violates the First Amendment.

Q. Yeah, but you said before that that current First Amendment -- the letter says that the current First Amendment caselaw applies when a group's -- sorry, applies when a student religious group establishes a Statement

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of Faith as a precondition for joining the group, correct?

A. That's what Dr. Rocklin wrote.

Q. Okay. Was it your understanding at this time that the University's policy was that CLS had a constitutional right to require its members to sign a Statement of Faith before they could be members?

A. Well, that issue of law had never been tested in the courts as far as I know. Are you asking me for what my opinion was in 2009?

Q. Correct.

A. Well, I think -- I think this paragraph is worded the way it is to clarify that -- it doesn't state explicitly that student religious groups have a First Amendment right to regulate their membership. It does say that the First Amendment applies when a student religious group establishes a Statement of Faith as a precondition for joining the group.

Q. Okay. So this letter was written in response to a decision or an effort by the Student Government to defund CLS, correct?

A. Trying to remember if they were trying to defund CLS or get them derecognized. Do you want me to look back at the --

Q. Well, either way, it was in response to an effort by the Student Government to either derecognize or defund CLS,

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correct?

A. Well, not to Student Government. This is from a student organization, so this is a group that has a lateral status to the CLS.

Q. And that group was protesting the University's funding of CLS, correct?

A. I believe so.

Q. Do you want to look back at that letter?

A. Okay.

Q. That's Exhibit 58?

A. Yes; the last paragraph Ms. Van Deusen wrote: "It must discontinue funding to CLS."

Q. And that's referenced in the March 6th letter of Exhibit 59 that says: "Your petition requests that no funds be allocated to the Christian Legal Society whose group constitution you believe violates the Human Rights Policy."

A. Correct.

Q. And then the University goes on to say that it would -- or it's fair to say, isn't it, that this letter then goes on to suggest that denying Christian Legal Society funding would violate the First Amendment?

A. To suggest that it would violate the First Amendment?

Q. The OutLaws organization was asking the University to deny funding to CLS, correct?

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A. Yes.

Q. And this memo indicates that the University would not do that, correct?

A. Correct. What Dr. Rocklin's letter says on page 2 in the second paragraph is that: "It is my understanding that a decision by the University to restrict or not restrict the CLS's funding status based on the content of the CLS constitution must be made consistent with the First Amendment."

Q. And so the decision was not to deny funding, correct?

A. Correct.

Q. And so this suggests that was done to be consistent with the First Amendment, correct?

A. I'm not sure if Dr. Rocklin would -- I don't know what he was -- he believed at the time that he wrote this letter.

Q. Did you believe at the time this letter was written that it would violate the First Amendment to deny CLS funding in response to the OutLaws request?

A. The -- let me go back -- can I reread the OutLaws document?

Q. No, I'm just asking a question, if OutLaws wrote to the University asking it to defund CLS because of its religious views, at that time would you believe it would be a

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violation of the First Amendment to deny CLS funding in response to the OutLaws group's request?

A. It depends on what the OutLaws group or any other group was alleging about CLS. If they allege that CLS was categorically treating homosexuals as nonmembers without regard to whether they were engaged in sex outside of marriage, then the OutLaws' request could have resulted in the CLS being denied funds.

Q. Okay. But the University didn't deny the funds, correct?

A. On -- yes; after reviewing the OutLaws letter, the University did not change the CLS status.

Q. And why not? Without reading the letter, just why would the University have denied the OutLaws' request? What's your understanding of why the University denied the request?

A. Because -- my understanding is that because the content of the OutLaws' letter did not indicate that CLS was doing anything that was contrary to the expectations that were laid down in 2004.

Q. And what's your understanding of what the OutLaws letter did allege?

A. The OutLaws letter, to my understanding, alleged that because of CLS' religious tenets prohibited sex outside of marriage, that that violated the Human Rights Policy.

Q. Okay. And this letter indicates that it didn't,

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correct?

A. Well, it doesn't say -- I mean this was a letter that did not share the details of the 2004 decision with them. What -- this was a letter that was addressed to this particular group of student organization leaders. It did not go into detail about the CLS promise not to discriminate categorically against homosexual students in 2004.

Q. And this letter doesn't address that, right?

A. Correct.

Q. It only addresses the allegations that OutLaws made, correct?

A. Right.

Q. So at this time you were aware -- or you indicated that you helped write this letter, correct?

A. I don't recall what my role was as far as I knew. I was in the office during the week when this was discussed. I don't know exactly what my role was.

Q. At this time -- do you remember being aware of this issue at the time?

A. Yes.

Q. And are you -- do you remember being aware what the University's position was at the time?

A. I recall knowing the position of Vice President Rocklin with regard to the letter from the OutLaws.

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Q. Okay. And you were familiar with the content of the letter, correct?

A. This letter -- you mean before it went out?

Q. Before it went out.

A. I can't say for certain that I saw the last draft.

Q. Okay. At the time that this went out, was there anything in this letter that you would have disagreed with?

A. I don't know.

Q. Okay. As you read it now, is there anything in this letter that you disagree with?

A. I don't believe so. I mean it simply says that decisions have to be made consistent with the Constitution on the Human Rights Policy.

Q. So at both the time of your 2004 letter and this 2009 letter, it was the position of the University that religious organizations could categorically discriminate on the basis of religious belief, correct?

A. No. No, they -- belief was that a religious student organization could require that members agree to the group's tenets as long as the group's tenets did not categorically prohibit gay students from becoming members.

Q. Is that in this letter that you've written that distinction, this letter that we're discussing, the March 2009, letter?

A. No. As I said a few minutes ago, this letter was --

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does not talk about the issue of a member's conduct. This is addressed to student organization leaders who are not aware of the 2004 understanding, and it doesn't explain to them those details.

Q. Okay. In 2009 at the time this letter was written, if a Muslim group had required students to sign a Statement of Faith asserting loyalty to the profit Muhammad and a Christian student refused to sign that statement so the Muslim group denied them membership, that would have been permissible under the Human Rights Policy, correct?

A. The reason I'm hesitating is that I'm not sure what it means to acknowledge Muhammad; I don't know if that comes with some --

Q. Well, it doesn't matter what it means. If a Muslim organization required students to sign a Statement of Faith that they -- that they were expressing their loyalty to the profit Muhammad and a Christian student wanted to join the group but refused to sign the statement and was excluded for that reason, that would have been consistent with the Human Rights Policy at this time, correct?

A. Well, again, I don't know about the profit Muhammad. If the Muslim organization had required prospective members to sign a statement saying that they believe that they are Muslim and a Christian student refused to sign the statement saying that they are Muslim, then my understanding is that that would

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have been consistent with the Human Rights Policy that the Muslim organization would have had a right under the Human Rights Policy to not accept the Christian as a member of the organization; they still would have had to have allowed a Christian or anyone else to attend meetings.

Q. So that would be -- denying them membership in that instance, though, would be religious discrimination, correct?

A. I'm not sure what you mean by "religious discrimination." It would have been -- it would have been a denial based on their unwillingness to sign the Statement of Faith.

Q. So what if the Muslim group had just said "no Christians allowed"; would that have violated the Human Rights Policy?

A. I don't know. It would have raised an issue certainly.

Q. So would you consider that to be religious discrimination?

A. Well, in a general sense of the word "religious discrimination," yes. If any organization says that you have to subscribe to a certain religious organization, then that would be treating people differently on the basis of their religious beliefs, but --

Q. Okay. And if you -- if a student organization asks students to sign a Statement of Faith to join the group, that

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would also be religious discrimination, correct?

A. The word "discrimination" means different things to different people; that's why I'm hesitating.

Q. Well, I want you to use it as the word is applied in the University interpreting its Human Rights Policy. You've already indicated that it would be discrimination for a religious group to exclude members of other faiths, correct?

A. Of -- if the Kiwanis --

Q. I'm not talking about the Kiwanis. I'm talking about a religious organization. If a religious organization on campus excludes from membership individuals who are of a different religion, you've already indicated that that would be discrimination and that it would be permissible under the Human Rights Policy.

A. No, I don't agree with that the way you phrased it.

Q. Okay. So why don't you rephrase it the way you understood what you were saying.

A. (No response.)

Q. Would you like me to re-ask the question?

A. Yes.

Q. Okay. If a Muslim group on campus requires members to be Muslim, is that discrimination -- religious discrimination under the Human Rights Policy?

A. I would say no because the word "discrimination" I don't think appears in the Human Rights Policy, and the word

"religion" doesn't appear in the Human Rights Policy.

Q. Your position is that the word "religion" doesn't appear in the Human Rights Policy?

A. Right; as we discussed earlier, it's considered within the category of creed, so people at the University have a right not to be treated differently on the basis -- well, have a right to be treated as individuals, and if people are treated differently because of their religious beliefs, that could be a violation of the Human Rights Policy.

Q. So is it your position that it's okay to discriminate on the basis of religion under the Human Rights Policy but not on the basis of creed?

A. I'm sorry, say that again.

Q. Well, you just indicated that the Human Rights Policy only prohibits discrimination on the basis of creed and so that someone -- if someone discriminated on the basis of religion, that wouldn't violate the Human Rights Policy.

A. No, I didn't say --

Q. You said it might not violate --

A. That's a non sequitur.

Q. Well, tell me what you mean. Why do you think it's not discrimination if a Muslim group excludes Christians as members?

A. I didn't say that it wasn't. I said it depends on the circumstances, but the human --

Q. What circumstances does it depends on?

A. That's too general of a question.

Q. I'll ask you again. If a Muslim group excludes students who are Christians from membership, is that religious discrimination in violation of the Human Rights Policy?

A. Well, it's -- from my understanding about the Human Rights Policy, it could be, probably would be a violation of the Human Rights Policy depending upon the details of the case.

Q. Well, tell me what details would make a difference. If a Muslim group is excluding Christian students, when would that be okay, and when wouldn't it be okay?

A. You're asking me to speculate?

Q. Well, you're responsible, right, for understanding the Human Rights Policy as it applies to student organizations, correct?

A. No, I'm not; I'm the Title IX investigator at the University of Iowa.

Q. And you previously investigated any complaints against student groups, right?

A. Previously until 2009.

Q. Well, didn't you participate in the investigation of the BLinC matter?

A. I -- yes; I attended meetings that Connie had, some of the interviews.

Q. And you participated in the investigation of the 24:7 matter, correct?

A. Yes, attended those meetings.

Q. And is it your position that you participated without understanding what the Human Rights Policy is?

A. Could you repeat that question.

Q. Is it your position that you participated in those investigations without any understanding of what the Human Rights Policy means?

A. Well, sure, I have an understanding of what the Human Rights Policy means, but what -- I was not the investigator of that case. That case was investigated by EOD, Connie Cervantes, who is the investigator trained to interpret the Human Rights Policy.

Q. And you were the investigator for the CLS matter, right?

A. Well, there was not a complaint filed in 2004.

Q. But you were involved in interpreting -- applying the Human Rights Policy to the CLS situation, right?

A. I did, but there was no investigation.

Q. So is it your position that you didn't have to understand what the Human Rights Policy was at that time?

A. I'm gonna ask for a break.

Q. I would like you to answer the question, and then you can have a break.

MR. CARROLL: Yeah, you have to answer a pending question.

THE WITNESS: Okay. Could you repeat the question.

BY MR. BAXTER:

Q. Is it your position that when you were participating in the review of the CLS matter, that you did so without an understanding of what the Human Rights Policy meant?

A. I had a general understanding of what the Human Rights Policy meant in 2004.

Q. And that policy prohibited discrimination on the basis of religion, correct?

A. The policy protected individual students from being treated on the basis of categories including their creed.

Q. And that matter, the CLS matter, involved CLS's desire to select its members based on their religious belief, correct?

A. Please repeat the question.

Q. The CLS matter involved CLS's desire to select its members based on their religious beliefs, correct?

A. Yes.

Q. So presumably at that time you had an understanding of what it meant to discriminate on the basis of religious belief, correct?

A. I had a general understanding, yes.

Q. Okay. And you've already testified that the policy

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-- as far as you know, that policy -- how the HR Policy -- I'm sorry, how the Human Rights Policy is construed has not changed since that time, correct?

A. I did not testify to that.

Q. Okay. What did you testify to?

A. What I said was that I do not know if the policy has been amended, and I do not know for certain if the interpretation of the policy has changed. I mentioned that I became aware that there was a single-gender group that had been recognized, but I'm not a spokesperson for the Human Rights Policy.

Q. And as I --

MR. CARROLL: Just a minute. You did ask for a break. Do you still want a break?

THE WITNESS: Yes.

MR. CARROLL: Because I believe there is no pending question.

(A recess was taken.)

MR. BAXTER: Okay. We'll go back on the record.

Q. Mr. Baker, I'm going to ask -- well, during the break did you speak with anyone other than your attorney?

A. I did not speak with anyone.

Q. And did you review any documents?

A. No.

Q. I'm going to ask you to look at the document that's

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been identified as Exhibit Number 40.

A. (The witness complied.)

Q. You previously mentioned that you were not familiar with this document?

A. I didn't recall it.

Q. Okay. Are you familiar it?

A. I'm not familiar with it today. I may have been familiar with it in 1999.

Q. This is a letter from Aaron Dixon and Dan Kidney to Dean Jones, correct?

A. Correct.

Q. And if you look on the first page in the third paragraph, it says -- identifies language that CLS was required to put in its constitution, correct?

A. Correct.

Q. And it says -- it includes that: "In no aspect of its program shall there be any difference in the treatment of persons because of race, national origin, color, creed, religion," and so forth, correct?

A. Correct, it does say "religion" there.

Q. So is it still your position that religion was not in the Human Rights Policy as of 1999?

A. I don't know. I'd have to go back and look. This could be a mistake, I suppose.

Q. Okay. I'm going to ask you to look at what's been

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identified as Document Number 14.

A. (The witness complied.)

Q. And do you recognize this document?

A. I do and I don't. What I don't recognize is what year it was applicable.

Q. If I represented to you that this is the current version of the Registration of Student Organizations Policy as of the time of the BLinC investigation, do you have any reason off the face of the document to question that?

A. No.

Q. Okay. I'm going to ask you to turn to the second page.

A. (The witness complied.)

Q. The first full paragraph below the indented paragraphs, do you see that paragraph?

A. Yes. "Membership"?

Q. Correct. And is that an accurate reflection of the University's Human Rights Policy?

A. Well, I -- since I don't know -- I'm not the keeper -- I'm not the archivist for the Human Rights Policy, but if this is the current document and if this is correct and -- it says: "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

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U.S. military, sexual orientation, gender identity, associational preferences, or any other classification that deprives a person of consideration as an individual."

Q. Okay. And do you have any reason to question that is the Human Rights Policy at the University?

A. I don't believe so.

Q. Are you familiar with it enough that you would recognize it when you saw it?

A. Yes.

Q. And then I'm going to ask you to look at the document that's been previously identified as Document Number 46.

A. (The witness complied.)

Q. I'm going to ask you to look at the second page of that document, and you wrote this letter, correct?

A. Yes.

Q. Okay. And the very top -- the very second full sentence says: "A student religious group is entitled to require a statement of faith as a pre-condition of joining the group," correct?

A. Correct.

Q. And asking prospective members to sign the CLS Statement of Faith would not violate the Human Rights Policy, correct?

A. Correct.

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Q. So this was you interpreting the Human Rights Policy as it applied to a religious Statement of Faith, correct?

A. Interpreting the Human Rights Policy in conversation with my supervisor, Dean Jones.

Q. Well, you wrote this letter, correct?

A. Correct.

Q. Is there anything in this letter you wrote that you didn't agree with?

A. No, but I formulated the arguments in this letter in consultation with my supervisor, Dean Jones.

Q. Okay. But you knew at this time how the Human Rights Policy would apply to a student group that had a religious Statement of Faith.

A. Right, as far as Dean Jones understood it.

Q. So this is just Dean Jones' understanding, not your own.

A. No.

Q. Well, is this consistent with your understanding, or not?

A. My understanding -- in 2004, my understanding of the Human Rights Policy was consistent with what Dean Jones believed.

Q. And that's what you wrote in this letter.

A. That's what I wrote in the letter.

Q. So that was your personal views as well as

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Dean Jones' views.

A. When you say "personal views," I'm --

Q. Well, did you have a separate view from what the University's view was?

A. This was my understanding in regard to my official capacity at the time.

Q. Okay. And so if -- so you were in agreement at that time as an employee of the University that a religious organization could exclude students from membership based on their religion, correct?

A. That's not what this says in this letter, based on their religion --

Q. Well, what does it say in that letter?

MR. CARROLL: Let's -- let everybody finish.

BY MR. BAXTER:

Q. What does that letter -- what do those statements say that you describe? Without reading them, what's your understanding of what they mean?

A. What they mean is that if a religious organization wishes to do so, that they can ask members to sign a Statement of Faith.

Q. And they can exclude members who refuse to sign the Statement of Faith, correct?

A. Correct.

Q. And in a general term, that is a form of religious

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discrimination, correct?

A. That's not what this letter says.

Q. Well, I'm just asking you. I'm not asking you what the letter says. If a religious student group excludes individuals who don't share its religion, that's one example of religious discrimination, correct?

A. Using the term "discrimination" in a general way, I would agree with that.

Q. Okay. And that's allowed under the University of Iowa Human Rights Policy, correct?

A. It doesn't specifically say that in the Human Rights Policy, but that's how it was interpreted in 2004.

Q. Okay. And as far as you know, there's been no change in that interpretation since 2004.

A. Correct.

Q. Now, you've previously indicated that the University could not force an environmentalist group to select a climate denier as its leader, correct?

A. Is there --

MR. CARROLL: Are you talking about testimony today?

MR. BAXTER: I'm not talking about testimony today.

Q. Do you recall meeting with the BLinC leaders on November 1st --

A. Oh, you attended that meeting too.

Q. Yes.

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A. I may have said that; I don't have a specific recollection.

Q. Okay. Do you believe -- is it your view under the Human Rights Policy that an environmentalist group can exclude climate deniers from membership in their organization?

A. I believe the answer is yes, as long as they're not categorically discriminating against that individual in any other way that would deny them consideration as an individual.

Q. Okay. Well, what -- the Human Rights Policy prohibits discrimination on the basis of creed, correct?

A. The Human Rights Policy does not contain the word "discrimination." The Human Rights Policy states that an individual cannot be deprived of consideration as an individual.

Q. Well, it says membership must be open to all students without regard to creed, correct?

A. It says that an individual cannot be treated differently on the basis of creed.

Q. Okay. Let's turn back to Exhibit 14 which I'm representing to you as a copy of the University's Human Rights Policy pulled from its website and affirmed by Bill Nelson as the Human Rights Policy as it applies to student organizations, and the first full paragraph after the indented section says: "Membership and participation in the organization must be open to all students without regard to

race, creed," and goes on, correct?

A. Uh-huh.

Q. Okay. Now, I'm going to ask -- so you agree that on its face, this policy says that membership cannot be limited based on creed.

A. That's what it says.

Q. Okay. And is it your understanding that that's how the University applies the policy?

A. I don't know how the policy is applied.

Q. Okay. Well, do you -- I'm going to ask you to turn to Exhibit 37.

A. (The witness complied.)

Q. I'm going to make sure the number I have is -- yeah, 37; this is a document entitled "University of Iowa Policy on Human Rights," correct?

A. Yes.

Q. And it appears to have been authored by Tiffini Stevenson?

A. Earl, correct.

Q. And do you know who Tiffini Stevenson Earl is?

A. I do.

Q. And who is she?

A. She's worked in the EOD office for a long period of time as a compliance specialist. She is the supervisor to Connie Cervantes.

Q. And does she report to you in any capacity?

A. No.

Q. Is she someone who's authorized by the University to interpret the Human Rights Policy?

A. I don't know that anybody is authorized to interpret the Human Rights Policy.

Q. She offers to train others on the meaning of the Human Rights Policy?

A. Yes, that's correct.

Q. I'd like you to flip through the page that's marked 935 at the bottom, and this mentions creed discrimination, correct?

A. That's what it says, creed discrimination.

Q. And this is in a document about the Human Rights Policy, correct?

A. Correct.

Q. So apparently the Human Rights Policy must address some issues concerning discrimination, correct?

A. You're asking me for my personal opinion?

Q. Sure.

A. Well, like I say, the word "discrimination" doesn't appear in the Human Rights Policy.

Q. Does the Human Rights Policy prohibit any discrimination?

A. It prohibits treating people differently on the

basis of categories that deny them being treated as an individual.

Q. Okay. For shorthand, can we agree to call that discrimination, or would you like me to use the full phrase every time?

A. Well, if you want to use the term "discrimination" as I understand it, with that understanding, then, yes, I will --

Q. Okay. I'm talking about discrimination is the conduct prohibited by the face of the Human Rights Policy; does that make sense?

A. Correct.

Q. So this defines creed as -- if you look in the third -- the smaller text, it says: "Any strongly held philosophical beliefs, even if not a recognized religion," correct?

A. That's what she wrote.

Q. Do you have any reason to think that that is not what a creed is?

A. That's one subgroup.

Q. Okay. And another subgroup would be a formal statement of religious belief or confession of faith, correct?

A. Correct.

Q. Or a system of believed principles or opinions?

A. Yes. I -- it looks like -- I don't know how Tiffini

presented this in her training, but it looks like she qualified it with the term "strongly held philosophical beliefs."

Q. Well, that one sub-definition she qualified, correct?

A. Yes.

Q. So a system of believed principles or opinions isn't necessarily qualified?

A. I don't know how she explained it to --

Q. But under this definition, strongly-held beliefs about the environment would be a creed, correct?

A. Yeah -- well, it could be. I mean the -- yes. I would say yes.

Q. Okay. And strongly-held beliefs about transgenderism would be a creed, correct?

A. I assume so.

Q. And strongly-held beliefs about religion can be a creed, correct?

A. Yes.

Q. And this policy, the Human Rights Policy, would have to be consistently applied across all of those types of creeds, correct?

A. You're asking me -- I don't understand your question. You're asking me for my opinion about First Amendment law?

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Q. I'm asking if you were applying that Human Rights Policy, would you want to make sure it was applied equally to all different types of creeds?

A. If I was applying the Human Rights Policy, would I want it to apply to all types of creeds? I believe that the Human Rights Policy should be applied consistently from group to group.

Q. Okay. So is it your position that it violates the Human Rights Policy for an environmental group that holds a creed that the environment is in danger because of global warming -- do you think it would violate the Human Rights Policy to exclude members who reject that belief?

A. Who currently reject that belief, I would -- again, I'm not an enforcer of the Human Rights Policy, but it -- yeah, I -- the question for me is is somebody being labeled correctly as a denier; do they currently -- what is their current view, that's the question.

Q. If that student refused to sign a statement that the environment was in danger by global warming, would it violate the Human Rights Policy for that student organization to exclude a student?

A. I can't give you an answer to that because it's never come up before, and the Statement of Faith applies -- that's always applied to religious groups. I don't ever recall a nonreligious group having a statement of principles.

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Q. But if it did, could it have one without violating the Human Rights Policy?

A. Depending upon how it was worded, I suppose. Again, I'm not the interpreter and enforcer of the Human Rights Policy.

Q. Okay. You're the person who's been designated to testify in response to topic number 5 in the Notice of 30(b)(6) Deposition that's Exhibit 2, correct?

A. (No response.)

Q. Why don't you turn to Exhibit 2, and do you see there in front of you number 5?

A. Yes.

Q. Has anybody told you that you are the person who's been designated to speak for the University on this topic?

A. Mr. Carroll told me that I've been designated to speak about the Christian Legal Society, and he may have told me I was designated to speak about the Human Rights Policy; I don't recall that he did, but that could be.

Q. Okay. Let's assume for now that he did, and I guess I'll reserve the right to ask for another witness if that is not -- if you're not the individual who's been asked --

MR. CARROLL: It's actually the next witness today, and I designated that because in part he can address some of these things because it talks about student organizations because he is involved in student organizations, so we don't have to have one witness for every topic.

MR. BAXTER: Okay. Well, the only one who is designated in the email you sent me for this topic is Mr. Baker, so I'll ask him some questions, and we'll also be prepared to ask Ms. Cervantes some questions about it.

Q. Are you aware of any student organizations at the University that employ criteria for the selection of their leaders based on any of the categories that are in the Human Rights Policy?

A. Not sure that I understand your question, but my understanding is that the CLS is currently a student organization, and I assume that CLS uses a Statement of Faith; I'm not -- I have no idea if that's true.

Q. Are you aware of any other organizations that employ leadership selection criteria based on any category in the Human Rights Policy?

A. Nothing that I'm aware of.

Q. Okay. Are you aware of any women-only groups like Women in Engineering or groups that restrict membership to, for example, transgender status?

A. No, I'm not.

Q. Okay. Are you familiar with the group House of Lord?

A. No.

Q. Are you familiar with the group -- are you familiar with Muslim Students' Association?

A. The name sounds familiar. If it's the group I'm thinking of, they've been an organization here for a number of years.

Q. Are you aware if they have any selection criteria for leaders or members?

A. I have not looked at any group constitutions for a long time.

Q. Okay. Are you familiar with their -- any of their leadership or membership restrictions?

A. The Muslim Students' Association?

Q. Yes.

A. No.

Q. Are you familiar with the group Imam Mahdi?

A. No.

Q. Are you familiar with the group Feminist Majority?

A. No.

Q. Are you familiar with the group Feminist Union?

A. No.

Q. Are you familiar with the group Women in Science and Engineering?

A. No.

Q. How about the Iowa National Lawyers Guild?

A. No.

Q. UDems?

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A. No.
Q. Federalist Society?
A. No; I know that they're a group, but I'm not familiar with their constitution or their practices.
Q. Are there any student groups on campus that you're familiar with?
A. "Familiar" meaning that I know individuals involved in the student organization, I think the answer is no.
Q. Okay. Are you familiar with any student groups and their leadership or membership selection criteria?
A. I'm sorry, could you repeat that.
Q. Are you familiar with the selection criteria of any registered student groups on campus?
A. No. That sounds to me like the same question you asked a few minutes ago, so if there's a nuance in your question and I missed it, I apologize.
Q. Okay. I'm just making sure we've covered the ground.
So you're not familiar with any registered student groups on campus that have selection criteria for members or leaders other than perhaps CLS?
A. Correct.
Q. Do you know what the word "invidious" means?
A. In caselaw it's used as an adjective for defining a subcategory of illegal discrimination. So people talk about

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invidious discrimination; I don't know what that term means in caselaw, but it's a term that I remember from law school.
Q. Okay. And just based on your general understanding of the world and the English language, how would you describe the difference between invidious discrimination and noninvidious discrimination?
A. I couldn't answer that.
Q. Are there some forms of discrimination that you think are acceptable in society?
A. Well, sure, and if you define "discrimination" in a broad sense, every individual discriminates in some way every day. I set my alarm last night to go off at a certain time; that was a discriminatory act. I chose to eat a certain type of breakfast this morning; that was a discriminatory act. If I'm grading a student's paper, that's a discriminatory act, so discriminatory acts occur all the time. The question is is it the type of discrimination that's prohibited by law.
Q. So do you agree that there are some types of discrimination that are not prohibited by law?
A. As I would define the word "discrimination." There are some people who define the word "discrimination" to mean illegal per say. I define the word -- in common parlance, I define the word "discrimination" to mean in a broad way like I mentioned about assigning a grade or deciding what to have for breakfast.

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Q. Are there any forms of discrimination on the basis of sex that you would find acceptable from a moral perspective?
A. Acceptable from a moral perspective? I would say that student organizations that have residential housing, that that's acceptable, differential treatment.
Q. And what about sports teams on campus; do you think that's acceptable sex discrimination when sports are sex-segregated?
A. Again, using the general term for "discrimination," I would say that having men's sports teams and women's sports teams is acceptable.
Q. What about allowing student groups to form around common interests; do you think that's an acceptable form of discrimination?
A. Well, forming a group around the particular principle is not inherently discriminatory in my opinion.
Q. Okay. Do you think that -- what's the purpose of student groups on campus, why are they there; do you know?
A. Well, as far as I know, there's no written definition of a purpose, but as a former student leader and as a long-time University official in student affairs, there's a number of benefits that participation in student groups provides, and so I see student organizations as being an important part of the University because they contribute to

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the extracurricular development of students.
Q. In what ways do they contribute to the extracurricular development of students?
A. I can't give you a complete list, but I would say communication, conducting a meeting. Skill sets that are used in student organization practice transfer easily into the postgraduate realm and, you know, learning in Robert's Rules of Order, things like that.
Q. Are there any academic benefits to having student groups on campus?
A. I've always presumed there were. I've never seen any research to study how it impacts, but I'd be very interested to see that kind of research.
Q. And what would you anticipate -- or do you have a personal view about whether it's beneficial academically to have student groups on campus?
A. Academically beneficial? Well, I would say yes with regard to student groups that are associated around a particular major. I was a history major. Having a group of history majors I believe is likely to promote the work that those history majors do in the classroom.
Q. And do student groups contribute to the diversity of campus?
A. Depending upon how you define the term "diversity." I think that -- my assumption is that because student

organization participation promotes retention, that student organizations do contribute to diversity on campus.

Q. What about diversity on thinking; do you think that student groups contribute to the diversity of thinking that happens at university campuses?

A. I think it depends on to what extent there is a dialogue, a public dialogue. So in my experience here at this university, there's been public dialogue involving certain student organizations that have whole public events, invite speakers, things like that.

Q. Do you think it's important for student groups to be able to espouse a particular ideology or belief or a mission?

A. Espouse? Yes, I would agree that it's important that groups if they have an opinion about a particular political topic, other topics that they -- it's important that they be encouraged to espouse their views.

Q. Okay. And do you think that it's beneficial, for example, for student groups -- for students to be free to form groups around identity issues such as support groups for transgender students or support groups for women or something like that?

A. Yes, definitely.

Q. And why?

A. Why is it important? Because it -- among other things, it promotes persistence.

Q. And you would agree, then, I assume that it's also important for religious students to be able to form groups around their beliefs, correct?

A. I believe that religious activity -- spiritual activity on campus is important for many of the same reasons; 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, yes.

Q. And that brings positive benefits to both the students and the University; would you agree with that?

A. Well, the University's interest is in persistence in that regard, not promoting any particular brand of religion.

Q. What do you mean by "persistence"?

A. Persistence in enrollment.

Q. What is persistence in the enrollment; the number of students who enroll or the consistency of enrollment? What do you --

A. Correct. Correct. Persistence, it's something that the University looks at very closely to see what percentage of our students graduate, to see what percentage of our first-year students persist to the second year, things like that.

Q. So the student groups are important to help students finish their education.

A. Right; or at least stay so that if they do transfer,

they'll be able to graduate at another institution.

Q. Okay. Do you think -- if a student group is formed to support transgender students, do you think if it requires its members to sign a statement affirming -- agreeing to support transgender students, that that's permissible and a positive thing?

A. You're asking about the utility?

Q. I'm asking you if you think it's a positive thing for student groups to be able to exclude membership to individuals who share their beliefs and mission.

A. Hmm. Well, it seems to me that's an empirical question -- or a question that calls for empirical research, and I don't know how exclusion impacts persistence.

Q. And what about leadership; do you think it's important for groups to be able to limit their leadership to people who share their mission?

A. That's a tough one because I -- again, I haven't seen any research to indicate if that -- what the impact of that is.

Q. Do you have any commonsense view of whether groups should be able to exclude potential leaders based on whether they share the group's mission or not?

A. Say that again.

Q. Well, you said you didn't have any research on this issue. I'm asking if you have any commonsense perspective on

whether mission-oriented groups should be able to exclude from leadership individuals who don't share their mission.

A. Well, I would like to think that the leaders of any group can get along and any -- I mean even within the CLS there's differences of opinions, and that doesn't mean the CLS group is flawed or anything. I would like to think that CLS can perpetuate without having to exclude people based on -- I would like to hope that they could. If I was to go back and be a student and if I was to found a student group around a particular ideology that I had, I would like to think that our group could perpetuate without having to formally have a set of criteria that -- leadership or membership criteria.

Q. Whether it was formal or not, if you started a group, for example, on campus to support Bernie Sanders, would you want to be able to exclude pro-Trump students from the leadership?

A. Well, I would -- to my way of thinking, you exclude pro-Trump people by not selecting them as leaders. You don't categorically say "Trump supporters aren't qualified to be leaders." You have a competitive election, and, you know, that's the way to keep Trump supporters from being in charge of the Bernie Sanders group.

Q. Well, do you think it's important to stop them from being leaders of the Bernie Sanders group?

A. Important to stop them? You mean should the leaders

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of the Bernie Sanders group vote against a pro-Trump?

Q. I'm saying if you started a Bernie Sanders group, would you want to exclude as leaders people who are pro-Trump?

A. I wouldn't categorically exclude them as leaders. I would say, "I'm not voting for you as a leader because you support Trump."

Q. So in voting would you want to know what their beliefs are?

A. Absolutely.

Q. And how would you know what their beliefs are?

A. The same way that democracy works is that you -- every year we have Student Government elections, and every year there is a debate, there is a list of resolutions, a list of principles that they stand for.

Q. And these candidates publish which ones they stand for and which ones they don't, correct?

A. Publish meaning like in the newspaper?

Q. Correct.

A. The Daily Iowan traditionally has -- you're smiling. I'm not sure why you're smiling. The Daily Iowan traditionally has published them. I don't think they've ever rejected, but because it's a newspaper, they're not required to publish it under the First Amendment.

Q. Sure. But however it's made known, you would want those students who are running for leadership positions to

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make their positions known, correct?

A. Yeah, if I was a member of the Bernie Sanders group, I would want the candidates for leadership in the group to make their positions known.

Q. Okay. And it wouldn't matter whether they make them known through stump speeches or through signing a statement of what they believe or any other way, correct? You would just want to know what their beliefs actually are.

A. Yes.

Q. And you see that as a form of beneficial discrimination, correct?

A. Well, would -- meaning that when people select their leaders by vote --

Q. Correct.

A. -- that it's beneficial? Yeah, I mean, again, if we're using the term "discriminatory" in a general sense, yeah, every time I vote, I'm discriminating and --

Q. And you're usually discriminating based on people's beliefs, correct?

A. You mean when I go and vote in an election?

Q. Right. One of the things you discriminate on is based -- is their beliefs, correct?

A. Correct.

Q. And that's a positive bid for society, correct?

A. Yes, I think it's a -- just an aspect of democracy.

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Q. And that would also be a positive good, then, for student groups on campus to be able to select leaders based on shared beliefs, correct?

A. Yes.

Q. And even if the Human Rights Policy prohibits that on its face, you wouldn't expect the University to apply it in a way to prohibit that, right?

A. Again, seems like we're getting into the point of a Statement of Beliefs, and that's different than what we just talked about. What we talked about was choosing leadership members by a vote.

Q. So is it your view that screening for leaders based on belief is only appropriate if it's done by popular vote and not by some other mechanism?

A. That's just my personal preference. If I was involved in a student organization, I would prefer that we not define -- I mean other than things like you have to be a student or things like that, but I would probably oppose if there was an effort in the Bernie Sanders group to define leadership characteristics; I would probably be opposed to that.

Q. And would you be opposed to asking members to register as members of whatever party Bernie Sanders is a member of?

A. Do you mean requiring that that be a precondition of

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leadership?

Q. Right; actually signing up for membership in the party.

A. I don't know. I'm not sure what to think about that.

Q. Is that any different than asking someone to sign a Statement of Faith?

A. Statement of Faith for religious group?

Q. Religious group.

A. Having a hard time comparing religious groups and political groups, so I don't --

Q. And why is that?

A. I mean religious groups have a spiritual ideology. There's nothing spiritual, in my opinion, about political groups.

Q. So what does that have to do with why you would -- whether you'd think it's okay for leaders to sign a Statement of Faith versus to sign as a member of a party?

A. I'm sorry. Maybe we've been doing this for too long. Could you repeat your question.

Q. Yeah. Why would you distinguish between -- you said that you wouldn't want to have a -- why would you distinguish between what religious groups and political groups can do in screening its leaders based on the existence of a spiritual acknowledgement?

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A. Well, if -- let me say first that if I was to become a student and to start a student organization that was religious, my personal approach would be to choose leaders without having a set of criteria.

Q. And you think it would be okay for the University to require that of student groups?

A. Would it be okay for the University --

Q. Could the University force student religious groups to select leaders without any ideological test?

A. You're talking -- I'm sorry, I'm a little bit confused because to me a test is part of the selection process. If you're talking about a criteria for qualification to be considered as a candidate for the office, that's different than what your question is about a test. So, in other words, if I'm -- if I decide that I'm a Swedenborgian and I'm going to found a Swedenborgian society, my preference would be to select leaders of the Swedenborgian society based on what they say when they're -- as to why they want to be a leader in the group, and I would expect there would be a vetting session. Are you a true Swedenborgian, do you subscribe to Swedenborgian set of principles; that would be part of the vetting process, and it doesn't necessarily need to be put down as a statement of criteria that you'd have to meet "yes" or "no."

Q. What difference does that make to you? Why is it

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important whether you do that verbally or in writing?

A. Me personally, I think it -- in terms of utility, I think the group is likely to perpetuate longer if I'm -- if a group appears to be exclusive -- you know, any group that appears to be exclusive and unwelcoming of new members, that group is not going to survive very long, so I think that -- again, this is my own personal philosophy that the way that you perpetuate your group is to welcome new people and that if you welcome them by telling them that you have to meet these criteria or you're not a member, to me that sends the wrong message.

Q. Okay. But could the University distinguish the way it treats student groups based on whether they follow your preferred method or whether they use a written statement to find out the information they want?

A. Just to make sure I understand this right, could you repeat your --

Q. Sure. Could the University constitutionally distinguish the way it treats student groups that screen its leaders the way you prefer versus student groups that use a Statement of Faith to screen members?

A. Well, in terms of the Constitution, U.S. Constitution we're talking about, that would depend on caselaw, so in my opinion we should do whatever is required by the caselaw.

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Q. Is it your understanding that -- what's your -- is it your understanding that the University can constitutionally treat student groups that select leaders the way you suggested differently than student groups who use a Statement of Faith to select leaders?

MR. CARROLL: And I'm going to object to that question because witnesses are not required to answer legal questions.

MR. BAXTER: I'm just ask his understanding.

MR. CARROLL: No. Witnesses do not testify to what the law is. The judge decides what the law is.

THE WITNESS: Well, and I prefer not to speculate about the law.

MR. BAXTER: Okay. Do you -- we'll go to lunch, and we'll pick this up afterwards.

THE WITNESS: Okay.

(A recess was taken.)

MR. BAXTER: Okay. We'll go back on the record.

Q. Mr. Baker, we were just on lunch break, correct?

A. Correct.

Q. And did you speak to anyone about this litigation and the deposition during your lunch?

A. I asked if I needed a drive to lunch, and George said yes.

Q. Did you ask him about this deposition or the

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litigation?

A. No.

Q. Okay. Did you speak to anyone about that?

A. No.

Q. Did you look at any documents?

A. No.

Q. You know you're still under oath, correct?

A. Correct.

Q. Okay. I want to ask you about the BLinC investigation. When did you first become aware of the complaint that was filed against BLinC?

A. I believe it was February 2018.

Q. And do you remember how you were notified?

A. I don't. I have a memory of Dr. Redington, my supervisor, calling me into her office and saying that there had been a Human Rights Policy complaint and that EOD would be doing the investigation, and she said that she wanted me to sit in on the investigation.

Q. Did she tell you why she wanted you to sit in on the investigation?

A. She said that the EOD report would be shared with the CSIL office, and she wanted me to be the person who was sort of a messenger or person who would take the EOD report and make sure it got on to the student organization procedure.

Q. And was there anything else that you discussed with

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her during that meeting?
A. I don't know.
Q. Do you recall if there was anything else that you said to her in that meeting?
A. No.
Q. And what -- did she give you any documents at that time pertaining to the investigation?
A. I don't recall.
Q. Okay. And what steps did you take next?
A. I don't recall doing anything. I recall getting some emails from Connie Cervantes about her interviews; she wanted to schedule her interviews at a time that fit my schedule.
Q. Okay. And did you produce those emails when you were asked to produce documents in this litigation?
A. I don't -- I don't believe so.
Q. Is there any reason why you didn't search for those emails from Connie?
A. No.
Q. Will you produce those to your lawyers so they can turn them over to us.
A. Okay.
Q. Are there any other emails from Connie Cervantes that have not been produced?
A. As far as I know, the emails that I still had in my

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system were included in the --
Q. Did you specifically search for emails with Connie?
A. I believe I did.
Q. Okay. I'm going to ask you to -- well, did -- so those scheduling emails, did you -- after those scheduling emails, did you attend the interviews of the witnesses?
A. I recall missing one of the interviews, and I don't remember which one it was. I did attend the interview with was it Hannah Thompson; is that her name? So I participated in an interview Connie had with Marcus Miller, and I attended the interview with Hannah Thompson.
Q. Okay. And prior to attending interviews, were you given any documents relative to the investigation?
A. I don't remember.
Q. Okay. I'm going to ask you to turn to what's previously been marked as Exhibit 91, probably in the second binder.
MR. CARROLL: Before I forget, your binder is much thicker than mine.
MR. BAXTER: That's because I didn't introduce all the documents for which I have tabs.
MR. CARROLL: Okay. So -- but I don't have all your documents, so it just depends if you're going to introduce them?
MR. BAXTER: Right.

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MR. CARROLL: Okay. Because I just noticed that yours is thicker.
MR. BAXTER: Yep, that's why. You'll have everything that gets introduced in the depositions.
BY MR. BAXTER:
Q. Are you familiar with this document?
A. I saw it at some point in time. I don't recall when I saw it.
Q. And I'm going to ask you to look at -- well, do you remember if you saw -- referring to Exhibit 91, do you recall if you saw it before or after the interviews?
A. I don't.
Q. Okay. Do you remember what your reaction was upon seeing it?
A. No.
Q. Okay. I'm going to ask you to look at Document Number 92; are you familiar with this document?
A. I don't -- I don't know that I've seen this.
Q. Okay.
A. It doesn't look familiar.
Q. Did Ms. Cervantes ever give you notes from her interviews?
A. No.
Q. Okay. Do you recall -- whose interview was scheduled first, Mr. Miller's, or Ms. Thompson's; do you

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remember?
A. I don't.
Q. Were you present for both?
A. Yes.
Q. And do you remember Mr. Miller saying that he was not allowed to be a leader of BLinC because he did not subscribe to what the Bible said about homosexuality?
A. I don't recall exactly how he worded it. As you know, on his form he said that he was denied because he was openly gay.
Q. And what did you learn during the interview with Marcus Miller?
A. The interview spoke -- mainly involved his experience with 24:7. I don't remember much about what he said about BLinC, and so my -- I know he talked about his interview with BLinC. I know he talked about his interview with 24:7. I don't remember exactly what -- the words that he used.
Q. Do you remember learning during an interview with Marcus Miller that BLinC believed that they had rejected him as a leader because of his religious beliefs?
A. Ask that question again.
Q. Sure. Do you remember learning during the interview that BLinC took the position that it rejected Marcus Miller because he rejected their religious beliefs?

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A. I don't remember.
Q. So what did you -- when you left the deposition -- or the interview with Mr. Miller, what did you leave thinking was the factual circumstances?
A. I don't recall what was on my mind.
Q. Did you get an impression at any time what the factual circumstances of the investigation were?
A. I'm sorry, the factual circumstances of the investigation?
Q. The factual circumstances that were revealed during the investigation or during the interview with Marcus Miller.
A. Okay. Could you ask that --
Q. Certainly. Did you at any time gain an understanding -- let me restate that.
After the Marcus Miller interview, did you have an understanding of what the allegations were against BLinC and what BLinC's responses to those allegations was?
A. Well, I had an understanding of what Marcus was saying. I did not have an understanding based on what Marcus told me of what BLinC's position was.
Q. And what was your understanding of what Marcus Miller was saying?
A. From what I remember about the interview with Marcus was that Marcus said there was no discussion about his sexual practices; he said that he informed them that he was -- he

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considered himself a homosexual -- those are my words, not his words -- but according to the information Mr. Miller told us, there were no follow-up questions about do you have a partner, are you -- do you -- are you engaged in sexual activity, things like that.
Q. Okay. And why would that have mattered to you to have that information?
A. That came to mind because of involvement with the CLS in 2004.
Q. And what was the connection you were making there?
A. The connection I was making was was the decision made based solely on his identity, his status, in other words, or was it based on his conduct.
Q. Okay. So is it your position that if -- that it would have been -- that Hannah Thompson should have asked him questions about his conduct?
A. Well, I don't -- that's what I was looking for. I'm not making a judgment about what she should have done and should have not done, but that's what I was interested in -- it's one of the things I was interested in as an investigator was to know what they talked about.
Q. And why did that interest you whether she had asked him about his conduct?
A. Because of my involvement in the CLS discussion in 2004, that seemed like it could be relevant.

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Q. In what way would that have been relevant?
A. Well, if BLinC had had a policy similar to the CLS statement about sexual activity outside of marriage, then that's one of the things I would have expected them to follow up on was -- because that could have been an issue in applying the Human Rights Policy.
Q. And why would that have been an issue?
A. For the same reason that it was an issue in 2004. I didn't know at the time if BLinC was similarly situated as CLS was, but if this had been a complaint against CLS, I would have asked my same question in my mind about, well, what does that interview look like that CLS is doing. In this case it wasn't CLS, it was BLinC.
Q. So if they had -- if BLinC had asked Marcus Miller if he were engaged in sexual conduct outside of marriage and he said yes, then that would have been a reason to treat them the same as CLS?
A. It's hard to say. I mean, again, it depends on what BLinC's documents look like.
Q. Okay. Well, tell me why that matters what BLinC 's documents look like.
A. Because if their documents say that they're going to treat people the same without regard to their sexual orientation status, then they would -- in the same way that CLS did, it could be then that they're violating their own

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rules.
Q. So did -- was -- did CLS have a statement on how they treat people based on their sexual orientation status?
A. Well, that's what they told us during the interview in 2004; that's what -- that's what was the basis of our resolving that matter in 2004.
Q. Well, you initially said you were asking -- you were interested that BLinC hadn't followed up with questions about Marcus Miller's sexual conduct, and now you're saying that CLS had -- and BLinC should have been asking questions about sexual orientation status; is that what you're trying to say?
A. No, I think they did ask -- or they -- whether Marcus told them unilaterally or whether they asked Marcus, I don't know, but I was looking to see if the questions went beyond simply about his orientation to his conduct.
Q. And your recollection is that there were no questions about conduct.
A. That's what Mr. Miller told us.
Q. And Mr. Miller also told you there were questions about his beliefs, correct?
A. Beliefs in terms of whether homosexuality was a sin --
Q. Sure.
A. -- is that what you're asking? When he self-identified to BLinC that he was openly gay, my

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understanding is that that was an acknowledgment by Marcus that his status was open to question in terms of the -- BLinC's religious beliefs.

Q. So how do you distinction -- do you have any distinction between discrimination based on status and discrimination based on belief?

A. I'm sorry, please repeat the question.

Q. Do you distinguish having -- can you distinguish between discrimination based on status and discrimination based on belief?

A. Can I --

Q. Yes.

A. -- distinguish, meaning do I know the difference between the two?

Q. Correct.

A. Yes.

Q. Can you describe for me in your own words how you would distinguish those two concepts.

A. Status is what -- again, immutable characteristics, which I consider sexual orientation to be an immutable characteristic just like race or gender, so the question about belief is a matter that's not immutable.

Q. Are you saying that belief is not an immutable characteristic, or is --

A. Correct; it is not.

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Q. Okay. And would you have -- do you think that the investigator should have responded differently based on whether BLinC discriminated against Marcus Miller based on his beliefs or based on his sexual orientation?

A. I'm sorry, say that -- ask that question again.

Q. Okay. Let me describe the situation.

A. Okay.

Q. Let's say that Marcus Miller went to BLinC and said, "I don't accept your beliefs on sexual orientation," and he didn't disclose his own sexual orientation, and BLinC said to him, "Well, you can't be a leader because you don't share our beliefs"; one could describe that as discrimination based on belief, correct?

A. Yes; again, using a general definition.

Q. Which you know how to use, right? You're a Title IX officer, correct?

A. (No response.)

Q. Or you're a Title IX investigator?

A. Yes.

Q. And do you ever talk about discrimination in the context of Title IX?

A. Basis for the statute, but in the day-to-day activity, it's not part of our parlance.

Q. Well, how do you describe what normally people would call discrimination based on sex?

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A. In the context of Title IX?

Q. Sure.

A. I should explain that I'll -- I don't deal with athletics or other issues about admission to programs. The Title IX cases I investigate are sexual misconduct, stalking, and domestic abuse dating violence, so in investigating those cases, Notice of Complaint letters go out that reference a conduct code, but they don't reference Title IX as a statute -- or they don't use the word "discrimination." They simply say, "If these allegations are true, you may have violated the conduct rules."

Q. So in the general understanding of the term "discrimination," you can agree that if BLinC had excluded Marcus because he didn't accept their beliefs on religion, that could constitute discrimination on the basis of belief, correct?

A. Yes.

Q. And if he had just come and said "I'm gay" and they said "you can't be a leader for that reason," that would be discrimination on the basis of status, correct?

A. Correct.

Q. And if he had come and said "I don't accept your beliefs" -- or "I have sexual activity outside of marriage" and they excluded him on that basis, that could be characterized as discrimination on the basis of conduct,

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correct?

A. Correct.

Q. So you understand those three distinctions, discrimination on belief versus status versus conduct, correct?

A. Correct.

Q. Would it have made a difference to you in the investigation which one of those forms of discrimination BLinC engaged in?

A. Well, I think it would have made -- it would have been important for me to convey that to Dr. Nelson. I was not involved in making a decision about the investigation; that was Connie's work. I don't -- I can't speak for her because I don't know how she -- if she considered those three distinctions, but as the person who's sharing her decision with Dr. Nelson, I would think that it was -- it was on my mind was to see what the BLinC rules did or did not say about conduct and if they asked him about his conduct.

Q. Okay. And when Dr. Redington asked you to participate in the investigation, did you understand that you had an obligation to make sure it was run correctly?

A. That the investigation was run correctly? My responsibility was to make sure that the post-investigation process -- that it followed from the EOD investigation. My responsibility was not to tell EOD how to do their

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investigation.

Q. So you were just there to listen and observe; is that correct?

A. That's right.

Q. And if Connie was making a significant mistake, you wouldn't have felt it was your obligation to correct her.

A. No, I -- I mean -- making a mistake? I mean if she'd have done something that would have violated Fourteenth Amendment, due process, then I might have expressed some concerns.

Q. And that's because you are employed by a state university, correct?

A. Right.

Q. And you have an obligation as an employee of the University to observe the Constitution, correct?

A. Correct.

Q. And so you would want to make extra effort to make sure the Fourteenth Amendment was complied with, correct?

A. Yes.

Q. And that's true of the First Amendment too, correct?

A. Well, it's correct in the sense that we're obligated to -- as a public institution to conform to the First Amendment. Questions about free speech rights are something that I assume Connie is aware of, and so I can't imagine that I would have corrected her on something.

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Q. So if you had concerns that Connie was violating the free speech right, you wouldn't have done anything about it.

A. I -- and, again, talking hypotheticals, I don't -- it never crossed my mind that I would have a reason to believe that there was a First Amendment violation in what she was doing with her investigation.

Q. Okay. Well, when you were involved in the CLS investigation, you knew that that implicated free exercise rights under the First Amendment, correct?

A. Free exercise rights? I -- I'm not an expert on the First Amendment, but to me free exercise is an issue that implicates private religious groups, not student associations. My understanding is student associations are under the First Amendment that has to do with association; that's the free speech right there. Free Exercise Clause has to do with whether or not -- again, this is just my crude understanding is that has to do with whether or not a group can hold religious service on -- in University buildings.

Q. Okay. So it never occurred to you that telling a religious student group who to select as its leaders wouldn't implicate the First Amendment?

A. No, that's not what I said.

Q. Well, did it occur to you that telling religious students who to pick as their leaders would implicate the First Amendment?

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A. With regard to association. You said "free exercise."

Q. Okay. So it never occurred to you that telling religious student groups who they could pick as their leaders would implicate the Free Exercise Clause?

A. I don't believe it did.

Q. Okay. I'm going to ask you to look back at Exhibit Number 46.

A. (The witness complied.)

Q. Okay. We'll come back to that in a minute. Ask you to look at Exhibit Number 94.

A. (The witness complied.) Are we missing one?

Q. Oh, if you don't have it, I'll pull it up for you. Are you aware that religious students have the right to express their religious views on campus?

A. Anyone, whether they're religious students or not, have a right to express their views on campus consistent with reasonable time, place, and manner.

Q. If a student wants to express religious views, would you agree that's protected by the Free Speech Clause?

A. Yes; consistent with the time, place, and manner caselaw.

Q. And would you agree it's protected by the Free Exercise Clause?

A. I don't know enough about Free Exercise Clause to

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know if religious rights are considered to be speech.

Q. But you know enough to know that that would raise significant questions you'd want to know the answer to, correct?

A. I'm not -- I don't understand where -- I mean you're asking me as a person what my -- as a citizen?

Q. If the University asked you to tell a religious student group that they couldn't meet on campus, would that raise red flags and remind you of the Free Exercise Clause?

A. Well, I would certainly ask questions about why they had been restricted. I would want to know from the General Counsel's office that I would be executing an act that has the -- falls within the color of the law.

Q. And would you have the same reaction if the University asked you to restrict who a religious student group could pick as its leaders?

A. It -- say your question again.

Q. If the University asked you to limit who a religious student group could select as its leaders, would that raise red flags in your mind under the Free Exercise Clause?

A. The Free Exercise Clause? No. It might raise questions in my mind about the First Amendment in general about association, but I don't think it would -- free exercise -- again, I have kind of a narrow view of what free exercise entails.

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Q. And what is your view of what free exercise entails?
A. It involves religious activities, services, rights, worship services, things like that.
Q. Okay. And as far as you know, would it extend to a religious organization selection of its leaders?
A. I'm not a constitutional expert. I -- if it does, I'm not aware of it.
Q. And if you indicated that you sat in -- when you sat in the interview with Marcus Miller that if Ms. Cervantes had done anything to violate the Fourteenth Amendment, you would have raised concerns about that, correct?
A. Yes.
Q. And if it raised concerns under the Free Speech Clause, you would have done something about that, correct?
A. No; I qualified earlier what I said between due process and free speech. I might have asked Connie a question if I did believe that there was a free speech issue at stake.
Q. Which you agree there would be if the University were asking a student group to limit who they select as its leaders, correct?
A. You're going to have to repeat that again.
Q. Well, you admitted previously that the University telling a religious group who they selected as its leaders would raise questions under the Free Speech Clause.
A. Yeah.

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Q. And you knew during the Marcus Miller interview that one of the questions was who BLinC can select as its leaders, correct?
A. That's what Mr. Miller's complaint involved was that he had been turned down because of his status, yes.
Q. So according to what you said previously, that should have raised First Amendment concerns in your mind, correct?
A. Well, raise First Amendment concerns in my mind, but because Connie is responsible for the investigation, because of my experience with her, there was no need for me to be concerned. I didn't feel concerned at that time that my own involvement in the case was precarious.
Q. What do you mean by "precarious"?
A. Well, it would invite allegations that I violated someone's free speech rights.
Q. And so in that circumstance you just chose to defer to Connie's views and not do anything on your own?
A. Well, I either deferred to her views -- I may have asked a few questions along the way. I don't recall what our dialogue was about the First Amendment.
Q. Did you make any effort to review the underlying documents that Connie was considering in her investigation?
A. If I remember what the underlying documents were, there was a -- I assume that the BLinC constitution came up,

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and I assume that the 24:7 constitution was a document that she reviewed; presumably I looked at those documents. I don't recall the details of that.
MR. BAXTER: Okay. I'm going to ask -- well, let's look to Exhibit Number 94. I'm going to ask the reporter to mark this (indicating) document as Exhibit 94.
(Deposition Exhibit Number 94 was marked for identification.)
BY MR. BAXTER:
Q. Are you familiar with that document?
A. Yes, I am familiar with it. Just need a minute to review it.
Yes. I'm trying to remember what the attachment was.
Q. I'm going to invite you to look at the document that's been labeled 220.
A. Oh, okay.
Q. This one's represented by counsel as the document attached to that memo; do you have any reason to disagree with that?
A. No, this is correct. This (indicating) is the document attached to that memo.
Q. Okay. And why did you request the memo?
A. Why did I request --
Q. I'm sorry, why did you go -- it says that you went

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and checked your files --
A. Checked my files. Either --
MR. CARROLL: Don't talk over each other.
BY MR. BAXTER:
Q. Okay. Why did you check your files for this memo?
A. I believe it was because Kristi or Connie had asked me for some sort of a statement about previous cases or something like that. There's a reference -- as you know, there's a reference in here to a Supreme Court case, so I don't know if the question came up about the Supreme Court decision or what it was.
Q. Okay. And then when you look at the document that's Number 220, you see in the middle of the second paragraph where it says: "The University is obliged to protect the First Amendment right of CLS members to espouse the group's basic tenets"?
A. Uh-huh.
Q. So you knew that the investigation of BLinC implicated First Amendment rights, correct?
A. Correct.
Q. And you refer to in your email a Supreme Court case; do you remember what case that is?
A. Well, it says the Hastings law case.
Q. And are you familiar with that case?
A. Somewhat. I -- when the Hastings case came up, I

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was working in the Dean of Students -- or, pardon me, Student Conduct Office. It was after the separation of the Dean of Students and the vice president, so I was working in the -- with the Dean of Students and Student Conduct at the time that -- and this is just from memory, at the time the Hastings case was issued in 2010, so I don't -- if I read the Hastings case, I don't remember reading it.

Q. You referred here to an "All Comers" policy; what were you referring to there?

A. The -- from what I recall, the Hastings law college had a policy that they described as an "All Comers" Policy.

Q. And what did you understand an "All Comers" Policy to be?

A. Was that there could be -- everyone -- every student had the opportunity to be a member of a group, to be a leader of a group without regard to Statements of Faith and things like that.

Q. And as far as you knew at that time when you read this email, the University of Iowa did not have an "All Comers" Policy, correct?

A. Correct.

Q. And how would you describe the policy that University of Iowa had?

A. That -- I don't have a particular label for our policy. When we talked about our -- we just talked about the

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Human Rights Policy; that was just the term we used.

Q. And as far as if you are aware, is there any research that would show that an "All Comers" Policy has more or less value to a university than a policy like the Iowa Human -- University of Iowa's Human Rights Policy?

A. Never seen any research.

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.

Q. Okay. Who else was in that meeting?

A. Several attorneys from the General Counsel's office. I don't recall who was there from Student Services; Dr. Nelson may have been. I'm not sure.

Q. And was there any -- do you know why they decided not to adopt an "All Comers" Policy?

MR. CARROLL: I'm going object as attorney-client privilege from that meeting. If somehow it can be without attorney's involvement, then that's a fair question. He's giving you the foundation that he met with lawyers, the subject matter which you have the right to ask, but --

BY MR. BAXTER:

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Q. Outside of what you learned directly from attorneys, did you have any knowledge of why the University decided not to enact an "All Comers" Policy?

A. No; the word that I heard was from the attorneys.

MR. CARROLL: Well, you're not talking about the attorney.

BY MR. BAXTER:

Q. Was -- okay. And since that time are you aware of any effort by the University to adopt an "All Comers" Policy?

A. No, I'm not aware.

Q. Were you present for the Hannah Thompson interviews that Ms. Cervantes carried out?

A. I believe so. What I remember was that there was a female student there, and there was a female staff or faculty member who was there too, so I -- I could be wrong, but my memory is that the student was Hannah Thompson. I don't remember the name of -- I think it was the group's advisor who was there to support Hannah.

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.

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Q. Do you recall her saying that she told him he could not be a leader because his lifestyle was inconsistent with the Bible?

A. She may have said that; I don't recall how she worded it.

Q. Do you recall her saying that she would encourage anyone who was gay to come and they would be welcomed as members?

A. Yes, I think she did say that.

Q. Do you remember her talking about that the only restriction was for the leadership team; it would be expected to turn away from sin?

A. I don't recall that. She may have said that; I don't recall it.

Q. Okay. And did you make any effort to determine whether BLinC believed -- whether BLinC rejected Mr. Miller because of his beliefs as opposed to his status?

A. I wasn't in charge of the investigation. I didn't -- my impression based on the interview with Hannah was that they had made the decision based on the status.

Q. And what in the interview led you to that conclusion?

A. Because there was no follow-up about his conduct.

Q. Okay. And you didn't pay attention to whether there was any follow-up about his beliefs or --

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A. I don't recall that coming up.
MR. BAXTER: Okay. I'd like you to look at Document Number 97; I don't think you have it.
Ms. Reporter, can you mark that (indicating) as Exhibit Number 97.
(Deposition Exhibit Number 97 was marked for identification.)
BY MR. BAXTER:
Q. Do you recognize this document?
A. I don't.
Q. Okay. And do you recognize that handwriting?
A. It sort of resembles Connie's handwriting.
Q. Do you recall if you were interviewing with Connie on March 27, 2017?
A. I may have been. I don't recall.
Q. Do you remember having a discussion with her sometime after the Marcus Miller and Hannah Thompson investigation -- or interviews?
A. I remember one meeting we had to talk about the history of the Human Rights Policy going back to the 1950s and 1960s. I know I had at least one phone call with her; I don't have the date of that.
Q. Okay. And do you recall any phone call or in-person meeting talking about the distinction between beliefs and actions?

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A. I don't.
Q. Okay. Do you recall telling her that she was -- something about setting up for a PR nightmare?
A. I don't.
Q. Do you know who Justin is?
A. I don't. I mean I'm not sure if that was somebody with the 24:7 case or if that was somebody with the BLinC case.
Q. Okay. I'm going to ask you to look at a document that the reporter will mark as Exhibit Number 98.
A. Actually I do think I have a 98 here.
Q. Okay. That's been previously marked. Are you familiar with this document?
A. I believe I did see this. It's been a while since I read it.
Q. Would you have read it when you received it?
A. Presumably.
Q. Okay. And do you think that you -- or do you recall approximately when you received it?
A. No, I don't.
Q. Okay. You're looking now at the cc lines, correct?
A. Correct.
Q. And you're cc'd there, correct?
A. Correct.
Q. And you believe you received it some other way?

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A. Correct; it might have been Dr. Redington.
Q. And you said you would've read this when you got it.
A. Yes.
Q. I'm going to ask you to look at the second page, bottom of the first paragraph, you see where it says: "We never discriminate against students because of who they are. All we ask" --
A. I'm sorry --
Q. The very first paragraph, the last sentence starts --
MR. CARROLL: Right there (indicating).
BY MR. BAXTER:
Q. -- "We never discriminate against students because of who they are. All we ask is that our leaders support and uphold our goals and beliefs"; you see that?
A. Yes.
Q. So this is a letter from Hannah Thompson, correct?
A. Correct.
Q. And she is here distinguishing between discriminating based on status and selecting leaders based on their beliefs, correct?
A. Well, that's what she says. I took -- when I read this, I'm sure I took exception to it because my understanding was that it was his status that led to the decision.
Q. But it would be important to know which it was,

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correct?
A. I'm not sure that I would see beliefs and status as being completely inseparable. I think that in some situations someone's status overlaps with what their beliefs are. If someone reports that I'm openly gay, someone could say that that's their belief, but I would -- to me that's a status issue, not a beliefs issue. So from my perspective, I interpreted this at the time that she didn't understand that what he was saying implicated his status.
Q. Okay. Could something implicate both status and belief?
A. Yes, I suppose.
Q. Could an individual who is gay believe that it is wrong for them to act on their -- or to engage in homosexual activity?
A. I think I got your question, but could you repeat it just one more time.
Q. Could a person who identifies as gay believe that it is wrong for them to engage in homosexual activity?
A. Are you asking me in my personal belief?
Q. Just asking if you're aware that people can do that.
A. Well, I think we discussed that this morning. That's -- I think you're asking me about my personal belief, so I'm not inclined to answer that.
Q. Well, again, you have an obligation to uphold the

Constitution, correct?

A. Correct.

Q. And individuals have a right to maintain their beliefs, correct, maintain their religious beliefs?

A. Individuals have a right to maintain their religious beliefs, yes.

Q. And that's a right protected by the First Amendment.

A. Generally speaking, yes.

Q. Okay. And that's a right protected by the Free Speech Clause.

A. I'm not sure how -- I don't know enough about constitutional law to know whether it's Free Speech Clause, whether it's Free Exercise, or whatever.

Q. But obviously it potentially implicates the Free Exercise Clause, correct?

A. Again, I can't say. It's not -- I'm not a judge.

Q. Okay. But you don't have any personal view of the Constitution, Free Exercise Clause of the Constitution?

A. Well, I do --

Q. Well, tell me whether you believe that the Constitution -- the Free Exercise Clause to the Constitution protects an individual's right to have their own beliefs.

MR. CARROLL: Tom, you're here as a representative from the University of Iowa. If you don't want to discuss your personal beliefs --

MR. BAXTER: No. George, he's here in his personal capacity, and I'm asking this in his personal capacity.

MR. CARROLL: Right, but he doesn't have to express his personal belief.

MR. BAXTER: I'm asking him to express his understanding of the Constitution; he is required to answer that question.

MR. CARROLL: But you asked him personally.

BY MR. BAXTER:

Q. Do you have a belief -- have an understanding of whether the Constitution protects an individual's right to maintain religious beliefs of their own choice?

A. I have a personal belief, and I'm not going to discuss my personal beliefs.

MR. BAXTER: Well, I'm -- let's get the judge on the phone because I don't think there's any reason why he can't answer that question.

(A recess was taken.)

MR. BAXTER: We'll go back on the record.

Q. Mr. Baker, you already stated that as an employee of the University, it was your obligation to uphold the Constitution of the United States, correct?

A. Correct.

Q. And that means if you observed violations of the Constitution, you had an obligation to correct them; is that

correct?

A. I am not the Constitution enforcer at the University of Iowa. As an attorney, though, I do understand the importance of having the final outcome of a case comport with the Constitution, so in my 30-year experience, depending upon where we're at in the process, depending upon who is involved in the process, I may speak or I may not speak with the General Counsel's office or I may speak or I may not speak with one of the persons involved in the case -- in the investigation, but I'm not going to immediately run to the phone to call the General Counsel's office if I think that there's a Constitutional violation that is just about to happen.

Q. And have you ever received any training as a University employee on the Constitution or its meaning or how it should be applied by the University?

A. I've attended a number of CLEs, but the training -- at least not that I know of, there's not any employment training module that covers Constitutional law.

Q. All right. And have you personally received any training on how the First Amendment applies on campus?

A. Not training per say. As I say, I've attended a number of CLEs. I've -- so I have a general knowledge based on information that other people have told me.

Q. And that was concerning the First Amendment,

correct?

A. Well, yeah, not just the First Amendment but included the First Amendment.

Q. And from that, what have you learned about the First Amendment?

A. Well, as you know, the different -- five or six different principles embedded in the First Amendment. The -- I'm not sure what the scope of your question is. Do you want me to talk about any -- and, again, I'm trying to understand, is this what -- you're asking me about my personal beliefs about the First Amendment, or does this have to do with how the First Amendment has been interpreted?

Q. As an employee of the University, did you have an understanding of what the First Amendment means?

A. Yes. I think so, yes.

Q. And did you have an understanding of what the Free Speech Clause means?

A. Yes, general understanding.

Q. And did you have a general understanding of what the Free Exercise Clause means?

A. No.

Q. Okay. And when you read Hannah Thompson's argument that they did not discriminate against students because of who they are, "All we is ask that our leaders support and uphold our goals and beliefs," did that raise any First Amendment

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concerns in your mind?

A. I don't recall what went through my head when I read this.

Q. Ever in the process of the investigation by Ms. Cervantes, did it ever raise Constitutional concerns in your mind?

A. Well, I think in general when the case first came in, that in the back of my mind was the potential for a First Amendment claim, yes.

Q. Okay. And did you do anything to make sure that Ms. Cervantes complied with the requirements of the First Amendment?

A. No; I'm not her supervisor.

MR. BAXTER: I'd like you to look at the exhibit that's been marked as 99.

Ask the reporter to mark this (indicating) Exhibit 99.

(Deposition Exhibit Number 99 was marked for identification.)

THE WITNESS: Yes. The -- this was -- anticipated our meeting to talk about the -- some of the historical background to the Human Rights Policy.

BY MR. BAXTER:

Q. Okay. And did you go with her to talk to her about the history?

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A. Well, we met in my office it looks like.

Q. And how long did you talk?

A. No idea.

Q. Was it less than a half hour?

A. I don't know.

Q. Do you have any recollection about what happened during this conversation?

A. I remember talking about the event in the 1950s that precipitated the formation of a group at the University of Iowa to explore the idea of adopting a Human Rights Policy.

Q. And what was that event?

A. It was an event where an historically white sorority refused to accept an African-American member.

Q. And what else did you talk about in that meeting?

A. I'm sure I talked to her about the fact that the policy was written in 1963. Boy, I --

Q. Did you talk about whether the policy was an "All Comers" Policy?

A. Hmm. I don't know.

Q. Do you remember a conversation with Connie Cervantes where you told her that you wanted there to be an "All Comers" Policy at the University?

A. No, I never -- I don't ever remember saying explicitly that I wanted an "All Comers" Policy.

Q. Do you recall saying that you wanted an "All Comers"

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Policy but not in the pure sense so there could be an exception for fraternities and sororities?

A. I don't recall a statement exactly to those words.

Q. Okay. Do you recall a statement to anything similar?

A. The conversation -- I just cannot recall the conversation.

Q. Have you ever advocated for the adoption of an "All Comers" Policy at the University?

A. No, I -- I mean -- 30-year career, 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.

Q. I'm going to ask you to look at what should be in there as Exhibit 106.

A. (The witness complied.)

Q. Are you familiar with this document?

A. Oh, this is her decision; yes.

Q. And when you said "her decision," can you --

A. Connie's decision, I'm sorry, June 30th, 2017.

Q. Okay. And do you see at the bottom of the first page -- well, did you have any input into the substance of this decision?

A. Other than just the general discussions we had about the history of the Human Rights Policy and such, I don't consider that to be participating in the decision. It was her

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decision, and whether she decided to dismiss the case or sustain the complaint, that was her decision.

Q. Okay. And did you see any drafts of the findings before they were finalized?

A. I believe I did. I think a couple days before she issued this (indicating) she sent out a draft.

Q. Okay. And did you propose any changes to the draft?

A. I don't remember telling her anything, and I don't think I found anything in my email records.

Q. Okay. Looking at the first page of the Document Number 106, do you see at the bottom where it says "The following documents were reviewed:"?

A. (No response.)

Q. Do you see where it says "The following documents"?

A. Yes. I'm sorry. Sorry.

Q. And you see it says "Copy of Facebook Messenger notes of meeting dates between Complainant and B"?

A. Yes.

Q. Okay. Did you ever ask to review those Messenger notes?

A. I don't remember for sure. I do recall looking at -- I thought they were text messages, but maybe they were --

MR. BAXTER: Okay. I'm going to ask you to look if there's maybe Number 88 in the back, Document Number 88.

I'll ask the reporter to mark this (indicating)

Exhibit 88.

(Deposition Exhibit Number 88 was marked for identification.)

BY MR. BAXTER:

Q. Are you familiar with that document?

A. I don't recall seeing this. I may have seen it, but it's -- I don't have a memory.

Q. Okay. But you recall seeing some other text messages or something like that; is that correct?

A. I have a very general vague memory of -- maybe, yeah.

Q. But these are not what you remember seeing?

A. This is not what I remember for some reason.

Q. Okay. Looking back at Exhibit 106, you see there where it identifies a May 17 email from Complainant to Student B and a June 22nd email from Student B to Complainant?

A. Yes.

Q. Do you recall if you reviewed those?

A. Those may have been the documents that I recall.

Q. Okay. I'm going to ask the reporter -- is there an Exhibit 90 in your book?

A. No.

MR. BAXTER: I'll ask the reporter to mark this (indicating) as Exhibit 90.

(Deposition Exhibit Number 90 was marked for

identification.)

BY MR. BAXTER:

Q. Why don't you take a minute and look through and see if you're familiar with anything in these documents.

A. (The witness complied.) I don't have a memory of reading this.

Q. Okay. And looking back at Exhibit 106 on the next page over, you see four lines down where it says "Chronology prepared by Student B"?

A. Yes.

Q. Do you have a recollection of reviewing that?

A. And remind me, Student B, is this --

Q. Student B is Hannah Thompson.

A. Oh. The name "chronology" doesn't stick out in my mind.

Q. Okay. I'm going to ask you to see if you already have Exhibit 96.

A. Sorry.

MR. BAXTER: Ask the reporter to mark this (indicating) Exhibit 96.

(Deposition Exhibit Number 96 was marked for identification.)

BY MR. BAXTER:

Q. And have you seen a copy of --

A. The format of this strikes a cord. I think I did

read this.

Q. Okay. And do you see where it says on April 27, 2016, "Meet for the second time. Marcus tells me he is going to live actively as a gay man. I explain to Marcus that I have been praying about this decision, reading the Bible, and consulting the executive members and other trusted acquaintances. Based on BLinC's faith and foundation in the Bible and as our authority, he cannot be on executive leadership with BLinC because his lifestyle is inconsistent with what the Bible says about his sin"; do you see that?

A. Yes.

Q. And do you recall reading this around the time of the investigation?

A. I mean I remember reading the document. I don't remember this particular part of the document, but I'm sure I read it at the time.

Q. Okay. I'm going ask you to flip to what's in your binder as Exhibit 108.

A. (The witness complied.)

Q. Do you recall what this is?

A. Yes, I remember this. This I wrote as a draft that was never actually sent. As you can see, there's no date. At the time I drafted this, it was my understanding that Dr. Nelson was going to be meeting with -- sorry, I'm drawing a blank on the name of Hannah's successor.

Q. Jacob Estell?

A. Jacob, thank you. It's my understanding that Dr. Nelson was going to be meeting with Jacob to talk about the decision by Connie, and so this I wrote as sort of a conveyance document. This is what my understanding with Dr. Redington was, was that she wanted me to be the person to sort of make sure that the EOD report got into our complaint resolution system for student organization, and so I advised Dr. Nelson here, and he did receive this as I recall. I think I sent him a draft and asked him if he had any questions about -- and then as it turned out, I wound up -- he asked me to attend the meeting on September 1st, so --

Q. You say in the middle of the second paragraph that the executive director is to schedule a time to meet and discuss the case with the student organization representatives before determining whether or not the actions of BLinC's student leaders violated one more of the ten established rules for student organizations; do you see that?

A. Yes.

Q. So was the purpose of the meeting to make sure that BLinC had had an opportunity to air all of its defenses?

A. Right, with -- specifically with regard to the rules because the -- in order for BLinC or any other student organization to be subject to disciplinary sanctions, there had to be a violation of one of the rules, and this was not an

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issue that Connie had vetted in her decision; she was simply issuing her interpretation of the Human Rights Policy, so if -- the decision by Dr. Nelson would have had to have been based on one of the ten rules.

Q. Okay. And where are those ten rules identified?

A. They were -- as I understood it, they were in the document Resolution of Discipline of Registered Student Organizations.

Q. Okay. And was it your understanding the meeting would also be an opportunity for BLinC to appeal any of the findings of Ms. Cervantes if they believed the findings were inaccurate?

A. Well, the appeal process was the next step after Dr. Nelson, as we call it an appeal. So Dr. Nelson wasn't hearing an appeal; he was adjudicating whether or not there was a violation of one of the ten student organization rules.

Q. Okay. So Ms. Cervantes made a finding that BLinC had violated the Human Rights Policy by denying Marcus Miller leadership position based on his sexual orientation, correct?

A. I believe that's right.

Q. And if BLinC believed that that finding was factually wrong, who could they have appealed that factual finding to?

A. Well, they could have expressed that to Dr. Nelson during the meeting, and they could have also raised the issue

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on appeal after Dr. Nelson issued his decision to Dr. Redington, and Dr. Redington is the one that hears the appeals.

Q. So would you agree that in that process it was important for Dr. Nelson and Dr. Redington to review all the evidence that Ms. Cervantes considered?

A. I assume that's what they intended to do.

Q. Is there any other appeal process from the EOD maybe to another person at the EOD?

A. I don't know honestly. I'm not familiar with the EOD procedures.

Q. And you participated in the meeting on September 1st.

A. That's right.

Q. And who do you recall was at that meeting?

A. Daniel, Eric, Tom --

Q. You say "Daniel," you mean Daniel Blomberg?

A. Correct. I'm sorry.

Q. "Eric," you're referring to me I assume?

A. Correct. Me and Dr. Nelson, and Jacob was there, I believe.

Q. Correct. And do you recall Brett Eikenberry was also there?

A. Is Brett another student?

Q. Brett was another student representative of the --

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A. Okay. I'm sorry, I don't -- I'm not saying he wasn't there. I just don't remember -- if he spoke up, I don't remember him speaking up.

Q. Okay. And why were you at that meeting?

A. 'Cause Dr. Nelson had asked me to attend.

Q. And did he tell you why he wanted you there?

A. I don't remember. I know that it happened after Dr. Nelson learned that you would be attending.

Q. And did the two of you have any discussions going into the meetings?

A. If we did, I don't recall what we talked about.

Q. Okay. Do you remember at the meeting telling the representatives of BLinC that CLS had previously had a similar issue and was allowed to maintain registered status because its requirements prohibited sexual relationships outside of marriage?

A. Correct.

Q. And do you recall saying that groups can require their leaders to be abstinent outside the institute of marriage?

A. Yes, I believe I did say that.

Q. Okay. And do you recall saying that the University could not tell an environmental group that it had to allow a climate denier to become one of its leaders?

A. I don't have a specific memory of saying that, but

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I'm not denying I said it.

Q. So at that time it would be fair to say it was the University's policy that student groups could require their leaders to embrace the group's mission, correct?

A. As a general statement. I think that's a fair statement as a general -- there could be exceptions to that, but --

Q. And what would those exceptions be?

A. Again, depends on -- if a group's mission is to pursue illegal activity, then -- so that's why I said as a general statement, I think that's true.

Q. Okay. Do you recall that in that meeting there was a difference between discrimination on the basis of belief versus status versus conduct?

A. I remember having a discussion about status and conduct.

Q. But you don't recall any discussion about discrimination on the basis of belief?

A. If we did talk about it, I don't remember it being as a third category.

Q. Okay. Do you recall asking -- that either you or Dr. Nelson asked BLinC if it would be willing to explain its beliefs in the constitution?

A. No, I don't have memory of that.

Q. Okay. Do you remember Dr. Nelson telling BLinC that

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if they would amend their constitution to add an explanation of their religious beliefs, that would allow students to know what those beliefs were before they joined the group?

A. I don't have a specific memory of that, but I -- I don't deny that it was said.

Q. And do you remember explaining that that would give -- allow the University to be able to better judge whether -- you know, when a complaint was filed, whether the student group was complying with its own constitution?

A. I do have a general memory of talking about that, about clarifying the constitution.

Q. Okay. And what was your recollection of what happened by the end of the meeting, what conclusion the parties had come to?

A. Well, my takeaways from the meeting were that there was a general agreement that BLinC would not discriminate on the basis of status and that if BLinC wanted to set conduct expectations for -- I don't recall if it was members or leaders that we were talking about, but the idea of having conduct expectations with regard to sexual conduct outside of marriage, that that's what I recall us coming to agreement on. So when I left the meeting, my thought was that there just needed to be clarity in the BLinC policies so that the next time someone raised the issue about sexual orientation and the next -- in other words, the next time that somebody said what

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Marcus Miller said, that there would be rules about conduct that could be used as a basis for further discussion with the candidate to determine if the person was actively involved in sex outside of marriage or if that's what they had plan -- were planning to do.

Q. And you already stated several times, right, that it was okay for a student group to require their members to abstain from sex outside of marriage, correct?

A. Yes.

Q. And is it also fair to say it was also okay for a student group to require its members to abstain from sexual activity outside of a marriage between a man and a woman?

A. I'm sorry, this is obviously an important question. I want to make sure I understand.

Q. Sure. You indicated it was okay for a student organization to prohibit their members from engaging in sexual activity outside of marriage, correct?

A. Correct.

Q. And was it also okay for them to prohibit their members from engaging in sexual activity outside of marriage between a man and a woman?

A. Yes; that's what my understanding was, just the same -- to me our discussion on September 1st reminded me of the discussion I had had 13 years earlier with the CLS students.

Q. And is it fair to say that BLinC agreed that it would specify in its constitution that members would be prohibited from -- or that leaders would be prohibited from engaging in sexual activity outside of marriage between a man and woman?

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A. I'm a little confused by that because sexual activity outside of marriage between a man and a woman -- what I recall was any sexual activity outside of marriage, that adding "a man" or "a woman" complicates the discussion a little bit, and I don't ever recall -- 'cause that sort of creates, then, the idea of what if two same-sex people are in a legal marriage, and I don't recall us going down that rabbit hole during our discussion.

Q. Okay. But you just said either way it would be permissible under the Human Rights Policy, correct?

A. No, I -- that's -- that's not what we talked about, and I don't -- if it had been requested, if I had understood that BLinC was requesting permission to exclude gay people who are married, then I would have had a -- I would have had a number of conversations about that because that would have been a novel issue to me.

Q. Okay. So your prior statement on the record that you thought they were both permissible, both requirements were permissible, you're now disavowing?

A. By "prior record," I'm not sure --

Q. I'll just let the record stand where it is on that.

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Why do you think it makes a difference -- can you explain again why you think it makes a difference whether the requirement was to prohibit sex outside of marriage and outside of marriage between a man and a woman?

A. Because the one is clearly content-neutral, and the other one is arguably not content-neutral. So in other words, when the CLS said that all CLS members need to refrain from sex outside of marriage, that applied equally to heterosexuals and homosexuals.

Q. Okay.

A. So from my perspective, that was a content-neutral way to reconcile the Statement of Faith with Human Rights Policy, so --

Q. And what if they asked students to abstain from sex outside of marriage between a man and a woman and that requirement applied to both -- applied to all students; wouldn't that also make it content-neutral?

A. Well, no, because I interpret that between a man and a woman as meaning -- I'm inferring that that means that gay marriages are not considered -- persons involved in gay marriage are not eligible for consideration, so that never came up in the discussions with CLS, and I don't remember that coming up on September 1.

Q. Okay. And so is it your position that the -- I'm just trying to understand how you can -- how a religious

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student group could restrict -- could prohibit sexual activity outside of marriage between a man and a -- outside of marriage generally but not outside of marriage between a man and a woman and how the University can distinguish between those two religious beliefs.

A. (No response.)

Q. Let's say a student organization has a religious belief that people should not in engage in sexual activity unless they're married and they don't distinguish between whether that marriage is a homosexual or heterosexual marriage; you're saying that student group could require its members to live in accordance with that belief, correct?

A. Yes.

Q. But a religious student group that believed that sexual activity was prohibited outside of marriage between a man and a woman, that the student group cannot require its members to live by that oath, correct?

A. Well, I don't know. It's never come up before. Since I'm not the spokesperson for the Human Rights Policy -- that issue had come up during the September 1 meeting; if I had heard that said, there would have been -- I would have told some of my colleagues that there's a novel issue out that's been raised that needs to be vetted.

Q. Okay. And if Bill Nelson agreed that that was discussed at the 9 -- or the September 1 meeting and that he

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agreed that both standards would be okay, would you have any reason to contradict him?

A. I just don't -- yes, I don't remember that being said.

Q. And would you have any reason to contradict his decision that both standards would be acceptable?

A. Well, yes, because I don't remember that.

Q. Okay.

A. That being discussed.

Q. But if it had been discussed, would you have any reason to oppose that both would be acceptable?

A. Well, yes, I think that -- because that would involve a novel interpretation of the Human Rights Policy, I would have recommended that Bill speak to whoever needed to be spoken to to see if that was acceptable interpretation of the Human Rights Policy.

Q. Ask you to look at what's been marked as Exhibit 109.

A. (The witness complied.)

Q. Are you familiar this document?

A. I noticed it yesterday when I was looking through the file. This is Jacob's letter to Dr. Redington dated July 14, 2017; he's appealing Connie's decision.

Q. And did you ever review this letter at the time -- around the time of the investigation or Lyn Redington's

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decision?

A. I believe so. I think Dr. Redington shared it with me, and it was I'm sure a short conversation because it was -- when I read it, it was clear that there was some confusion about what and when the appeal process went into effect.

Q. Okay. On the second paragraph of that letter, you see where it says: "The student participated in BLinC before asking for a leadership position, and remains welcome to participate -- even as a leader, regardless of sexual orientation. The student was not eligible to be a leader of BLinC only because he stated that he disagrees with, and would not try to live by, BLinC's Christian principles, which means he could not effectively lead our group"; do you remember reading that?

A. Pardon me, let me read this again.

I don't remember this being in the letter, but my memory is there was a procedural issue that needed to be clarified, so --

Q. Okay. Other than the procedural issue, did you discuss anything in this letter with Dr. Redington?

A. No.

Q. I'm going to ask you to look at what's been marked as Exhibit 114.

A. This is the September 13th, 2017, letter from Dr. Nelson to Jacob, the president of BLinC.

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Q. And did you read this letter before it went out?

A. I think I suggested to Bill some of the numbers. There's three points, and I -- as I recall, there was an email conversation about what those points should look like, and I suggested some language.

Q. Okay. The second point it says: "Submit a basic list of qualifications for leaders of your organization designed to prevent future disqualifications based on protected categories and to ensure that persons who identified as non-heterosexuals are not categorically eliminated from consideration"; you see that?

A. Yes.

Q. What do you mean by "not categorically eliminated"?

A. Well, to me this is what we're talking about when we're talking about a status decision. Somebody says "I'm gay," and because they say that they're gay, they're not -- there's no further questions; there's no further consideration.

Q. Okay. And if an organization had a standard that just said no members can engage in sexual activity, period, would that have satisfied this requirement?

A. I'm not sure. I don't know that I've thought about that.

Q. Well, would -- a standard that forbids all individuals from engaging in sexual activity, would that

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categorically eliminate non-heterosexuals?

A. I don't know. I mean the -- I wasn't planning on participating in a decision, so I didn't have any -- personally didn't have any expectations about what -- how it would apply to hypothetical situations.

Q. Did you help draft this letter, help draft this language?

A. I did.

Q. And what was your purpose in putting it in?

A. So that we could state that the appropriate action has been taken to avoid situations coming up in the future like what happened with Marcus Miller.

Q. But you have no idea what would have satisfied that category?

A. It never came up.

Q. Okay. Did you have any thoughts on what BLinC might do in order to meet that requirement?

A. I mean the language that CLS used might have satisfied number 2.

Q. Did you provide that language to BLinC?

A. I don't remember. Did we -- we may have talked about it on September 1, but I don't --

Q. Well, I'm just trying to understand. I mean you understand what was meant by "categorically eliminate," right?

A. (No response.)

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Q. That's language that you wrote or approved, correct?

A. Well, I -- could you repeat your question.

Q. Sure. You said that you -- you asked BLinC to submit language, and if they wanted to be reinstated, they needed to submit language that would ensure that persons who identified as non-heterosexual are not categorically eliminated, correct?

A. Right; and the answer I gave a minute ago was something along the CLS provision.

Q. So would a statement that all members have to abstain from sexual activity -- would that have satisfied this language?

A. Well, that's not what CLS said.

Q. I'm just asking you if it would have satisfied the language regardless of what CLS said.

A. From prohibiting sex -- I mean you talking about like the Shakers?

Q. Sure. If they said no members between -- no sexual activity between our members -- no sexual activity by members.

A. I've never even thought about the possibility that a religious organization would maintain the Shakers' practice of complete abstention.

Q. But that would avoid categorically eliminating non-heterosexuals, correct?

A. I don't know; it could.

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Q. Well, it would, right, because if every member was required to meet that standard, it wouldn't matter if they are heterosexual or homosexual, correct?

A. Yeah, I -- I guess. I'm just not sure -- that seems like a preposterous proposal to me.

Q. But it would meet the requirement.

A. Probably. I'm comfortable saying that it would probably meet the requirement.

Q. Okay. And a requirement that all individuals abstain from sexual activity outside of a marriage between a man and woman would also avoid categorically eliminating non-heterosexuals, correct?

A. Depends on the how the language "man and a woman" is interpreted.

Q. What difference would that -- what different ways could that be interpreted?

A. As we talked about a few minutes ago, if non-heterosexuals who are in a marriage are not eligible to be members, then that could pose a problem for the Human Rights Policy.

Q. Well, it wouldn't categorically eliminate non-heterosexuals, right, because it would eliminate anybody who engaged in sex outside a man and a woman?

A. I'm not sure that we're communicating here. What I interpret the words that you use "between a man and a woman"

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as being -- imply -- and maybe I'm -- maybe I'm inferring this incorrectly, but to me when you say "outside of marriage between a man and a woman," that means -- or it could mean that homosexuals who are in a homosexual marriage cannot be members of BLinC.

Q. Right, but -- could not be leaders, but that requirement would also exclude all single people, right, regardless of their sexual orientation?

A. I'm not following this.

Q. Okay. This is not rocket science. I'm trying to keep this simple.

A. Well, I think it's rocket science what you're talking about. When you're talking about a student organization that's contemplating becoming Shakers, that is rocket science.

Q. If a student organization has a requirement that no leaders can participate in sexual activity outside of marriage between a man and a woman, that would exclude all single people who engaged in sexual activity, correct?

A. Yes, it would; non-married.

Q. Whether they're homosexual or heterosexual, correct?

A. Right.

Q. So it wouldn't categorically eliminate non-heterosexuals?

A. I see your point. You're correct.

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Q. Okay. I'd like to look now at the third requirement on the next page. This says: "Submit an acceptable plan for ensuring that group officers who interview leaders will ask questions relative to the vision statement that are not presumptive of candidates based upon their sexual orientation." What does that mean to be presumptive based on their sexual orientation?

A. Well, what that means, what I was envisioning by this language was that their -- that if the issue of sexual orientation was raised by a candidate, that there would be a series of follow-up questions consistent -- like, for example, if under number 2, if BLinC adopted language like the CLS language, that there would be questions about are you currently in a marriage relationship, are you actively sexually involved outside of marriage, things like that.

Q. Okay. Is it fair to say that someone could read that as requiring BLinC to not ask -- to not assume anything about someone's sexual orientation?

A. That wasn't my intention.

Q. Okay. So when you say "presumptive of a candidate's sexual orientation," you didn't mean to tell BLinC not to assume anything about their sexual orientation.

A. Correct.

Q. Can you tell me again what you meant to say.

A. Well, what I meant to say was that the questions

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would elaborate on the issues that we discussed at the September 1 meeting, issues like are you involved in a sexual relationship outside of marriage, things like that.

Q. You were encouraging them to ask those kinds of questions, or not ask those --

A. To ask those kinds of questions. If -- well, I left it open. They could ask those questions during the interview or they could decide to ask those questions only if the issue of sexual orientation came up, so there's a number of different ways it could have been.

Q. Are you aware that BLinC submitted a revised constitution in response to this letter?

A. I believe that's true. I -- yes. Yes, I do remember being told -- yes, I do remember -- yes, because I was trying to figure out what follow-up to give 'cause I was still under the belief that -- what my understanding of the September 1 meeting was was that we were -- we could reach an agreement on this, and I thought that there needed to be more clarification.

Q. Okay. Did you review the constitution that BLinC submitted?

A. Yes.

Q. And did you review what changes had been made?

A. Yes.

Q. And do you recall what those changes were?

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A. Well, I don't recall exactly the language that appeared in the constitution. What I do remember was the information I was looking for about the number 2, that I didn't see that in the constitution or in the Statement of Faith.

Q. Okay. And did you talk to Bill Nelson about the changes that had been made?

A. I did. I -- well, I don't know that I talked with him face-to-face. I know that he and I exchanged a number of emails.

Q. About the revised constitution.

A. Yes.

Q. And is there any reason why those weren't produced in the litigation?

A. You're asking the wrong person.

Q. Well, when you were asked to produce documents, did you search for those communications with Bill Nelson?

A. Yes.

Q. And in return did you turn those over to whoever was asking you for documents?

A. I believe I did.

Q. Okay. Do you remember what the substance of those emails was?

A. There was one email where I was asking -- let's see. This (indicating) was I think an email to Nate Levin -- yes,

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it was an email to Nate Levin and it --

MR. LEVIN: I'm going to object based on attorney-client privilege.

MR. CARROLL: Yeah, I'm going to -- you have the right to ask about foundation, who did you send the emails to, but past that, then it is attorney-client privilege.

BY MR. BAXTER:

Q. Okay. I'm asking you about emails you sent to Bill Nelson, correct?

A. Just to Bill Nelson?

Q. Did you send emails to Bill Nelson that included other people on the email?

A. I know that Bill was copied on an email that I sent to Nate.

Q. Okay. And did you have any email communications with Bill Nelson that Nate was not on?

A. I don't recall.

Q. Can you double-check your email to make sure those have been produced.

A. Sure.

Q. What was the substance of your communication to Bill Nelson?

MR. CARROLL: And can you answer that without revealing attorney-client privilege? So, for example, if you had your own independent conversation, that's a fair question.

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THE WITNESS: I don't recall if I had an independent conversation with Bill.

BY MR. BAXTER:

Q. Okay. Did you draw your own conclusion about the suitability of BLinC's revised constitution?

A. Yes, because it was apparent to me that the numbered points had not been addressed.

Q. Okay. Well, let's look at the revised constitution. Ask you to look at Document 116.

MR. CARROLL: Do you need a break?

THE REPORTER: Yes, shortly.

MR. BAXTER: Yeah, we can; 15-minute break.

(A recess was taken.)

MR. BAXTER: Okay. We'll go back on the record.

Q. We're looking at Exhibit 116; you see that in front of you?

A. Yes.

Q. And you recognize this as the revised constitution of BLinC?

A. Correct, dated September 27th, 2017.

Q. And you see at the bottom the very last line says: "All officers are required to affirm they accept and live BLinC's religious beliefs as set forth in its Statement of Faith"; you see that?

A. Yes.

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Q. And is there any problem with including that requirement in any student organization's constitution?

A. Well, it depends on what's in the Statement of Faith.

Q. Okay. Let's take a look at the last page of that exhibit, number 3559; do you see down there the "DOCTRINE OF PERSONAL INTEGRITY"?

A. Yes.

Q. Do you recall that this was added to BLinC's Statement of Faith in this version?

A. I believe that's right. I think it may have even been added in August or something; I could be wrong about that.

Q. Okay. Well, let's -- I'll represent to you that this statement was not in the original constitution, and it was in the revised constitution. Do you see the sentence that starts: "We believe God's intention for a sexual relationship is to be between a husband and a wife in the lifelong covenant of marriage"?

A. Yes.

Q. And do you see it says: "Every other sexual relationship beyond husband and a wife" -- "every other sexual relationship beyond this is outside of God's design and is not in keeping with God's original plan for humanity"?

A. Yes.

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Q. And then it says: "We believe that every person should embrace, not reject, their God-given sex"?

A. Yes.

Q. Is there anything wrong with BLinC adding this to their constitution?

A. Because it raises question about the status of non-heterosexual students, I raise the question about whether or not this should be accepted if there was a way to modify it -- or to propose that it be modified in a way that would be acceptable, and when I say "proposed to be modified," I don't mean modifying the Doctrine of Personal Integrity. I mean adding a statement that would reconcile the Membership Section 1, Article II with the Doctrine of Personal Integrity.

Q. And if BLinC had just deleted those three lines and resubmitted its constitution, would it have been acceptable to you?

A. I can't say for certain that it would have, but it may have.

Q. It would have reduced your concern about the constitution?

A. Yes.

Q. Okay. And when you say that you propose it being modified, who did you propose that to?

A. That was information in my email to Nate Levin.

Q. Okay. I'm going to ask you to look at what's been

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marked as Exhibit 117.

MR. CARROLL: We don't have it.

MR. BAXTER: Okay. I'm asking the court reporter to mark this (indicating) as Exhibit 117.

(Deposition Exhibit Number 117 was marked for identification.)

BY MR. BAXTER:

Q. You recognize this document?

A. I'm sure it's a legitimate document. When I looked through the documents yesterday, this one didn't stick out in my mind, but it didn't -- so what I see here is that it's dated September 28th, so it was dated the day after the date on the revised constitution, and what I was doing here, then, would have been -- I was asking to see -- because the -- I wanted to make sure that I knew what was new in the constitution and what -- oh, pardon me. What was new in the Statement of Faith.

Q. And so did you get a copy of the Statement of Faith from Connie, the old statement?

A. Yeah, I did. I mentioned a few minutes ago something about an August statement, and I -- but I think -- unless I'm mistaken that -- I don't think there was a Statement of Faith; I think that's what I learned, but I --

Q. Was there something you were given to compare with the new Statement of Faith?

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A. I believe what I was sent was a document that's dated in August.

Q. Do you recall something that was given to you that was dated in August that was called the Vision Statement?

A. I think that's what it was called.

Q. Okay. And did Connie send that to you by email, or did she deliver it to you in person?

A. I don't remember.

Q. Okay. And did you compare that Vision Statement to the Statement of Faith that was added to the constitution?

A. I'm sure I did.

Q. You're sure you didn't?

A. I'm sure I did.

Q. Okay. Can you turn to what's been -- do you have Exhibit 95?

A. No.

MR. BAXTER: I'm going to ask the reporter to mark this (indicating) document as Exhibit 95.

(Deposition Exhibit Number 95 was marked for identification.)

BY MR. BAXTER:

Q. These are notes that Ms. Cervantes took of her Hannah Thompson interview; do you recall seeing those notes before?

A. If I did see them, I don't recall seeing them.

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Q. Okay. If you turn to the very last page, there's a Vision Statement; do you see that?

A. Yes.

Q. Okay. And this is the document that you asked --

A. Okay.

Q. That you received from Ms. Cervantes; is that correct?

A. Yes, and this is where my memory of August comes in.

Q. Okay. And why were you comparing that to the new Statement of Faith?

A. Because I wanted to see what the proposed changes were since it wasn't self-evident.

Q. Okay. And that's how you learned what additions had been made to the Statement of Faith?

A. Correct.

Q. Okay. And I'm going to ask you to look at what's been marked as Exhibit 118.

A. This is Dr. Nelson's --

MR. CARROLL: Wait for questions.

BY MR. BAXTER:

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. This is October 19th, 2017, letter from Dr. Nelson to Jacob Estell, the president of BLinC.

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Q. And did you help draft this letter?

A. No.

Q. You were cc'd on it, correct?

A. Correct.

Q. Did you suggest any of the content of it?

A. No.

Q. Did you review it after you first received it?

A. I'm sure I scanned it.

Q. Okay. And do you see in the second sentence where it says: "The Statement of Faith, on its face, does not comply with the University's Human Rights policy"?

MR. CARROLL: You're talking about the second sentence of the first --

BY MR. BAXTER:

Q. First paragraph.

A. Okay. Okay. I see that sentence.

Q. And as you understand it, what does it mean the Statement of Faith, on its face, violates the Human Rights Policy?

A. I'm not sure what that term "on its face" was intended; to me that indicates that there is a serious shortcoming with the revised constitution.

Q. And this suggested the constitution would have been in violation of the Human Rights Policy even without the prior incident with Marcus Miller, correct?

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A. I'm sorry, could you repeat your question.

Q. Saying the Statement of Faith on its face does not comply with the Human Rights Policy suggests that just having that Statement of Faith by itself was a violation of the Human Rights Policy regardless of whether or not a student had actually been rejected for leadership because of it, correct?

A. I'm not sure I can offer my opinion about that. That's not something I was ever asked to consider.

Q. Okay. I'm going to ask you to look at Exhibit Number 119; do you recognize this document?

A. I believe this was the decision on appeal -- this is a letter to Jacob from Dr. Redington dated November 16th, 2017.

Q. And did Dr. Redington consult you when she drafted this letter?

A. She did not.

Q. Did you provide any substance for the letter?

A. No.

Q. Okay. Did you read the letter?

A. After I received it?

Q. Did you read it at any time?

A. As you know, I was copied on it, and I'm sure I scanned it quickly. I saw that the -- her decision was to uphold Dr. Nelson's decision.

Q. Okay. And who outside of lawyers at the University

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were the final decision-makers for how to apply the Human Rights Policy in this case; was it Dr. Redington?

A. I don't know who Dr. Redington consulted with.

Q. You're not aware if she talked with the University president or anything like that?

A. Correct.

Q. Okay. I'm going to ask you if you have it to look at a document -- well, tell me about your involvement in the 24:7 investigation; did you sit in on any interviews?

A. Yes; there were -- Craig Nierman whose name has come up today, Craig represented 24:7, and if I recall, there were two interviews that I sat in on; this would have been in -- around March --

Q. Okay.

A. -- of 2017.

Q. And do you remember whose interviews those were or who was being interviewed?

A. Oh. I'm sorry, I -- I don't remember.

Q. Was it Scott Gaskill?

A. Could have been. I don't remember.

Q. Do you remember if you sat in on Jacob Boyd's interview?

A. His name sounds familiar. I believe that one of the meetings that I attended, that Jacob Boyd was present.

Q. What about Justin Dodd, do you believe you were in

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his interview?

A. I can't say for sure.

Q. All right. And what's your understanding of how the 24:7 investigation concluded?

A. Well, I believe that Connie dismissed the case against 24:7.

Q. And do you recall why she dismissed it?

A. I don't.

Q. Did you read her investigation report?

A. I did.

Q. And you don't recall why she decided not to issue findings against 24:7?

A. I don't.

Q. Do you recall that 24:7 stated that students who wanted to live actively -- actively live a gay lifestyle would not be eligible for leadership positions?

A. I know that issue came up during the interviews. I don't recall what was said on behalf of 24:7.

Q. Okay. But you would have read the report from Connie on that issue -- on the findings, correct?

A. Yeah, I'm sure I scanned it to see what the result was.

Q. Okay. And if there were language in that report where 24:7 acknowledged that it required all of its leaders or Bible study leaders to abstain from sexual activity outside of

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marriage between a man and a woman, would you expect the same outcome would have been achieved between the BLinC and the 24:7 investigations?

A. I can't say because I don't know what her grounds were for a ruling for dismissing the case.

Q. Okay. I'd like you to look at Exhibit Number 81.

MR. CARROLL: Should be over there (indicating).

THE WITNESS: (The witness complied.)

BY MR. BAXTER:

Q. Do you see on the bottom under "Response" on page 3?

A. Okay.

Q. Okay. Do you see where it says: "It is 24:7's position that the church staff had not yet made a decision on Complainant's application to be a Bible study leader in 24:7, and that 24:7 is entitled to restrict the leadership in 24:7 to those who agree with the theology 24:7 follows from Parkview, which includes the belief that homosexuality is a sin"? So you agree that 24:7 -- Connie found that 24:7 had a leadership standard that required leaders to agree that homosexuality was a sin, correct?

A. I'm not sure if it says that. She says 24:7 -- 24:7's position is that they are entitled to restrict the leadership.

Q. Okay. And so how are you distinguishing that from what I say?

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A. Unless I misunderstood you, I think you asked me if 24:7 had a policy.

Q. But if they had a policy, would you have expected that Connie would have reached the same conclusion as she did in BLinC?

A. I can't say that.

Q. And why not?

A. I don't know what -- how she formulated her decision.

Q. Would it have been okay under your understanding of the Human Rights Policy for 20:7 (sic) to have leadership standards that required students to affirm that homosexuality is a sin?

MR. CARROLL: I'm sorry, you said 20:7?

BY MR. BAXTER:

Q. 24:7?

A. I'm sorry, could you repeat it again.

Q. Yeah. Would it have been okay if 24:7 did have a standard that required leaders to agree that homosexuality is a sin?

A. You're asking me?

Q. Yes.

A. As far as I know, as I had understood the Human Rights Policy, that I would have not considered that to be a problem.

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Q. Okay. But you testified earlier that it was a problem for BLinC to include -- require an affirmation or similar statement from its constitutions; how do you distinguish the two?

A. Well, this says "includes a belief that homosexuality is a sin"; to me that's different language than what's in the BLinC constitution.

Q. And as a University official, are you comfortable judging between how one religious organization states its religious beliefs and how the other one states its religious beliefs?

A. Well, first of all, I didn't judge it in this case. If I had been asked to do the investigation myself, I'm not sure what I would have concluded.

Q. I'm going to ask you a few questions, and we'll take a short break and see if we're done. Are you familiar with the University's OrgSync page?

A. I'm not actually. I know I reviewed OrgSync software for a number of years, but I've never used it myself; I've never had access.

Q. Are you aware that some registered student organizations on campus are designated as religious or spiritual student organizations?

A. Under OrgSync?

Q. Correct.

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A. No.

Q. Are you aware of a similar categorization outside of OrgSync?

A. No.

Q. Does the Human Rights Policy prevent religious student organizations from engaging in prayer in their student meetings?

A. No.

Q. Would it prohibit them from worshipping or providing religious teachings in their meetings?

A. No.

Q. What if those teachings included teachings that homosexuality is a sin?

A. As far as I know -- again, I'm not the spokesperson for Human Rights Policy, but as far as I know, that's not a closed case; that's simply doing what student organizations do during their meetings.

Q. And would the Human Rights Policy prohibit students from preaching at their meetings that all students should abstain from sexual activity outside of marriage between a man and a woman?

A. Again, I'm not -- you're asking if that's consistent with the Human Rights Policy.

Q. Correct.

A. Correct. As a person who used to be involved in

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Human Rights Policy investigations, I would say that as far as I know, it's not a violation.

Q. Okay. Would the University of Iowa allow Jewish student groups to observe holy days such as Yom Kippur?

A. When you say "observe holy days," do you mean to be excused from class?

Q. Or to do anything to celebrate that holiday.

A. Certainly as long as it's consistent with University student room reservation policies and things like that.

Q. And the University would even allow religious students to miss school if they needed to for religious observance, correct?

A. Well, I -- the University adopted a policy about 15 years ago, and I was not involved in formulating the policy. I haven't looked at the policy in a while. The reason why I'm ambivalent is that the usual rule about classes is that the instructor decides if the -- a student is a legitimate absentee, so I don't know exactly what the policy says about religious holidays with regard to whether the students have to be approved or not.

Q. Okay. So -- but you agree that the University would allow religious student groups to pray, worship, preach, administer sacraments, and so forth as part of their activities as a student group?

A. Now, the administration of sacraments, as far as I

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know, this is a hypothetical issue. As you know, in the Widmar case in 1981, that issue wasn't discussed about religious ceremonies, and I've -- so I -- if that issue were to come up, if we had any -- well, and maybe it has come up, I'm not sure. Nobody would contact me if it did come up, but as -- if the constitution requires that student organizations have the constitutional right to conduct religious services in University facilities, then we would certainly do that.

Q. Okay. And for a religious student organization to do all those things, pray, worship, preach, administer sacraments, those are similar to what churches off campus do, correct?

A. Correct.

Q. So in that respect, Christian religious student organization meetings could be the functional equivalent of a church service, correct?

A. Correct. Like I said, I have that asterisk about administering sacraments and such; I assume that they would have a right to do that, but I'm not a constitutional expert on that issue.

Q. And you agree that if student organizations wanted to do that, it would be important for them to have leaders who could pray, preach, worship, and administer sacraments for that group's faith, correct?

A. Ask your question again.

Q. If a religious student organization on campus wanted to engage in prayer, worship, preaching, the administration of sacraments, it would be important for them to have leaders who share their faith, correct?

A. Well, the group's going to have leaders. If you're asking is it important that they have leaders or is it important that they have leaders who share their faith, I assume it's leaders who share their faith, and I mean it would be important to me as an administrator that there would be people within our community who could facilitate the conducting of services if sacraments are permitted; then I would hope that there would be somebody in our community who is ordained to administer sacraments.

Q. So you don't think it's important for students to be able to pick their own leader to do that?

A. That's a different question than the question of whether or not it is important that they have leaders who share their faith. The question you're asking now is is it important that the leaders -- pardon me, that the student members of the group select their own leaders, and if we're talking about religious ceremonies, I'm not sure what to think about that because in a number of denominations, the ceremonies have to be conducted by trained officials in the church.

MR. BAXTER: Let's take a ten-minute break and see

if we have any final questions.

MR. CARROLL: Okay.

(A recess was taken.)

MR. BAXTER: Okay. We're back on the record.

Q. Mr. Baker, after Lyn Redington issued her letter about deregistering BLinC, did you have any further involvement in the matter?

A. You're referencing the November 16th, 2017, decision on appeal?

Q. Correct.

A. I did not have any involvement.

Q. Have you communicated with anyone since then about the BLinC matter outside of lawyers?

A. I mean I told my wife that I've been sued if that's what you mean.

Q. Okay. Did you have any involvement as a University employee in -- have you had any level of involvement with student organizations on campus since Dr. Redington's letter?

A. I don't believe so. I'm trying to remember if any of the Title IX cases I worked on involved a student organization; nothing comes to mind.

Q. Okay. Are you aware that the University has commenced a thorough review of all student group constitutions on campus?

A. Yes, I was told that.

Q. And who were you told that by?

A. I don't remember.

Q. Have you had any involvement in that review?

A. No.

Q. You mentioned earlier you're aware that there was a policy change that allows fraternities and sororities to discriminate on the basis of sex in their admissions; is that correct?

A. No; the -- what I talked about was same-sex student organizations that are not residential.

Q. Okay. And what's the difference between -- are there any non -- are there any residential student groups besides fraternities and sororities?

A. Not that I know of.

Q. Okay. And what's the policy change that you refer to with respect to nonresidential?

A. Well, this is a case with a music fraternity that was a national organization, and they had a local chapter. As I recall, there was a -- there were two actually that had been in existence for decades, one for women, one for men, both for music majors.

Q. Okay. Are you aware of any changes to any University policies concerning fraternities and sororities?

A. I didn't --

MR. CARROLL: That's really broad. Can you narrow

it to what --

BY MR. BAXTER:

Q. Well, are you aware of any policy changes between fraternities and sororities on campus that happened since Dr. Redington issued her letter?

MR. CARROLL: Oh, okay. I'm sorry.

THE WITNESS: Oh, okay. No, not that I know of.

BY MR. BAXTER:

Q. In your work as a Title IX investigator, does that involve any work with fraternities and sororities on campus?

A. It does at times; if there's a -- well, sexual assault, for example, in a fraternity house, I've had a few of those over the years; that's one example.

Q. And are you aware of whether the University is planning to issue a new policy for student organizations?

A. A new policy for student organizations? I -- if we're talking about something that is a monumental change, I'm not aware of anything. There may be minor changes that are being promulgated for technical things about contracts or things like that, but I'm not aware of any monumental change in the way that -- affecting student organization policy.

Q. And are you aware of any discussions on campus to move to an "All Comers" Policy?

A. No.

MR. BAXTER: Okay. I have no further questions.

MR. CARROLL: All right. You are free to go.

(The deposition concluded at 4:11 p.m., August 16, 2018.)

CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter and Notary Public of the State of Iowa, do hereby certify that there came before me at the time, date, and place hereinbefore indicated, the witness named on the caption sheet hereof, who was by me duly sworn to testify to the truth and nothing but the truth concerning the matters in this cause.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken; and furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this _____12th_____ day of October, 2018.

/s/ Tracy A. Hamm
Tracy A. Hamm
Certified Shorthand Reporter
and Notary Public
My Commission Expires: 4-23-19

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9/7/04
341-0641

Craig
[redacted] Nieuwsma telephoned

Xian Legal Society - law students

Group submitted constitution to OSL
"Big (I)" in non-discrimination clause
Draft Didn't mention religion or sex orientation
homosexual conduct is incompatible w/ relig. beliefs
OSL wouldn't reconsider to rejection

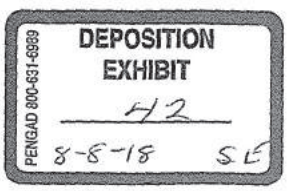
Rumors that Muslims groups allowed to discrim.
(He doesn't disagree w/this exception - I do)
He's got a draft compromise proposal

I asked him to send me the original draft + redraft

He'll send me letter w/ case cites

⊗ Look at Constitution

won't pigeonhole [redacted] decide
- black student
Mountable Characteristic
intent neutrality
see law: Leaders



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LAW OFFICES OF
L. CRAIG NIERMAN
A PROFESSIONAL LIMITED COMPANY

January 30, 2004

VIA FACSIMILE AND CERTIFIED MAIL

Mr. Thomas Baker
Associate Dean of Students
The University of Iowa
249 Iowa Memorial Union
Iowa City, IA 52242

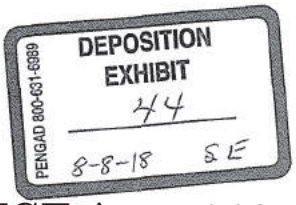
RE: Christian Legal Society Chapter at The University of Iowa

Dear Tom:

In accordance with our recent phone conversation, I represent the local chapter of the Christian Legal Society at The University of Iowa College of Law ("CLS chapter"), on behalf of the Christian Legal Society's Center for Law and Religious Freedom, in a situation in which action by an official at The University of Iowa has violated the chapter's federal First Amendment rights. I continue to hope the University will correct this problem and avoid the need for further legal action on behalf of the CLS chapter. I understand that you have a clear understanding of the history of this dispute and the applicable law. However, for the benefit of the other persons involved in the decision making process who may not be as well informed, I include a brief history of the dispute and my legal analysis.

I. The Religious Tenets of Christian Legal Society.

Christian Legal Society is a nationwide association of Christian lawyers, law students, law professors, and judges. Its purposes include: providing a means of society, fellowship, and nurture among Christian lawyers; promoting justice, religious liberty, and biblical conflict resolution; encouraging, discipling, and aiding Christian law students; and encouraging lawyers to furnish legal services to the poor. CLS maintains both attorney and law student chapters across the country. CLS desires to provide accurate information about Christianity to those who doubt its claims and, thus, welcomes interaction with those who do not necessarily share its core beliefs. Its members, however, must sign a statement of faith indicating that the member holds certain traditional, orthodox Christian viewpoints.



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> Any student may participate in CLS meetings and other activities. The national CLS organization, however, requires that CLS chapter officers sign CLS's statement of faith in order to hold office. CLS student members must also sign the statement of faith. My client incorporates this requirement in its chapter constitution.

CLS interprets its statement of faith to require that officers and voting members adhere to orthodox Christian beliefs, including the Bible's prohibition of sexual *conduct* between persons of the same sex. A person who engages in homosexual conduct or adheres to the viewpoint that homosexual conduct is not sinful would not be permitted to serve as a CLS officer or voting member. A person who may have engaged in homosexual conduct in the past but has repented of that conduct, or who has homosexual inclinations but does not engage in or affirm homosexual conduct, would not be prevented from serving as an officer or voting member.

II. The Problem Encountered by The University of Iowa College of Law CLS Chapter this Fall.

The CLS chapter at The University of Iowa College of Law has been recognized as an official student organization by The University of Iowa at least since 1980. The week of October 6, 2003, the CLS chapter submitted a Recognition Form and two copies of its proposed constitution to the Office of Student Life for the annual renewal of its recognition. On October 10, 2003, Tuyet Nguyen, the Chairperson of the Student Organization Recognition Board, sent the CLS chapter leaders an e-mail rejecting the Recognition Form and the proposed constitution, because of a technical error in filling out the Recognition Form and the failure to include the University's Membership Clause in the group's proposed constitution. The required Membership Clause states:

> [I]n no aspect of its programs shall there be any difference in the treatment of persons because of race, national origin, color, creed, religion, sex, age, disability, veteran status, sexual orientation, gender identity, or associational preference, 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.

Ms. Nguyen's e-mail further explained that if the application was corrected and turned in by October 13, 2003, the CLS chapter would be recognized at the October 21, 2003 meeting of the Student Assembly.

The CLS chapter fixed the technical error in its Recognition Form and resubmitted the Recognition Form and its proposed constitution to the Office of Student Life in advance of the October 13, 2003 deadline. On October 29, 2003, Ms. Nguyen sent the CLS chapter leaders another e-mail rejecting their application for recognition. Ms. Nguyen explained that the CLS chapter constitution would not be accepted unless the group incorporated the University's Membership Clause and added a clause stating that any amendments to the CLS chapter constitution had to be given to the Student Organization Recognition Board.

The CLS chapter added in the required clause concerning amendments to the CLS chapter constitution, but declined to adopt the University's Membership Clause. The group once again submitted its Recognition Form and proposed constitution to the Office of Student Life. Ms. Nguyen again rejected the Recognition Form and the proposed constitution. On November 11, 2003, Ms. Nguyen sent the following e-mail:

> Due to CLS's refusal to add the membership clause as required by the University to your organization's constitution, the Student Organization Recognition Board will not recommend your organization's application and constitution to the Student Assembly. Without the recommendation, your organization's application and constitution will not be able to go in front of the Student Assembly for recognition.

On December 16, 2003, the CLS chapter decided to maintain its affiliation with national CLS and adopt the updated constitution required by the national CLS organization. The updated constitution has not yet been formally adopted by the CLS chapter, but the CLS chapter plans to hold an official vote shortly. A copy of the proposed constitution marked "DRAFT" is enclosed. In addition, a copy of the CLS chapter's current constitution is also enclosed.

The CLS chapter is concerned, especially in light of Ms. Nguyen's e-mails and the group's three previous denials, that it may be permanently denied status as a registered student organization. Furthermore, it is being asked to forgo the benefits that go with recognition, including funding and access to official University of Iowa activities.

III. A Public University May Not Compel a Religious Student Organization to Deny its Basic Tenets, as Expressed through its Membership and Officer Qualifications, in order To Be Granted Official Recognition as a University Student Group.

CLS chapters occasionally have been subjected to university officials' coercion to sign "nondiscrimination" provisions in order to gain or retain official recognition at public university law schools in other states. For example, the University of Illinois unsuccessfully attempted to deny CLS recognition because its leaders "refused to sign a University pledge to refrain from discrimination on the basis of sexual orientation." Stephen M. Bainbridge, *Student Religious Organizations and University Policies Against Discrimination on the Basis of Sexual Orientation: Implications of the Religious Freedom Restoration Act,* 21 J.C. & U.L. 369 (1994). University of Minnesota officials threatened to deny recognition to a CLS chapter because it required its members and officers to subscribe to its statement of faith, which university officials judged to be "discrimination on the basis of religion." Michael Stokes Paulsen, *A Funny Thing Happened on the Way to the Limited Public Forum: Unconstitutional Conditions on "Equal Access" for Religious Speakers and Groups*, 29 U.C. Davis L. Rev. 653, 668-672 (1996). In each instance, the university ultimately abandoned its attempt to impose the university's orthodoxy on the CLS chapter. The First Amendment protects religious student organizations' ability to define their identity through their membership and officer qualifications.

A. Freedoms of Speech and Association for Expressive Activity.

The Free Speech Clause forbids public universities from refusing to recognize student groups that have a statement of faith for officers and voting members. Such a refusal would bring the university squarely into conflict with *Widmar v. Vincent,* 454 U.S. 263 (1981), in which the Supreme Court held that a public university could not selectively deny official university recognition to a particular student group because of the group's religious identity, activities, or speech. University of Missouri officials had *not* denied *all* access to religious groups but had *conditioned* access to campus facilities on the religious groups' agreeing to abstain from religious worship or religious teaching at their meetings. 454 U.S. at 265, 266 n.3. The Supreme Court held that such a condition violated a religious student group's freedom of speech as well as its freedom of association. *Id.* at 269, 277. *See Healy v. James,* 408 U.S. 169 (1972)(freedom of speech and association required public university officials to grant official recognition to politically liberal student group).

When a public university threatens to withdraw recognition of a religious student group because it defines itself based on its religious convictions, including its membership and leadership requirements, the university "engage[s] in very nearly the precise conduct that *Widmar* forbids: discrimination on the basis of a group's religious nature and membership." Paulsen, *supra*, at 675. It makes little sense to recognize a religious group's constitutional right of equal access, but simultaneously to deny a religious group the right *to be religious* in its message and its leadership.

1. *University officials must treat student organizations in a viewpoint neutral manner.*

In *Rosenberger v. Rector of the University of Virginia,* 515 U.S. 819, 834-37 (1995), University of Virginia officials denied funding to a religious student group's publication because university officials deemed the viewpoint of its speech "too religious," due to its evangelical Christian viewpoint. The Supreme Court held that the university's viewpoint discrimination violated the religious student group's free speech rights. Given the university's funding of numerous other student publications from a variety of viewpoints, the Court ordered $5,000.00 worth of university funding for the evangelical Christian publication.

Applying reasoning similar to *Rosenberger*, the Eighth Circuit Court of Appeals held that a University of Arkansas decision to deny funding to a gay and lesbian student association was impermissible viewpoint discrimination. *Gay and Lesbian Students Ass'n v. Gohn,* 850 F.2d 361, 366-68 (8th Cir. 1988). The Eighth Circuit stated, "[G]overnment may not discriminate against people because it dislikes their ideas." *Id.* By refusing to fund groups that advocate a homosexual lifestyle, the university engaged in blatant viewpoint discrimination. "This record leaves no reasonable doubt that funds were denied because of disagreement with the GLSA's speech." *Id.*

The Supreme Court has consistently demanded viewpoint neutral treatment of student organizations in the university context. In *Board of Regents of the University of Wisconsin System v. Southworth,* 529 U.S. 217 (2000), the Supreme Court upheld a university's student fee

program because funds were distributed to student organizations in a viewpoint neutral manner; however, the Court struck down the use of elections by which a majority vote by the student body could deny funds to a particular student organization, because it did not insure viewpoint neutral treatment of student organizations. The *Southworth* decision reinforces the *Healy* decision in which the Court ruled that a university's disagreement with a student "group's philosophy affords no reason to deny it recognition....The College, acting here as the instrumentality of the State, may not restrict speech or association simply because it finds the views expressed by any group to be abhorrent." 408 U.S. at 188.

The Court is particularly wary of viewpoint discrimination by university officials, because, as it warned in *Rosenberger*:

> The...danger...to speech from the chilling of individual thought and expression...is especially real in the University setting, where the State acts against a background and tradition of thought and experiment that is at the center of our intellectual and philosophic tradition....For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation's intellectual life, its college and university campuses.

515 U.S. at 835-36 (citations omitted).

A religious group's statement of faith and its constitution requiring adherence to that statement are unquestionably the group's expression of its viewpoint. The statement of faith in a CLS chapter's constitution represents deliberative, substantive expression of the group's shared values and collective identity to the greater university community.

The willingness of officers and members to subscribe to the group's statement of faith indicates commitment to the group's message and identity—a commitment that is vital to maintaining the group's identity. Officers' and members' commitment to the group's core values is essential to the implementation of those values through meetings and other activities. Requiring such a commitment insures against a "hostile takeover" by persons who do not share the group's core values.

2. *State anti-discrimination rules do not override a group's freedom of speech and expressive association in defining its leadership and membership criteria.*

The Supreme Court has twice upheld a group's freedom of speech and expressive association against application of state anti-discrimination laws. In *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston*, 515 U.S. 557 (1995), the Court ruled that a private group did not have to include a self-identifying homosexual group in its parade. The Court rejected the Massachusetts Supreme Court's application of state anti-discrimination laws regarding sexual orientation to a group's parade as "violat[ing] the fundamental rule of

protection under the First Amendment, that a speaker has the autonomy to choose the content of his own message." *Id.* at 573.

In *Dale v. Boy Scouts of America,* 530 U.S. 640, 648 (2000), the Court upheld the right of an organization to set its own leadership criteria. Despite the New Jersey Supreme Court's ruling that the state anti-discrimination laws prohibited the Boy Scouts from removing a person from leadership because of his self-identification as a homosexual person, the United States Supreme Court reaffirmed that "[t]he forced inclusion of an unwanted person in a group infringes the group's freedom of expressive association if the presence of that person affects in a significant way the group's ability to advocate public or private viewpoints." *Id. See Democratic Party v. Wisconsin,* 450 U.S. 107 (1980)("the freedom to associate for common advancement of political beliefs...necessarily presupposes the freedom to identify the people who constitute the association, and to limit the association to those people"). Government "'is not free to interfere with speech for no better reason than promoting an approved message or discouraging a disfavored one, however enlightened either purpose may strike the government.'" *Dale,* 530 U.S. at 661 (*quoting Hurley*, 515 U.S. at 579).

3. *Free speech includes the right not to speak.*

Coercing conformity of opinion is the antithesis of democratic pluralism. As the Supreme Court, in famous words, stated:

> If there is any fixed star in our constitutional constellation, it is that no officials, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

West Virginia Bd. of Educ. v. Barnette, 319 U.S. 624, 642 (1943).

A group has a constitutional right "to decline to foster" ideological concepts, particularly those "they find morally objectionable." *Wooley v. Maynard,* 430 U.S. 705, 714-15 (1977). *See, e.g., Hurley,* 515 U.S. at 573; *Dale,* 530 U.S. at 661. Therefore, university officials may not require a religious student organization to add language to its constitution contrary to its own basic tenets.

B. The Autonomy of Religious Organizations to Choose Leaders and Members Is Protected by the Free Exercise and Establishment Clauses.

In addition to the free speech and expressive association rights of an organization to define its leadership and membership requirements that were reaffirmed in *Hurley* and *Dale,* the CLS chapter's ability to define its leadership and membership requirements is also reinforced by a line of cases interpreting the First Amendment Religion Clauses as protecting the autonomy of religious institutions and groups in matters of religious doctrine, discipline, and self-governance. *See, e.g., Serbian Eastern Orthodox Diocese v. Milivojevich,* 426 U.S. 696, 713-14 (1976). Religious freedom encompasses the "power (of religious bodies) to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine."

Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 116 (1952). Withholding recognition on the basis of the CLS chapter's self-governance would violate this well-established principle.

Law, culture, history, and common sense demonstrate that religious organizations' acts of self-definition are not discrimination but important components of religious freedom. Treating a religious organizations' acts of self-definition as discrimination ironically results in the university itself discriminating against religious groups. After all, what makes a religious group "religious" is its shared commitment to a group of religious ideas. CLS's statement of faith is the only expression of values that unites CLS members. CLS members have diverse views about a host of issues and exercise their faith in diverse ways but are united by these core beliefs. If the University could deem a religious student group's requirement that its officers agree with its statement of faith impermissible, the CLS chapter literally could not exist.

Different students at The University of Iowa hold different religious beliefs. Forbidding a group of like-minded students from associating around a set of shared principles does not enhance, but instead diminishes, religious diversity at The University of Iowa. The University will be a more vibrant community if a variety of religious groups are able to participate fully in campus life without being pressured to give up the very thing that makes the religious groups distinctive.

For the above reasons, I request that the University give written assurance that: (1) the University's Student Organization Recognition Board's violation of the CLS chapter's First Amendment rights will cease; and (2) the University has created a formal, written exemption for religious groups from the religion, creed, sexual orientation, and gender identity language of the University's required Membership Clause. Unless I receive such assurances by February 9, 2004, I will recommend that my client commence legal action against the University of Iowa.

Please contact me if you have any questions.

Very truly yours,

L. Craig Nierman

LCN:tjt
Enclosures

e-mail cc: Michael J. Bootsma
Anthony R. Morfitt
Michael G. Thieme
Steven H. Aden, Esq.
Gregory S. Baylor, Esq.
Kimberlee W. Colby, Esq.
Timothy J. Tracey, Esq.

No judicial decision on point
3 fact, cases demonstrate/are following principle of content neutrality

- it is discrim. behavior to [redacted] reject a leader as members based on sex. orientation. [redacted]
- You're not claiming that you can't select [redacted] only on leaders; you're not claiming ≠ treatment re: membership
- You're claiming that your group [redacted] has the Const. right to discrim. re: membership Muslim groups
- HR Policy is applied content-neutral (Widmar) (Rosenberger) (Gobs)
- It is unfair to treat you diff, than [redacted] preferential treatment & ≠ viewpoint discrimination

start=> Now You have = access & HR Policy is designed to ensure = Access; if we're treating you group diff, than other groups

HR policy on application to membership

- doesn't require that you agree w/ philosophy of sexual orientation or definition
- doesn't preclude you from [redacted] asking prospective officers to subscribe to a statement of faith
- doesn't preclude your group from establishing leadership qualifications reasonable consistent w/ the purpose of your org
- not required to sign a policy b/c we will

History: No other religious RSO [redacted] permitted to modify HR Policy

→ (F) not a group since 1980?

p. 2 > Not a conflict b/t voting & accepting a member

No reason to disagree?

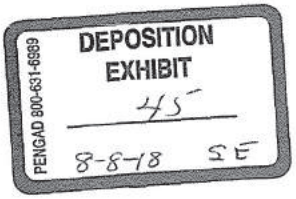
a homosexual could believe it is sinful to engage in homosexual sex

> we're not asking you to deny your basic tenets

[redacted] which is to policy not to discrim. [redacted] does preclude you from using is not [redacted] membership qualifications

p. 3 > No right to define membership on basis of immutable characteristics (e.g. race)

Meanwhile - not a recognized group



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IVCF App. 153

THE UNIVERSITY OF IOWA

Office of the Vice President for
Student Services and Dean of Students

February 20, 2004

Mr. L. Craig Nierman
Attorney at Law
216 Stevens Drive
Iowa City, IA 52240-4353

Dear Craig:

RE: CHRISTIAN LEGAL SOCIETY

This letter is in response to your January 30 letter regarding your clients, the student members of the Christian Legal Society (CLS). During the fall semester of 2003, CLS student leaders declined to include the University of Iowa Human Rights Policy in their proposed group constitution. Because the proposed constitution did not include the Human Rights Policy, the CLS application for recognition was rejected by the University of Iowa Student Government (UISG).

You object to the actions of UISG and asked that the First Amendment rights of the CLS students be protected. I have reviewed the First Amendment case law and the two law review articles cited in your letter. I have discussed the legal issues you raised in your January 30 letter with Vice President Phillip Jones.

Your letter states, in essence, that the CLS has a constitutional right to refuse to include in its constitution the Human Rights Policy in its entirety. As you know, the Human Rights Policy explicitly prohibits the University from engaging in race and sex discrimination as well as other forms of discrimination prohibited by the Policy. Under the Human Rights Policy, University officials may not treat persons differently based upon any classification "that deprives a person of consideration as an individual." Creed and sexual orientation are specifically listed as examples of categories that deprive a person from consideration as an individual. Religion and religious affiliation are not specifically identified in the Policy, although in some instances discrimination on the basis of religion would violate the Policy, such as a practice of not permitting Christians to join a student political group.

With respect to student organizations, the University applies the Human Rights Policy to prohibit certain forms of discrimination when organizational leaders decide to accept or exclude students interested in becoming members of the group. Federal law generally *requires* that the University of Iowa (and all post-secondary institutions which receive federal funds) prohibit recognized student organizations from discriminating on the basis of race and sex in the selection of new members. By requiring that groups observe the Human Rights Policy, University officials responsible for reviewing applications for group recognition ensure that Title VI and Title IX are observed. The Human Rights Policy was enacted in 1963, and ever since then it has been the University's practice to apply the Policy to student organization membership selection decisions.

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DEPOSITION EXHIBIT 46
8-8-18 SE

Contrary to your letter, the Human Rights policy does not prohibit student groups from establishing membership criteria. A student religious group is entitled to require a statement of faith as a pre-condition for joining the group. *Asking prospective members to sign the CLS statement of faith would not violate the UI Human Rights Policy.* While student groups have a right to establish membership rules and require prospective members to adhere to group rules, that right 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.

You specifically cited sexual orientation as one category of discrimination prohibited by the Human Rights Policy that your clients find objectionable. Your letter did not, however, cite 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. The Supreme Court cases on student organizations mentioned in your letter address other issues beside membership rules, namely equal access to funding and meeting space, for instance. The case law you cited supports, in fact, the Vice President's position 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.

Implicit in the Human Rights Policy is the distinction between class characteristics such as race and gender, on the one hand, and on the other hand the personal conduct of those who seek to join student organizations. The CLS 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. Individuals who fail to observe the CLS statement of faith may be dismissed as members. Your group may not, however, refuse to accept as a member a homosexual law student who professes to be a Christian and is prepared to sign your organization's statement of faith and observe the CLS group rules for member behavior.

With regard to the distinction between class characteristics and personal conduct, it is apparent that we may be in agreement. You acknowledge in your letter that your group is not opposed to accepting into its membership law students who have homosexual inclinations or who have engaged in homosexual behavior. I respect the fact that the CLS welcomes all students, including homosexuals, to attend CLS meetings. This practice is entirely consistent with the spirit of the Human Rights Policy.

To my knowledge, religious students groups have operated for many years on the UI campus using statements of faith as a basis for membership. No threat has ever been directed to a student religious group by the student government, by the Dean of Students, or by the Office of Student Life regarding the use of statements of faith as a basis for membership. Moreover, 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.

Your January 30 letter specifically asks that the Human Rights Policy be amended to exempt student religious groups "from the religion, creed, sexual orientation, and gender identity language of the University's required Membership Clause." Since the Human Rights Policy protects groups such as your CLS student clients from discrimination on the basis of creed, it is not necessary to formally exempt religious groups from the Human Rights Policy in order to ensure that the rights of CLS members are protected. Once recognized, the University is obliged to protect the right of CLS members to espouse the group's basic tenets.

The Supreme Court long ago in Healy v. James concluded that it is not inconsistent with the Constitution for tax-supported universities to deny or withdraw recognition to groups that refuse to follow reasonable rules. Observing the Human Rights Policy during new member selection is a reasonable requirement for group recognition. If the students you represent choose to re-submit a revised group constitution with an unmodified Human Rights Policy statement included, the CLS would then become eligible to use University resources, as would any other recognized student organization, once the CLS has been recognized by UISG.

In conclusion, it is apparent that the UISG did not violate the University Policy on Human Rights or the First Amendment of the U.S. Constitution. The UISG decided not to grant recognition to the Christian Legal Society because the UI Human Rights Policy was entirely left out of the proposed CLS constitution. UISG is prepared to grant recognition once the Human Rights Policy is included in the proposed CLS constitution. Every 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.

I understand that you may feel compelled to pursue formal legal avenues in response to this letter. Please be informed that the standard appeal process for recognition disputes has not been exhausted. As stated in sub-section III.A.9 of "Recognition of Student Organizations," a group may appeal an adverse decision of the governing body to the president of the University or designated representative (refer to page 18 of "Policies and Regulations affecting Students, 2003-2004," a copy of which is enclosed). To my knowledge, no appeal has been filed with President Skorton. If the group of students you represent elects to exercise its appeal opportunity, please copy me on your letter to President Skorton.

Sincerely,

Thomas R. Baker

Thomas R. Baker, J.D., M.A.
Associate Dean of Students

Enclosure

cc: Phil Jones
Bill Hines
Linda McGuire
Bill Nelson
Mark Schantz
Charlotte Westerhaus

THE UNIVERSITY OF IOWA

Office of the Vice President for
Student Services and Dean of Students

April 30, 2004

Steven H. Aden, Esq.
Chief Litigation Counsel
Center for Law and Religious Freedom
4208 Evergreen Ln., Suite 222
Annandale, VA 22003-3264

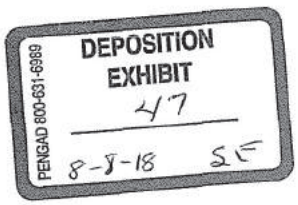
Dear Mr. Aden:

RE: CHRISTIAN LEGAL SOCIETY

I am in receipt of your April 15 letter regarding your clients, University of Iowa law students who submitted in 2003 a proposal to the University of Iowa Student Government for recognition of the Christian Legal Society (CLS). My position with regard to the Human Rights Policy's scope was explained to Mr. Nierman, the local attorney for CLS, in a February 20 letter from Mr. Baker, the Associate Dean of Students. Because your April 15 letter included a revised CLS constitution, I re-evaluated the substance of the proposal in order to determine if the revised language was consistent with University student organization recognition policy.

The revised CLS constitution includes the University of Iowa Human Rights Policy in its entirety. As I understand your proposal, CLS student organization leaders will accept into the group's membership students who would like to join. As long as prospective members are treated as individuals and not categorically barred from applying for membership, organizational leaders may require members to accept the CLS statement of faith as condition for participation.

Because your proposal satisfies the expectations set forth in Mr. Baker's February 20 letter, the revised constitution meets the Human Rights Policy requirement for recognition. The remaining portions of the proposed constitution are now ready to be evaluated by the University of Iowa Student Government recognition board.



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To facilitate the recognition approval process, I recommend that your clients re-submit the revised CSL constitution to University of Iowa Student Government (UISG). Since the recognition board is scheduled to meet on Tuesday, May 4, I have contacted the board's advisor, Kristi Finger, the Assistant Director of the Office of Student Life, to ensure that the Christian Legal Society is included on the meeting agenda. The date of your letter (April 15) is considered the submission date for purposes of satisfying the May 4 board meeting deadline.

Ms. Finger can assist those law students who are seeking recognition. If your clients have procedural questions regarding the May 4 meeting, I recommend they telephone Ms. Finger at 335-3059.

Sincerely,

P E Jones PEJ

Phillip E. Jones
Vice President for Student Services
and Dean of Students

cc: Tom Baker, Associate Dean of Students
Kristi Finger, Assistant Director, Office of Student Life
David Grady, Director, University Life Centers
Bill Hines, Dean, College of Law
Linda McGuire, Associate Dean, College of Law
Bill Nelson, Director, Office of Student Life
Craig Nierman, Attorney at Law
Mark Schantz, General Counsel
Charlotte Westerhaus, Director, Equal Opportunity & Diversity

We are still in the process of looking over the constitution and the controversy around it, but I will try to keep you up to date.

I would recommend applying for another supplemental funding period and asking for retroactive funding for your conference (you will have to inform Patch Cebrynski before applying) and you can still receive funding, but again if there are members still uncomfortable with your organization I can't guarantee an exact date for you.

Again, I'm sorry there wasn't a more clear result, if you would like to discuss it more feel free to come into the UISG office (I'm usually in between 11 and 1:30). Thank you.

ag

Abbie Gruwell
Student Organizations Liaison
University of Iowa Student Government
abbie-gruwell@uiowa.edu
(319) 430-9876

From: Bleam, Maison B
Sent: Thursday, October 09, 2008 1:47 PM
To: Gruwell, Abbie M
Cc: Landon, Jonathan C
Subject: FW: Christian Legal Society

Hi Landon:

I will have Abbie Gruwell contact you regarding the issue. She is a lot more versed, and most likely more helpful than I will be.

- Maison B. Bleam -
President, University of Iowa Student Government 260B IMU | Iowa City, IA 52242 | Office: 319.335.3262

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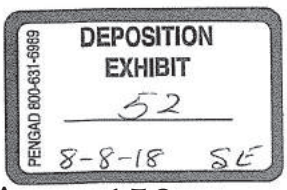
From: Landon, Jonathan C
Sent: Thursday, October 09, 2008 10:39 AM
To: Bleam, Maison B
Subject: Christian Legal Society

Maison,

I am Jonathan Landon, president of the Christian Legal Society (CLS) at the law school. I noticed in the SABAC funding spread sheet, CSL was not awarded funding for travel expenses that a couple of members will be incurring as they travel to Washington DC for a CLS national conference this week. The notation on the spread sheet read "Zero-funded, pending discussion with Senate." & "Discussion about their constitution." Unfortunately I was unable to attend the Senate meeting this past Tuesday, and I have not been able to find any meeting minutes online. I am very interested to learn what came about of the Senate discussion. If you could inform me in detail about the Senate discussion regarding CLS and our funding request, I would really appreciate it.



Furthermore, if there are any question you have about CLS or our standing as a student organization, do not hesitate to contact me.

Thank you for your cooperation in this matter.

Sincerely,

Jonathan Landon
319-621-1195

THE UNIVERSITY OF IOWA

Office of the Vice President for Student Services and Dean of Students

October 21, 2008

MEMORANDUM

TO: Patrick Cebrzynski, SABAC Financial Officer
Michael Currie, SABAC Chair

FROM: Tom Rocklin, Vice President for Student Services & Dean of Students

RE: Funding Request from Christian Legal Society

It has been brought to my attention that the Christian Legal Society (CLS), a student organization recognized by the University of Iowa in 2004, recently applied to SABAC for funding to cover expenses related to a trip to the CLS National Conference in Washington, D.C. CLS representatives from the University of Iowa apparently attended the conference during the week of October 13. It is my understanding that CLS representatives first applied for funding in September and then submitted for reconsideration at SABAC's October 21 meeting.

This organization has been recognized as a University of Iowa student organization after full review of its application, including its constitution. The University's decision to recognize CLS is consistent with applicable law. As a recognized student organization, CLS's application for funds to cover conference expenses should be processed on its merits without any consideration of the organization's viewpoint, including the Statement of Faith in the CLS constitution. As with any student organization, University of Iowa policy – and applicable law, including the United States Constitution as interpreted by courts of authority -- requires that funding requests from student organizations are processed in a content-neutral manner. Once SABAC has made a preliminary determination with respect to the CLS funding request, please inform my office immediately and before communicating the determination to CLS.

Because SABAC has the authority to distribute University funds to student organizations, individuals who serve on SABAC are considered agents of the University and the State of Iowa. As agents of the state, you may be subject to personal liability in the event that an organization's rights under the U.S. Constitution are deemed to be violated. To the extent that your actions as SABAC members comport with University policy and do not exceed or abuse your authority as SABAC members, the University will provide a defense to you in the event of a lawsuit accusing you of violating a student group's right to equal funding access.

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THE UNIVERSITY OF IOWA

Office of the Vice President for
Student Services and Dean of Students

October 28, 2008

MEMORANDUM

TO: Patrick Cebrzynski, SABAC Financial Officer
Michael Currie, SABAC Chair

FROM: Tom Rocklin, Vice President for Student Services & Dean of Students TR

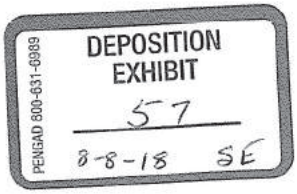
RE: Funding Request from the Christian Legal Society

In order to ensure equitable treatment of student organization funding requests, I reviewed the information you provided to the Office of the Vice President for Student Services regarding SABAC's pattern and practice of handling national conference expenses. As you know, the Christian Legal Society (CLS) submitted a funding request to SABAC in September for four of its members to attend a national conference in Washington, D.C. during the week of October 13. When SABAC did not act immediately to grant the request, CLS leaders decided to send only one representative to the Washington conference. The non-meal expenses incurred by the single CLS representative totaled $550.

In resolving this matter, it is important to consider what CLS would have received had SABAC acted timely on CLS's September request. Based on my review of the materials you provided, the CLS request should be granted in full for all non-meal expenses (*i.e.*, $550). Please proceed to allocate funds to cover the $550 in expenses in a timely manner, and notify me when the funds have been disbursed.

When any recognized student organization requests funds in advance for a conference, this office expects that SABAC will process its request in a timely manner without consideration of membership rules as stated in the organization's constitution. All such requests should be handled in a content-neutral manner. If you have questions, please contact Mr. Baker, the Associate Dean of Students, at 335-3557.

Cc: Tom Baker, Associate Dean of Students
Maison Bleam, Student Body President
Bill Nelson, Director, Office of Student Life
Carroll Reasoner, General Counsel



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IVCF App. 162

OutLaws
Law Students for Reproductive Justice
Iowa Campaign for Human Rights
American Constitution Society

The University of Iowa College of Law
Boyd Law Building
130 Byington Road
Iowa City, IA 52242

Michael D. Currie, Chair
Student Assembly Budget & Allocating Committee (SABAC)
University of Iowa Student Government
260B IMU
Iowa City, IA 52242

Cc: Sally Mason, President
Cc: Patrick J. Cebrzynski, UISG Chief Financial Officer
Cc: Tom Rocklin, Interim Vice President for Student Services
Cc: Carolyn Jones, Dean, University Iowa College of Law
Cc: Jonathan Landon, President, Christian Legal Society
Cc: The Daily Iowan

February 26, 2009

Dear Mr. Currie:

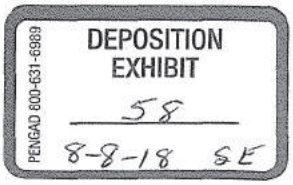
We are writing to voice our objection to The University of Iowa Student Government's (UISG) recent decision to fund the Christian Legal Society (CLS) despite the fact that its constitution and mandatory "Statement of Faith" conflicts with The University of Iowa Human Rights Policy. We ask that UISG refrain from funding the organization in the future until CLS brings its constitution and membership requirements into compliance with The University of Iowa Human Rights Policy.

CLS board members are required to sign pledges promising they will "abstain from all forms of sexual conduct and relations outside the confines of traditional marriage and/or the advocacy thereof." Specifically, they must not engage in "sexual conduct outside of God's design for marriage between one man and one woman, which acts include fornication, adultery, and homosexual conduct." (CLS Membership Statement of Faith and Sexual Morality Standards, Resolution of the Executive Committee of the Board of Directors of Christian Legal Society, hereinafter "CLS Statement of Faith"). CLS members are required to "engage members who are involved [in premarital or homosexual sex]," and failing "evidence of repentance," must treat the "unrepentant member" "as an unbeliever" leading to their "expulsion as a member pursuant to Article 4, Section 6 of the Bylaws an action taken in furtherance of that mandate." (CLS Statement of Faith).

The University of Iowa's Human Rights Policy prohibits "differences in treatment of persons because of race, creed, color, national origin, age, sex, disability, sexual orientation, gender identity, or any other classification that deprives the person of consideration as an individual." It extends these principles to "internal policies and practices of the University" as well as "policies governing programs of extracurricular life and activities." (University of Iowa Policy on Human Rights).

UISG's decision to use public funds to finance CLS' discrimination against LGBTQ students and others, including anyone who speaks on behalf of those individuals, violates the Human Rights Policy because it discriminates in the sphere of extracurricular life and activities. In addition, by funding CLS, UISG practiced discrimination in the sphere of the internal policies and practices of the University.

As we understand it, UISG initially declined CLS funding, correctly identifying that the organization's constitution and board membership requirements violated the University's Human Rights Policy. CLS then contacted its national office, whose attorney wrote a letter to UISG threatening litigation unless funding was administered. After what



appears to be a purely financial decision-making process, where members of The University of Iowa administration looked at the cost of litigation and/or a settlement against the mere $550 it provided to CLS, it reversed its decision and funded the organization in that amount.

We applaud UISG's initial decision to deny funding to CLS based on its discriminatory practices, and are disappointed in its decision to cave in to the threats of CLS's national attorney at the expense of its larger student body. By agreeing to fund CLS, UISG and The University of Iowa in effect sanctioned CLS's discrimination. The message sent to gay, lesbian, bisexual, transgender, sexually active unmarried students, and anyone who advocates on their behalf, is that the University will not only permit, but will actively sponsor, discrimination against them. The University of Iowa should not allow itself to be bullied at the expense of its core principles the values.

We are aware of the fact that the CLS's national organization has mounted a massive litigation campaign against law schools across the country who deny funds based on their diversity, affirmative action, and human rights policies. We are sympathetic to the reality that CLS' threat of litigation is daunting, and that its lawsuits have led to expensive settlements made to avoid even more expensive litigation in approximately six instances in the last decade. However, in the only apparent case where a judicial decision was reached, the US District Court for the Northern District of California granted summary judgment in favor of the defendant, the University of California Hastings College of Law. In that case, CLS sued the law school for denying it funding and recognition on the grounds that the mandatory Statement of Faith conflicted with the school's Nondiscrimination Policy. CLS claimed its speech, exercise of religion, due process, and equal protection rights had been violated by the denial of funds. The court found those claims to be lacking any legal merit. The court held that the CLS could not compel a public university law school to fund its activities and to allow the group to use the school's name and facilities. Hastings was found to be within its rights to deny CLS funding because CLS discriminated in the selection of its members and officers on the basis of religion and sexual orientation. (Christian Legal Soc. Chapter of University of California v. Kane, Slip Copy WL (N.D. Cal., 2006)). Like in the University of California Case, CLS cannot compel The University of Iowa to fund its discriminatory practices.

As much as we disagree with the discriminatory nature of the CLS Statement of Faith, we do not assert any right to limit their members' ability to associate, to speak, or to practice religion freely. Our objection has nothing to do with their exercise of these constitutional rights. Rather, we only ask that CLS not be allowed to use public funds to practice discrimination against LGBTQ students and others. We ask only that the university abide by its own human rights policy in dispersing public funds to student groups. While members of the CLS have a right to assemble, express their opinions, and practice religion freely, they do not have any legal right to do so with public funds. That legal distinction ought to be recognized in the UISG's funding decisions.

UISG and The University of Iowa have set a very dangerous precedent by funding CLS despite its own Human Rights Policy. Under the current regime, students and tax-payers could expect that their student fees and public funds will be used to support a wide range of potentially discriminatory organizations.

As members of the student body and citizens, we object to the use of our student fees and public funds being used to finance discrimination on campus. As law student organizations, we object to the $550 reduction of funds available through UISG to nondiscriminatory organizations.

We ask that UISG and The University of Iowa stand for the principles it defines itself by and the rights of its student body not to be discriminated against on campus. We respectfully implore UISG and the University to abide by its own Human Rights Policy, according to which, it must discontinue funding the CLS in its current state.

Sincerely,

The Undersigned Student Organizations and Individuals:

OutLaws, University of Iowa College of Law, unanimously

Elizabeth Van Deusen, President, OutLaws

THE UNIVERSITY OF IOWA

Office of the Vice President for
Student Services and Dean of Students

March 6, 2009

Ms. Elizabeth Van Deusen
President, OutLaws student organization

Ms. Rita Bettis, Co-President
Law Students for Reproductive Justice

Mr. Nick Codding, President
Iowa Campaign for Human Rights

Mr. Robert Baehr, Co-President
American Constitution Society

Dear Ms./Mr. Van Deusen, Bettis, Codding, & Baehr:

Your February 26 letter and petition to the chair of SABAC was referred to me for review. As the Vice President for Student Services & Dean of Students, it is my responsibility to ensure that the University of Iowa Human Rights Policy is observed when funds are allocated to student organizations recognized by the University. Your petition requests that no funds be allocated to the Christian Legal Society, whose group constitution you believe violates the Human Rights Policy.

The Policy on Human Rights does not prohibit student groups from establishing membership criteria. For example, an organization of Campus Democrats is not required to admit self-identified Republicans into its membership. While the Human Rights Policy does prohibit discrimination on the basis of sexual orientation, among a number of other classifications, the University is obliged to protect the First Amendment right of CLS members to espouse the group's basic tenets. Current First Amendment case law, as I understand it, applies when a student religious group establishes a statement of faith as a pre-condition for joining the group. The CLS, like any other recognized student group, must welcome all students interested in attending group meetings, regardless of sexual orientation or other classification. CLS did agree in 2004 to observe this requirement of the Policy on Human Rights, and it is currently observing this requirement. The current CLS constitution does state that prospective members must adhere to group rules in order to become members, as you point out, but the group's membership expectations cannot be nullified by the University in manner that violates the First Amendment.

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THE UNIVERSITY OF IOWA

Student Conduct Office

July __, 2017

MEMORANDUM

TO: Bill Nelson, Executive Director of the IMU

FROM: Thomas R. Baker, Associate Dean of Students

RE: Business Leaders in Christ (BLinC)

Please find attached the investigator's findings regarding the merits of a Human Rights Policy complaint filed against Business Leaders in Christ (BLinC). As you know, the complaint was investigated by the Office of Equal Opportunity and Diversity (EOD). The complainant, a former member of BlinC, alleged a violation of the University of Iowa Human Rights Policy, which is the responsibility of EOD. During the EOD investigation, I attended the interviews conducted by Ms. Schriver-Cervantes, the Compliance Coordinator for EOD. I can personally confirm that the BLinC student leaders were given written notice of the allegations and an opportunity to respond. The president of BLinC and the group's advisor met with the investigator, and so did the complaining student. Before she made her findings, Ms. Schriver-Cervantes reviewed the BLinC's organization constitution.

Because the Human Rights Policy violation was confirmed by Ms. Schriver-Cervantes, I recommend that you proceed to implement the process spelled out in sub-section IV Resolution of the Discipline of Registered Student Organizations Policy. Section IV (B) calls upon the Executive Director of the IMU to schedule a time to meet and discuss the case with the student organization representatives before determining whether or not the actions of BlinC's student leaders violated one or more of the ten established rules for student organizations listed in the policy. Rule 10, for example, requires that organization leaders observe University policies. If you find that BlinC's student leaders did violate one or more of the established rules, you may proceed to impose appropriate sanctions on the group (sub-section V).

In your meeting with the BLinC student leaders, it will be important to clarify how the University Human Rights Policy operates. The Human Rights Policy does not require that their creed be modified. Rather, the policy requires that applicants for student leaders be treated as individuals in the process of administering the group's creed. In the BLinC case, the student who expressed an interest in the position of vice president self-reported to the interviewer that he was gay. No further discussion took place between the student applicant and the group leaders with regard to the student's actual sexual practices. As Ms. Schriver-Cervantes explains in her investigation report,

PENGAD-Bayonne, N. J. DEPOSITION EXHIBIT 108 5-8-18 SE

denying the applicant the group leadership position on the basis of his sexual orientation amounted to differential treatment compared to heterosexual members.

As you know, an applicant's sexual activity may be the subject of conversation during the process of evaluating a leadership application. Engaging in sexual activity outside of marriage is one legitimate ground for denying a leadership position if that principle is one of the tenets of the student organization. A number of UI student organizations implement such a practice. In doing so, group leaders must be careful not to equate an individual's sexual orientation with the individual's actual sexual conduct. A number of self-avowed gay men are sexually abstinent even though they maintain a relationship with a same-sex romantic partner. 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.

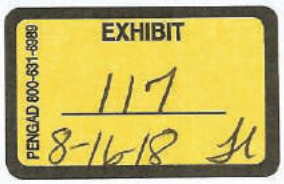
Cc: Connie Schriver-Cervantes, EOD
Lyn Redington, Dean of Students

Christensen, Betty [AG]

From: Baker, Thomas R
Sent: Thursday, September 28, 2017 3:07 PM
To: Cervantes, Constance A
Subject: BLinC quick question

Could you send me BLinC's old statement of faith asap?

Tom Baker



BLinC-DEF 003400

THE UNIVERSITY OF IOWA

Office of the Vice President for Student Services and Dean of Students

March 6, 2009

Ms. Elizabeth Van Deusen
President, OutLaws student organization

Ms. Rita Bettis, Co-President
Law Students for Reproductive Justice

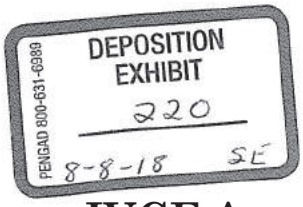
Mr. Nick Codding, President
Iowa Campaign for Human Rights

Mr. Robert Baehr, Co-President
American Constitution Society

Dear Ms./Mr. Van Deusen, Bettis, Codding, & Baehr:

Your February 26 letter and petition to the chair of SABAC was referred to me for review. As the Vice President for Student Services & Dean of Students, it is my responsibility to ensure that the University of Iowa Human Rights Policy is observed when funds are allocated to student organizations recognized by the University. Your petition requests that no funds be allocated to the Christian Legal Society, whose group constitution you believe violates the Human Rights Policy.

The Policy on Human Rights does not prohibit student groups from establishing membership criteria. For example, an organization of Campus Democrats is not required to admit self-identified Republicans into its membership. While the Human Rights Policy does prohibit discrimination on the basis of sexual orientation, among a number of other classifications, the University is obliged to protect the First Amendment right of CLS members to espouse the group's basic tenets. Current First Amendment case law, as I understand it, applies when a student religious group establishes a statement of faith as a pre-condition for joining the group. The CLS, like any other recognized student group, must welcome all students interested in attending group meetings, regardless of sexual orientation or other classification. CLS did agree in 2004 to observe this requirement of the Policy on Human Rights, and it is currently observing this requirement. The current CLS constitution does state that prospective members must adhere to group rules in order to become members, as you point out, but the group's membership expectations cannot be nullified by the University in manner that violates the First Amendment.



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Your letter recognizes that First Amendment rulings by federal courts govern the process of recognizing student groups and allocating student fees at tax-supported public educational institutions. To ensure compliance with the developing case law, the Office of the Vice President for Student Services and the Office of the General Counsel reviewed federal court of appeals decisions several years ago when the CLS first applied for group recognition. The case law was reviewed again in the fall of 2008 when a question arose regarding the CLS's funding status.

I am familiar with the 2006 district court decision in California cited in your letter. Because the U.S. Supreme Court has determined that religious student organizations have a right to apply for a share of the funds allocated for distribution to all student organizations, it is my understanding that a decision by the University to restrict or not restrict the CLS's funding status based on the content of the CLS constitution must be made consistent with the First Amendment. The University will continue to follow the applicable law as it develops. If First Amendment law were to change direction with respect to groups like the CLS, we would then reevaluate the CLS's funding status at that time.

Applying the First Amendment to the issues surrounding funding of religious student groups is a continuing challenge, and I appreciate your keeping the issue in front of me.

Sincerely,

Tom Rocklin
Vice President for Student Services
and Dean of Students

cc: Maison Bleam, UISG President
Mark Braun, Special Assistant to the President
Patrick Cebrzynski, UISG Chief Financial Officer
Carin Crain, College of Law
Michael Currier, SABAC Chair
Carolyn Jones, College of Law
Jonathan Landon, President, Christian Legal Society
Sally Mason, President
Bill Nelson, Office of Student Life
Carroll Reasoner, General Counsel

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

BUSINESS LEADERS IN CHRIST, an unincorporated association, Plaintiff, vs. THE UNIVERSITY OF IOWA; LYN REDINGTON, in her official capacity as Dean of Students and in her individual capacity; THOMAS R. BAKER, in his official capacity as Assistant Dean of Students and in his individual capacity; and WILLIAM R. NELSON, in his official capacity as Executive Director, Iowa Memorial Union, and in his individual capacity, Defendants.	CASE NO. 3:17-CV-00080 Deposition of CONSTANCE A. SCHRIVER CERVANTES

Deposition of CONSTANCE A. SCHRIVER CERVANTES, taken before Julie M. Kluber, Certified Shorthand Reporter, commencing at 9:15 a.m., September 20, 2018, at 2500 Crosspark Road, Room W219, Coralville, Iowa.

Julie M. Kluber, CSR, RMR
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APPEARANCES

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and
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CONSTANCE A. SCHRIVER CERVANTES, called as a witness, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAXTER:

Q. Good morning. Could you state your full name for the record.
A. Constance Anne Schriver Cervantes. It's Anne with an E.
Q. Can you tell me where you're employed?
A. University of Iowa.
Q. And what's your position there?
A. I'm a compliance coordinator in the Office of Equal Opportunity and Diversity.
Q. How long have you been there?
A. I'm thinking about three and a half years.
Q. And where were you before that?
A. I practiced -- was in private practice.
Q. Okay. What was your practice?
A. Well, initially or at the end before I started here?
Q. What's the general range?
A. Okay. I don't understand your question.
Q. From the beginning.
A. Are you asking where I worked or what I did?

Q. Both.
A. I worked for a law firm in Davenport, Iowa, named Lane & Waterman. I was a partner there. And then I didn't work for a few years, and then I worked in an office called Cervantes & Gordon PLC in Davenport.
Q. What kind of work did you do?
A. When I was with Lane & Waterman as an associate, I did whatever I was told to do. I was in the litigation section, so I did litigation from dog bites to UCC cases. Eventually I specialized in employment and labor and discrimination.
Q. Okay. And have you ever been deposed before?
A. Yes.
Q. And when?
A. Oh, gosh. Decades ago. I don't recall the date.
Q. What was the case?
A. Which one?
Q. How many times were you deposed?
A. Twice.
Q. Tell me about the first one.
A. I'm not sure which came first.
Q. Okay.

A. One was a situation where I -- our firm was retained to give an opinion on obligation to defend and indemnify. I was an associate at the time, so it was a long time ago. I wrote that opinion. Eventually, and I don't know all the details, there was a lawsuit between the insured and the insurance company, and I was deposed about my opinion.
Q. Okay. And the second time?
A. Second time I was president of a not-for-profit agency in Davenport, Iowa, that provided medical care to indigent women and women who didn't have health insurance, particularly for labor and delivery issues.
We had hired a physician from California. Something happened with his license in California. I'm not sure I could tell you what exactly, but because his license was impaired in California, he couldn't become licensed in Iowa and so, therefore, we had to withdraw our offer of employment, and there was some lawsuit in California about that, and I was just deposed as president of that not-for-profit agency board.
MR. CARROLL: I'm sorry, can you just slow

down just a little bit --
THE WITNESS: Sure.
MR. CARROLL: -- for her.
THE WITNESS: I'm a fast talker.
MR. CARROLL: Yes.
MR. BAXTER: Julie, can you mark this as Exhibit Number 2.
(Deposition Exhibit Number 2 was marked for identification by the reporter.)
Q. Can you take a look at that document.
Are you familiar with this document?
A. No.
Q. Never seen it before?
A. No.
Q. And you understand that you're here today as a 30(b)(6) witness for the university. Is that correct?
A. No.
Q. You were not told that?
A. No.
Q. Okay. Were you told that you're here to testify on behalf of the university on topics Numbers 3, 5, 6, 7, and 8?
A. Can I mark on this or do you want to write down which ones they are so I can review those?

MR. CARROLL: Here.
THE WITNESS: 3.
MR. CARROLL: So 3.
THE WITNESS: Okay.
MR. CARROLL: That's the topic.
A. 5, did you say?
MR. CARROLL: 6, 7.
Q. 3, 5, 6, 7, and 8.
THE WITNESS: Circle those, 3, 5, 6, 7, 8.
A. I'm sorry, did you have a question?
Q. You're familiar with those topics?
A. No.
Q. Okay. And you were not told that you were here to testify as a 30(b)(6) witness on those topics?
A. Correct.
Q. Okay.
A. I don't see my name on this notice. Is my name on this notice?
Q. Have you done anything to prepare for this deposition?
A. I spoke with Mr. Carroll.
Q. Did you speak to anyone else besides your counsel?
A. I think Nate was there as well.

Q. Okay. Was there anyone else you spoke to?
A. I told my supervisor I was going to be deposed today.
Q. Okay. Did you --
A. Actually told her when my deposition was previously set as well.
Q. Did you review any files in preparation for this deposition?
A. Not today -- Not for this deposition today, no.
Q. Were you asked in the course of this litigation to produce documents that are relevant to the litigation?
A. I was asked to give all my documents to the Office of General Counsel, which I did.
Q. Okay. And since that time, have you reviewed any of those documents?
A. I don't recall. I may have. That was quite some time ago.
MR. BAXTER: I'm going to ask you to mark this as Exhibit 14, Julie.
THE WITNESS: Is my name on this notice? Because I don't see my name on this notice.
MR. CARROLL: No, it's okay. It's a corporate designee notice.

THE WITNESS: Oh, okay.
MR. CARROLL: Is what we called it.
(Deposition Exhibit Number 14 was marked for identification by the reporter.)
Q. Will you take a look at that document, please.
A. Yes.
Q. Are you familiar with that document?
A. It will take me just a minute to take a look at it, please.
Q. Sure.
A. Do you want me to just skim it or do you want me to read it?
Q. If you want to just skim it, that would be great.
A. Okay, perfect.
Okay. I'm sorry, what is your question? I have skimmed it; I have not read it.
Q. Fair enough. Are you familiar with that document?
A. Am I familiar it exists or am I familiar with the contents?
Q. Are you familiar with this document that it exists?
A. I see it before me. I'm sure I looked at it at some point, but I don't know that I ever read

it.
Q. And you were the individual who conducted the investigation of Business Leaders in Christ after a complaint was filed by Marcus Miller, correct?
A. Correct.
Q. Okay. And in the course of that investigation, did you ever review this document or rely upon it?
A. I -- I can't say what I -- I mean whatever I reviewed is in my finding, so if you look at my finding, which I believe you have a copy of it, it lists all the documents that I reviewed.
Q. Okay. If I can have that document back.
MR. BAXTER: This is Exhibit 20.
(Deposition Exhibit Number 20 was marked for identification by the reporter.)
Q. Miss Cervantes, is this a document you're familiar with?
A. Yes.
Q. Okay. And what is it?
A. It is a copy -- Well, can I look at the whole thing?
Q. Please.
A. Let me just take a quick look. I'll scan it, I

won't read it.
MR. CARROLL: I'm sorry, you really do need to slow down.
THE WITNESS: Okay. I'm sorry.
MR. CARROLL: It's hard. Trust me, I talk fast too.
THE WITNESS: I got that.
A. It appears to be the human rights policy of the University of Iowa.
Q. Okay. And is that the policy that Marcus Miller alleged that BLinC violated?
A. He -- he alleged the human rights policy was violated. I'm not sure if this is the policy that was in effect at that time. I just don't know. I'm not saying it isn't, but yes, generally that's the policy he alleged was violated.
MR. BAXTER: Okay. I'll ask you to take a look at a document I'll ask Julie to label as Number 21.
(Deposition Exhibit Number 21 was marked for identification by the reporter.)
Q. Are you familiar with this document?
A. Yes.
Q. And what is it?

A. It's the University of Iowa's nondiscrimination statement.
Q. And as far as your understanding goes, what's the difference between the University of Iowa's nondiscrimination statement and its human rights policy?
A. I believe -- Well, I'm not sure I can answer that. I think you'd have to ask somebody who drafted or made these policies.
Q. Do you know who's subject to the nondiscrimination statement?
A. Let me read it here. It says, "University of Iowa prohibits discrimination in employment, educational programs, and activities."
Q. Okay. So do you have any responsibility in your work for interpreting or applying the nondiscrimination statement?
A. No.
Q. Do you have any responsibility in your work for interpreting or applying the human rights policy?
A. Yes.
Q. Okay. And do you have a responsibility for enforcing either one of them?
A. Again, I'll have to know your definition of

enforcement.
Q. To conduct investigations under either one of them.
A. I do conduct investigations, yes.
Q. Under which one? Under which policy or both?
A. Under the human rights policy.
Q. Okay. So you have never been asked to investigate anything under the nondiscrimination statement.
A. Correct.
MR. BAXTER: I'll ask Julie to mark this as Exhibit 22.
(Deposition Exhibit Number 22 was marked for identification by the reporter.)
Q. Are you familiar with this document?
A. Yes.
Q. And what is it?
A. It is a University of Iowa statement on diversity.
Q. And what's your familiarity with the document or why are you familiar with it?
A. I think it's just one of the university policies.
Q. And do you see there the last sentence that says, "The university believes that a rich

diversity of people and the points of view they bring serve to enhance the quality of the educational experience at the University of Iowa"?
A. "The many points of view."
Q. Yes. Do you see that sentence?
A. I do.
Q. Okay. And University of Iowa is a state institution, right?
A. Correct.
Q. And that means that as an employee of the university, you have an obligation to respect the First Amendment rights of students; correct?
A. I would assume so, yes.
Q. And that includes their freedom of speech?
A. Okay. Normally I don't deal with students, so I -- I would say yes. I don't investigate cases against students.
Q. Okay. But you investigate complaints against student organizations, correct?
A. I did in this case, correct.
Q. Okay. And you've done it before, correct?
A. I did one other, correct.
Q. And what one was that?

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A. I believe it was against the -- I'm not sure I have the correct name, but it was a -- You must have it so you can probably tell me the name of it. I'm not sure.
Q. Well, do you remember the name of it?
A. Not as I sit here today I don't, I apologize.
Q. Okay. You conducted an investigation of a group called 24:7, isn't that correct?
A. Oh, yeah, 24:7 and BLinC.
Q. And you also conducted an investigation of an organization called Feminist Union, correct?
A. Correct.
Q. Okay. Have there been any other investigations that you've conducted against student organizations -- under complaints against student organizations?
A. No.
Q. But in conducting that, you have an obligation to respect the First Amendment rights of those groups; correct?
A. Correct.
Q. And that would include their freedom of speech?
A. Correct.
Q. And their freedom of religion?
A. Correct.

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Q. And their right to assemble, correct?
A. Correct.
Q. And this statement of diversity suggests that the university values the many points of view that different people bring to the university. Correct?
A. Suggests that they do?
Q. Is that correct?
A. The statement says, "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 experiences" -- "experience," excuse me, "at the University of Iowa."
Q. Okay. And do you agree with that statement?
A. I do.
Q. Okay. Do you know what an all-comers policy is?
A. Yes.
Q. What is it?
A. A definition. I looked at it at the time I did this investigation. I'm not sure I can give you an appropriate objection -- definition at this time.
Q. What's your understanding of what is an all-comers policy?

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A. Applies to everyone, all comers.
Q. Okay. Do you have any further understanding than that?
A. Not at this time.
Q. Okay.
A. I looked at that at the time I did the investigation.
Q. And do you have an understanding -- Does the university have an all-comers policy?
A. Not to my understanding.
Q. Okay. And what is your understanding based on?
A. On when I did this investigation.
Q. Okay. Do you know when the human rights policy was adopted by the University of Iowa?
A. I do not.
Q. Do you know if it's ever been amended?
A. I do not. I'm sure it has but I do not.
Q. Okay. Have you received any training on how it's interpreted?
A. Yes.
Q. And what is the nature of that training?
A. I provide that training. I'm not sure I understand your question.
Q. Okay. How did you come to know how the

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university policies are interpreted?
A. I guess my supervisor advised me.
Q. And who is your supervisor?
A. Tiffini Stevenson Earl.
Q. And in preparation for this deposition, did you talk to anybody other than your lawyers about how the human rights policy should be interpreted?
A. At any time?
Q. Correct.
A. I'm sure we've discussed that, yes.
Q. Okay. Since this litigation commenced or since the complaint by Marcus Miller was filed, have you talked with anyone at the university about how the policy should be interpreted?
MR. CARROLL: Other than attorneys?
MR. BAXTER: Other than attorneys.
A. To anybody at any time in any case.
Q. During the course of the BLinC litigation.
THE WITNESS: Okay, I'm sorry, could you repeat the question.
(Requested portion of the record was read by the reporter.)
A. Okay. So which -- During the investigation or since this litigation?

Q. Since the complaint by Marcus Miller was filed.
A. Have I talked to anyone about how the human rights policy would be interpreted with respect to BLinC or in any case?
Q. In any case.
A. Yes.
Q. Okay. How many conversations have you had?
A. I would have no way of knowing.
Q. Okay. A lot? A few?
A. Between those.
Q. Has anybody who has supervisory responsibility over you talked to you about how you should apply or interpret the human rights policy?
A. No.
Q. So it's up to your discretion how it's applied.
A. Correct.
Q. Okay. Do you know what status-based discrimination means?
A. Where it's based on protected class? Is that your question?
Q. I'm asking if you know what the phrase "status-based discrimination" means.
A. I think so. You'll have to define it. Could you please define it for me?
Q. Do you know what the difference is between

status-based discrimination and conduct-based discrimination?
A. Status-based would be based on your status. Conduct would be based on conduct, I would assume.
Q. Okay. And --
A. And would you define status-based for me, please, as you're using it.
Q. I'll ask the question.
A. Okay. Then I'm not able to answer your questions on that.
Q. Okay, thank you. In your view does the human rights policy prohibit status-based discrimination?
A. I'm not sure how you're using the term "status-based discrimination," and I understand you are not going to define that for me, so what I can tell you is that my view, the human rights policy protects against discrimination based on protected classification.
Q. Okay. And does it prohibit discrimination on the basis of belief?
A. On the basis of belief? Like religious belief?
Q. Sure.
A. It does not prohibit discrimination on the

basis of belief, it prohibits discrimination on the basis of protected classification.
Q. Okay. I'm going to ask you to look at a series of constitutions of student organizations.
MR. BAXTER: Will you mark this as Exhibit 176.
(Deposition Exhibit Number 176 was marked for identification by the reporter.)
Q. This is a student constitution for the student -- registered student organization Love Works, which exists at the University of Iowa. Are you familiar with the organization Love Works?
A. I am not.
Q. Okay. I'll ask you to keep that for a moment. Are you aware that Marcus Miller, after he filed this complaint, he started his own student group on campus?
A. I think I heard that but I can't say that I'm aware of it.
Q. Okay. I'm going to represent that Love Works is the group that Marcus Miller organized. I'd like you to take a look at Article III on the first page. Do you see under Officers and Duties in the second sentence where it says

that in order to be an executive, they must sign and agree to the mission statement of core beliefs of Love Works as outlined in Article IV?
A. Yes.
Q. Okay. And do you see if you flip to the next page under Article IV where it says "Core Beliefs"?
A. Do I see that section?
Q. Do you see that section?
A. I do.
Q. Okay. And do you see that that section, for example, in Core Beliefs, Number 1 talks about making Jesus the center of everything this group does. Correct?
A. Are you talking about paragraph 1?
Q. Yes.
A. It says, "Jesus," dash, "centered. Jesus will be at the center of everything we do. His life and teachings provide a model worthy of imitation," comma, "and we believe through the life," comma, "death," comma, "and resurrection of Jesus," comma, "we can experience great joy and freedom."
Q. So it's fair to say under this constitution

students have to sign a statement that they agree to those beliefs. Correct?
A. Students or executives?
Q. Thank you. Executives. To be an executive of the organization?
A. That is what this constitution provides.
Q. Okay. And is that a violation of the human rights policy?
A. I can't say that one way or another. I'd have to see how it is applied.
Q. If it's applied as it's written, would that be a violation of the human rights policy?
A. I believe it would be.
Q. And why?
A. Because you can't make a distinction based on religious classification.
Q. So --
A. It's a protected class, religion is.
Q. Okay. So in your view, someone cannot screen their leaders for belief, for religious belief?
A. In my view, an organization cannot make a decision based on religion.
Q. Okay. So a Muslim organization cannot require its leaders to be Muslim. Is that correct?
A. I'd have to look at the facts of the case

but --
Q. Well, under the human rights policy --
A. Excuse me. I'd like to finish my answer, please. But assuming the facts as you're giving them to me, I believe that would be a violation; correct. And I would like an opportunity to finish my answers.
Q. And so no religious group can select leaders and require those leaders to embrace their religious mission.
A. Select or require?
Q. Require or select.
A. Well, I think select most organizations have by a vote, so I would say the selection would be up to the individuals in the organization.
Q. And they could reject someone because of their religious beliefs in a vote.
A. An individual could -- I assume in an organization an individual could vote the way they wanted to vote.
Q. All right. But leaders could not screen individuals to be leaders based on their religious belief?
A. Could they or are you saying they --
Q. Could they in compliance with the human rights

policy?
A. I don't believe they could, no.
Q. Okay. And what is the basis for that understanding of the human rights policy?
A. The basis of that was my research and investigation into the BLinC case and my conference with Office of General Counsel at that time.
Q. And what did you research?
A. I think the only thing I researched was -- really was an all-comers or -- I can't think of the word, but based on protected classification. I think that was the only thing I researched.
Q. You determined the University of Iowa's human rights policy is not an all-comers policy, correct?
A. I think you have a copy of my finding, and it does say that in there; correct.
Q. Okay. That it was not a -- You concluded that the Iowa human rights policy is not an all-comers policy. Correct?
A. I concluded -- If you can let me see my --
Q. I just want to ask if you conclude -- Did you reach a conclusion about whether the human

rights policy is an all-comers policy?
A. I concluded it was not.
Q. Okay.
A. I didn't do it in a negative, though. I made it as to what it was.
Q. Okay. I'm going to ask you --
A. Is it okay for me to see my finding?
MR. CARROLL: Just let the attorney --
Q. I'll get there when we need to.
A. Okay.
MR. BAXTER: I'm going to ask you to mark this document as Number 37.
(Deposition Exhibit Number 37 was marked for identification by the reporter.)
Q. Are you familiar with this document?
A. I don't think so. I'm not sure if I've ever seen this document.
Q. Okay. And the name Tiffini Stevenson Earl on the front, you mentioned earlier that she's your supervisor; correct?
A. Correct.
Q. And does she engage in training on the university's human rights policy?
A. Correct.
Q. And she's someone who is authorized to

interpret the policy?
A. Correct.
Q. And, in fact, she would have authority to -- she would have authority to tell you how to interpret the policy as well. Correct?
A. I'm not sure she would tell me how to interpret the policy. I think --
Q. She's your --
A. She's my supervisor, correct.
Q. Okay. I'm going to ask you to look at the page of the document that's Number 935 at the bottom right. This is a discussion about the discrimination on the basis of creed, correct?
A. Yes.
Q. And it defines creed as a formal statement of religious belief, correct?
A. A formal statement of religious belief, confession of faith.
Q. Or, then it goes on to say it's a system of belief, principles, or opinions.
A. Correct. Any strongly held philosophical beliefs, even if not a recognized religion.
Q. And it's fair to say that a creed doesn't have to be -- can be any strongly held philosophical beliefs, correct?

A. Correct.
Q. Okay. And that would include -- could include political beliefs, correct?
A. I don't know. I've never looked at the issue so I don't know.
Q. Okay. Does the university allow political groups on campus to screen their leaders based on their politics?
A. I have no knowledge of that.
Q. Okay. Would it be a violation of the human rights policy if, for example, the University Democrats required their leaders to be Democrats?
A. I would assume based on the fact scenario you gave me that, yes, it would be.
Q. That would be a violation of the policy?
A. I believe it would -- Are you saying the leaders made the decision or the people in the organization?
Q. The leaders made a decision that you have to be a Democrat to be a leader of the organization.
A. Based on that scenario, I believe, yes.
Q. You believe that would be a violation of the human rights policy?
A. I believe it would be.

Q. Okay. And as far as you know, does the university enforce that interpretation?
A. I have no knowledge of that. I have never had that case come to me.
Q. Okay. And you have not drawn that conclusion by discussing this with anyone at the university, correct?
A. You'll have to rephrase that.
Q. You told me that under your interpretation of the human rights policy, a political organization could not select -- could not require their leaders to be Democrats. Correct?
A. I believe what you asked me is if the leaders could require that, and I did agree with that scenario that you gave, yes.
Q. Okay. So a political organization cannot include in its constitution a requirement that its leaders share the political beliefs of that organization. Is that correct?
A. I'd have to look at the exact wording of the policy, but that's my understanding, yes.
Q. Let's walk through some policies then.
A. Okay.
MR. BAXTER: Will you mark this as Exhibit

178, please.
(Deposition Exhibit Number 178 was marked for identification by the reporter.)
Q. This is a constitution of the University of Iowa Students for the Right to Life. Under Membership under Article II, do you see subsection B where it says, "We ask that members of this organization hold pro-life beliefs"?
A. I see that.
Q. Is that a violation of the human rights policy?
A. That they ask the members to do that?
Q. Correct.
A. I don't believe so.
Q. Okay. So they could exclude a member who didn't hold pro-life beliefs, is that correct?
A. I didn't say that.
Q. Okay. Well, could they exclude someone from being a member who violated the provision of this constitution?
A. Could they exclude a member. To me it says "we ask," so to me that is not a mandatory word, "ask," but that's my definition of ask.
Q. Okay. If they said, "We require that members of this organization hold pro-life beliefs,"

would that be a violation of the human rights policy?
A. It depends on if they were basing their decision on a classification like race, sex, national origin, religion.
Q. Well, is requiring someone to hold pro-life beliefs, does that touch on a category that's protected by the human rights policy?
A. No, it does not. As far as I know.
Q. Okay.
A. It doesn't appear to.
MR. BAXTER: Okay. I'll ask you to mark this as Exhibit 181.
(Deposition Exhibit Number 181 was marked for identification by the reporter.)
Q. This is a copy of the constitution of the University of Iowa Feminist Majority Leadership Alliance. Do you see in Article III, paragraph 2 -- or in Article III it identifies principles adopted by this organization? It's on the front page under Article III.
A. I see that.
Q. And you see in paragraph 2 one of those is that they support legal and accessible abortion?
A. "The Feminist Majority Foundation supports

safe, legal, and accessible abortion, contraception, and family planning, including Medicaid funding and access for minors."
Q. And then you see on the three pages over, the document -- or the page numbered 3101. Under Article IV [sic] at the bottom where it says "Meetings and Procedures," letter C, it says that all members must complete a membership application, profile for activists, and resolution supporting the principles of the Feminist Majority Foundation.
A. I see that.
Q. And does requiring members to sign a statement supporting the principles of the Feminist Majority Foundation violate the human rights policy?
A. Not as far as I could see. It would have to be based on -- If they prohibited a membership based on a protected classification, it would be a violation.
Q. So if a member wanted to join the Feminist Majority but objected to legal and accessible abortion because of their religious beliefs, could they be excluded for refusing to sign this statement?

A. I'd have to hear the evidence of why they excluded them. If they said they excluded them based on their religion, I think it would be in violation.
Q. Okay.
MR. BAXTER: I'll ask you to mark this as document 183.
(Deposition Exhibit Number 183 was marked for identification by the reporter.)
Q. This is a constitution for the organization of Women in Science and Engineering Ambassadors. Do you see that at the top?
A. I do.
Q. And do you see under Article II, Membership, subsection B where it says, "Members are encouraged, but are not required, to be any of the following," and one of those things is a woman?
A. Correct.
Q. And so it's okay then for an organization to encourage its members to be women, is that correct?
A. I believe it would be okay.
Q. And if you flip over one page, do you see at the bottom of 3990 where it says, "To qualify

for any of the officer positions listed above." Do you see that paragraph?
A. Yes.
Q. And it says that a person must be a general member during the previous school year and must show enthusiasm toward the organization. Correct?
A. And must be voted in by other general members, correct.
Q. Okay. So it's okay to require -- Is this a violation of the human rights policy to require all members to show enthusiasm toward the organization?
A. Not as far as I know.
Q. What if a female member thinks that the organization should give equal time to addressing -- Well, let me go back. If you look at the front of under -- Article I under the purpose, do you see that?
A. Um-hmm. Yes.
Q. It says there, among other things, that in the last sentence, "WISE ambassadors use community outreach programs to teach young girls." Correct?
A. Correct.

Q. "To inspire their interests in science and technology, and to educate the community on the contributions of women in science and engineering." Correct?
A. Correct.
Q. If a female member of the organization refused -- didn't show enthusiasm toward the organization focused on women and thought it should give equal time to men and women, could she be excluded from being a leader?
A. I don't know. Is there anything in here about leadership?
Q. So we just read that to qualify for any of the officer positions, you must show enthusiasm toward the organization.
A. I mean I guess -- Are you asking me if this came to me as an investigation?
Q. Correct.
A. I'd have to look at the facts to see what they meant by enthusiasm and what the actions were that they're describing as enthusiastic or not enthusiastic.
Q. Okay. If by enthusiasm they meant that you had to be devoted to focusing on teaching science to young girls and a member thought that you

should give equal treatment to girls and boys, could that member be excluded from leadership?
A. It just says to qualify -- qualify for an officer, they have to be a general member during the previous year, show enthusiasm towards the organization, and voted in by other general members, so I don't think that addresses that, but I'd have to see the facts as they came to me.
Q. What I'm trying to ask you is if a person has beliefs that favoring one sex over another is wrong and the organization's mission is to favor one sex over another, could that organization exclude someone who didn't share their beliefs about how they treat members of the opposite sex?
A. Our human rights policy is a classification policy, so I would say no.
Q. They could not exclude them?
A. If they excluded them because they were a woman, that would be a violation. If they excluded them because they were a man, that would be a violation.
Q. But if they excluded them because of their beliefs about the relationships between men and

women, that wouldn't be a violation of the policy?
A. I don't believe it would be. I'd have to see the facts. I mean you're giving me kind of -- generally there's a lot of stuff going on in a case, but you know, you've given me very limited facts.
Q. Okay. Well, how do you distinguish that from in the BLinC investigation, you held that BLinC violated the human rights policy. Correct?
A. Correct.
Q. Okay. Would it be a violation of the human rights policy if an organization like BLinC excluded someone because that individual did not share their beliefs about homosexuality?
A. Can I see my finding?
Q. I'm just asking you a hypothetical question about an organization, a religious organization, that holds the traditional beliefs that homosexuality is a sin.
A. Okay.
Q. If they exclude a straight student from being a leader because that student rejects their beliefs about homosexuality, would that be a violation of the human rights policy?

A. If they rejected a straight student because they were straight, that would be a violation of the human rights policy.
Q. What if they reject a straight student only because he doesn't share the organization's beliefs about homosexuality?
A. That's not a classification then.
Q. Okay. So if BLinC had excluded -- Regardless of what you found in your investigation, if BLinC had excluded Marcus Miller only because he didn't share their beliefs about homosexuality, that would not be a violation of the human rights policy. Correct?
THE WITNESS: I'm sorry, could you read that back, please.
(Requested portion of the record was read by the reporter.)
A. I think you can only be -- the human rights policy applies to classification, so if you're asking me if they excluded just because of beliefs, the answer would be no. It's a classification policy.
Q. Okay. So when you say classification, I would have called that a status-based discrimination but --

A. Okay. So we're talking -- When you define status, you mean the same thing I mean, then.
Q. Okay. I want to make sure I understand that. So your view of the policy is that it only prohibits discrimination based on status, not discrimination based on belief.
A. It only prohibits discrimination based on listed protected classifications.
Q. Okay. So it shouldn't matter whether a student's gay or straight. If an organization wants to exclude a student because they don't share the beliefs of the organization, that's okay under the human rights policy.
THE WITNESS: Could you read that back, please.
(Requested portion of the record was read by the reporter.)
A. It should not matter under the human rights policy whether someone's straight or gay.
Q. Okay. And can a student organization, a religious student organization, at the University of Iowa exclude from leadership students who don't share their religious beliefs without violating the human rights policy?

THE WITNESS: Sorry. One more time.
(Requested portion of the record was read by the reporter.)
A. The human rights policy would be violated if they exclude them based on a protected classification that's listed in the policy. That's what the policy covers, protected classifications.
Q. Okay. So is excluding someone because of their beliefs, does that violate the human rights policy?
A. Only if it is a protected classification.
Q. Okay. So is belief a protected classification?
A. I don't see that listed in the human rights policy.
Q. Okay. But you said earlier that a Muslim organization, for example, could exclude someone who didn't share Islamic beliefs?
A. I said that?
Q. You did say that.
A. No, I believe you asked me if that would be a violation of the University of Iowa policy. I don't believe I said they could do that.
Q. Do you think it would be a violation of the human rights policy to exclude someone -- Do you think it would be a violation of the human rights policy for a Muslim organization to exclude an individual from leadership who didn't share their beliefs?

A. If they are excluding him because of his religion, I think you said it was a male -- if they're excluding him because of his religion, it would be a violation.
Q. Okay.
A. I'm not sure if you're talking about religion or beliefs here; I apologize. I don't understand your question.
Q. Well, no, I want to understand because you've told me two different things.
A. I don't believe I have. I think your questions have been different.
Q. That's what I'm trying to verify. I believe that you testified previously that a religious organization could exclude from leadership students who didn't share that organization's beliefs about homosexuality.
A. No.
Q. Okay. What is your understanding?
A. If they excluded a person because of their sexual orientation, that would be a violation.

Q. What if they exclude them because of their beliefs, their religious beliefs about sexual orientation?
A. I -- That -- Beliefs, religious beliefs, is not a classification under the policy.
Q. Okay. So I want you to take a look again at -- I believe it was marked as document Number 20, a copy of the university's human rights policy.
A. Thank you.
Q. Did you see in there the list of protected classifications?
A. Yes.
Q. And one of those is religion, correct?
A. Correct.
Q. Okay. So is it your view that you can -- a religious organization can exclude someone because of their religion?
A. No, they may not.
Q. But can they exclude them because of their religious beliefs?
A. I'm not understanding the distinction you're making. If someone identifies themselves as a member of a certain religion and an organization excludes that because they're a member of that religion, that would be a

violation of the policy. I'm not sure if that answers your question, but I don't believe your question's clear, so I apologize.

Q. Okay. What if the organization excludes them not because they belong to a religion but because of a single religious belief.

A. I don't see that that's covered by our policy.

Q. Okay. So it's your view that a Catholic organization cannot exclude someone because they're Muslim, but they could exclude them because they don't embrace Catholic belief.

A. At the University of Iowa.

Q. Correct.

A. 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 the 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 in violation.

Q. So how do you define religion?

A. Religion is a -- a tenet with an organization or an affiliation with some -- I think religion's a little narrower than creed, so it's affiliated with some religious community,

religious organization, that kind of thing.

Q. Okay. So I just am trying to make sure I understand this. Let's assume there's a Muslim organization on campus.

A. Okay.

Q. And they exclude someone because they're Catholic --

A. Okay.

Q. -- from a leadership position.

A. Okay.

Q. It's your understanding that would violate the prohibition against discrimination on the basis of religion. Is that correct?

A. Yes.

Q. But if the organization excluded an Islamic -- a Muslim student because they rejected Allah as a -- or they rejected Muhammad as the prophet, that would be okay.

A. I'd have to look at all the facts and circumstances, but I think you're using Islam and Muslim interchangeably?

Q. Okay.

A. Do I understand from your question?

Q. Yes.

A. I'd have to look at all the facts and

circumstances. I can't really say, but if what you're saying is that based on a person's religion they were excluded, it would be in violation.

Q. Well, how would -- Okay, go ahead. Sorry.

A. If it was not based on their religion, it would not be.

Q. How do you distinguish between a religion and religious beliefs?

A. I'd have to look at all the facts and circumstances of the case and see how everyone else looked at that and what they talked about and what they had said to each other and how they defined it.

Q. So it would be up to your discretion to determine what the difference was between someone's religious belief and their religion. Is that correct?

A. No, it would be up to me to determine if they were terminated based on a religion. I don't determine anybody's beliefs.

Q. Okay. But you distinguish between religion and religious beliefs.

A. I think there's a distinction between religion and religious beliefs, correct.

Q. Are you aware of any reason why the university would want to include religion in their human rights policy but not religious belief as a protected category?

A. That would be speculation on my part. I didn't have anything to do with the development of this policy.

Q. Okay. But you're not aware of any reason why those things should be treated differently?

A. If you ask me to speculate, my speculation would be because it's based on the law.

Q. Okay.

A. The law says religion, to my knowledge. That's speculation on my part.

Q. Okay. You're not aware of any other reason why the university would distinguish those two?

A. Again, I did not have any part in drafting this policy.

Q. And no one at the university has ever explained to you why that is the policy of the university.

A. Why it says "religion" and not "religious beliefs"?

Q. Correct.

A. Correct.

Q. And nobody at the university has explained to you that that is, in fact, the distinction they're trying to make. Is that correct?
A. That's correct.
Q. That's just your own assumption sitting here in this deposition?
A. No. My -- It's not an assumption. I'm reading the language of the policy. That's not an assumption.
Q. Okay. But your reading of religion to mean just a denomination or a formal organization is just your interpretation that you came up with.
A. That I came up with? I don't agree with that, no.
Q. Okay. Well, how did you come to the conclusion that there's a distinction between a religion and a religious belief?
A. Religion is a noun. I think religious is what you're believing. I think creed is where you're getting to is somebody has a -- whatever your definition is, if I can look at that definition again of creed. I think what you're getting to is creed, not religion.
Q. So let's talk about that for a second, because if creed is also prohibited, would religious

beliefs fall within creed?
A. I'd have to look at the facts and circumstances of the case.
Q. Well, what's your understanding of creed? Does it include religious belief?
A. May I look at the definition that you gave me, please?
Q. Sure. And that's on page -- the page that's labeled 935 at the bottom. Correct?
A. Correct.
Q. And it defines creed as a statement of religious belief. Correct?
A. A formal statement of religious belief, confession of faith.
Q. And then it goes on to say that it can also be a nonreligious belief, correct?
A. A system of beliefs, principles, or opinions. Any strongly held philosophical beliefs even if not a recognized religion.
Q. And you testified earlier that that would include nonreligious systems of beliefs, principles, or opinions. Correct?
A. I believe it would include system of belief, principles, or opinions; correct.
Q. Okay. And --

A. It could be religious or nonreligious.
Q. Okay. So does this change your testimony as to whether a religious organization can exclude someone who didn't share their religious beliefs?
A. I think they cannot exclude someone if it was based on their religion.
Q. What if it was based on their creed?
A. If it was based on their creed, I'd have to look at all the facts and circumstances. I'd have to talk to witnesses. I can't say based on what you told me what I could find.
Q. Well, can or cannot an organization at the University of Iowa discriminate on the basis of creed?
A. They may not.
Q. Okay. So that means that the Democrat -- University Democrats can't discriminate against people who are non Democrats.
A. Define discriminate. So they're not letting them be in the organization?
Q. Right, they can't stop them from being in the organization; right?
A. Correct.
Q. And they can't stop them from being leaders,

correct?
A. Correct.
Q. And so every organization on campus has to allow anyone to be a leader regardless of what their creed is.
A. I -- I don't know that I can answer what every organization on campus could do.
Q. Well, can any organization on campus discriminate on the basis of creed?
A. No.
Q. Okay. Are you familiar with the House of Lorde?
A. No.
Q. Okay. It's a student group for black, queer students. Could they exclude from their leadership students who think that being gay or anywhere -- that being gay is a sin?
A. They could not exclude anybody based on a protected classification in our human rights policy.
Q. And creed is a protected class, correct?
A. Creed is a protected class, correct.
Q. So they could not reject anybody who didn't share their deeply held beliefs about sexuality, correct?

A. You know, I would have to know all the facts and circumstances. You're making an assumption that that's what all the evidence would lead to, then I would agree. But I don't know what all the evidence would lead to.
Q. Okay. So it's your understanding, though, that any student organization at the University of Iowa cannot exclude people based on their deeply held beliefs.
THE WITNESS: Give me that back.
(Requested portion of the record was read by the reporter.)
A. Cannot exclude people from the organization because of their creed? Is that your question?
Q. Yes.
A. I think the human rights policy considers creed as a protected classification, so if based on all the facts and circumstances I found in the case I believed that creed was the issue and that they did not allow someone to become a member of the organization because of the creed, I would find them in violation.
Q. Okay. And this is the first time that you've thought of this, isn't that correct?
A. It's the first time I've answered your

questions, correct.
Q. Have you ever thought about it before, about whether the university allows student groups to select their leaders based on their beliefs?
A. Based on their beliefs, yes.
Q. You've thought about that before.
A. Yes.
Q. And you know that -- and you've recognized before then that the university does not allow that. Correct?
A. I would have to look at all the facts and circumstances. That was not the facts and circumstances in the BLinC case, but yes, I've thought about that.
Q. Okay. And you're aware that there are nearly 500 student organizations on campus, correct?
A. I'm sorry, I have no idea.
Q. Well, there are a lot of student organizations on campus; correct?
A. Correct. And many of them are based around political views, correct?
Q. Are you aware whether there's a Democrat group on campus?
A. Truly, I don't know. I don't really follow the student organizations.

Q. Would it be shocking to you to find out that the university's allowed dozens of student groups to form on campus based around deeply held beliefs like political beliefs or environmental beliefs?
A. No, that would not be shocking to me.
Q. Would it be shocking to you to know that the university has allowed all of those student groups to screen their leaders on the ground that they share the beliefs of that organization?
A. I don't know how to answer your question. I don't know what they've done, and I don't know if those have been brought to anyone's attention, so if you're saying if something was brought to someone's attention like an investigation was conducted and they allowed it, yes, then I'd be shocked.
Q. So if a climate -- If an environmental organization excluded someone from becoming a leader because they were a climate denier, your view is that that violates the human rights policy?
A. I didn't say that. I would have to do -- I would have to find out all the facts and

circumstances to see if it falls under a protected classification.
Q. What if the environmental group excluded a leader just because they were a climate denier?
A. And your -- and within your question you're assuming that that is a creed?
Q. Yes.
A. If you are assuming that's a creed and I assume that for the sake of this question then, yes, it would be a violation.
Q. Okay. And do you know who Tom Baker is?
A. I do.
Q. And who is he?
A. He is in the Dean of Students Office. He's like assistant or associate dean of students. I'm not sure of his exact title.
Q. Does he have any supervisory responsibility over you?
A. No.
Q. Okay. So do you think -- He told BLinC that they could select their own leaders who shared their beliefs just like an environmental organization could select individuals who shared its beliefs. Do you think that Tom Baker misspoke to the student organization?

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A. I have no opinion on what Tom Baker said or didn't say. You'd have to ask Tom about that.
Q. Well, is that statement wrong or --
A. I'd have to know the context and the whole conversation.
Q. Okay. But he told BLinC that students could select leaders based on their beliefs, and under your view as you've expressed it today, that's a violation of the human rights policy?
A. I never said that. I said what's a violation of the university human rights policy is classification.
Q. Okay. And one of the classifications is creed.
A. Correct.
Q. And creed is defined to include belief, correct?
A. Correct.
Q. So if Tom Baker told students that they could select leaders based on their belief, that would be wrong?
A. If based on their belief and based on the evidence that came forward it was a creed, then I don't think it would be wrong. But I don't know all the facts and circumstances of this conversation that you are claiming Tom Baker

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had with someone. I apologize, I was not there.
Q. Okay. Well, if you knew that -- You're in charge of interpreting -- You're here to speak on behalf of the university. Correct?
A. No. I'm here as a fact witness who investigated this case.
MR. BAXTER: Okay. So can we go off record for a minute?
(An off-the-record discussion was held.)
Q. Okay. So just for the record, I want to confirm that you are here to testify for the university on behalf -- on topics 3 through 7 on the document in front of you. Correct?
MR. CARROLL: No, she's not.
A. I am or am not? I'm sorry, I don't understand your question.
Q. You're here to testify for the university on topic Number 3. Correct?
A. You may ask me any question you wish. If I can answer it, I will.
Q. Okay. And no one told you that you were here to testify on behalf of the university.
A. Correct.
Q. Okay. And that's true of topic Number 5,

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correct?
A. Is it correct that I have knowledge of it or is what correct?
Q. Were you told that you would testify on behalf of the university for topic Number 5?
A. No, I was not.
Q. Okay.
A. I understand you wanted to ask me about the BLinC investigation. I'm here to answer any of your questions about that, sir.
Q. So you don't feel competent today to really testify what the meaning of the university policy is, is that correct?
A. I would disagree with that statement. I think you've just asked me for an hour about that, so I think --
Q. I have seven hours total, just so you know.
A. That's fine. I have those, too, sir.
Q. Okay. Do you feel competent today to testify about the meaning of the human rights policy?
A. I feel competent to answer any question to the extent of my knowledge that you ask me.
Q. Okay.
A. And I think I have answered questions about the human rights policy and if you have more, I'm

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happy to answer them.
Q. Okay.
A. But again, I was not involved in the drafting of that policy.
Q. Okay. I'm going to ask you some other questions about the human rights policy. If a student organization formed to support soldiers who served in the Iraq War, could they limit their membership just to soldiers that serve in the Iraq War without violating the human rights policy?
A. I believe the policy covers military. I don't think it makes a distinction on what war.
Q. So this is the policy, correct?
A. Correct. Exhibit 20.
Q. Okay.
A. And the policy covers service in the U.S. military and status as a U.S. veteran.
Q. Okay. So could an organization -- Could students at the University of Iowa form an organization for veterans of the United States military?
A. Yes.
Q. And could they exclude people who are not veterans?

A. Just because they were not veterans?
Q. Correct.
A. No, I don't believe they could under the human rights policy.
Q. Okay. And what about fraternities. Can a fraternity exclude females from joining the fraternity?
A. I don't know the answer to that because I think that has questions about international fraternities, and I don't know that I can answer that. I'd have to look at all the facts and circumstances of a case if it was brought before me.
Q. Does the university currently allow fraternities to exclude women from joining?
A. I don't know.
Q. And does the university currently allow sororities to exclude men?
A. I don't know.
Q. If they did, would that violate the human rights policy as it's written?
A. I don't know because I'd have to look at all the facts and circumstances. If there's other matters that would over -- you know, overrule this. I don't know what the inter -- I don't

know what the fraternities' relationships are with their internationals and how that falls in play with the university. I'm just not familiar with that.
Q. But you know --
A. I'd have to look at all those facts and circumstances.
Q. But would it violate the human rights policy on its face?
A. If I looked at all the facts and circumstances and there was nothing else, yes, it would violate it on its face.
Q. So it's your understanding that the university -- the fraternities violate human rights policy when they exclude women?
A. That is not what I said.
Q. On its face. You said --
A. No, you asked me on its face with nothing else, and that's what I answered.
Q. Okay. Could a religious sorority require its members to abstain from sex outside of marriage?
A. Could they require it? What do you mean by require it?
Q. As a requirement for remaining in the sorority?

A. I don't know. I -- If you're asking me if that would violate the civil rights or the human rights policy, I would say no. I don't know what their internal policies are.
Q. Okay. Could a religious organization require its members to abstain from sex outside of marriage?
A. I don't see that -- If you're asking if it would violate the human rights policy or --
Q. I'm asking if it would violate the human rights policy for a religious student organization to require its leaders to abstain from sex outside of marriage.
A. I don't believe that would be covered by the human rights policy.
Q. Isn't marital status one of the categories in the human rights policy?
A. Yes, it is.
Q. Okay. So wouldn't that be discrimination on the basis of marital status?
A. Are we saying that you can't -- Are you saying that you can't have sex unless they're married?
Q. Right.
A. I don't believe that's how marital status is defined. I think marital status under the

policy is defined as being married in some civil or religious ceremony and recognized by a state.
Q. Okay. But wouldn't that policy exclude members who were having sex outside of marriage?
A. Not to my knowledge. I don't think whether a person has sex before or after marriage defines whether someone's married.
Q. Okay.
A. Does that answer your question?
Q. So you testified that a religious organization could exclude -- Could a religious organization exclude members who are engaged in sexual activity outside of marriage?
A. Is your question would I find a violation of the human rights policy because an organization said they couldn't have sex outside of marriage?
Q. Correct.
A. I would not find a human rights policy violation for that.
Q. Even though that would mean that students having sex who are married could be in the organization, but students who are single having sex couldn't be in; correct?

A. Is that correct?
Q. I'm asking you.
A. Yeah. Could they -- Anybody could be having sex, correct.
Q. And it would not be a violation of the human rights policy for a student organization to discriminate between those two groups of people.
A. It would be a violation for an organization to discriminate based on marital status, so if they discriminated and they said you can only be in this organization if you're married or you can only be in this organization if you're not married, that would be a violation of the human rights policy. Whether or not they were having sex would not be something that I would look into as to whether that's a violation of the human rights policy.
Q. So a sexual conduct policy would not implicate the human rights policy?
A. There is a sexual conduct -- There's a sexual harassment policy and there's a student sexual misconduct policy. Those policies are different than the human rights policy.
Q. Okay, but if an organization just has a

standard, a standard of sexual conduct for its members or leaders, that would not implicate the human rights policy. Correct?

THE WITNESS: Sorry, could you read it back.

(Requested portion of the record was read by the reporter.)

A. Not unless it fell within those classifications.
Q. Okay. And could they define that sexual conduct policy any way they wanted?
A. I think you'd have to look at the student constitution policy there. I don't know what the student -- thinking of students' policies require as to how they define things. I only can tell you about the human rights policy.
Q. Well, you already said they could exclude students who engage in sex outside of marriage. Could they also exclude leaders who engage in sex outside of marriage between a man and a woman?
A. Could the organization? As long as they didn't exclude someone because they were gay or because they were straight, it's not a violation of the human rights policy.

MR. BAXTER: Okay. Let's look at a document that will be labeled Number 93.

(Deposition Exhibit Number 93 was marked for identification by the reporter.)

MR. BAXTER: Let's take a break.

(A brief recess was taken.)

(Deposition Exhibit Numbers 90, 94, 95, 96, 97, 98, 100, 101, 102, 106, and 108 were marked for identification by the reporter.)

MR. BAXTER: Okay. We can go back on the record.

Q. I'm going to show you documents that have been marked as Number 93. Are you familiar with that document?
A. Yes.
Q. Okay. Could you just flip through the pages. You see that there's typewritten notes and there's handwritten notes behind it?
A. Yes.
Q. And is this your handwriting?
A. It is.
Q. And is it fair to say that the typewritten notes are where you typed out your handwritten notes?
A. It was a summary of my handwritten notes,

correct.
Q. Okay. And this is the notes of your interview with Marcus Miller. Correct?
A. Correct.
Q. And the typewritten notes indicate, if you look through the dates, that you met with Marcus Miller on three different occasions. Is that correct?
A. Correct.
Q. Okay. And on February 20, 2017, you said it -- it says that you were with Steve Wehling. Is that correct?
A. Correct.
Q. And who is Steve Wehling?
A. Steve Wehling is one of my colleagues. He's also a compliance coordinator in the Office of Equal Opportunity and Diversity.
Q. Okay. And is it standard to have two people in these interviews?
A. We like to have two people in interviews of a complainant or respondent.
Q. Okay. And then Tom Baker was in one of the later interviews, correct?
A. Yes.
Q. Is there any reason why Tom or Steve wouldn't

have been in one of the other meetings?
A. I'm not sure I understand your question.
Q. Why was Steve Wehling in the first meeting and then Tom Baker was in the second meeting?
A. Steve was probably in that meeting because I asked him to be, and I can't recall why Tom was there on the 27th.
Q. Okay. Was Tom regularly involved throughout this investigation?
A. He was involved throughout the investigation, yes.
Q. And what was his role?
A. I'm not sure. I think you'd have to ask him that. I mean on occasion we do joint investigations. People look at it from their own views, so he may have been looking at it from dean of students. I don't know. You'll have to ask Tom.
Q. Do you know who asked him to participate in the investigation?
A. I don't.
Q. Okay.
A. Tom could probably tell you.
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.
Q. Okay. Why don't you look at the first page of that document, the next-to-the-last paragraph that starts "Two - three weeks later." Do you see that?
A. Yes.
Q. And the second sentence -- or the third sentence, do you see it says, "He was not allowed because he did not ascribe to what the Bible says, because of his belief that a person can be gay." Correct?
A. Correct. That's what it says.
Q. And the next paragraph says, "It would be okay if he accepted being gay as wrong and did not act on it."
A. Correct. That's what it says.
Q. And if you flip over to the page that's numbered 2601 at the bottom. These are notes from the discussion about 24:7. Correct?
A. On page 2601?
Q. Correct.
A. Some are about BLinC and some are about 24:7.

Q. Okay. And do you see where it says, "Jacob told Scott Gaskill"?
A. Yes.
Q. Do you remember who Scott Gaskill was?
A. I believe it's referenced in my finding, if I could look at that.
Q. Okay. In the next sentence, it says that Scott is the head pastor for 24:7. Correct?
A. Correct.
Q. And then it says at the bottom of the next paragraph that Scott told MM if he was openly gay, he would not be acceptable as a leader. Correct?
A. Correct. This is what Marcus Miller told me Scott said.
Q. Okay. And then at the very bottom paragraph it says, in the middle of that paragraph, "Scott was not okay with MM using the term 'gay.'" Correct?
A. Correct. That's what it says.
Q. And do you see the next sentence that says, "Scott wanted to frame it as struggling with same-sex distraction"?
A. "Attraction," correct.
Q. "Attraction." And then the last sentence says,

"MM could reveal the latter but not engage in a relationship and not identify as gay." Correct?
A. That's what it says.
Q. Okay. And so Marcus Miller told you that 24:7 excluded him because he did not accept their beliefs about homosexuality. Correct?
THE WITNESS: Sorry, could you read that back.
(Requested portion of the record was read by the reporter.)
A. He told me that he could say he was struggling with same-sex attraction but he could not identify as gay.
Q. All right. I'm going to show you a document that's been marked as Exhibit Number 95. Are you familiar with this document?
A. Yes.
Q. And this is also your notes from your interview with Hannah Thompson. Correct?
A. Correct.
Q. Okay. And in that meeting, Hannah told you that Marcus was not allowed to be a leader because he didn't agree with the group's view about the Bible. Correct?

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A. Are you referring to a certain paragraph?
Q. I'm just asking you your memory.
A. My recollection is he told me -- She told me he could not be a leader because he was gay.
Q. Okay. So I'd like you to take a look at the bottom -- the very last sentence. It says, "The three of them," referring to the executive board, "discussed if" -- Well, do you see the bottom paragraph?
A. I apologize, yeah.
Q. And toward the end it says they both -- it's speaking about -- Going from the beginning, it speaks about Hannah met with other executive members.
A. Correct.
Q. And then, "They both asked how the meeting with Marcus Miller went, and Hannah explained he was gay." Correct?
A. Correct.
Q. And then it says, "The three of them discussed if this was consistent with their values." Correct?
A. That's what it says.
Q. And then on the next page, the third paragraph down, Hannah told you that she told Marcus that

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his lifestyle was inconsistent with the Bible. Correct?
A. Correct. That's what it says.
Q. And that pursuing a relationship with a person of the same sex was inconsistent with the Bible. Correct?
A. That's what it says.
Q. And that Marcus Miller said he had intentions to pursue relationships with other men?
A. That's what it says.
Q. And she said that she would encourage someone who is gay to come. Correct?
A. Where is that?
Q. The next paragraph. Or two paragraphs down.
A. Two paragraphs down. She -- Yes.
Q. There was no one, right? And then it says that they welcome all students to be members.
A. Correct, it says that.
Q. Okay. Then the paragraph that starts "In August 2016," correct? Do you see that?
A. Two paragraphs down, yes.
Q. The last sentence says, "Because Marcus Miller considered himself to be gay and wanted to live openly as gay, he could not meet the last paragraph of the vision." Correct?

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A. Correct.
Q. And that is referring back to their statement of faith in the first sentence in that paragraph. Correct?
A. It refers to a statement of faith they adopted in August of 2016.
Q. Okay. And then I want to go down to one more paragraph that says, "MM did not attend any meetings after the refusal." Do you see that?
A. Correct.
Q. And the third line down it says, "He could not be a leader because of his desire to pursue a relationship. He would be demonstrating behaviors inconsistent with the Bible." Correct?
A. Correct, that's what it says.
Q. So at the time after this interview, you knew that BLinC had a conflict with Marcus Miller because of his religious beliefs. Correct?
A. They had conflict with him because he openly professed to be gay.
Q. But Hannah told you it was because he didn't accept their view about being gay --
A. That's correct.
Q. The Bible's view of what it means to be gay,

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correct?
A. That's correct.
Q. Okay. And then on the last page, the second paragraph, it says, "Hannah reiterated it was not her intention to prohibit a gay person, or someone getting drunk, but she seeks leaders using Christ as a foundation." Correct?
A. That's what it says.
Q. And then the next paragraph says, "They ask their leaders if there is something they are struggling with, and if they confess and repent, then it is okay."
A. That's what it says.
Q. So you knew again that there was a -- Regardless of Mr. Miller's sexual orientation, there was also a conflict about his religious beliefs. Correct?
A. That Marcus Miller had a conflict about his religious beliefs?
Q. That Marcus Miller and BLinC had a conflict about their religious beliefs.
A. I believe that's what -- I believe what they said is that they didn't believe that somebody could be gay. Is that what you're saying?
Q. Well, Hannah said that she -- Let's look at

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another document.
A. Okay.
Q. But you acknowledge that in this document Hannah raised religious objections to homosexuality?
A. Correct.
Q. And you knew that the organization ascribed to religious beliefs that homosexuality is a sin.
A. They adopted that vision -- Well, I'm not sure they said that specifically. They adopted this vision in August -- 20th of 2016.
Q. Okay.
A. I don't think anywhere it says that. That was what she told me. It doesn't say that somewhere. I'm missing it.
Q. Did he --
A. Does it say that somewhere and I'm missing it?
Q. I'll ask the question. I'm sorry.
A. Okay. I don't recall that it says that anywhere, so I apologize.
Q. Okay. Let's look at document Number 90. Are you familiar with this document?
A. Yes.
Q. Okay. And what is it?
A. This is two -- It's actually several emails.

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The first looks like an email that Marcus Miller sent to Hannah Thompson dated May 17, 2016. The second email on this document is a document that Hannah Thompson sent to Marcus Miller on June 22nd, and at the top of the page it's an email from Marcus Miller to me dated February 20th.
Q. Okay. And these dates were before Marcus Miller filed his complaint. Correct?
A. I believe so. I'd have to look at the complaint to be sure. I apologize. You can just tell me; I'll believe you.
Q. Okay. Marcus Miller's complaint is dated February 20th, 2017. So that's the same day as this top email. Correct?
A. Correct.
Q. So the emails from June of -- from June 2016 and May 2016 are several months before Mr. Miller filed his complaints.
A. Correct.
Q. And you had this email that you reviewed, and you reviewed it during the course of the investigation. Correct?
A. Correct.
Q. And in the second paragraph -- or the third

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paragraph of the email from Hannah to Marcus, the second sentence says, "First and foremost, the reason why I made the decision that I could not allow you to be in a leadership position within BLinC is because of your desire to pursue a homosexual lifestyle/relationship." Correct?
A. Correct. That's what it says.
Q. And "pursue" is highlighted and bolded. Correct? Or bolded and italicized?
A. It is bolded and italicized, you're correct.
Q. And then she says at the beginning of the next paragraph that struggling with homosexuality, yet not acting on it, is a different story. Correct?
A. That's what it says.
Q. And the next page, the second paragraph, it says, "Ultimately, brother, I want you to know that it is not because you call yourself a homosexual that you cannot be on leadership, but your pursuit of this sin is how I came to such conclusions." Correct?
A. That's what it says.
Q. So Hannah told you it wasn't because he was gay, correct?

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A. No, Hannah told me it was because he was gay. This is what Hannah wrote to Marcus Miller on June 22nd, 2016.
Q. Okay. Before the complaint was filed.
A. Before the complaint was filed.
Q. And you had this information before you, right?
A. I did.
Q. So you knew that Hannah had told Marcus that it was not because he called himself a homosexual?
A. I knew that's what this said, correct.
Q. And that her concern was that his pursuit of how this sin -- of this sin, correct?
A. Her concern in this email?
Q. She told Marcus that the reason why that he -- he could not be in leadership was because of his pursuit of this sin.
A. That's what it says in this email, correct.
Q. Did you have any reason to disbelieve that that's what Hannah -- 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.
Q. But she told you also in your notes you have

record that she told you it was because he was pursuing that sin. Correct?
A. I'll have to look at my notes again.
Q. Okay. Let's go back and we can walk through that again. That's Exhibit Number 95. Why don't we go through the paragraphs that you went through previously. Would that help?
A. Could I look at it first, please?
Q. Sure.
A. Thank you. Okay. I'm sorry, go ahead. What paragraphs did you --
Q. Okay. Let's look at the paragraphs we looked at previously.
A. Okay.
Q. Do you see the next-to-last paragraph on page 1?
A. Yes.
Q. Okay. And you see it says that in the middle of the paragraph they discussed the leadership position. Correct?
A. Correct, it says that.
Q. And then, "MM asked if he had to sign anything." Correct?
A. Correct, it says that.
Q. "Hannah asked what he meant."

A. Correct, it says that.
Q. "MM was trying to figure out his sexual orientation."
A. Correct. It says that.
Q. And then the next paragraph, it talks about the executive members talking in leadership about his leadership qualifications. Correct?
A. Correct.
Q. And it says, "The three of them discussed if this was inconsistent with their values." Correct?
A. Correct.
Q. And then the third paragraph down --
A. Just one second, because you skipped a paragraph. "MM would have been eligible but for being gay. MM would have become the VP at the April 27, 2016, meeting," comma, "by acclamation," comma, "if he had not told them he was gay."
Q. And then what does the next paragraph say? Could you read that as well?
A. "Hannah met with MM again on 4-27. She advised him his lifestyle was inconsistent with the Bible. Pursuing a relationship with a person of the same sex was inconsistent with the

Bible. MM had said he had intentions to pursue relationships with other men."
Q. Okay. And then skip down two paragraphs and read the next paragraph.
A. The one that starts "There is no"?
Q. Right, those two paragraphs, the next two. "There is no" and then --
A. "There is no one gay in their membership. She would encourage someone who is gay to come. They welcome all students to be members. The leadership process has to be more selective. She talked with the leadership team. They are required to be turning away from sin."
Q. Okay. And then in the next paragraph, why don't you read that as well.
A. "In August 2016, the leadership team adopted a statement of faith," footnote 2. "No signature is required. It was adopted by word of mouth by the leadership team. Then it was discussed with the membership and they all agreed. Because MM considered himself to be gay and wanted to live openly as gay, he could not meet the last paragraph of the vision. This document is only for leaders."
Q. Okay. So you said that Hannah told you that he

was not eligible but for being gay. Correct?
A. That's what Hannah told me.
Q. But then the next three or four paragraphs, you made notes where he explained that his lifestyle was inconsistent with the Bible. Correct?
A. I mean I just read them. Do you want me to read them again?
Q. But after she said that statement -- After you wrote that she said that Marcus Miller would have been eligible but for being gay, you made notes that she went on to explain that there was a conflict with his religious beliefs and the organization. Correct?
A. That's what -- I mean I read it. That's what it says. Your interpretation of it, I'm not sure if I agree with that or not. She basically said, as it says here, because he considered himself to be gay and wanted to live openly as gay.
Q. Okay. And by live openly as gay, what did you understand her to mean?
A. That he was acknowledging that he was a homosexual.
Q. Okay. And that he wanted to pursue homosexual

relationships.
A. That's what she said he said.
Q. Okay. And then we looked at the letter, do you have still in front of you Exhibit --
A. 90.
Q. -- 90, and in that letter she told Marcus Miller it was not because he called himself a homosexual but because of his pursuit of homosexuality; correct?
A. Which paragraph are you reading from?
Q. This is the second page, the second paragraph which we read a minute ago.
A. It says, "Ultimately, brother, I want you to know that it is not because you call yourself a homosexual that you cannot be on leadership, but your pursuit of this sin is how I came to such conclusions."
Q. Okay. Then let's look at the document that's been identified as Number 96. Are you familiar with this document?
A. Yes.
Q. And what is it?
A. It is a chronology that I prepared for my own use as I was going through things.
Q. Is this your chronology or --

A. I apologize, no, that is not my chronology. This is something that Hannah sent -- I believe she sent it to me. Is there a cover email?
Q. I don't have --
A. I believe this is something that Hannah prepared and either gave to me in person or sent me with an email. I apologize.
Q. And so these are Hannah's words as far as you know, correct?
A. I believe that is correct.
Q. And can you go down to where it says April 27, 2016.
A. Correct.
Q. And read the statement that starts with "Based on BLinC's faith."
A. "Based on BLinC's faith and foundation in the Bible and as our authority, he cannot be on executive leadership with BLinC because his lifestyle is" -- "is inconsistent with what the Bible says about sin."
Q. Okay. So here again, Hannah told you that he was excluded from leadership because of his lifestyle. Correct?
A. Hannah wrote this in that chronology, correct.
Q. And you read that in the course of the

investigation. Correct?
A. Yeah, I can't remember when she gave this to me but I believe -- yes, I believe I received it in the course of the investigation.
Q. Okay. And then I'm going to ask you to look at document Number 98. Do you recognize this document?
A. Yes.
Q. What is it?
A. It's a document that was signed by Hannah Thompson that was sent to me on April 12, 2017.
Q. So you received this document and read it?
A. I did.
Q. And this was before you reached a conclusion in the investigation, correct?
A. Could you tell me the date of my finding?
Q. The findings were dated June 30th, 2017.
A. Yes, then it is before June.
Q. Okay. And in this letter, Hannah also told you that they did not discriminate against individuals because of their homosexuality but because only -- they only require their leaders to share their religious beliefs. Is that correct?
A. Can you tell me the paragraph you're reading

from?
Q. Sure. So it's the last sentence of the top paragraph on the second page, and then the first sentence of the next paragraph.
A. Would you like me to read that?
Q. Sure.
A. This letter --
Q. This is numbered 114 at the bottom?
A. Yes.
Q. First paragraph, last sentence.
A. Yes.
Q. "We never"?
A. This letter says, "We never discriminate against students because of who they are. All we ask is that our leaders support and uphold our," quote, "goals and beliefs," close quotes. "BLinC is a Christian organization for students who share core Christian convictions. Mr. Miller expressly stated that he rejected important parts of our Christian beliefs, would not support them, and would openly oppose them in public. It was for this reason" --
Q. Okay. That's -- Go ahead.
A. "It was for this reason, and this reason only, that Mr. Miller was deemed ineligible to serve

as our organization's vice president. BLinC's entire purpose is to encourage students to live according to its understanding of Christian principles. It cannot fulfill its core mission if its leaders do not support its beliefs."

Q. Okay. So here again, Hannah told you that there was a conflict with Mr. Miller because of his beliefs. Correct?

A. This letter says that.

Q. Okay. And you had that in the course of the investigation. Correct?

A. Correct.

Q. So why did you choose to sieze on, in your notes, 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.

Q. And she told also you all these other things, right, about --

A. This letter says that and the emails say -- discuss religious beliefs, correct.

Q. And the email was before there was even an investigation, correct?

A. That's correct.

Q. So Hannah had no reason at that time to lie about what she said in that email.

A. I don't know what her reasoning was. You'd have to ask Hannah.

Q. Did you have any reason to think that Hannah was lying when she explained the conflict in religious beliefs?

A. I had no reason to believe Hannah was lying to me at any time.

Q. Do you believe she was honest with you?

A. I believe she was honest with me --

Q. Okay.

A. -- when she told me that she excluded him because he was gay.

Q. And do you believe that she was honest with you when she explained the conflict in religious beliefs?

A. She never explained that to me. Those emails to Mr. Miller say that, and then a letter signed by her said that.

Q. And that letter was to you, right?

A. That letter was to me signed by Hannah.

Q. And you reviewed the emails in your investigation, right?

A. I did.

Q. And you reviewed the chronology in your investigation.

A. I did.

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.

Q. Well, you took notes of your interview with her.

A. I did.

Q. And in those notes, she also told you about the religious beliefs; correct?

A. She did.

Q. So what do you mean she never told you about the conflict --

A. Well, in that statement --

MR. CARROLL: Wait a minute.

Q. What do you mean that she never told you about the conflict in religious belief?

A. When she said -- When I said why was he excluded, she excluded -- she said he was excluded because he was gay. In that

statement, when she answered my question as to why he was not allowed to be an officer, she said it was because he was gay. Yes, the emails say that. Yes, the letter signed by Hannah Thompson says that. Yes, there are notes where she said other things, but that is specifically what she told me with no -- nothing else.

Q. Well, right after she said that, she went on to explain the religious conflict. Correct?

A. I'll -- I mean my notes say what they say. I can read them again, if you'd like.

Q. So you didn't take into account, then, the things that she said right after she -- you said that she said. I'm going to point you again to Exhibit Number 95. You wrote in the second paragraph on the second page that MM would have been eligible but for being gay. Correct?

A. Correct.

Q. And right after that we read one, two, three, four, five paragraphs where Hannah talked about her understanding of his being gay was that he wanted to pursue gay relationships. Correct?

A. That's what she said.

Q. And that it violated their religious belief, correct?
A. Which paragraph does it say it violated her religious beliefs?
Q. So on the previous page, we talked about that the executives read the Bible to understand their beliefs. Correct?
A. Correct.
Q. And then right after the statement that you're relying on, she says in the next paragraph that pursuing the relationship with a person of the same sex was inconsistent with the Bible.
A. Correct.
Q. Correct? And then she goes on three paragraphs later to say that people -- leaders are required to turn away from sin. Correct?
A. Correct.
Q. And in the end of the next paragraph, that Marcus Miller wanted to live openly as gay and could not meet the last paragraph of the vision. Correct?
A. Correct.
Q. And that vision was their statement of faith. Correct?
A. Adopted after he was excluded from being an

officer, correct.
Q. Okay. But consistent with the email that Hannah wrote right after, correct?
A. I assume so. I'd have to -- I'm not going to read it to you. I assume it is, yes.
Q. Okay. So is there a reason why you took Hannah's one statement and isolated it without the context of what she explained to me?
A. I don't think I did that. I think I looked at the context of every witness I talked to, Marcus Miller, Hannah Thompson. I looked at all the documents. I don't believe I excluded anything, but she was very firm in her statement to me that -- and that's why it's written just the way it's written. She was very firm in her statement that he would have been eligible but for being gay.
Q. And if she wouldn't have said that one statement, would you have entered a finding against BLinC?
A. I can't hypothesize on that. I have no idea, because I didn't have that fact scenario in front of me.
Q. Well, if the only other factual scenario was that she said, "I excluded him because he

disagreed with our beliefs about homosexuality."
A. I can't answer that question.
Q. Okay. Well, you already testified that that would be okay; correct?
A. I will stand on whatever I said. I'm not sure your recollection of my testimony is the same.
Q. Let's look at what's been marked as Exhibit 100.
A. Okay.
Q. Do you recognize this document? Why don't you take a minute and flip through this document.
A. Thank you. Okay.
Q. Do you recognize this document?
A. Yeah, I'm not sure they all get typed -- stapled together but they were all documents from my file.
Q. Okay. And let's look at the third page in. There's an article that says, "Are Black People Cursed?" Correct?
A. Correct.
Q. Why was this in your file?
A. This was an article where -- that discussed -- I'm not summarizing this well. I mean you can read it for yourself, but that the Bible

supported treating black people adversely.
Q. And why was it in your file with respect to the BLinC investigation?
A. I was looking at protected classifications.
Q. And --
A. This was a protected classification for black people.
Q. And where did you find this article?
A. I have no idea. Somewhere online.
Q. Why would you have been looking for religious beliefs about race?
A. I don't know that I was looking for that. I think it maybe came up, but --
Q. And is this underlining your underlining?
A. I would guess so.
Q. And do you remember why you bothered to read this article in the course of the BLinC investigation?
A. No.
Q. Did you draw any lessons from it?
A. Not really. I mean it didn't really have anything to do with -- I mean it had to do with the Bible saying black people are inferior. The next one has to do with the Bible supporting that women are inferior. So I can't

say it didn't, you know, have any bearing. It didn't have any bearing on my decision.
Q. Why did you care what the Bible said about any of those topics?
A. I don't know that I did care.
Q. Then why were you have reading these articles?
A. I believe -- I'm guessing. If you want me to guess, my guess is that they came up in some research that I did, but I don't specifically remember why these articles came up in my research.
Q. I want to show you what's been marked as Exhibit 101.
A. Okay.
Q. Do you recognize this document?
A. Yes.
Q. What is it?
A. It is notes that I wrote of a meeting with Georgina Dodge and Jennifer Modestou.
Q. And who are Georgina and Jennifer?
A. Georgina Dodge at that time was our chief diversity officer. Jennifer Modestou is the director of the Office of Equal Opportunities and Diversity.
Q. And do you recall what was the purpose of this

meeting?
A. I think we were discussing whether it was an all-comers or a specific classification policy.
Q. Okay. And then it says toward the end "Always had all-comers policy. Get in line with it." Do you remember who said that?
A. I have no recollection of this conversation at all. I'm sure it happened because I have notes of it, but I don't recall the context.
Q. And did Georgina or Jennifer think that the university had an all-comers policy?
A. I don't recall them opining on that. I'm sorry, there's a second page here. Did you want anything on that one? There's two pages stapled together.
Q. Let's take a look at the second page of that document. Do you recognize this document?
A. I know that it's an email to me -- from me to Tom Baker.
Q. Okay. Do you remember why you sent this email?
A. I don't.
Q. You mention in it a letter sent by attorneys for CLS shortly after the opinion in *Christian Legal v. Martinez* was issued?
A. Yes, I do.

Q. And then you asked if he had a copy of that letter.
A. Yes.
Q. Did you ever get a copy of that letter?
A. If I got it it's in my file and you would have it. I don't recall one way or another.
Q. And did anybody at the university at the time think that the University of Iowa had an all-comers policy?
MR. CARROLL: Other than talking to counsel.
Q. Other than talking to counsel.
A. Nobody opined to me that we had an all-comers policy.
Q. Okay. I'm going to ask you to look at a document labeled 102. Are you familiar with this document?
A. They're my notes. I wrote them.
Q. They're notes from a meeting with Bill and Kristi.
A. Correct.
Q. And do you see down six paragraphs where it says, "Allow groups to discrim at leadership level, not membership level."
A. I see those words, yes.

Q. Okay. And was it your understanding at the time that the university allowed student organizations to restrict leadership on categories covered by the human rights policy?
A. Are you asking if it's my understanding at the time these notes were written or today?
Q. At the time these notes were written.
A. I have no idea what that reference is, I'm sorry.
Q. Okay.
A. My notes, admittedly, aren't very good.
Q. At the bottom do you see the statement import -- "imp" --
A. Important.
Q. -- "that have Men's Glee Club, Women in Engineering, Black Student clubs"?
A. "Black Student Union."
Q. Correct. You see that?
A. I see that.
Q. And do you remember who said that?
A. I have no -- I don't know if that was a question or a statement, and I don't know who said it.
Q. Do you remember having a discussion about the importance of having a men's glee club?

A. I don't, I'm sorry.
Q. Do you think it violates the human rights policy for a men's glee club to exclude women?
A. If they excluded them strictly on that, it would be a violation of the human rights policy.
Q. And if you'll flip to the third page over, the one numbered 2704 at the bottom.
A. Yes.
Q. Do you see the second block of notes that says, "What if a woman wants to be on men's baseball team"?
A. Um-hmm. Yes.
Q. "Or men's glee club."
A. Correct.
Q. What was the nature of the discussion about that issue?
A. I'm guessing that we had a discussion about it. I'm guessing that was a question that was propounded by someone, but this is strictly conjecture on my part because I do not recall.
Q. But eventually you came to the conclusion that a men's glee club or a men's baseball team could not exclude women. Correct?
A. I did not ever come to that conclusion. That

question was never presented to me other than by you today.
Q. Okay. But that's your view today of the human rights policy.
A. If I looked at all the facts and circumstances and that was the sole reason they were excluded, yes.
Q. Okay. Are you aware that the University of Iowa men's sports teams exclude women?
A. I have no knowledge of what the sports teams do. I mean I've seen them play on TV. I don't know if they have men and women or not.
Q. As far as you're aware, does the men's volleyball team have women playing on it?
A. I don't know. I would assume not but I really don't know, truthfully.
Q. But under the way you've described the human rights policy, if the University of Iowa rowing team excludes -- University of Iowa men's rowing team excludes women, that would be a violation of the human rights policy. Correct?
A. Unless there was some other thing like some NCAA rule or something that would, you know, overrule our rule.
Q. Okay.

A. Yeah.
Q. So the university doesn't have any independent interest in enforcing a strict nondiscrimination policy on the basis of sex.
A. I would disagree with that.
Q. But they could be overridden by the N double --
A. I don't know. I'm just saying you're talking about sports that's not just a University of Iowa thing. I'm assuming it's part of the NCAA, and I'm assuming there are rules. I'm assuming you know what those rules are. I do not.
Q. I'm going to ask you to look at a document numbered 103.
A. Okay.
Q. Are you familiar with this document?
A. Those are my notes.
Q. And this is from a meeting with Tom Baker. Correct?
A. Correct, on May 26, 2017.
Q. And about the third paragraph down, it says, "Not want to be all-comers policy," question mark. "Do but not in pure sense fraternities and sororities." Correct?
A. That is what it says.

Q. Okay. Do you remember the nature of this discussion?
A. I'm sorry, I don't.
Q. Did Tom Baker express to you that he wanted to have an all-comers policy but not in the pure sense?
A. I don't recall that, and I can't say that from these notes. All I can say is that was a question that was raised at some point in our conversation.
Q. Okay. And according to your notes, Tom was the only person in this meeting with you. Correct?
A. That is correct.
Q. Okay. I'm going to show you a document that's been labeled Number 108.
A. Okay.
Q. Do you recognize this document?
A. No. But may I look at it for a minute?
Q. Please.
A. I don't -- Oh, it says I was copied so let me look. Okay. I've read it.
Q. All right.
A. Or scanned it, I should say.
Q. I'd like to draw your attention to the first two sentences at the first full paragraph on

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the second page.
A. Okay.
Q. Could you read those two sentences.
A. Just one second. I'm going to try, but I'm kind of having a coughing fit right now.
"As you know, an applicant's sexual activity may be the subject of conversation during the process of evaluating a leadership application. Engaging in sexual activity outside of marriage is one legitimate ground for denying a leadership position if that principle is one of the tenets of the student organization."
Q. Do you have any reason to think that Mr. Baker's statement there is incorrect under the university's human rights policy?
A. I don't believe sexual activity is a protected classification, so I guess I -- I'd say that is correct.
Q. Okay. So it would have been important for you to distinguish carefully between whether Hannah Thompson rejected Marcus Miller's application because of his sexual orientation or because of his sexual activity. Correct?
A. If she had said he engaged in -- because of

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sexual activity, I would have considered that.
Q. Okay.
A. I'm not sure if that answers your question.
Q. And that would be an important distinction, right?
A. It would be important to know.
Q. Okay. But Mr. Baker says that that would be an okay basis if you were excluding people based on their sexual conduct. Correct?
A. That's what he says.
Q. And do you have any reason to disagree with that?
A. I do not.
MR. BAXTER: Okay. All right. This is Exhibit 109.
(Deposition Exhibit Number 109 was marked for identification by the reporter.)
Q. This is a letter from Jacob Estell to Dean Redington dated July 14th, 2017. Correct?
A. It is.
Q. And you're cc'd on this email, correct?
A. I am. I'm not sure it's an email -- Oh, yeah, it's sent via email.
Q. And this is two weeks after your June 30th findings, correct?

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A. Okay.
Q. What was your involvement at that point?
A. I do not have an involvement at that point.
Q. Okay. Once you issued your findings, do you have any further involvement?
A. I don't believe so.
Q. Okay. Were you ever involved in reviewing other student organizations for compliance of the human rights policy after the BLinC findings?
A. No.
Q. Did you ever discuss the BLinC investigation with Lyn Redington?
A. I don't recall. If I did I would have notes likely, so if you have notes, then I probably did. I just don't recall one way or another.
Q. Do you recall that she had any significant involvement in the investigation?
A. She did not.
Q. Were you ever made aware of a meeting that was held between Tom Baker and Bill Nelson and the leadership of BLinC?
A. If I was, I don't recall it. I was not involved in it.
Q. I'd like to turn to the investigation of 24:7.

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You also conducted that investigation, correct?
A. I did.
Q. Okay. And that was going on at the same time as the investigation of BLinC?
A. Yes.
MR. BAXTER: Could you mark this as Exhibit Number 69.
(Deposition Exhibit Number 69 was marked for identification by the reporter.)
Q. Are you familiar with this document?
A. This appears to be an email -- Oh, am I familiar with it? I mean it's to me. Do I recall it, no, but it's an email to me. I'm sure I received it.
Q. Okay. Who's Anita Cory?
A. Anita Cory was in CSIL. I'm not sure -- Center for Student Involvement and Leadership. At this time it said she was the associate director of student organizations and leadership programs.
Q. And what was her involvement in the investigation?
A. I think I asked her some question about the constitutions.
Q. Okay.

A. Probably that could I have them.
Q. And in the very bottom email on page 2, she says that her colleague will review the constitutions for compliance with UI policies. Correct?
A. Correct.
Q. And the constitutions that she reviewed were the constitutions for BLinC and 24:7. Is that correct?
A. I believe that's correct.
Q. Okay. And the first page, this indicates that 24:7's constitution has a statement of faith. Correct?
A. Correct.
Q. But BLinC's didn't.
A. Correct.
Q. Okay. And was that important to you?
A. With respect to 24:7?
Q. Correct.
A. You know, I think this was information that I got but, you know, considered. I'm not sure I can say if it was important or more important. I mean I think it's just information that was sent to me that I looked at.
Q. Could you flip over to the page numbered 4096.

A. Yes.
Q. And that's a copy of the BLinC -- of the 24:7 constitution. Correct?
A. Yes.
Q. And if you look at Article IV, Statement of Faith --
A. Yes.
Q. -- it says that all voting members and all officers must agree to the statement of faith. Correct?
A. Correct.
Q. And can you see that statement of faith requires affirmation of Christian doctrines?
A. Which paragraph is that?
Q. Right after where we were in Article IV, where it says, "I believe," and then the four paragraphs that follow?
A. Correct.
Q. Did it raise any red flags in your mind that this organization was requiring members and officers to affirm a Christian statement of faith?
A. I was more concerned with what their actions were than what their constitution said, so I'm not sure if that answers your question, but I

don't know that it raised a red flag. I was looking at what the organizations did.
Q. So at that time did you think this was a violation of the human rights policy that 24:7 was discriminating on the basis of religious belief?
A. I don't believe what was said in the document could be one way or another. I think it's what they did that would be a violation.
Q. So it's your view that a student organization doesn't violate the human rights policy just by what it says in its constitution.
A. I would look at what it did.
MR. BAXTER: Can you mark this as Exhibit 72.
(Deposition Exhibit Number 72 was marked for identification by the reporter.)
Q. Do you recognize this document?
A. Yes.
Q. Okay. What is it?
A. This is a 24:7 student leader application filled out by Marcus Miller when -- when he was a freshman, and he was applying for -- have to look at the name of it, but I believe it was like a Bible study leader position with 24:7.

Q. Okay. And if you look at the third page of this document --
A. 2626.
Q. 2627, I'm sorry.
A. Okay.
Q. At the very top, one of the questions that applicants get asked is their understanding of certain types of sin, including inappropriate relationships with the opposite sex and homosexuality. Correct?
A. Yes.
Q. So you were aware that 24:7 at least was concerned about potential leaders' beliefs on these issues. Correct?
A. Correct.
Q. Okay.
MR. BAXTER: Could you mark that as 74.
(Deposition Exhibit Number 74 was marked for identification by the reporter.)
Q. Are you familiar with this document?
A. Yes.
Q. And what is it?
A. Well, let's see. Pages 2819 through 2821 are my typed summary of a deposition with Scott Gaskill on March 24th, 2017.

MR. CARROLL: I'm sorry, just to clear the record, you said "deposition."

A. Excuse me, interview. Sorry, I've got deposition on the brain. I'm guessing one of these was returned -- The second one is the same, but one may have been returned by Scott. I don't know why there's two here. One might have been returned by him if he -- if I sent it to him to make corrections. I don't know. And then the last documents, 2526 through 34, appear to be my handwritten notes.

Q. Okay. And in that interview, Scott Gaskill told you that if Marcus Miller were openly gay, he would not be acceptable as a leader in 24:7. Correct?

A. Where is that at?

Q. Do you recall Mr. Gaskill telling you that?

A. You know, what I recall is that he wasn't going to commit. What I recall is he was like, "We asked him to think about it and we were going to think about it and we were going to wait till he got back to us." That's what I recall.

MR. BAXTER: Okay. Let's look at -- I'm going to -- a document we'll label as Number 81.

(Deposition Exhibit Number 81 was marked for identification by the reporter.)

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. This is my finding in the investigation brought by -- of the complaint brought by Marcus Miller against 24:7.

Q. Okay. And could you look at page -- the page numbered 2675.

A. Yes.

Q. And the third paragraph from the bottom, it starts, "Complainant was then contacted." Do you see that?

A. Yes.

Q. Do you see the last sentence?

A. Yes.

Q. And could you read that.

A. "Gaskill told complainant if complainant was openly gay he would not be acceptable as a leader in 24:7."

Q. Why was that not enough reason to find a violation by 24:7?

A. This is what Marcus Miller told me. These are the allegations by Marcus Miller.

Q. Okay.

A. So I did a complete investigation. I didn't just believe what one person told me or not. I looked at what everyone told me.

Q. Okay. So when Marcus Miller told you that, you chose not to believe him. Correct?

A. I didn't choose one way or another not to believe it. What I found, I believe, if you'll look, is that there was something left open between the two parties and that he hadn't gotten back to them.

Q. What was left open was that Marcus didn't get back to them, right?

A. Correct. Well, what was left open is Marcus didn't get back to them with whatever they were talking about, which I don't recall right now but I can look at my --

Q. Well, what they were talking about was their different beliefs on homosexuality; correct?

A. Do you know where that is? I could see how I worded it.

Q. Why don't you take a minute and read through your findings.

A. Okay, perfect.

Q. Why don't you read through your notes of

Scott -- Let's go back to Exhibit 74.

A. Okay.

Q. Why don't you read through your notes of Mr. Gaskill.

A. Do you want me to review my notes or his comments on my summary?

Q. Did he make comments to your summary?

A. Yeah, that's 19 through 21.

Q. Can you identify where his comments are?

A. I believe they're where things are crossed out. Otherwise, if they're added I don't see that this is any color, so you'd have to compare them side by side.

Q. Okay. So why don't you look at -- So anything that's not crossed out, then, is your notes?

A. He may have added things. I don't know, I haven't compared the two.

Q. But if they've added them, do you expect that they would have been underlined?

A. I don't have an expectation, I'm sorry. Sometimes people do it in color. People do it different ways when they send stuff back.

Q. Why don't you read starting at 2822 through 2824.

A. 2824.

Q. 2822 through 2824.
A. Okay.
Q. Have you had a chance to read that document?
A. Yes, I reviewed pages 22 through 24.
Q. Okay. And on page 23 and the third full paragraph, you see in the center where SG believes the passages are clear on the fact that homosexuality is a sin. Correct?
A. Yes.
Q. And that MM had yet to decide whether he would stand by that traditional or follow the revisionist view. Correct?
A. Correct.
Q. Then the very last two sentences of that page, it says, "MM understood that if he landed differently than the way Parkview thought about homosexuality, MM's role would be different." Correct?
A. That's what it says.
Q. So you knew at the time that the real conflict between 24:7 and Marcus Miller was their religious beliefs. Correct?
A. Their beliefs on homosexuality, yeah.
Q. And if Mr. Miller would have affirmed his desire to pursue a same-sex relationship that

he would not have been eligible to be a leader in 24:7. Correct?
A. By pursuing a same-sex relationship, do you mean sexually or just pursuing a relationship with someone?
Q. Sexually.
A. I think if he pursued it sexually, they didn't believe in sex before marriage.
Q. Okay. And that would be okay. That didn't violate the human rights policy?
A. I don't believe our policy covers sexual activity.
MR. BAXTER: Okay. Let's take a short break.
(A brief recess was taken.)
MR. BAXTER: Could you mark this as 220.
(Deposition Exhibit Number 220 was marked for identification by the reporter.)
MR. BAXTER: Okay. Let's go back on the record.
Q. I just have a few more questions. I'll show you again what was marked as Exhibit 94.
A. Okay.
Q. You previously identified this as an email from Tom Baker to you and Kristi Finger. Correct?

A. It is an email from Tom to me and Kristi, yes.
Q. And do you see where he says, "Attached is the most recent memo I could find from the vice president on this topic"?
A. Yes.
Q. Do you remember what topic that was?
A. I don't. I'm guessing it was the -- I'm guessing. I guess it was all-comers policy but I don't know.
Q. Because he mentions all-comers policy in the next sentence, right?
A. That's why I'm guessing.
Q. I'm going to show you what's been marked as Exhibit 220.
A. Okay.
Q. This is the memo that was attached to that email at 94.
A. Okay.
Q. And so you would have received a copy of that memo attached to the email. Correct?
A. If this was attached to that email, yes, I received it.
Q. And would you have read that?
A. I'm sure I did. If I received it, I read it.
Q. Okay. And do you see the second paragraph of

that letter says, "The policy on human rights does not prohibit student groups from establishing membership criteria"?
A. I see that.
Q. And the next sentence says, "For example, an organization of Campus Democrats is not required to admit self-identified Republicans into its membership." Correct?
A. I see that.
Q. And that conflicts with your earlier testimony that Democrats could not exclude individuals who disagreed with their beliefs. Correct?
A. This says that they can't. I'd look at all the facts, and if the facts showed me that the only reason for their exclusion was one of the protected classifications in our policy, I would have found a violation.
Q. And one of those categories is creed, correct?
A. Yes.
Q. And then the next sentence says, "While the human rights policy does prohibit discrimination on the basis of sexual orientation, among a number of other classifications, the university is obliged to protect the First Amendment right of CLS

members to espouse the group's basic tenets." Correct?
A. That's what it says, correct.
Q. So at the time you received this email, that was the interpretation of the human rights policy; correct?
A. From 2009, correct.
Q. And why did you change that interpretation?
A. I don't believe I did change the interpretation.
Q. So you think that it would violate -- You agree that it would violate the First Amendment rights for the university to tell BLinC it could not screen leaders based on their sexual orientation.
THE WITNESS: Okay, sorry, you have to read that one again.
(Requested portion of the record was read by the reporter.)
A. I don't -- I don't agree with that, no.
Q. Okay. Do you see how that conflicts with this paragraph?
A. It says, "While the human rights policy does prohibit discrimination on the basis of sexual orientation, among a number of other

classifications, the university is obliged to protect the First Amendment rights of CLS members to espouse the group's basic tenets." I think BLinC is entitled to espouse its tenets.
Q. Including if those tenets are about homosexuality?
A. Including if those tenets are about homosexuality.
Q. Is it a violation for a human -- I'm sorry. Is it a violation of the human rights policy for a religious organization to hold worship services?
A. I don't believe it would be, no.
Q. Okay. Prayer meetings?
A. I don't believe it would be, no.
Q. To propound religious teachings?
A. I don't believe it would be, no.
Q. To observe sacraments such as baptisms or communion?
A. I don't believe it would be, no.
Q. To observe religious holidays such as Easter or Ash Wednesday?
A. I don't believe it would be, no.
Q. To provide religious training to their leaders?

A. I don't believe it would be, no.
Q. And do you think that the university could require an organization to select -- do you think the university could interfere in the university -- Sorry. Let me start over. Do you think that the university could restrict a student organization's selection of leaders to perform those kinds of functions?
A. Under the human rights policy?
Q. Yes.
A. Because that's the only policy I look at. Under the human rights policy, if they were making a distinction based on a protected classification, then yes. But if not, no.
Q. Is it a violation for student leaders to be ordained to a religious body?
A. I -- I have no idea. I -- I wouldn't think it would be a violation of the human rights policy, no.
Q. So a religious group on campus could, for example, have an ordained minister as one of their student leaders; correct?
A. I would assume so, yes.
Q. And is it your belief that the university could tell that ordained student leader who else

could be a leader in the organization?
A. Could they say who else could be a leader, sure.
Q. Okay. So the university could tell a religious leader who to let in to the leadership of a religious organization?
A. Could they tell them, yes. But if they acted in violation of the human rights policy, it would be a violation of that policy.
Q. Do you think the First Amendment trumps the human rights policy?
A. I think that's what your determination is in this lawsuit, isn't it? I don't think I could put my place -- in the place of a judge in this lawsuit.
MR. BAXTER: Okay. I have no further questions.
MR. CARROLL: Okay.
THE WITNESS: Thank you.
(Deposition concluded at 11:46 a.m.)

CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter of the State of Iowa, do hereby certify that there came before me at the date, time and place hereinbefore indicated, the witness named on the caption sheet hereof, who was by me duly sworn to testify to the truth of said witness's knowledge touching and concerning the matters in controversy in this cause; that the witness was thereupon examined under oath, the examination taken down by me in shorthand, and later reduced to computer-aided transcription under my supervision and direction, and that the deposition is a true record of the testimony given and of all objections interposed.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

Review of the transcript was not requested by the witness or any party.

Dated at Cedar Rapids, Iowa, this 27th day of September, 2018.

Julie M. Kluber

Certified Shorthand Reporter

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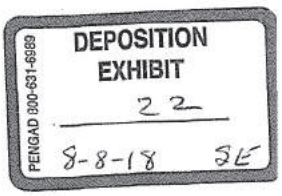
8.2 Statement on Diversity

The University of Iowa values diversity among students, faculty, and staff, and regards Equal Employment Opportunity and Affirmative Action as 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.

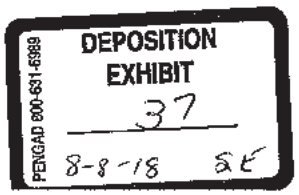
See also III-9.6 Affirmative Action Employment Guidelines.



P 000329

University of Iowa Policy on Human Rights

Tiffini Stevenson Earl, JD
Compliance Specialist
Office of Equal Opportunity and Diversity
202 Jessup Hall
335-0705 (voice); 335-0697 (text)



Overview

- Policy
- Definition of discrimination
- Protected class discrimination
- Case discussion

BLinC-Def 000929

Policy on Human Rights

…The University is guided by the precepts that in no aspect of its programs shall there be differences in the treatment of persons because of race, creed, color, national origin, age, sex, disability, sexual orientation, gender identity, 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. Among the classifications that deprive the person of consideration as an individual are those based on associational preference. These principles are expected to be observed in … in the employment of faculty and staff personnel.

IVCF App. 222

App 0146

Case 3:18-cv-00080-SMR-SBJ Document 21-2 Filed 12/13/18 Page 148 of 257

What is discrimination?

- Treating one person differently than others
  - We do it every day.
  - Only impermissible when based on a protected classification
  - Human Rights Policy allows discrimination based only on individual merit

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IVCF App. 223

App 0147

Forms of Discrimination

- Denying or negatively affecting terms or conditions of employment (employer)
  - Hiring/firing
  - Pay
  - Shift
- Harassment (employer or co-workers)
  - Conduct that a reasonable person would find to create a hostile environment

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IVCF App. 224

App 0148

Protected Classes

- Race
- Creed
- Color
- National origin
- Age
- Sex
- Disability
- Sexual orientation
- Gender identity
- Any classification that deprives a person of consideration as an individual, including associational preference

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IVCF App. 225

App 0149

Race Discrimination

- Persons distinguished as a group by physical characteristics (skin color, hair color, facial features)
- Persons distinguished as a group based on common history, nationality, or geographical distribution

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IVCF App. 226

App 0150

Creed Discrimination

- Creed:
  - a formal statement of religious belief; confession of faith.
  - a system of belief, principles, or opinions.
    - Any strongly held philosophical beliefs, even if not a recognized religion
- Duty to provide reasonable accommodation for religious practices

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IVCF App. 227

App 0151

Color Discrimination

- Based on skin color
  - between members of different races
    - Example: white person's preference for people with lighter skin, over people with darker skin
  - between members of the same race
    - Example: African-American person's preference for other African-Americans with lighter skin, over those with darker skin

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IVCF App. 228

App 0152

National Origin Discrimination

- The country from which you or your forebears came
  - ancestry
  - birthplace (not citizenship)
- Physical, cultural, or linguistic characteristics of a national origin group
  - physical appearance
  - clothing
  - language/accent

IVCF App. 229

App 0153

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National Origin: English-Only Rules

- Application of Rule
  - all times: EEOC presumes violation
  - limited times: OK if justified by business necessity
    - safety
    - communication with customers
    - communication with supervisor

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IVCF App. 230

App 0154

National Origin: Accent

- May be basis of employment decision only if materially interferes with job performance
  - ability to communicate necessary for job
    - contact with clients
    - managerial position
    - handle emergencies
  - accent materially interferes with ability to communicate

IVCF App. 231

App 0155

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Age Discrimination

- Protects persons age 40 and older
  - Does not prohibit discrimination against younger individuals

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IVCF App. 232

Sex discrimination

- Biological sex
  - Example: equal pay for equal work
  - Example: glass ceiling for women
- Sexual harassment: unwanted sexual advances or conduct
- Pregnancy
  - Cannot require pregnant workers to go on leave
  - If temporary disability due to pregnancy, treat same as other employees with temporary disabilities

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IVCF App. 233

App 0157

Disability Discrimination

- Disability: physical or mental impairment that substantially limits a major life activity
- Employer must provide reasonable accommodation for known disabilities
  - Job restructuring
  - Modified schedule
  - Assistive equipment

IVCF App. 234

App 0158

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Sexual Orientation Discrimination

- Romantic/sexual attraction or relationships with others of the same or opposite sex
  - Gay
  - Lesbian
  - Bisexual
  - Heterosexual

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IVCF App. 235

App 0159

Gender Identity Discrimination

- Regardless of biological sex, how a person views him/herself as a male or female
  - Cross-dressing
  - Transgendered

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IVCF App. 236

App 0160

Any other classification …

- Prohibits discrimination based on anything other than legitimate job-related criteria, or merit
  - Associational preference: persons or groups with whom a person associates
    - Political affiliation
    - Membership in groups, such as NRA, NAACP

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IVCF App. 237

App 0161

Discrimination Complaints

- Informal complaints
  - May be handled within department
  - Goal is to remedy the conflict and restore positive working environment
- Formal complaints
  - Investigated by EOD
  - Written findings
  - Disciplinary actions taken when appropriate

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IVCF App. 238

App 0162

Where can I go?

- UI Policies:
  - Human Rights Policy
  - Nondiscrimination Statement
- UI Resources
  - Department HR Unit Representative
  - Office of Equal Opportunity and Diversity
  - Office of the Ombudsperson
  - Faculty and Staff Services

IVCF App. 239

App 0163

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What can I do?

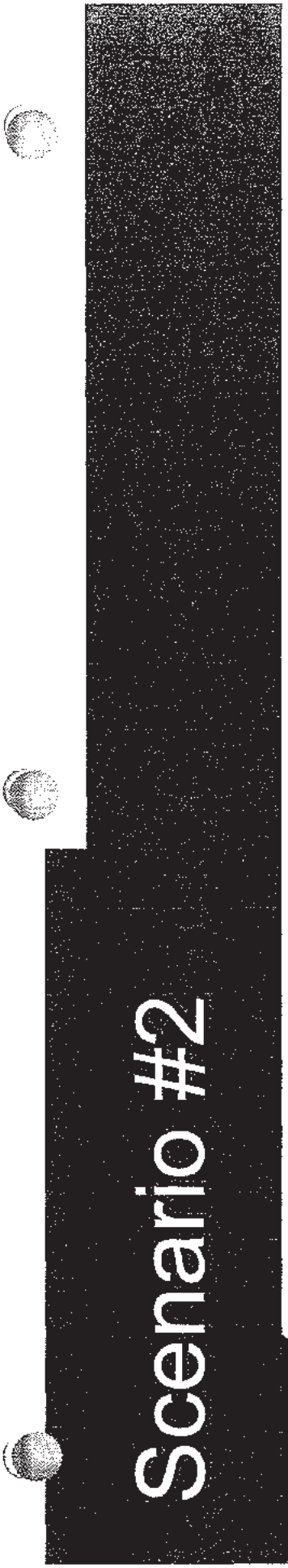
- Be aware of your own biases
- Learn about cross-cultural differences in communication style, appearance
- Interrupt comments that promote stereotypes
- Build relationships across differences
- Understand that our community is safer diverse and united, than homogeneous and mistrustful

Case 3:18-cv-00080-SMR-SBJ Document 21-2 Filed 12/13/18 Page 166 of 257

IVCF App. 240

App 0164

BLinC-Def 000949



BLinC-Def 000950

BLinC-Def 000951

Scenario #4

- An employee's photo appears in the newspaper when the employee attended a rally sponsored by an organization that advocates for the rights of gay, lesbian, and bisexual individuals. The employee's supervisor sees the photo, calls other employees' attention to the photo and the purpose of the event, and then asks the employee several times, in the presence of others, about what community organizations the employee is involved in.

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IVCF App. 244

App 0168

Center for Law & Religious Freedom

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(703) 642-1070
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www.clsnet.org

June 3, 2009

BY U.S. AND ELECTRONIC MAIL (maria-lukas@uiowa.edu)

Maria Lukas, Esq.
Senior Associate Counsel
Office of the General Counsel
The University of Iowa
120 Jessup Hall
Iowa City, Iowa 52242-1316

Re: Graduate and Professional Allocations Committee Bylaws and Christian Legal Society Eligibility for Student Activity Fee Funding

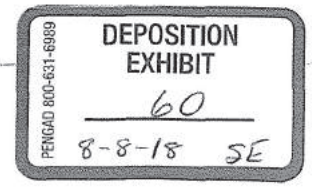
Dear Counsel:

The Center for Law & Religious Freedom represents the Christian Legal Society Chapter at the University of Iowa College of Law (CLS-Iowa). As you know, on several occasions since 2003 CLS-Iowa has communicated with your office concerning the application of University or student government policies to deny recognition or certain of its incidents to CLS-Iowa. Each time, most recently being October 2008, we have reached a mutually agreeable resolution, resulting in restoration of the chapter's recognition and all its incidents. Your office has consistently recognized CLS-Iowa's constitutional right to maintain its voting membership and leadership policies and has not permitted the chapter to be penalized for the exercise of its constitutional rights. I'm writing concerning the recently adopted bylaws of the Graduate and Professional Allocations Committee (GPAC) that conflict with your office's previous decisions and threaten once more to violate the chapter's First Amendment rights.

CLS-Iowa, as a recognized student group at the College of Law, would normally be eligible to seek student activity funding through GPAC. The recently-amended GPAC Bylaws state that "Partisan-political groups or programs and exclusive-religious groups or programs are not eligible for GPAC funding." GPAC Bylaws IV(C)(3). The bylaws define "Exclusive-religious groups" as "organizations that restrict membership or access to programming according to religious belief. Religious groups may otherwise freely express political[1] beliefs." See also GPAC Bylaws IV(D)(8) ("Religious Groups. No funding shall be provided to exclusive-religious groups.").

CLS-Iowa enthusiastically welcomes everyone to attend and participate in its programs and events. However, the group does draw its voting members and officers from among those

[1] I presume that this is an error and that the policy should state that religious groups "may otherwise freely express *religious* beliefs." (emphasis added).



who share its religious beliefs, affirming the CLS Statement of Faith. I am attaching here a copy of my letter dated October 20, 2008 which more fully discusses CLS-Iowa's membership policies as well as the constitutional concerns raised by denying incidents of recognition to the group on the basis of its exercise of its constitutional rights.

The GPAC Bylaws do not define the term "membership." However, to the extent that the GPAC Bylaws would deny student activity fee funding to CLS-Iowa because of its eligibility requirements for voting membership, this conflicts with your office's previous decisions. Most recently, your office intervened at our request and confirmed on October 29, 2008 that the Student Assembly Budgeting and Allocating Committee (SABAC) had reversed its previous decision to deny CLS-Iowa funding on the basis of its membership policies.

Your office's position in October 2008 was consistent with the University's position in 2004 when CLS-Iowa's recognition was threatened over similar concerns. In a letter dated February 20, 2004, and attached for your convenience, Associate Dean Thomas Baker stated:

> [T]he [University of Iowa] Human Rights policy does not prohibit student groups from establishing membership criteria. A student religious group is entitled to require a statement of faith as a pre-condition for joining the group. *Asking prospective members to sign the CLS statement of faith would not violate the UI Human Rights Policy.*

(emphasis in original). Mr. Baker also stated:

> Since the Human Rights Policy protects groups such as your CLS student clients from discrimination on the basis of creed, it is not necessary to formally exempt religious groups from the Human Rights Policy in order to ensure that the rights of CLS members are protected. Once recognized, the University is obliged to protect the right of CLS members to espouse the group's basic tenets.

Mr. Baker also acknowledged the distinction in University of Iowa policies between "class characteristics such as race and gender, on the one hand, and on the other hand the personal conduct of those who seek to join student organizations." "The CLS 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."

The above-cited portions of the GPAC Bylaws conflict with the University's previous interpretations of University policies and discriminate against CLS-Iowa and its members in violation of the University's Human Rights Policy. For the reasons explained in my letter dated October 20, 2008, the GPAC Bylaws, if interpreted to deny recognition to CLS-Iowa because of its voting membership policies, violate the First Amendment. We urge you to reach the same conclusion you have repeatedly reached in the past and instruct GPAC that its exclusion of religious student groups because they exercise their First Amendment rights is unconstitutional.

Furthermore, because the GPAC Bylaws single out "exclusive-religious" groups as the only student groups that may not limit their membership to persons who agree with the group's beliefs, the discrimination against religious viewpoints and its non-neutrality with respect to religion is patent. In addition to violating these groups' right of expressive association, targeting religious student groups for disfavored treatment in this manner discriminates against religious viewpoints and is a clear violation of the Free Exercise clause of the First Amendment. *Church of the Lukumi Babalu Aye v. City of Hialeah,* 508 U.S. 520, 533 (1993) (law that on its face targets religious beliefs or religious persons for disfavored treatment is subject to strict scrutiny). The GPAC policy explicitly targets the faith requirements for membership in religious student groups, requiring religious groups alone to open their membership to persons who reject the groups' viewpoints. No other groups are required by GPAC to open their membership – and thus the power to vote and control the group's direction – to those who oppose the group's views. In addition to the reasons explained in my October 2008 letter, the GPAC policy is therefore particularly objectionable.

I ask that you take appropriate steps to promptly bring the GPAC Bylaws into compliance with the University's First Amendment obligations and its previous interpretation of its own Human Rights Policy and communicate the same to me by June 17, 2009. Moreover, as this is one more in a line of several problematic policies adopted by the University or its student government constituencies, I also again reiterate my request that the University make institutional changes, including the adoption of a clear exemption from religion nondiscrimination rules for religious student groups – as many peer schools have done – so that similar incidents are not repeated.

Sincerely Yours,

s/ M. Casey Mattox
M. Casey Mattox

cc: Thomas Baker, Esq. (thomas-baker@uiowa.edu)

Christensen, Betty [AG]

From: Finger, Kristi L
Sent: Friday, February 24, 2017 3:50 PM
To: Cervantes, Constance A
Subject: FW: send to Connie- review of constitutions
Attachments: 20170224153446712.pdf; 20170224153427425.pdf

Hi Connie –
Sorry for the delay!

Attached are the scanned copies of the groups' constitution with my notes.

24-7's constitution does include a Statement of Faith, but the other one does not. The BLINC constitution does not differentiate who is eligible to vote or hold office in their organization; 24-7 does include a distinction.

Please let me know if you have any specific questions that I can answer for you.

Have a good weekend-

Kristi Finger, M.A.
she, her, hers

Student Organization Development
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Kristi-finger@uiowa.edu
http://csil.uiowa.edu

Harmony//Adaptability//Relator//Empathy//Responsibility

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Iowa City, Iowa 52242-1317
319-335-3059 Fax 319-353-2245
getinvolved@uiowa.edu

From: Cory, Anita
Sent: Monday, February 20, 2017 4:44 PM
To: Finger, Kristi L
Subject: send to Connie- review of constitutions

FYI

Anita Cory, Ph.D
she, her, hers

Associate Director, Student Organizations & Leadership Programs
Center for Student Involvement & Leadership
anita-cory@uiowa.edu
http://csil.uiowa.edu

Communication | Woo | Individualization | Positivity | Strategic

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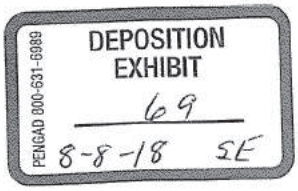

From: Cervantes, Constance A
Sent: Monday, February 20, 2017 3:29 PM
To: Cory, Anita <anita-cory@uiowa.edu>
Subject: RE: review of constitutions

Can I get the written and then decide if I need to interview her. No immediate hurry, but would like as soon as she can get to it.

Thanks much,
Connie

Constance A. Schriver Cervantes, JD
Compliance Coordinator
(319) 335-0705 (voice)
(319) 353-2088 (fax)
(319) 335-0697 (TDD)
constance-cervantes@uiowa.edu

From: Cory, Anita
Sent: Monday, February 20, 2017 2:48 PM
To: Cervantes, Constance A <constance-cervantes@uiowa.edu>
Subject: review of constitutions

Hi Connie,
My colleague will review the constitutions for compliance with UI policies for student organizations. Would you prefer to interview her to learn what she finds or have her provide a written synopsis of her review – or something else? What is your timeline?

Anita

Anita Cory, Ph.D
she, her, hers

Associate Director, Student Organizations & Leadership Programs
Center for Student Involvement & Leadership
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Title: The Constitution of Business Leaders in Christ
Preamble: Business Leaders in Christ (BLINC)
Date: April 1, 2014

Article I

Purpose:

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

Article II

Membership:

Section 1) In no aspect of its programs shall there be any difference in the treatment of persons on the basis of race, national origin, color, creed, religion, sex, age, disability, veteran status, sexual orientation, gender identity, or associational preference, 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.

Clause updated in Oct. 2014

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

Section 3) Because Business Leaders in Christ is seeking certification within the Tippie College of Business to become a recognized student organization, the target audience for this organization would be for students already admitted into the Tippie College of Business, pre-business students, or students strongly considering business as a major/minor. However, each member's role or affiliation will not be different based on their class or ties within the Tippie College of Business.

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

Should have a more detailed process.

Article III

Officers and Duties:

There will be 4 executive officer positions within Business Leaders in Christ:
1) President: The role of the President of Business Leaders in Christ will be to schedule, organize, and lead executive and large group meetings weekly. It is also their responsibility to manage all administrative issues, such as: amending the constitution, overseeing the work of the other executives, making any final decisions regarding the well-being of the student organization, and reaching out to form meaningful relationships with members of the

organization. To fulfill their responsibility, they must work closely with the Faculty advisor, emailing them updates on a weekly basis, as well as working closely with the other executives of the organization. It is the President's duty to work with the other officers to make sure all administrative work is successfully completed. In order to become President, a candidate should possess strong leadership skills (prior leadership experience is preferred), strong communication skills, and strong ethic to be able to complete all of the required duties as President.

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

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

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

Article IV

Advisor

The first advisor of Business Leaders in Christ will be Rachael Thompson, a student advisor in the Tippie College of Business (rachael-thompson@uiowa.edu). Her responsibility and the responsibility of future advisors is to be a faculty voice for the students and attempt to help the executives of Business Leaders in Christ with whatever problems they may have. The advisor should be made aware of everything that is going on within the organization by the executives, and it is recommended that they attend meetings in order to again lend their voice and input for the well-being of the organization.

In the case that Rachael Thompson will not be able to continue as an advisor in the future, a new advisor will be selected. To go through this process, the executives of that time will scour the Tippie College of Business first by sending out emails or scheduling meetings with faculty members to see if anyone would be interested. If there is more than one person interested, executives must vote for their favorite candidate; however, the vote must be unanimous. If there is no one interested within the College of Business, the search may expand outside of the college, but the same process must be followed if there is interest by more than one individual.

Article V

Meetings

Section 1) Meetings will be held once a week on Fridays from 3:30-4:30pm. Meetings will not be held during finals week or on University breaks and holidays.

doesn't need to be this specific

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

Section 3) A quorum will be constituted by 1/2 of members present.

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

Article VI

Elections

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

Section 2) Members will be notified in meeting and by email at least two weeks in advance of any upcoming election.

→ Should include more detail: • Who is eligible to vote &/or seek office • Nominations process? • Voting process?

Article VII

Finances

Section 1) There will be no dues required for membership within Business Leaders in Christ.

Section 2) All financial decisions will be made by a joint decision between, at the very least, the Treasurer and the President. Some decisions may require an executive consensus.

not allowed to have outside checking/Bank/accounts... financial paperwork...

Clause 1) All checks must be signed by both the treasurer and the president. If the president is not present, the vice-president may sign, but only with the president's permission.

Clause 2) However much money we receive in grants or gifts should be given back to the Tippie community at a minimum rate of 10 percent. ?

Clause 3) At the beginning of each fall semester a budget shall be made by the treasurer to thoughtfully allocate all funds expected throughout the end of the spring semester. The budget shall be brought forth to the executive committee and be ratified by a ¾ vote.

Clause 4) It is the duty of the executive committee, especially the treasurer, to thoughtfully pray that whatever financing we might receive would be used as God desires.

Section 3) Business Leaders In Christ is required to deposit all receipts in and make disbursements through the Student Organization Business Office, Fraternity Business Services, or Recreational Services. Upon dissolution, state money and mandatory student fees revert back to the granting organization. Inactive organizations will be considered dissolved after five years of no account activity. Revenue generated dollars or "00 funds" must be divided as stated in this Constitution and carried out by our leadership. Our organization's remaining revenue generated dollars or "00 funds" will be divided or disbursed to The University of Iowa Student Government. If this organization has dissolved and revenue generated dollars or "00 funds" have not been divided as stated in this Constitution by five (5) years from last account activity, funds in our "00 account" will revert to an account specified for this purpose within UISG/ECGPS. These funds will then be available for distribution through SABAC or GPAC guidelines in accordance with University of Iowa policy.

Article VIII

Amendments

Section I) In order to amend this document, both a ¾ vote from officers and a ⅔ vote by current members at the desired meeting is required to overturn or create changes to amendments.

Section 2) If an officer or a member wishes to amend this constitution, officers and members should be notified at least a week in advance by reading the proposed change(s) at one meeting to all members, as well as via email.

Article IX

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

CONSTITUTION OF 24-7

An Affiliated Student Group of Parkview Evangelical Free Church

Article I. Name

The name of this organization is 24-7, an affiliated student group of Parkview Evangelical Free Church, 15 Foster Road, Iowa City, Iowa 52245.

Article II. Purpose

The purpose of 24-7 are to provide Christian community for University of Iowa students, to develop an awareness and commitment to meeting needs in our community, and to encourage development of leadership skills among its members.

Article III. Equal Opportunity and Equal Access

Participation in 24-7's regular meetings and activities is open to all members of the University of Iowa community. In no aspect of its programs shall there be any difference in the treatment of persons because of race, national origin, color, creed, religion, sex, age, disability, veteran status, sexual orientation, gender identity, or associational preference, or any other classification which would deprive the person of consideration as an individual subject to Articles IV and V. 24-7 will guarantee that equal opportunity and equal access to membership, programming, facilities, and benefits shall be open to all persons subject to Articles IV and V.

OK

OK

Article IV. Statement of Faith

All Voting Members and all officers of 24-7 must agree to and affirm the following Statement of Faith:

I believe:

1. The Scriptures, both Old and New Testaments, to be the inspired Word of God, without error in the original writings, the complete revelation of His will for the salvation of men and the Divine and final authority for Christian faith and life.

2. In one God, Creator of all things, infinitely perfect and eternally existing in three persons: Father, Son and Holy Spirit.

3. That Jesus Christ is true God and true man, having been conceived of the Holy Spirit and born of the Virgin Mary. He died on the cross, a sacrifice for our sins according to the Scriptures. Further, He arose bodily from the dead, ascended into heaven, where, at the right hand of the Majesty on High, He is now our High Priest and Advocate.

4. That the ministry of the Holy Spirit is to glorify the Lord Jesus Christ and, during this age, to convict men, regenerate the believing sinner, and indwell, guide, instruct and empower the believer for godly living and service.

Article V. Members, Officers and Advisor

5.1 *Membership.* Membership in 24-7 shall be open to all University of Iowa students and any other person. Any member who completes a membership form, keeps the officers updated with his or her e-mail address, and signs the Statement of Faith set forth in Article IV shall be a Voting Member and shall be eligible to vote in elections described in this Constitution.

5.2 *Officers.* There shall be one elected President, who will appoint Growth Group Leaders, and Project Leaders (there is no limit on the number of Growth Group Leaders and Project Leaders). The officers must agree with the Purpose set forth in Article II; sign and affirm the Statement of Faith set forth in Article IV, and endeavor to live their lives in a manner consistent with the Code of Conduct set forth in Paragraph 5.4.

5.3 *Elections, Appointment, and Term.* The initial election of the President shall be held during a special meeting of Voting Members at eight o'clock p.m. on 24th day of August, 2004 at 15 Foster Road, Iowa City, Iowa. The President shall serve until the President's death or resignation or until abandonment of office. A presidential vacancy shall be filled at an election held during a special meeting of Voting Members. For the purposes of this Constitution, abandoning an office shall be defined as failing to live by the Code of Conduct set forth in Paragraph 5.4 or failing to actively discharge his or her duties. Certification of any three officers that another officer has abandoned his/her office shall be conclusive. Growth Group Leaders and Project Leaders shall be appointed by or removed by the President without the approval of or notice to any members.

5.4 *Code of Conduct.* All officers must endeavor to live their lives in a manner consistent with the Statement of Faith. Officers must abstain from all forms of sexual conduct and sexual relations outside the confines of traditional marriage and/or the advocacy thereof. Officers must exemplify the highest standards of morality as set forth in Scripture.

~~5.5 *Advisor.* The Advisor~~ shall be the Pastor of College Ministry of Parkview Evangelical Church in Iowa City, Iowa. The officers shall keep the Advisor informed of meetings, special events, financial matters, and other relevant matters.

Article VI. Meetings

shouldn't be this specific

24-7 regular meetings shall be held every Thursday at 9:00 p.m. at a place designated by the President. The officers, in consultation with the Advisor, shall determine the frequency, time and place, and agenda of any special meeting and officer meeting and shall insure that adequate notice is given of each meeting. Notice of meetings to amend this Constitution, remove officers, or fill vacancies of officers shall be given to Voting Members at least three (3) days in advance by sending notice to their last known e-mail address. A quorum shall consist of five members.

Article VII. Finances

8.1 *General.* 24-7 may raise revenues through contributions, fundraising activities, or by applying for school funds available to student groups. If 24-7 chooses to raise revenues, it shall insure that the highest standards of Christian morality and financial integrity are met. At a minimum, 24-7 shall: maintain its funds in an "00 account" set up and maintained for 24-7 by UISG; require the signatures of two officers to write a check or withdraw funds; incur financial obligations only when there is sufficient funding to honor the obligations; pay all debts in a prompt manner; and maintain accurate financial records showing all receipts and expenditures and all assets and liabilities of 24-7.

8.2 *Distribution of Money Upon 24-7 Dissolution.* Upon dissolution of 24-7, all state money and mandatory student fees revert back to the granting organization.

8.3 *Distribution of All Funds Other Than State Money and Mandatory Student Frees Upon 24-7 Dissolution.* Upon dissolution of 24-7, all funds other than state money and mandatory student fees should be divided as stated in Paragraph 8.4 and carried out by 24-7's officers. If 24-7 has dissolved and group fees have not been divided as stated in Paragraph 8.4 by 5 years from last account activity, monies in 24-7's 00 account will revert to an account specified for this purpose within UISG. These funds will then be available for distribution through SABAC guidelines in compliance with University of Iowa policy.

8.4 *Method for Distribution of All Funds Other Than State Money and Mandatory Student Frees Upon 24-7Dissolution.* Upon dissolution of 24-7, all funds other than state money and mandatory student fees shall as far as practicable be returned to the granting organization, institution, or individual. Any funds that cannot be returned to their source shall be given to a charity selected by a 75% majority of 24-7 Voting Members. The University of Iowa or UISG is not responsible for the division of student fees outlined above. 24-7 shall submit a copy of minutes which has record that 24-7 agrees this is what is to be done with the money, along with filling out the appropriate approval forms, vouchers, and tax information in the Student Organization Business Office.

Article VIII. Restrictions on Activities

24-7 shall not carry on any activities prohibited by Sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code. Without the prior written consent of the officers and the advisor, 24-7 shall not: be a voluntary party in any litigation; lobby (including the publishing or distribution of statements) or otherwise attempt to influence legislation; or participate or intervene in any political or judicial campaign on behalf of any candidate for office. No part of the net income of 24-7 shall inure to the benefit of its officers or other private persons, except that 24-7 shall be authorized to pay reasonable compensation for services actually rendered and to make payments and distributions in furtherance of its purposes.

Article IX. Amendments and Interpretation

10.1 *Amendments.* This Constitution may be amended by a three-fourths (3/4) vote of Voting Members.

10.2 *Review of Amendments by Student Organization Recognition Board.* All amendments or changes to this Constitution must be submitted to the University of Iowa Student Organization Recognition Board for review.

Article X. Force and Effect of Constitution

This Constitution shall take effect when three Principal Representatives execute them and shall remain in effect until they are amended or until 24-7 is dissolved.

CONSTITUTION ADOPTED ON: August 9, 2004. — Mandatory Clauses have been updated since then.

SIGNED:

Laura Kay Chupka
Principal Representative
Print Name:

Kathy M. Randall
Principal Representative
Print Name:

Willie Schultz
Principal Representative
Print Name:

Scott Gaskill Interview

March 24, 2017

Also present: Tom Baker, and Craig Nierman, attorney for 24:7

Scott Gaskill (SG) is not affiliated with the university. He is an advisor for 24:7. He is employed by the Parkview Evangelical Free Church (Parkview,) as a college pastor. He has been so employed for seven years as of June 2017. For three years prior to that he was employed at Parkview as the Verve Director, and ran the freshmen ministry. As college pastor, he spends 20% of his time in pastoral work at Parkview. The majority of his time is spent leading the staff team and student leader team of 24:7. He plans (I don't actually plan the weekly meetings. I just lead a team of people that oversee the weekly meetings. The weekly meetings are planned by the 24:7 worship team.) the Wed. weekly meetings of 24:7 and does the majority of teaching at the meetings. He spends 15-20 hours a week in prep time for that. He also runs the Student Leader gathering at Parkview, which meets Sunday mornings, and does mentoring. All the Parkview staff spend large chunks of time with students.

The purpose of the staff team is to deal with 24:7. The President and Vice President of 24:7 are the only ~~student leaders~~ officers in the student organization. The students lead, but with a lot of oversight. In the past the Parkview staff has nominated the leaders. Students might suggest a name for a leader at the Sunday morning meetings at Parkview or the Wed. evening meetings. For the 10 years SG has been with Parkview, the student leaders of 24:7 have also been involved in Parkview.

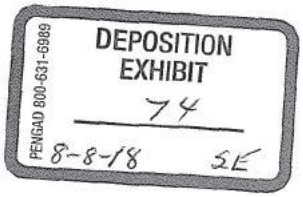
For other 24:7 leadership positions, interested students apply to Parkview on ~~social media~~ online. These are the verve leaders, servant team and campus group leaders, for the biblical communities. They eat and discuss Wed. sermons with the students, and then break off into smaller groups for accountability and preaching the gospel to one another.

The Parkview staff and some student leaders interview the applicants. The interviewer then comes back to the Parkview staff with recommendations and the Parkview staff team makes the final decisions. It is rare not to be made a leader as there are so many kinds of different positions, if the applicant agrees with Parkview's positions on the Bible. Very few have applied that do not agree with Parkview's position.

The current president of 24:7 is Kyle. He was ~~chosen~~ approved by Parkview staff. Kyle was voted in as the vice-president last year by the student leaders. This year, because we didn't know the process was in our constitution… we just slid him over to president and added a VP. There was no vote by the students this year. They may have had a hand raising to show agreement. The officers may be recommended by the students, but are ~~chosen~~ approved by the Parkview staff. SG states there has never been a time when officers recommended by Parkview were not affirmed by the student members.

There are no advisors of 24:7 on the faculty or staff of the university.

SG met Marcus Miller (MM) as a freshman. MM came into the organization knowing Jesus. He asked questions about 24:7 and took a long look at it (I think MM actually joined 24:7



immediately… not necessarily a long look). MM came from a church with a similar theology. MM played violin with the worship team. His playing was ~~visible to SG as MM worshiping~~ encouraging to SG and caused SG to worship God more.

SG first learned MM was struggling with same sex attraction in January 2016. MM had shared that with Jacob Boyd (JB) and JB asked MM if it was okay to share that with SG. SG has mentored a few students who had same sex attraction. SG stated MM came to SG in January 2016 after hearing a speaker at a Sunday morning leadership meeting, who spoke on this topic (~~whether homosexuality was a sin~~ biblical texts about homosexuality, hermeneutics and a Christian response.)

MM filled out an application for a leadership position. JB reported to SG that after MM's interview, MM asked JB what would happen if he did not still believe what he had written on the application. There is a question on the application that addresses sexual sin. SG asked JB what MM meant. MM was now looking at a revisionist point of view on homosexuality.

The traditional view is that it is only acceptable to express sexuality within the bounds ~~on~~ of a marriage between one man and one woman. The revisionists interpret four passages in the bible differently and believe it is okay to express sexuality as a homosexual, that such is not sinful.

SG then asked MM to meet with him to talk. SG met with MM in the Old Capital Mall. The meeting lasted one hour. It was a circular conversation. He and MM had a lot of similar beliefs. With respect to these four passages, SG believes the passages are clear on the fact that homosexuality is a sin. MM had yet to decide whether he would stand by that traditional or follow the revisionist view. MM called himself a "gay Christian." They discussed the use of that term. SG was uncomfortable with the term. SG stated MM was saying he had not yet decided, but MM would not have used that phrase if he had not. MM wanted to know if this would affect his role with the leadership team.

SG did not ask MM if he was acting on his belief. MM shared he was not. SG was not really concerned with that, but rather with what MM's basic theological belief was.

SG and MM talked about leadership. SG wanted MM to be part of the team but if MM was espousing this belief, it would be difficult, MM could not affirm the same beliefs as Parkview. SG stated he did not specifically say if MM was openly gay he would not be accepted as a leader. The conversation ended with SG telling MM he needed to land theologically before they talked about leadership.

They had a second meeting the next week. Justin is one of MM's peers and had told SG that SG and MM had walked away from the meeting and heard different things. Justin had asked SG about the meeting with MM and SG shared it with Justin. SG or Justin suggested another meeting. Justin said MM felt misunderstood or not heard.

The second meeting was held with SG, MM and Justin. It was on a Wednesday morning at the Old Capital Mall. SG felt the meeting was of merit. There was some clarity as a result. SG thought it went well. SG discussed it with Justin later and Justin felt it went well. SG stated MM said he was concerned he would not be offered the position unless MM was "closeted." SG told

MM that SG did not want MM to be closeted, SG wanted MM to be true to his identity. MM said he would be comfortable telling students what Parkview's position on homosexuality was if a student asked him. SG said he asked MM wouldn't he rather that he did not have to differentiate.

It was left at the end of the meeting that MM needed to decide where he landed theologically and then they could pick up the conversation after MM determined how he landed. MM understood that if he landed differently than the way Parkview thought about homosexuality, MM's role would be different. It would be hard for MM to be a campus group leader and not affirm his core identity beliefs. It would be difficult for MM to be in a leadership position and call himself a gay Christian, not espousing Parkview's core beliefs. SG was open to further conversation, no decision had been made, and MM did not pursue it further.

Those selected as leaders are invited to meetings on Sunday mornings at Parkview, the last three Sundays of the spring semester.

MM was told he could obviously still be in organization, but SG was not sure how things would work out with the leadership decision. SG stated there are others in the organization that are openly gay.

The statement of faith in the Constitution is a portion of the Statement of Faith from Parkview.

At the time of the interview, there is no difference in the organization between voting members and members. Members are not required to affirm the beliefs. Leaders are required to affirm them. The application does not state that, that is covered in the interview.

SG says his primary job is as a Pastor and the hardest thing about this is that he has not been able to communicate with MM, the university asked him not to. Some of the things said in the media are not true. MM has not lost his 24:7 friends. SG would like to talk to MM about that. SG would like an opportunity to reach out to those who are no longer friends with MM.

SG indicated in January MM had applied to be a part of the youth ministry at his church at home and Parkview supported him. MM got an internship for summer 2016. It was a messy situation. It came out over the summer that MM had a revisionist view, and SG heard that led to a messy situation at the church there. SG believes MM sees the 24:7 treatment though that lens.

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3/24/17

12:10 Scott Gaskill
affiliation UE - educator 24:7

Parkview - College Pastor - 7 yrs in June
3 yrs prior - Verve director
Dan Freshmen ministry

College Pastor -
duties - 200% pastoral at Parkview
majority - leading staff team +
student leader team
24:7 ~~intro~~ wkly meeting - dep
does maj of teaching at WLC
~20 hrs/wk prep time
student leader gathering at Parkview
Mentoring
all on staff spends large chunk
of time w/ students

staff team - purpose
to lead w/ 24:7
student leader team
pres + VP of 24:7
only leadership in org
~~Parkview~~
students led but a lot of oversight
Sun ams - student leader training

Could be - that they are
Pres + VP - ~~could be not decided~~ not part
of Parkview student group

in past have "nominated"

Kyle

Nominated at Wed nt meetings

Sun a m dnts — leader @ Parkview each 24-7
~~Appointed~~
students suggest an officer
Wed meetings or Sun meetings

for 10 yrs staff been there
officers ~~are~~ are also involved in PV

Other positions - Parkview asks people to lead
Campus group leaders
Biblical communities
eat
discuss wed sermons
break off into smaller groups
for accountability &
preaching gospel to
one another

students apply for student leadership
on social media to appl

LinC-Def 002826

campus groups
freshmen groups
servant team -

full out application
staff + some student leaders do interviews
interviewer comes back w/ rec
to staff team
staff team would make final decs
rare not to be made a leader
because so many positions
if people who agree w/ Parkview
position that applied

few have applied that don't agree w/ PV position
ex. student - wanted to be freshman
leader
engaging in pre-marital sex
confronted
would have been accepted -
even if he struggled
but did not ~~choose~~ choose to
recognize as a sin

Kyle - current pres - 14-17
was 15-16 - or was VP
chosen by staff at Parkview
Pres + VP res
have had hand raise agreement
recommended by student
Chosen by staff

BLinC-Def 002827

recommended — chosen — affirmed
never not affirmed

~~leaders~~
leaders ~~structure~~ decided by Parkview
staff — Maybe student leader —
who attend parkview

No advisors on faculty or staff at UI
not call someone for help w/ something
but not act as advisor

MM — met him as a freshman
MM came in knowing Jesus
asked questions about 24:7
gave longest book to
came from a church w/ simila-
theology
played violin w/ worship team
playing was visible as worshipping
1st learned that MM was struggling
w/ same sex attraction
in Jan 2016
MM had shared w/ Jacob
Jacob asked if OK to share w/ Seth
has mentored a few students
who had same sex attraction

BLinC-Def 002828

left ball in MM court
MM came to him - ground Jan 16
speaker in on a Sun am @ Parkview
spoke on this topic
MM came - brief conf

MM filled out app for leadership

after interview Jacob said
MM asked what if I don't
still believe what ~~about~~ wrote on app
question for everyone on apps
addresses sexual sin
asked Jacob what mean
MM now looking at revisionist
speaker - laid out - 2 views
Traditional - express sexuality within bounds of marriage
revisionist - interpret 4 passages in Bible differently - ok to express sexuality as homosexual - not sinful
(man/woman)

not ID as homosexual sin
acts themselves

asked MM to talk

BLinC-Def 002829

Appeal overt

met w mm — old Cap Mall — 1 hr
Circular Convo
a lot of similar believes
authority of scripture — 4 passages clear
mm felt difficult to interpret
mm had yet to decide
whether would stand by traditional
or revisionist
mm called himself a "gay Christian"

talked about use of phrase
unaccount — saying not decided
but, if had not — would
not have used that phrase
would affect his role w/ leadership team

Concerning that using that term

not ask if acting on belief — he shared he was not
not really concerned on that
but what his basic theological belief was

talked about leadership
wanted him to be part of team
but if not espousing beliefs would
be difficult
could not affirm same things as
Parkview
did not say if openly gay would not be
elevated as a leader

7

PLNTF-DEF 002830

where ended — in vocally espousing our view
Word ~~to~~ MM he needed to lend theologically before talked about Gadushi

Justin very receptive

2nd meeting — next wk
One of his peers knew that each had walked away & heard different things
Justin suggested 2nd meeting
Justin asked Scott re meeting or MM & Matt shared it w Justin

he or Justin suggested
Justin said MM ~~he~~ felt misunderstood or not heard

2nd meeting — MM, Justin & I
met w/ Justin on bed arms
Old Capitol Mass
felt meeting was of merit
some clarity — felt went well

Justin later thought, it went well

BLinC-Def 002831

how left – MM needed to decide where
land theologically
then pick up convo ~~time~~ after
determined how he landed

had not decided if could be a leader

MM understood if he landed dif his role
would be different
if he was given that role
had to be campus group leader
& not affirm core identity
beliefs
open to conversation
no decision made
MM did not persue further

those selected are invited to meetings ~~the~~ –
on Sunday mornings
the last 3 Sundays of spring

One other student not invited – Ty last one
Ty – decided not to – ~~[illegible]~~

MM said concerned would not be
affirmed position unless closeted
told him not want him ~~[illegible]~~
wanted him to be true to his identity

BLMC-Def 002832

MM said he would be comf - ; R stackens
asked a related question
he would say Particulars position
is this
Scott said wouldn't you rather that
you didn't have to differentiate

could not be in a position to tell MM
what he could reveal
Hadeb question
would be difficult for MM to
be in leadership & say
himself a gay Christian
not espousing Particular's core
beliefs

told him could be in org
are there an org that openly gay
not sure if could be leader

Statement of Faith
Particulars — 1st few points

No dif btwn voting members = members
members not required to affirm
leaders required to affirm
application not include BLinC-Def 002833
part of interview process

anything else –
his primary job as Pastor

hardest things – can't communicate w/ MM
Union asked not to
so hard – things said in media not true
MM says has lost friends
would like to talk to MM about
should have opp to reach out to those who
have

in Jan – MM – had applied to youth ministry
in church at home
they supported him
got internship back
summer 2016 did internship

messy situation – came out over
summer – that he had
revisionist view – heard
it was messy
thinks MM sees 24:7 treatment
those that lens

Witnesses – Justin

BLinC-Def 002834

Marcus Miller

2/16/17 – walk in

marcus-miller@uiowa.edu

cell – 515-868-7152

There are 2 university orgs he was offered leadership position in, that are religious by nature. He told them he was gay and they rescinded the offers. These happened in 2016. He is a second year Political Science major with a minor in Ethics and Public Policy.

He did not want to burn bridges at first, but now does not want this to happen to anyone else.

Set appointment for Monday 2/20/17

2/20/17 – with Steve Wehling

MM is a soph with a major in Political Science and Policy. His minor is Business. He is an RA in Daum.

The two orgs involved are both on org sync, and have constitutions on UI website. He is ok if DOS wants to do jt invest.

He questions the validity of the constitutions of BLincC and 24/7, concerning the Human Rights language. He believes leadership is part of the programming.

BlinC is not associated with any church. Hannah Thompson is the president. He joined as a freshman, at the beginning of the second semester. The org met 1 – 2 times per week and he did not disclose his sexual preference.

At the end of the spring 2016 semester Hannah had a meeting with MM and offered him the position of vice-president. Hannah was president last year (1015-16) and is again this year (2016-17.) She was very excited to offer him the position. She asked if he had any questions. MM told her he was not exactly sure if he agreed with the org's stance on marriage and told her he was gay. He knew the people in the org ascribed to a very conservative view. He asked how that would affect him, if at all. Hannah said she would have to get back to him.

Two – three weeks later he met with Hannah again. She told him she was no longer able to offer him the position. He was not allowed because he did not ascribe to what the bible says, because of his belief that a person can be gay. He then asked Hannah if he was straight and felt gay marriage was ok, would that be ok, and she said yes.

It would be ok if he accepted being gay as wrong, and did not act on it. If you are gay, you cannot be pursuing a relationship. Straight people are not mandated to be single.

After MM was told Hannah was withdrawing the leadership offer, he sent an e-mail trying to clarify her position. She indicated they would be willing to allow him to be a leader if he were single.

MM and Hannah were the only two in the meetings. There are only two e-mails. MM does not know who the advisor is.

There is no relationship between BlinC and 24/7. MM feels the same would happen if he had applied to other Christian orgs.

24/7 is affiliated with the Parkview church. MM attended there sometimes. He started going to meetings in the fall of 2015. They met 2/week. The large group met in the IMU, and there were maybe 100 people there every week, and then a small bible study group met at the Airliner on Monday. 24/7 has a fb page which is not a closed page. It is in the top 3 of the Christian groups on campus.

MM applied to lead a freshman bible study group for 2016-17. "Verve" is the freshman bible study name. He was offered the position by Jacob Boyd. Jacob is not a UI student but an intern at Parkview. Jacob is affiliated with 24/7 and is the music director for 24/7. MM applied for the position and was then interviewed. Jacob said he was impressed, and that there should be no reason he would not be selected. A formal offer was not made, but it was implied.

MM told Jacob almost the identical comment and question he told Hanna. 24/7 already knew his orientation, but because he subscribed to their beliefs, it was ok. At first when he joined the org he agreed it was a struggle, then he started to question that. They were not ok with him being actively gay. He told Jacob he had potentially changed his mind and might be open about being gay. MM felt they were ok with his sexual orientation, but only if he was hiding it.

Jacob told Scott Gaskill and then Scott wanted to speak with him. Scott is the head pastor for 24/7. He is not at the university but is on the staff at Parkview.

MM first met with Scott in the Old Capitol Mall, in the hallway. MM told Scott he was struggling with being gay and being Christian. Scott stopped MM and said the use of the word, "gay" was a red flag. Scott told MM if he was openly gay he would not be acceptable as a leader.

A second meeting was held with Scott. Justin Dodd was also present at this meeting. Justin is a friend of MM's that was also in 24/7. MM had told Justin how mad MM was at Scott. Again the meeting was held in the Old Capitol Mall, on the first floor in the open space. MM believes Scott invited Justin and wanted Justin there as a mediator.

At the second meeting MM expressed concerns about not being offered the position unless he was closeted, Scott was not ok with MM using the term, "gay." Scott wanted to frame it as "struggling with same sex attraction." MM could reveal the latter, but not engage in a relationship and not identify as "gay."

MM understood he could still be part of 24/7, but he chose not to be.

Possible witnesses: Justin, a Master's student, Hannah, Jacob and Scott. He will send other names of individuals he shared his concerns with at the time.

2/27/17 – with Tom Baker

MM called and asked if he could meet again. MM first wanted to prioritize the witnesses he had sent EOD. MM gave 4 names and this is his priority of importance: 1.) David Borer Germann, a pastor, who used to work with orgs like 24/7 and understands the words they use; 2.) Michael Anderson, a person with whom MM shared his story; 3.) Abbey Johnson and Grant Glion, both of whom he shared his experiences with as he was going through them.

MM believes that 24/7 will try to deceive. They will say it has nothing to do with his being gay but rather his beliefs about marriage. MM knows of a Verve leader, Hanna Kinney, who is straight but supports same-sex marriage.

Scott was the one who made the ultimate decision MM could not be a leader. Students have no role in making the decision.

24/7 knew he was gay, but when MM told Jacob he had started to question the 24/7 belief on gay marriage, then it became an issue. MM feels if he identified as straight, this would not have been an issue.

Justin Dodd is still in 24/7 and is a Bible Leader for upperclassmen, called "Campus Groups."

2/14/17

4:10 Marcus Miller – Marcus-miller@uiowa
Cell 515-868-7152

2 orgs – offered leadership position
religious in nature
told was gay & rescinded
happened last yr – 2016

2nd yr – Political Science
Ethics and Public Policy

did not want to burn bridges at 1st
now wants not happen to anyone else

BLinC-Def . . 0p2603

2/20/17

11:15 Marcus Miller
soph political science + policy
Minor - bus
RA - Daum

if have jt invest dif C for leadership

both three ~~Cert~~
both on org sync
Constitution

requires Art II

Constit for BLINC ~ 24/7 - questioning validity — no HR language (in Art II) see Art II

believes leadership part of programing

both approved Constitutions

BLINC - pres - Hanna Thomson
joined as fresh - not disclosed

offered position of VP
Hanna Thompson

lot assoc w any Church

at end of meeting — indiv AT asked for questions

BLinC-Def 002604

told them not exactly sure if agree on your stance on marriage & I am gay

knew they ascribed to a very [redacted] conservative view

joined beg of 2nd semester
met 1/2 wks or 1/wk

know last yr & this yr

Hanna offered UP in individ meeting w/ MM
very excited to offer
any last min questions

asked above — said how affect— if all
HT said I'll get back to you

2-3 wks later
meets again - no longer able to offer you the position

not allowing because don't ascribe to beliefs — what bible says
not orientation — but belief that a person can be gay
so then asked — if straight & felt gay marriage ok - would be ok?
she said yes

BLinC Def 002605

OK if see gay as wrong & don't act on it
if gay - have to be single to
be ptnrship team
if persuing relationship - not ok

→ straight people not mandated to be single

placing an extra req on gays
treating them dif

would say - ok to be gay & be a leader
would say ok
but not persuing relationship

will send all e-mails

after told ~~Gov~~ w/drawing leadership offer
trying to clarify position
willing to ~~be a~~ allow you to be
a leader if were single

only 2 in person meetings
only 2 - e-mails

not know who advisor is

no relationship btwn 2 orgs

BLinC-Def 002606

feels same would happen if had applied to other christian orgs

24/7
Parkview church affiliation

started going in fall of 2015
met ever 2/wk
large group - IMU + small bible study group
applied to lead fresh bible study for 2016-17

offered position — ~~not~~ UI but affiliated w/ 24/7 music dir for 24/7 100/wk
Jacob Boyd - intern @ parkview
fb page - not closed page

in top 3 of Christian ~~of~~ orgs on campus

applied & then interviewed - Jacob said impressed
should be no reason would be selected
told him almost id to what told Hanna
they already knew of his orientation
but because subscribed to their beliefs - was ok
at last agreed a struggle - then started to question - they not ok ~~for~~

BLinC Def 002607

IVCF App. 282

w/ actively being gay

told Jacob had potentially changed mind
& not be open

again - ok w/ orientation
but only if hiding it

OK w/ him being gay as long as
he felt it was wrong

Scott [redacted] Cockill - head pastor of 24/7
not UI - [redacted] on staff at Parkview

Jacob told Scott
Scott then wanted to talk to him

formal offer not made
but implicit offer

told Scott - suggesting or long discussion - MM - he stopped of what 1st real flag

1st meeting w/ Scott - Old Cap Mall in hallway
told if openly gay - would not
be acceptable as leader

2nd meeting w/ Scott - ~~same place~~ Old Cap Mall - 1st floor open space
Justin Dodd - also at meeting
friend of MMs - also in 24/7
had been telling Justin how mad
MM was at Scott

BLinC Def 002608

So 2nd meeting to discuss what happened
Scott wanted Justin to be there as mediator

MM expressed concerns about not being offered
offered pastor on Bond that
was closeted
not ok w/ using term "gay"
wanted to frame as "struggling
w/ same sex attraction"
could reveal latter
but not engage in a relationship
+ not id as gay

24/7 -
said had to affirm statement of faith
not recall having to do

Never voted on anything whole time
he was there

understood could still be part of org
just not in leadership

Chose not to be

WS - Justin - masters student - will send name
Hanna, Jacob + Scott
also - part of 24/7 - discussed w/ her -

BLinC Def 002609

2/22/17

11:15 Marcus Miller

Prioritize w's - all to 24/7

4 names: ① David Bor - pastor
he used to work in org like 24/7 + understands words they use
believes 24/7 will try to deceive — he can explain language to confess
will say had nothing to do w/ his sons gay but believes about marriage
Knows (Verve leader acceptable of Xanna Kinney same-sex marriage
disgels idea they care about the view

doe previously sent

24/7 will claim it's due to his views

② Michael Anderson - share his story?
has relevant experience w/ 24/7

③ Abby Johnson
④ Grant Gallion } same — going thru as MM experience

24/7
ppl claim nothing to w/ sexual orientation
but views on marriage

allow could be a leader if single
one leader - straight - has LBQT views

pressing Scott Baskin - pastor - on this pt
why MM subjected to ~~strict~~ strict scrutiny
his answer - mixture of both - orientation & view
Scott made ultimate dec that MM not a leader
students have no role in making dec
Jacob Boyd - intern at ~~Park~~ Parkview
he who MM had an interview w/
~~who revealed that~~
knew he was gay
but MM had adopted their Conservative beliefs
could not say gay
struggling w/ same sex attraction
told Jacob had started to question
24/7 view on gay marriage -
then became an issue
if he'd as straight feels it should not be
an issue

BLinC Def 002611

4/14/16
on back side – happened btwn meeting w/ Jacob & 1st Meeting w/ Scott

3 meetings – Jacob
Scott – 4/21
Scott

Drew – a friend who does not go to IA

written record of what happening at time shows consistency of what saying

Justin Dodd – still in 3417 – Bible Study Leader – called "Campus Groups"

Cervantes, Constance A

From: Baker, Thomas R
Sent: Wednesday, February 22, 2017 9:29 AM
To: Cervantes, Constance A; Finger, Kristi L
Cc: Redington, Lyn; Cory, Anita
Subject: 2009 Memo from VPSL re statements of faith
Attachments: 135copier20170222091614.pdf

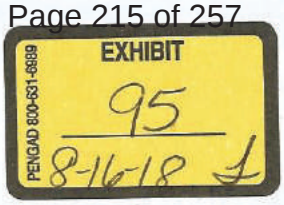
Kristi & Connie

After Kristi alerted me last week that a complaint had been filed, I checked my old files. Attached is the most recent memo I could find from the Vice President on this topic. You'll note that this memo was sent out before the US Supreme Court issued its decision in the Hastings Law College case, which had an "all comers" policy. As far as I know, the University of Iowa Human Rights Policy does not mandate an "all comers" policy, so the policy articulated in the 2009 memo regarding statements of faith is still current, as far as I know.

Tom Baker
Associate Dean of Students
319-335-1162

EXHIBIT
tabbies
94
9-20-18

BLinC-Def 002710



Hannah Thompson Interview

March 2, 2017

Also present – Susan Sager and Tom Baker

Hannah is a Sr., an undergraduate at the UI. She will graduate in May. Her major is Marketing and Management with a minor in Global Health Studies.

Hannah is a co-founder of Business Leaders in Christ, BLinC. It was founded three years ago and recognized by Tippie in 2014. Hannah was the secretary the first year, and then the President for the year 2015-16. She is again the president for the year 2016-17. Jacob Estell is the CFO, and Brett Eikenberry is the secretary. There is no vice-president now. No one was interested other than Marcus Miller (MM.)

The officers share duties. They presently have about 10-12 members. She started her position as President in May 2015. Under the Constitution, if a member has attended two meetings they are eligible to vote. At the 2016 election they had about 5-6 members. Officer positions were discussed but no formal vote was taken. They agreed on the candidates. They have no minutes of their meetings. Sarah became the secretary at the March 25, 2016 meeting, and Hannah became the president at that meeting. The CFO was determined later on. The CFO handles the money for the organization. MM was at that meeting.

BLinC has a Facebook page and sends out weekly e-mails. The meeting times are also listed on the UI student organization website. They are not associated with any church or group. Susan is their current advisor

Prior to elections, there is a process where Hannah meets with potential officers, to determine their backgrounds and decide if they fit within the Constitution, and in their behavior and beliefs.

In the spring of 2016, MM e-mailed Hannah asked about BLinC and if he could come to a meeting.[1] At a meeting they announced they were looking for officers. MM expressed an interest. MM reached out to Hannah about a leadership position. On April 7, 2016 Hannah met with MM to discuss the position. They discussed the leadership position. MM asked if he had to sign anything. Hannah asked what he meant. MM was trying to figure out his sexual orientation. MM seemed sincerely interested in the position.

After the meeting with MM, Hannah met with the other then executive members, the same day: Kolton Dames - sec, and Nate Wells – CFO. (Ricky Martinez was the VP but had not been attending meetings so he was not at this meeting.) They both asked how the meeting with MM went and Hannah explained he was gay. The three of them discussed if this was consistent with their values. They hashed it out. She then talked to others and read her bible.

[1] See *Chronology*.

There was discussion throughout the next two weeks within the Executive Committee. The team prayed about it. They were seeking wisdom about the purpose of the organization, and upholding behaviors in the leaders. They looked to the Constitution to establish what they were looking for in a leader.

MM would have been eligible but for being gay. MM would have become the VP at the April 27, 2016 meeting, by acclimation, if he had not told them he was gay.

Hannah met with MM again on 4/27. She advised him his lifestyle was inconsistent with the Bible. Pursuing a relationship with a person of the same sex was inconsistent with the Bible. MM had said he had intentions to pursue relationships with other men.

Others in the organization have relationships with the opposite sex and that is acceptable.

There is no one gay in their membership. She would encourage someone who is gay to come. They welcome all students to be members. The leadership process has to be more selective.

She has talked with the leadership team. They are required to be turning away from sin.

In August 2016, the leadership team adopted a statement of faith.[2] No signature is required. It was adopted by word of mouth by the leadership team. Then it was discussed with the membership, and they all agreed. Because MM considered himself to be gay and wanted to live openly as gay, he could not meet the last paragraph of the Vision. This document is only for leaders.

When Hannah received the May 17, 2016 e-mail from MM she discussed it with Kolton.

Hannah states that her June 22, 2016 e-mail response to MM correctly states her, and the organization's position on homosexuality and leadership in the organization. She may have asked her sister to review the e-mail before she sent it to MM.

MM did not attend any meetings after the refusal to allow him the leadership position. No offer was made to anyone else to be VP. MM could have been the VP if he had not said he was gay. He could not be a leader because of his desire to pursue a relationship. He would be demonstrating behaviors inconsistent with the Bible. If MM had said he was "struggling" with being gay, but had no intentions of pursuing a relationship with a man, she would have had to discuss it with the management team. Hannah has the final say as President

Another member recently came to Hannah and admitted that they had been going to the bars and getting drunk, and that is a sin according to the Bible. Hannah was going to talk to this person, who is a Leader, but the person came to Hannah, admitted what they had been doing and acknowledged it was wrong. The organization holds the Leadership team to a higher standard than Members.

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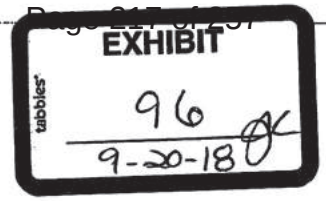
[2] See *Vision Meeting August 20, 2016*



CHRONOLOGY

February 3, 2016: Receive an email from Marcus expressing interest in BLinC.

February 6, 2016: Meet Marcus for the first time at BLinC meeting.

March 25, 2016: Sarah Catherine is elected Secretary.

March 29, 2016: Marcus contacts me seeking information about BLinC executive leadership.

April 7, 2016: Meet for the first time regarding BLinC leadership. Marcus asks if he has to sign anything in order to be on the executive team. He then goes on to tell me that he thinks he is gay. We talk about what he has been thinking about and struggling with. Discuss scripture, pray together, and I tell him I would have to get back to him and I need to discuss this with the other executive members, as I am not sure what that means for leadership.

April 25, 2016: Marcus emails me to see if I have gotten a chance to "think any more about the executive position". I ask him to meet with me.

April 27, 2016: Meet for the second time. Marcus tells me he is going to live actively as a gay man. I explain to Marcus that I have been praying about this decision, reading the Bible, consulting the executive members and other trusted acquaintances. Based on BLinC's faith and foundation in the Bible and as our authority, he cannot be on executive leadership with BLinC because his lifestyle is inconsistent with what the Bible says about sin. We talk for about an hour, pray together, read more scripture. I explain to him that we want to continue to walk closely with him and would love for him to continue to be a member. Again, pray for one another.

May 17, 2016: Receive email from Marcus saying he thinks he was wrongly denied leadership based on his sexual orientation.

June 22, 2016: Respond to his email, clarifying our conversation.

August 7, 2016: Exchange texts with Marcus, he wished me a Happy Birthday. I say thank you and ask if he would like to meet when school resumes. He says he is busy but will let me know.

January 25, 2017: See Marcus at the fair. I say hello and ask him how he is doing. He says fine. I say I've been thinking about him for awhile and have been meaning to reach out, ask if he would like to get together sometime. He says is busy. I say I understand and will still text him if anything changes.

January 26, 2017: I text him, apologize for not reaching out sooner and for a lack of support. I say that I am available if he ever needs anything and that I am still praying for him, hoping he is well.

January 27, 2017: He responds with Thanks, Hannah.

January 29, 2017: Responds to a BLinC email and asks to be removed from the list. I respond saying yes, no problem.

Hannah is familiar with the university guidelines for organizations. The language says in "no aspect of programs." Hannah stated that if someone came to her and was struggling with a sin she would say that person could not be on the leadership of BLinC. She believes MM had equal access to membership, but leadership is a benefit. Based on her leadership screening process, she met with all potential leaders to find out where they are in their walk, identify what they were struggling with, and determine whether they were pursuing a relationship with Christ. Because MM was gay he was not growing and pursuing a relationship with Christ. MM's possible election as VP was never put to the members for a vote due to the screening that Hannah had with him.

Hannah reiterated that it was not her intention to prohibit a gay person, or someone getting drunk, but she seeks Leaders using Christ as a foundation. If there were no standards for Leadership, individuals that are repentant of their sin, if they don't have Leaders that fulfill that purpose, what is their purpose?

They ask their Leaders if there is something they are struggling with, and if they confess and repent, then it is ok. She will follow up with them. They are a close community, so it is not out of the ordinary to discuss each other's sins within the Leadership group.

Hannah sees a difference between a church and a student organization. An organization gets funding from the UI.

Possible witnesses: Brett and Jacob, but neither involved in decision not to allow MM to be VP.

VISION MEETING AUGUST 20, 2016

- **DOCTRINE OF SCRIPTURE:** The Bible is God's unique revelation to mankind, the inspired, infallible Word of God. As such, it is the supreme and final authority and without error in what it teaches and affirms. No other writings are vested with such divine authority.
- **DOCTRINE OF GOD:** There is only one true God. He exists eternally as three persons — Father, Son, and Holy Spirit — each fully God yet each personally distinct from the other. God is the creator of everything.
- **DOCTRINE OF SIN:** Everyone, regardless of race, gender, social class, or intellectual ability, is created in God's image and for communion with God. But because of sin, that communion was broken and all of humanity was separated from God, the source of all life. Because of the fall, everyone deserves God's judgment.
- **DOCTRINE OF SALVATION:** Jesus Christ is the Way, the Truth, and the Life, and God gives salvation and eternal life to those who trust in him. Salvation cannot be earned through personal goodness or human effort. It is a gift that is received by repentance, faith in Christ, his death on the cross, resurrection from the grave and testified through baptism.
- **DOCTRINE OF JUDGEMENT:** At the final judgment, unbelievers will be separated from God into condemnation. Believers will be received into God's loving presence.
- **DOCTRINE OF CHRIST:** Jesus Christ, the second Person of the Trinity, was conceived by the Holy Spirit, born of the Virgin Mary — he was God in human flesh. He lived a sinless human life, yet willingly took upon himself our sins by dying in our place and on our behalf. He rose bodily, victorious over death. He ascended to Heaven and is at the right hand of the Father as the believer's advocate and mediator. Someday, he will return to consummate history and to fulfill the eternal plan of God.
- **DOCTRINE OF THE HOLY SPIRIT:** The Holy Spirit, the third Person of the Trinity, convicts the world of sin and gives new life to those who trust in Jesus. He indwells all believers and is available to empower them to lead Christ-like lives. The Spirit gives them spiritual gifts with which to serve fellow believers and reach out to a lost and needy world.
- **DOCTRINE OF THE CHURCH:** All believers are members of the body of Christ, the one true church universal. Spiritual unity is to be expressed among Christians by acceptance and love of one another across ethnic, cultural, socio-economic, national, generational, gender, and denominational lines. The local church is a group of believers who gather for worship, prayer, instruction, encouragement, mutual accountability, community with each other, and as a witness to the world.
- **As I hold an Executive position with Business Leaders in Christ, I commit to live a life in which I turn from my sin and actively choose the biblical principles of Godly sanctification and righteousness. If and when I misstep, I will confess my struggle to God and to a member of the Business Leaders in Christ executive board acknowledging that I choose to receive grace and forgiveness from God and from others, and turn from my sin.**

BLinC-Def 002770

Title IX Reporting

Sexual Harassment/Sexual Assault/Title IX Reporting

UNI encourages those who have experienced any form of sexual harassment or assault to report the incident [https://publicdocs.maxient.com/incidentreport.php?UnivofNorthernIowa] to the University Title IX Officer or any of the designated Title IX Deputy Coordinators. You may also file separate criminal charges by contacting UNI Police at 319.273.2712. Other resources are available at uni.edu/safety [http://www.uni.edu/safety].

Title IX Officer
Leah Gutknecht
Assistant to the President for Compliance and Equity Management
Office of Compliance and Equity Management
117 Gilchrist, Campus Code 0028
319.273.2846
leah.gutknecht@uni.edu [mailto:leah.gutknecht@uni.edu]

5/25/17
10:50 -
Leah
Not recall ever came up

Deputy Title IX Coordinators

For complaints against students:
Leslie Williams
Dean of Students
Dean of Students Office
118 Gilchrist, Campus Code 0010
319.273.2332
leslie.williams@uni.edu [mailto:leslie.williams@uni.edu]

For complaints involving Department of Athletics:
Christina Roybal
Sr. Associate Athletic Director
Athletics Administration
North DOME, Campus Code 0310
319.273.2556
christina.roybal@uni.edu [mailto:christina.roybal@uni.edu]

To file a report:
Incident Reporting Form [https://cm.maxient.com/reportingform.php?UnivofNorthernIowa&layout_id=1]
Please note that failure to identify all relevant parties may limit the University's ability to adequately respond to your complaint.

Individuals with complaints of this nature also always have the right to file a formal complaint with the U.S. Department of Education, Office for Civil Rights:
Chicago Office
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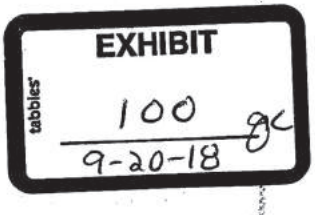
Suite 1475
Chicago, IL 60661-4544



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Foreman, Margo Rita

Title: Director of Equal Opportunity

Dept: Equal Opportunity Office

Email: mrforema@iastate.edu

Office

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Are Black People Cursed? The Curse of Ham

Tony Evans | January 18, 2010

Because Ham was the father of black people, and because he and his descendants were cursed to be slaves because of his sin against Noah, some Christians said, "Africans and their descendants are destined to be servants, and should accept their status as slaves in fulfillment of biblical prophecy." (4)

Now there existed a myth of inferiority with apparent biblical roots. This theological basis provided the raw material necessary to convince the slaves that to resist their assigned inferior status was to resist the will of God. This myth became an authoritative myth because it was rooted in theology, and slave owners used this twisted theology to sustain a perverted sociology. This process is known as sacralization, the development of theological and religious beliefs to serve the interest of a particular ethnic or racial group.

I knew that something did not sound right about the curse of Ham theory when I first heard it as a teenager. A white minister was giving me the biblical reason why my people and I had to endure the humiliation of American racism. Because I couldn't prove otherwise and because my favorite Bible, the famous Old Scofield Reference Bible (5), which had become the official version of American fundamentalism, endorsed the curse of Ham theory, I had little recourse other than to accept it. After all, those promoting it were "trained" in the Bible and theology at the finest fundamentalist institutions in our country-institutions, by the way, . at that time would not allow blacks to enroll as students. With the endorsement of the Old Scofield Bible, coupled with the legal status of American segregation, the myth was firmly established and embedded in the American psyche.

Never mind, of course, that the Bible says that Canaan, Ham's son, was cursed, not Ham himself. Thus, only one of Ham's four sons, not all four, were cursed. How then could all black people everywhere be cursed?

Never mind that the Bible places limitations on curses-only three or four generations at most (Ex. 20:5).

Never mind that the curse on Canaan and his descendants-"Now there, you are cursed, and none of you shall be freed from being slaves"-finds its most obvious fulfillment in the ongoing defeat and subjugation of Canaan by Israel (Josh. 9:23; 1 Kings 9:20-21).

Never mind that the descendants of Ham's other sons-Cush, Mizraim, and Put-have continued to this day as national peoples in Ethiopia (Cush), Egypt (Mizraim), and Libya (Put).

And never mind that God says that curses based on disobedience are reversed when people repent and turn again to obedience (Ex. 20:6). This is certainly sufficient to negate the Christian endorsement of the American enslavement of black Christians.

Myths, however, do not need facts; they simply need supporters. Because the myth of inferiority needed as much theological support as possible to make it stick, some Christians turned to the New Testament to corroborate the Testament verses on masters and slaves. These people quoted biblical passages on slaves submitting to their masters (e.g., Eph. 6:5-8; Col. 3:22)to contemporize the myth to the economic framework of the New World.

BLinC-Def 002716

The Puritans were attempting to turn America into the "city set on a hill," the manifestation of the prophesied kingdom of God on earth. Slavery provided an economic base for implementing this theology, even among some of the theological and religious heroes of the colonial era. Some of the noted New England leaders who endorsed this perspective of slavery were George Whitefield, John Davenport, Evera Styles, and Jonathan Edwards. (6) They attempted to teach the slaves to docilely accept their inferior status, for to do so was the will of God. To fail to do so was to rebel against God and risk eternal punishment. (7)

With this comprehensive "biblical" strategy, the myth of inferiority took theological wings. These Christians forgot that the apostle Paul told masters to treat converted slaves as equal brothers in Christ (Philem. 1:15-16). They forgot that the apostle Paul said that slaves had the right to try to change their status (1 Cor. 7:21). And they forgot that the masters' authority over slaves was limited.

It was not within the mater's rights to treat a slave in an inhumane manner. Masters were to apply the Golden Rule to slaves and were not to treat them as children of a lesser god. The God who rules both heaven and earth will show no partiality to those who commit evil against humankind, whether slave or free.

The colonial Christians forgot Paul's writing to the Ephesians, which says, "For He Himself is our peace, who has made both one, and has broken down the middle wall of separation, having abolished in His flesh the enmity" (Eph. 2:14-15). Barriers no longer exist between people's fellowship with God or each other, Paul said,

They forgot the biblical truth that to be members of the body of Christ means that preferences based on class, culture, or race are totally unacceptable to God, and people who make such preferences are candidates for His judgment (James 2:9-13). Such biblical data, however, would not support the inferiority myth. Adding such biblical references would be telling the whole truth, and truth and myth do not mix very well. Therefore, early Americans had to be selective about what Bible verses to use to establish a theological basis to justify slavery and perpetuate the inferiority myth.

FOOTNOTES:

4. C.F. Keil and F. Delitzsch take this view when they write, "The Phoenicians, along with the Carthaginians and the Egyptians, who all belonged to the family of Canaan, were subjected by the Japhetic Persians, Macedonians, and Romans; and the remainder of the Hamitic tribes either shared the same fate, or still sigh, like the Negroes, for example, and other African tribes, beneath the yoke of the most crushing slavery." See "The Pentateuch" in Commentary on the Old Testament (Grand Rapids: Wm. B. Eerdmans, 1987), vol. 1, 178.

5. See Beyond Roots II: If Anybody Asks You Who I Am (Wenonah, N.J.: Renaissance Productions, 1990), 89-92, for my fuller refutation to the curse of Ham and its relationship to the Old Scofield Reference Bible.

6. William W. Sweet, The Story of Religion in America (Grand Rapids: Baker Book House, 1973), 170, 285.

7. See Charles V. Hamilton, The Black Preacher in America (New York: William Morrow and Co., 1972), 37-46, for a summary of how the slaves responded to this strategy.

From LET'S GET TO KNOW EACH OTHER (pages 6-9) by Dr. Tony Evans, Thomas Nelson Publishers. Available from The Urban Alternative, PO Box 4000, Dallas TX 75208.

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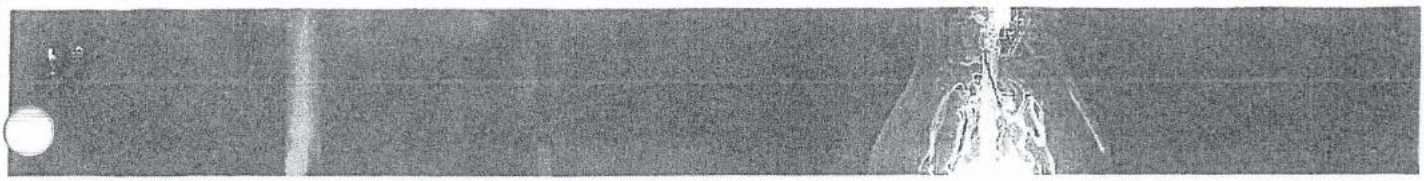

The Biblical Portrait of Women: Setting the Record Straight

Articles

Leviticus 19:3, Exodus 20:12, Genesis 1:27; 5:1-2, Ephesians 5:23, 1 Peter 3:7, Proverbs 12:4

A265 *Aug 18, 2016*

PRINT PDF EMAIL

The Bible is, and has always been, a revolutionary book. It stands like a coastal rock cliff to resist the surging, crashing waves of cultural change. And there may be no clearer demonstration of the Bible's immutable word than what it teaches about genuine femininity.

The Bible rightly exalts women against cultures that distort, degrade, and debase them. Many in our society tout the sexual and reproductive liberation of women against the supposed oppressive, outmoded strictures of the Bible. I have to ask, "In what way are women truly free? In what way does our culture honor them?" Sure they can vote; sure they have opportunities to compete in the marketplace. But are they really free? Is their dignity and honor intact?

I contend that women are used and abused more today than at any time in history. Pornography turns women into objects and victims of dirty, cowardly Peeping Toms who leer at them with greedy eyes. Throughout the world, women are traded like animals for sexual slavery. In more

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Gottes Plan für jüngere Frauen, Teil 1 (German)

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God's High Calling for Women

God's High Calling for Women

Twelve Extraordinary Women

Twelve Extraordinary Women

BLinC-Def 002719

"civilized" places, men routinely use women for no-consequence, no-commitment sex only to leave them pregnant, without care and support. Abortion rights groups aid and abet male selfishness and irresponsibility, and they "free" women to murder their unborn children. Women are left alone, emotionally scarred, financially destitute, and experientially guilty, ashamed, and abandoned. Where's the freedom, dignity, and honor in that?

Modern technological advances have enabled the culture to mainstream the degradation of women like never before; but ancient cultures were no better. Women in pagan societies during biblical times were often treated with little more dignity than animals. Some of the best-known Greek philosophers—considered the brightest minds of their era—taught that women are inferior creatures by nature. Even in the Roman Empire (perhaps the very pinnacle of pre-Christian civilization) women were usually regarded as mere chattel—personal possessions of their husbands or fathers, with hardly any better standing than household slaves. That was vastly different from the Hebrew (and biblical) concepts of marriage as a joint inheritance, and parenthood as a partnership where *both* father and mother are to be revered and obeyed by the children (Leviticus 19:3).

Pagan *religion* tended to fuel and encourage the devaluation of women even more. Of course, Greek and Roman mythology had its goddesses (such as Diana and Aphrodite). But don't imagine for a moment that goddess-worship in any way raised the status of women in society. The opposite was true. Most temples devoted to goddesses were served by sacred prostitutes—priestesses who sold themselves for money, supposing they were performing a religious sacrament. Both the mythology and the practice of pagan religion have usually been overtly demeaning to women. Male pagan deities were capricious and sometimes wantonly misogynistic. Religious ceremonies were often blatantly obscene—including such things as erotic fertility rites, drunken temple orgies, perverted homosexual practices, and in the very worst cases, even human sacrifices.

Contrast all of that, ancient and contemporary, with the Bible. From cover to cover, the Bible exalts women. In fact, it often seems to go out of the way to pay homage to them, to ennoble their roles in society and family, to acknowledge the importance of their influence, and to exalt the virtues of women who were particularly godly examples.

From the very first chapter of the Bible, we are taught that women, like men, bear the stamp of God's own image (Genesis 1:27; 5:1-2)—men and

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women were created equal. Women play prominent roles in many key biblical narratives. Wives are seen as venerated partners and cherished companions to their husbands, not merely slaves or pieces of household furniture (Genesis 2:20-24; Proverbs 19:14; Ecclesiastes 9:9). At Sinai, God commanded children to honor *both* father and mother (Exodus 20:12).

Of course, the Bible teaches divinely ordained role distinctions between men and women—many of which are perfectly evident from the circumstances of creation alone. For example, women have a unique and vital role in childbearing and the nurture of little ones. Women themselves also have a particular need for support and protection, because physically, they are "weaker vessels" (1 Peter 3:7 NKJV). Scripture establishes the proper order in the family and in the church accordingly, assigning the duties of headship and protection in the home to husbands (Ephesians 5:23) and appointing men in the church to the teaching and leadership roles (1 Timothy 2:11-15).

Yet women are by no means marginalized or relegated to any second-class status. The Bible teaches women are not only equals with men (Galatians 3:28), but are also set apart for special honor (1 Peter 3:7). Husbands are commanded to love their wives sacrificially, as Christ loves the church—even, if necessary, at the cost of their own lives (Ephesians 5:25-31). The Bible acknowledges and celebrates the priceless value of a virtuous woman (Proverbs 12:4; 31:10; 1 Corinthians 11:7).

Christianity, born at the intersection of East and West, elevated the status of women to an unprecedented height. Jesus' disciples included several women (Luke 8:1-3), a practice almost unheard of among the rabbis of His day. Not only that, He *encouraged* their discipleship by portraying it as something more needful than domestic service (Luke 10:38-42). In fact, Christ's first recorded, explicit disclosure of His own identity as the true Messiah was made to a Samaritan woman (John 4:25-26). He always treated women with the utmost dignity—even women who might otherwise be regarded as outcasts (Matthew 9:20-22; Luke 7:37-50; John 4:7-27). He blessed their children (Luke 18:15-16), raised their dead (Luke 7:12-15), forgave their sin (Luke 7:44-48), and restored their virtue and honor (John 8:4-11). Thus He exalted the position of womanhood itself.

It is no surprise therefore that women became prominent in the ministry of the early church (Acts 12:12-15; 1 Corinthians 11:11-15). On the day of Pentecost, when the New Testament church was born, women were there

with the chief disciples, praying (Acts 1:12-14). Some were renowned for their good deeds (Acts 9:36); others for their hospitality (Acts 12:12; 16:14-15); still others for their understanding of sound doctrine and their spiritual giftedness (Acts 18:26; 21:8-9). John's second epistle was addressed to a prominent woman in one of the churches under his oversight. Even the apostle Paul, sometimes falsely caricatured by critics of Scripture as a male chauvinist, regularly ministered alongside women (Philippians 4:3). He recognized and applauded their faithfulness and their giftedness (Romans 16:1-6; 2 Timothy 1:5).

Naturally, as Christianity began to influence Western society, the status of women was dramatically improved. One of the early church fathers, Tertullian, wrote a work titled *On the Apparel of Women*, sometime near the end of the second century. He said pagan women who wore elaborate hair ornaments, immodest clothing, and body decorations had actually been forced by society and fashion to abandon the superior splendor of true femininity. He noted by way of contrast that as the church had grown and the gospel had borne fruit, one of the visible results was the rise of a trend toward modesty in women's dress and a corresponding elevation of the status of women. He acknowledged that pagan men commonly complained, "Ever since she became a Christian, she walks in poorer garb!" Christian women even became known as "modesty's priestesses." But, Tertullian said, as believers who lived under the lordship of Christ, women were spiritually wealthier, more pure, and thus more glorious than the most extravagant women in pagan society. Clothed "with the silk of uprightness, the fine linen of holiness, the purple of modesty," they elevated feminine virtue to an unprecedented height.

Even the pagans recognized that. Chrysostom, perhaps the most eloquent preacher of the fourth century, recorded that one of his teachers, a pagan philosopher named Libanius, once said: "Heavens! What women you Christians have!" What prompted Libanius's outburst was hearing how Chrysostom's mother had remained chaste for more than two decades since becoming a widow at age twenty. As the influence of Christianity was felt more and more, women were less and less vilified or mistreated as objects for the amusement of men. Instead, women began to be honored for their virtue and faith.

In fact, Christian women converted out of pagan society were automatically freed from a host of demeaning practices. Emancipated from the public debauchery of temples and theaters (where women were

systematically dishonored and devalued), they rose to prominence in home and church, where they were honored and admired for feminine virtues like hospitality, ministry to the sick, the care and nurture of their own families, and the loving labor of their hands (Acts 9:39).

That's always been the trend. Wherever the gospel has spread, the social, legal, and spiritual status of women has, as a rule, been elevated. When the gospel has been eclipsed (whether by repression, false religion, secularism, humanistic philosophy, or spiritual decay within the church), the status of women has declined accordingly.

Even when secular movements have arisen claiming to be concerned with women's rights, their efforts have generally been detrimental to the status of women. The feminist movement of our generation, for example, is a case in point. Feminism has devalued and defamed *femininity*. Natural gender distinctions are usually downplayed, dismissed, despised, or denied. As a result, women are now being sent into combat situations, subjected to grueling physical labor once reserved for men, exposed to all kinds of indignities in the workplace, and otherwise encouraged to act and talk like men. Meanwhile, modern feminists heap scorn on women who want family and household to be their first priorities; in so doing they disparage the role of motherhood, the one calling that is most uniquely and exclusively feminine. The whole message of feminist egalitarianism is that there is really nothing extraordinary about women. That is certainly not the message of Scripture. Scripture honors women *as women*, and it encourages them to seek honor in a uniquely feminine way (Proverbs 31:10-30).

Scripture never discounts the female intellect, downplays the talents and abilities of women, or discourages the right use of women's spiritual gifts. But whenever the Bible expressly talks about the marks of an excellent woman, the stress is always on feminine *virtue*. The most significant women in Scripture were influential not because of their careers, but because of their *character*. The message these women collectively give is not about "gender equality"; it's about true feminine excellence. And that is always exemplified in moral and spiritual qualities rather than by social standing, wealth, or physical appearance.

And that's setting the record straight. Far from denigrating women, the Bible promotes feminine freedom, dignity, and honor. Scripture paints for every culture the portrait of a *truly* beautiful woman. True feminine beauty

is not about external adornment, "arranging the hair, wearing gold, or putting on fine apparel"; *real* beauty is manifest instead in "the hidden person of the heart ... the incorruptible beauty of a gentle and quiet spirit, which is very precious in the sight of God" (1 Peter 3:3-4 NKJV).

Adapted from Twelve Extraordinary Women.

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5/25/17

Georgina x Jennifer

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Write - how landing

EXHIBIT
tabbies
101
9-20-18

Christensen, Betty [AG]

From: Cervantes, Constance A
Sent: Friday, May 26, 2017 12:42 PM
To: Baker, Thomas R
Subject: Student orgs

Follow Up Flag: Follow up
Flag Status: Completed

Tom,

Thanks again for meeting with me this morning.

In our meeting you mentioned a letter sent by attorneys for CLS shortly after the opinion in Christian Legal v. Martinez was issued. Do you have, or know where I could obtain a copy of that letter? Also, do you know if anyone from the university sent a response? If so, do have, or know where I could obtain a copy of that response?

Thanks,
Connie

Constance A. Schriver Cervantes, JD
Compliance Coordinator
(319) 335-0705 (voice)
(319) 353-2088 (fax)
(319) 335-0697 (TDD)
constance-cervantes@uiowa.edu

EXHIBIT
tabbies
103
9-20-18

DATE 6/26/17

PURPOSE

CUE COLUMN

10:50

NOTES

Tom Baker

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prob in policies + regulations

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his assertion of sexual orientation

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did they ask others?
like pre-marital sex

SUMMARY

EXHIBIT
tabbies
106
9-20-18

MEMORANDUM

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

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

DATE: June 30, 2017

SUBJECT: Finding on formal complaint of discrimination

I. SUMMARY

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

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

II. FINDING

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

III. BACKGROUND

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

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

In addition to Complainant, the following witness was interviewed:

- Student B, President, BLinC

The following documents were reviewed:

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

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

IV. SUMMARY OF REMEDY REQUESTED, ALLEGATIONS AND RESPONSES

Remedy Requested

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

Allegations

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

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

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

Responses

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

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

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

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

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

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

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

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

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

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

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

Article II

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

Article III

Officers and Duties:
There will be 4 executive officer positions within Business Leaders in Christ:
1) President...
2) Vice President...
3) Treasurer...
4) Secretary...

Article VI

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

V. APPLICABLE POLICIES

Policy on Human Rights:

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

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

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[1] All university registered student organizations are required to follow the Registered Student Organization Constitutional Standards and Guidelines, http://csil.uiowa.edu/manage/new-organization-constitutional-guidelines/.
Under those guidelines, the university's Human Rights Clause must be included and must be written in a student organization's Constitution exactly as follows: *In no aspect of its programs shall there be any difference in the treatment of persons on the basis of race, creed, color, religion, national origin, age, sex, pregnancy, disability, genetic information, status as a U.S. veteran, service in the U.S. military, sexual orientation, gender identity, associational preferences, or any other classification which would deprive the person of consideration as an individual. The organization will guarantee that equal opportunity and equal access to membership, programming, facilities, and benefits shall be open to all persons. Eighty percent (80%) of this organization's membership must be composed of UI students.*
The clause in BLinC's Constitution does not meet the present language requirements, which were updated in October 2014.

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

VI. ANALYSIS AND CONCLUSION

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

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

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

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

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

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

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

VII. APPEAL PROCEDURES

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

Complainant. Appeals must be made electronically or in writing[3] and submitted together with all supporting documentation to the Office of Equal Opportunity and Diversity within ten (10) university business days of the receipt of the finding. Generally within two (2) university business days, the Office of Equal Opportunity and Diversity will transmit the notice of appeal and the case record to the appropriate appeal officer, as described on the Office of Equal Opportunity and Diversity website: http://diversity.uiowa.edu/policies/discrimination-complaint-procedures.

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

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

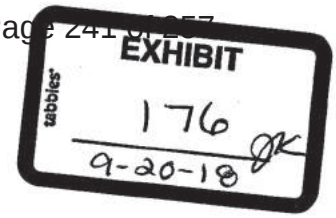
For complaints that conclude in a finding that there is a reasonable basis to believe that a policy violation has occurred and sanctions have been imposed, Respondents may appeal such findings through the grievance procedures applicable to them. The Respondent may challenge any sanctions imposed as a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

VIII. NOTE ON CONFIDENTIALITY AND RETALIATION

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

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

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



Title: The Constitution of Love Works
Preamble: Love Works
Date: INSERT

Article I

Name: The name of our organization is "Love Works." It is an affiliated student group of Sanctuary Community Church, located at 2205 E Grantview Drive. Coralville, IA 52241

Purpose:
Love Works purpose is to foster a safe, inclusive environment for all that is conducive to people experiencing God in real ways. Love Works will be anchored in the Gospel, and will meet every other week on a regular basis for Bible studies, as well as twice a month to volunteer and serve our community. Using Jesus as our model, we seek to advocate for justice in all aspects of society, including but not limited to racial, LGBT, and socioeconomic issues.

Article II

Membership:
Section 1) *In no aspect of its programs shall there be any difference in the treatment of persons on the basis of 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.*

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

Section 3) Membership of Love Works is open to all students at the University of Iowa.

Article III

Officers and Duties:
There will be 4 executive officer positions within Love Works. In order to be an executive, they must sign and agree to the Mission and Statement of Core Beliefs of Love Works as outlined in article IV. The 4 executive officer positions are as follows:
1) President: The role of the President of Love Works will be to schedule, organize, and lead executive and large group meetings weekly. It is also their responsibility to manage all administrative issues, such as: amending the constitution, overseeing the work of the other executives, making any final decisions regarding the well-being of the student organization, and reaching out to form meaningful relationships with members of the organization. To fulfill their responsibility, they must work closely with the College Pastor, emailing them updates on a

weekly basis, as well as working closely with the other executives of the organization. It is the President's duty to work with the other officers to make sure all administrative work is successfully completed. In order to become President, a candidate should possess strong leadership skills (prior leadership experience is preferred), strong communication skills, and strong ethic to be able to complete all of the required duties as President.

2) Vice President: The primary role of the Vice President will be to organize, plan, and promote two volunteer/ service projects a month. The Vice President must work closely with the rest of the executive board to ensure consensus as to where Love Works is volunteering. The Vice President should be comfortable reaching out to leaders in the community to learn about the different opportunities Love Works has to serve.

3) Secretary: The primary role of the Secretary is to manage our 00 account, as well as work closely with the college Pastor to ensure all finances are going well. The treasurer is also responsible for applying for grants, or funding from the UISG whenever Love Works needs funding. The Secretary is also responsible for keeping track of attendance, and managing the excel spreadsheet of its members.

4) Public Relations Director: The main role of the secretary would be to market Love Worls. They should send out emails to members reminding them of upcoming events, post on the Facebook page, and tweet about what is going on within Love Works. Also, during meetings, the public relations director should record minutes. Lastly, the public relations director is responsible for spearheading the student org fairs and promoting the group. Candidates considering the position of secretary should be organized and good communicators.

Article IV

Mission & Statement of Core Beliefs

Mission

To provide a space where people of all backgrounds can come to experience God in real ways and to share the good news of Jesus with not only everyone at the University of Iowa, but also those in our local communities.

Core Beliefs

1. Jesus-Centered: Jesus will be at the center of everything we do. His life and teachings provide a model worthy of imitation, and we believe through the life, death, and resurrection of Jesus, we can experience great joy and freedom.
2. Inclusivity: We believe that Jesus was the ultimate example of someone who reaches out to the marginalized. We stand in full support of those who are victims of

systemic oppression. We welcome full participation in our organization, regardless of race, gender, sexual orientation, gender identity, or ability, and affirm those in the LGBTQ+ community who have been pushed aside from many other faith communities.

3. Service: Jesus came to serve rather than be served. Thus, we place a high emphasis on volunteering. We will seek to share Christ's love with those in our community in tangible ways.
4. Life together: We believe God instilled in us the desire to be in community with others. We want to do life together, and foster an environment where sharing our fears, our successes and our struggles honestly is normalized and encouraged.

Article V

Meetings

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

Section 2) Volunteer opportunities will be throughout the semester, as outlined in the Vice President description under Article III.

Article VI

Elections

Section 1) Elections for the Executive Board will be held once a year during the Spring Semester to elect for the following school year.

Section 2) Eligible voters are those who have attended at least 50% of meetings. This will be documented and verified by Secretary.

Section 3) The winner of the elections shall be the candidate who receives a plurality of votes. Should there be a tie, there shall be a re-vote, considering only those who are tied. Should that not solve things, the executive board shall interview the candidates and come to a consensus of who shall be granted the position.

Section 4) Members will be notified in meeting and by email at least two weeks in advance of any upcoming election.

Article VII

Finances

8.1 General. Love Works may raise revenues through contributions, fundraising activities, or by applying for school funds available to student groups. At a minimum, Love Works shall: maintain its funds in an "00 account" set up and maintained for Love Works by obligations only when there is sufficient funding to honor the obligations; pay all debts in a prompt manner; and maintain accurate financial records showing all receipts and expenditures and all assets and liabilities of Love Works.

8.2 Distribution of Money Upon Love Works Dissolution. Upon Dissolution of Love Works, all state money and mandatory student fees revert back to the granting organization.

8.3 Distribution of All Funds Other Than State Money and Mandatory Student Frees Upon Love Works Dissolution. Upon dissolution of Love Works, all funds other than state money and mandatory student fees should be divided as stated in paragraph 8.4 and carried out by all Love Works' officers. If Love Works has dissolved and group fees have not been divided as stated in Paragraph 8.4 by 5 years from last account activity, monies in Love Works' 00 account will revert to an account specified for this purpose within UISG. These funds will then be available for distribution from SABAC guidelines in compliance with University of Iowa policy.

8.4 Methods for Distribution of All Funds Other Than State Money and Mandatory Student Frees Upon Love Works Dissolution. Upon dissolution of Love Works, all funds other than state money and mandatory student fees shall as far as practicable be returned to the granting organization, institution, or individual. Any funds that cannot be returned to their source shall be given to a charity selected by 75% of Love Works members. The University of Iowa or UISG is not responsible for the division of student fees outlined above. Love Works shall submit a copy of minutes which has record that Love Works agrees this is what is to be done with the money, along with filling out the appropriate approval forms, vouchers, and tax information in the Student Organization Business Office.

Article VIII

Amendments

Section I) In order to amend this document, both a ¾ vote from officers and a ⅔ vote by current members at the desired meeting is required to overturn or create changes to amendments.

Section 2) If an officer or a member wishes to amend this constitution, officers and members should be notified at least a week in advance by reading the proposed change(s) at one meeting to all members, as well as via email.

Article IX

Removal/ Appeals

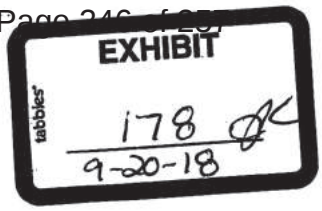
Section 1) The removal of an executive board member will happen only if an egregious behavior transpires, as determined by the other executive board members. Should the executive board members be in disagreement, it shall be handled by the College Pastor.

Section 2) Should an executive board member feel wrongfully removed, he/she/they have the opportunity to appeal. That person must appeal within a week of being removed, and an appeal

will occur at the next general meeting. Those who are eligible to vote (as outlined in Article VI, section 2) will vote to either confirm the executive board's decision, or reverse the decision. Should there be a tie, the College Pastor will make the final decision.

Article X

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



Title: CONSTITUTION OF University of Iowa Students for the Right to Life

Preamble: University of Iowa Students for the Right to Life

Date: January 25, 2013

Article I

Purpose: University of Iowa Students for the Right to Life will strive to protect the sanctity of human life from conception until natural death. This organization aims to bring the importance of this right into the lives of our fellow students. The function of this organization is to provide representation for members of the student body who hold pro-life views and to be a voice for the voiceless.

Article II

Membership

In no aspect of its programs shall there be any difference in the treatment of persons on the basis of race, national origin, color, creed, religion, sex, age, disability, veteran status, sexual orientation, gender identity, or associational preference, 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.

b) We ask that members of this organization hold pro-life beliefs.

c) Anyone is welcome to be a member of this organization. General elections of the group's members will elect their leaders.

d) In order to be a part of this organization, please attend a meeting. Anyone who instigates trouble and/or disrespectful debating will be asked to leave.

Article III

Officers and Duties

President: creator(s) of the organization.

> Duties: lead meetings of the organization, plan any activities, schedule meeting space, handle any types of disrespect or disturbance, etc.

Vice-President: any member of the population of the organization that wishes to run for election

> Duties: chief contact person for members, shall act as the president should the president be absent, etc.

Secretary: any member of the population of the organization that wishes to run for election

Duties: keep minutes for each meeting, collect contact information from all members and give to the VP, assist in the creation of all advertisements and signage, etc.

Treasurer: any member of the population of the organization that wishes to run for election

Duties: manage any and all funds received by the organization

A person may be considered for a position if they place their name for election. Any person seeking election must be voted in with a popular majority of member votes.

Should someone vacate their position before their term is up, a special election will be held.

Should someone need to be removed from office, all other members of the governing body must agree. The other members of the governing body with then ask the members at large to take a vote to remove said person from office.

Article IV

Meetings

a) Meetings will be held every Tuesday from 3pm to 4pm.

b) Members will be notified by email, at least 4 days in advance in the event of a special meeting.

c) A quorum must consist of at 5 members and at least two member of the governing body.

d) The president and vice president have the authority to call meetings.

Article V

Elections

a) Elections will take place once a year, at the beginning of each fall semester.

b) Members will be notified by email at least four weeks before elections take place.

Article VI

Finances

a) Yes, dues will be collected. Five dollars from each member will be collected at the beginning of every semester.

b) The treasurer will be responsible for the handling of all matters relating to money.

c) Upon dissolution, state money and mandatory student fees revert back to the granting organization.

Group fees should be divided as stated in the Constitution and carried out by the dissolving group's members and officers.

If the group has dissolved and group fees have not been divided as stated in Constitution by five years from last account activity, monies in the group's 00 account will revert to an account specified for this purpose within UISG/ECGPS. These funds will then be available for distribution through SABAC or GPAC guidelines in compliance with University of Iowa policy.

In the event of the group's dissolution, the group fees will be divided at the final meeting. All remaining monies will be returned to the organization of individuals who have provided them.

Article VII

Amendments

An amendment is a formal alteration of any kind. This alteration may take many forms, not only the addition of material but also the removal of excess, invalid, or outdated text.

a) Voters will be informed of any and all amendments by email. They will also be read aloud at three consecutives before a vote is taken.

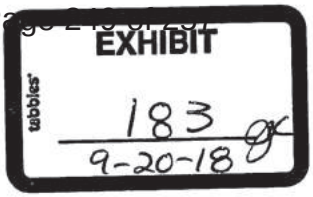
b) ¾ of the present members must vote in agreement of the amendment, otherwise it will not pass.

c) All amendments or changes to your Constitution must be submitted to the Student Organization Coordinator for approval.

Article VIII

Ratification

Ratification of this constitution will take place on the first meeting date. Each member will be asked to sign a copy of the constitution and their approval will be kept on file.



Title: CONSTITUTION OF WOMEN IN SCIENCE AND ENGINEERING AMBASSADORS

Preamble:
WISE Ambassadors

Date:
May 6, 2010
May 2, 2010

Article I

Purpose:
The purpose of the Women in Science and Engineering Ambassadors is to expand and improve educational and professional opportunities for women in all fields of science, technology, engineering, and math. WISE Ambassadors use community outreach programs to teach young girls, to inspire their interests in science and technology, and to educate the community on the contributions of women in science and engineering.

Article II

Membership

a) 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.

b) Members are encouraged, but are not required, to be any of the following: a woman, a student in a science or engineering field, or interested in science and outreach to the community.

c) Different Classes of Membership:

A general member has to attend one meeting or event per school year.

A committee member is any general member that volunteers to help committee chairs plan events.

A committee chair oversees their area of involvement to plan and organize events. They must be a general member that volunteers to be a committee chair and is then voted in by other general members at the beginning of the fall semester of each year.

An officer is a general member that has been involved in the group for at least one school year. They volunteer for a position and are then voted in by other general members.

d) Members do not have to be selected or to apply to this organization. Anyone with an interest in joining should contact an officer, the advisor, or come to a meeting. Official Membership begins after the person attends one meeting or event. Revocation of

membership will only happen in extreme circumstances as determined by the advisor and the officers. One example of misconduct would be representing WISE Ambassadors and the University of Iowa in a negative way.

Article III

Officers and Duties

a) President: The President will lead meetings, oversee committee chairs and other officers, and motivate members. The President also keeps the WISE office informed of the Ambassadors' activities. The President will also be in charge of maintaining a record of all Ambassadors activities for the year in a comprehensive binder that will be submitted to WISE at the end of the year.

b) Vice President/Treasurer: the VP/Treasurer will lead meetings if the President is not available. They will also track past expenses and be the financial liaison from WISE Ambassadors to the WISE office. The VP will collect all Event Request Forms and ensure that they are filled out correctly before giving the forms to the WISE main office. The VP/Treasurer will also represent the Ambassadors at any UISG funding meetings or other required commitments.

c) Secretary: The Secretary will take the meeting minutes at all meetings, maintain the ICON website, maintain the list of email addresses for all members, keep a record of participation for members, and inform all general members of meetings and events via email.

d) Public Relations: The Public Relations Liaison will take pictures at WISE Ambassadors events, update the website, and inform the press about the organization's events.

To qualify for any of the officer positions listed above, a person must be a general member during the previous school year, must show enthusiasm toward the organization, and must be voted in by other general members.

A person can be nominated or volunteer to run for an officer position. Elections take place once a year, at the end of the spring semester in April or May during a scheduled meeting. Nominees will be announced at that meeting, and voting will take place for the following year's officers.

If a position is vacated before their term is complete, one of the remaining officers will notify all members of a meeting to nominate and vote in a new person.

If any member has concerns about an officer, they should speak to the President or the advisor to address the issue.

Article IV

Advisor

The Women in Science and Engineering (WISE) program at the University of Iowa employs a half-time graduate assistant whose duties include coordinating the WISE Peer Mentoring Program and facilitating the efforts of the WISE Ambassadors. The person in this position will provide administrative and organizational support to the WISE Ambassadors student organization, particularly in the areas of organizational, legal, and financial planning. An undergraduate student assistant is also employed by WISE and serves as a liaison between the student meetings of the Ambassadors and the WISE office staff. Occupants of both positions are selected and hired by the WISE Director, Chris Peterson Brus, who serves as the advisor for this student group.

Article V

Meetings

a) Meetings are held twice monthly or as needed.
b) Members will be notified by email one week in advance of special meetings.
c) A quorum will consist of at least one officer or committee chair and three general members.
d) Officers and committee chairs have the authority to call meetings.

Article VI

Elections

a) Elections for officers for the following year are held once a year at the end of the spring semester in April or May. Elections for committee chairs are held once a year at the beginning of the fall semester in August or September.
b) Members will be notified at least two weeks prior to elections.

Article VII

Finances

a) Dues will not be collected for this organization.
b) The elected treasurer and our advisor will be in charge of financial affairs.
c) **WiSE Ambassadors** is required to deposit all receipts in and make disbursements through the Student Organization Business Office, Fraternity Business Services, or Recreational Services. Upon dissolution, state money and mandatory student fees revert back to the granting organization. Inactive organizations will be considered dissolved after five years of no account activity. Revenue generated dollars or "00 funds" must be divided as stated in this Constitution and carried out by our leadership. Our organization's remaining revenue generated dollars or "00 funds" will be divided or disbursed to WiSE Department Office and at the Current WiSE Department Chair discretion. If this organization has dissolved and revenue generated dollars or "00 funds" have not been divided as stated in this Constitution by five years from last account activity, funds in our "00 account" will revert to an account specified for this purpose within student government(s). These funds will

then be available for distribution through student government(s) guidelines in accordance with University of Iowa policy.

Article VIII

Amendments

a) Eligible voting members will be informed of the proposed amendment first by email and second by reading at the next meeting.
b) A 2/3 vote is needed to ratify an amendment.
c) Note that all amendments or changes to this constitution must be submitted to the Student Organization Liaison for approval.

Article IX

Ratification

Adopting of this constitution will happen at a scheduled meeting. Ratification will pass by a majority vote of general members.

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