



Foundation for Individual Rights in Education

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February 12, 2009

President David R. Hopkins
Wright State University
Office of the President
3640 Colonel Glenn Highway
Dayton, Ohio 45435

Sent via U.S. Mail and Facsimile (937-775-3663)

Dear President Hopkins:

The Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, legal equality, academic freedom, due process, freedom of speech, freedom of conscience and religion, and freedom of association on America's college campuses. Our website, www.thefire.org, will give you a greater sense of our identity and activities.

FIRE is concerned about the threat to freedom of religion and legal equality posed by Wright State's refusal to recognize the Campus Bible Fellowship (CBF). Before the university takes further action against CBF, FIRE would like to warn Wright State about its constitutional obligation to uphold students' First Amendment rights and to recognize religious groups that seek to limit their membership or leadership to people who share their beliefs.

This is our understanding of the facts. Please inform us if you believe we are in error.

CBF has existed at Wright State for over thirty years. Registered student organizations must re-register on an annual basis. On January 30, 2009, Joe Hollaway, a Wright State student acting as the official representative for CBF, met with Scott Buzek, Office Assistant in the Office of Student Activities, to complete the registration of CBF for the remainder of the 2008–2009 academic year. According to Hollaway, Buzek told him that CBF was being denied recognition for two reasons. First, CBF's constitution failed to state that CBF membership criteria would not exclude anyone on the basis of "race, sex (including gender identity/expression), color, religion, ancestry, national origin, age, disability, veteran status, military status, or sexual orientation." According to the *Wright State University Student Handbook*, all student organizations'

constitutions must contain this language “exactly as worded with no additional clauses or omissions.”

Second, Buzek stated that CBF was being denied recognition because Article III, Section 2 of its constitution stated that “Voting membership in this organization shall be limited to students, faculty and staff who have accepted Jesus Christ as their personal Savior, who subscribe without reservation to the organization’s [sixteen] Articles of Faith.” CBF’s constitution does not maintain this requirement for anyone who simply wants to attend CBF meetings and activities; rather, it applies only to those who wish to participate in organizational votes.

On February 5, Hollaway and Gary Holtz, Coordinator for Campus Bible Fellowship International (an organization that advises CBF chapters), met with Richard A. Danals, Director of Student Activities at Wright State, and Administrative Specialist Viki Harness. Hollaway and Holtz submitted a letter from Holtz and supporting materials, including information about relevant case law from FIRE’s *Guide to Religious Liberty on Campus* and the outcome of similar cases at the University of Florida and Southern Illinois University. These materials clearly demonstrate the right of organizations to be recognized on campus even when their membership requirements mandate religious beliefs that conflict with a university’s nondiscrimination policy.

According to Holtz, Danals and Harness refused to recognize CBF, claiming an obligation to uphold Wright State’s nondiscrimination policy. Danals and Harness agreed, however, to inquire with university counsel and to report on their progress by the close of business on Monday, February 9. On that date, Danals e-mailed Hollaway and Holtz, noting that he anticipated having meetings this week and next week while CBF’s request for recognition would be reviewed.

Meanwhile, as the term progresses, CBF does not enjoy the benefits of registered student organizations on campus—benefits it has enjoyed for over thirty years. According to the *Student Handbook*, these benefits include “a designated office space if required, an annual allocation of funds, a University departmental account, and access to activity and recreational space,” as well as the right to use the university’s name as part of the organization’s name and to share in the university’s “IRS or governmental status.” At present, CBF is not even allowed access to space it needs for meetings.

If Wright State is to allow expressive organizations to exist on its campus at all, it must allow religious organizations to exist, to define their missions, to select their own members, and to establish policies, practices, and associations with other groups in pursuit of their goals. No group can control the delivery of its message if it is unable to determine its expressive purpose, membership, and activities. This principle is exemplified in the U.S. Supreme Court’s decision in *Boy Scouts of America v. Dale*, 530 U.S. 640, 647–648 (2000). In this decision, the Court pointed out that “implicit in the right to engage in activities protected by the First Amendment is a corresponding right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends” (internal citation and quotations omitted). This right, the Court proclaimed, is “crucial in preventing the majority from imposing its views on groups that would rather express other, perhaps unpopular, ideas.” Consequently, the Court

held that “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.” In addition, the Court has ruled that public institutions are required to grant religious organizations equal access to campus facilities (see *Widmar v. Vincent*, 454 U.S. 263 (1981)), and are also required to grant religious organizations equal access—on a viewpoint neutral basis—to student fee funding. See *Board of Regents v. Southworth*, 529 U.S. 217 (2000); *Rosenberger v. University of Virginia*, 515 U.S. 819 (1995). As a public institution bound by the First Amendment, Wright State is legally obligated to respect the Court’s clear pronouncements with respect to this issue.

Wright State should be aware that FIRE has successfully concluded religious liberty and freedom of association cases at other universities facing situations similar to this one, even at private universities bound only by their contractual guarantees of First Amendment liberties. For example, after FIRE intervened on behalf of a broad interfaith coalition of Muslim and Christian student organizations, The Ohio State University agreed to change a “nondiscrimination” policy that prohibited religious student organizations from making critical decisions based on religious criteria. Tufts University in Massachusetts derecognized a Christian student group for wanting to selectively admit leaders based on religious beliefs regarding homosexuality. After FIRE interceded, Tufts eventually decided to respect its students’ legal and moral rights to religious liberty and freedom of association. You may wish to read more about FIRE’s efforts to defend religious freedom and freedom of association on these and other campuses across the nation online at www.thefire.org/religiousliberty and www.thefire.org/freespeech.

If the Wright State community is truly to represent a diverse set of ethnic, cultural, and religious backgrounds, surely there should be a place at the table for religious groups that require their members and leaders to maintain certain standards of faith and conduct, regardless of the beliefs that Wright State would prefer them to have. As Justice Robert Jackson wrote in *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), “[I]f there is any fixed star in our constitutional constellation, it is that no official, 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.” Compelled speech flatly contradicts the First Amendment’s protection of free speech, is utterly inconsistent with the role of a university as a “marketplace of ideas,” and simply cannot be enforced at a public institution. Let Catholics be Catholic, Muslims be Muslim, and Evangelicals be Evangelical, without requiring them to abandon their requirements of religious belief.

FIRE requests that Wright State act immediately to correct this ongoing injustice by officially recognizing CBF and any other faith-based groups that may have been denied recognition for similar reasons, and restore to its students the essential rights of freedom of religion and association guaranteed by the First Amendment.

We hope to see this matter resolved with fairness, common sense, and full respect for existing Supreme Court jurisprudence in this area. Because of the urgency of this situation and the continuing violation of CBF’s rights, we request that you give CBF immediate recognition

pending a final response. We further request that you respond to this letter by the end of next week, Friday, February 20, 2009, by 5:00 p.m.

Sincerely,

A handwritten signature in cursive script, appearing to read "Adam Kissel".

Adam Kissel

Director, Individual Rights Defense Program

cc:

Dan Abrahamowicz, Vice President for Student Affairs, Wright State University

Richard A. Danals, Director of Student Activities, Wright State University

Dan Bertsos, Director of Residence Services, Wright State University

Viki Harness, Administrative Specialist, Wright State University

Scott Buzek, Office Assistant, Wright State University

Gwen M. Mattison, General Counsel, Wright State University