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Richard L. Marshall
PRESIDENT

August 13, 2010

Chancellor Holden Thorp
University of North Carolina at Chapel Hill
103 South Building
Campus Box 9100
Chapel Hill, North Carolina 27599-9100

Dear Chancellor Thorp:

As you may know, the U.S. Supreme Court issued a 5-4 decision this June permitting a public law school to deny official recognition to a Christian student group. The law school relied on an “all-comers” policy that requires all recognized organizations to allow any student to become a voting member or leader, whether or not they agree with the ideology of the group. The case, *Christian Legal Society v. Martinez*, has been remanded to the lower court to determine whether the school unequally enforced its pc BT T11 12 Tf 0.998Tf 0.998e .z 0 cm 1 10

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coming election season, members of the College Democrats would be unable to stop College Republicans (and vice versa) from listening in on strategy meetings or even casting critical votes about strategic decisions. Actions like these would obviously lead to increased bitterness and rancor among groups on campus, yet they would be almost unavoidable under an “all-comers” policy.

Further, an “all-comers” policy would be nearly impossible to fairly enforce. Any college adopting such a policy must prevent La Raza from excluding students who are hostile to Mexican immigration and an environmentalist student group from denying voting membership to global warming skeptics. Meanwhile, conservative and progressive newspapers alike will be attacked by their critics, who will bring into question whether such time-honored publications have a right to exist at all under an “all-comers” policy. Unless a college is absolutely confident that it has addressed every such requirement in every recognized student group, it risks legal liability for violating *CLS v. Martinez*’s mandate that enforcement of an “all-comers” policy be evenhanded.

Perhaps most importantly, an “all-comers” policy ultimately subjects freedom of association to the limits of tolerance among campus majorities, impairing the intellectual and cultural diversity among groups that is vital on college campuses. A liberal education progresses in great measure through learning from different groups with distinct identities and opinions as those groups express their unique messages on campus. Diluting those messages through an “all-comers” policy contracts rather than expands the marketplace of ideas across campus. As John Stuart Mill wrote about censorship in *On Liberty*: “If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.”

Imposing an “all-comers” policy on your campus will lead to increased hostility among student groups, increased chaos within those groups, and a greatly increased need to police groups for compliance—all while increasing, not decreasing, the likelihood of a lawsuit. The way to maintain harmony and genuine diversity among student groups on campus is to continue to allow student groups to form around shared beliefs in order to maintain their ideological, religious, or political identities.

Sincerely,

Greg Lukianoff
President

cc:
Leslie C. Strohm, University Counsel