

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
BALTIMORE DIVISION**

ROCK FOR LIFE-UMBC, an unincorporated student association, for itself and its individual members;

5405 Old Frederick Road
Baltimore, Md. 21229
Baltimore County

OLIVIA RICKER, individually and as an officer of Rock for Life-UMBC;

13 North Rolling Road
Baltimore, Md. 21228
Baltimore County

MIGUEL MÉNDEZ, individually and as an officer of Rock for Life-UMBC,

1203 Martin Ct., Apt. L
Baltimore, Md. 21229
Baltimore County

Plaintiffs,

vs.

FREEMAN A. HRABOWSKI, individually and in his official capacity as President of University of Maryland, Baltimore County; **CHARLES J. FEY**, in his individual capacity as former Vice President of Student Affairs at the University of Maryland, Baltimore County; **NANCY L. YOUNG**, in her official capacity as Interim Vice President of Student Affairs at the University of Maryland, Baltimore County; **LEE A. CALIZO**, individually and in her official capacity as Acting Director of Student Life at University of Maryland, Baltimore County; **JOSEPH REIGER**, individually and in his official capacity as Executive Director of the Commons at University of Maryland, Baltimore County; **ERIC ENGLER**, individually and in his official capacity as Acting Director of the Commons at

CASE No.: _____

**VERIFIED COMPLAINT;
EXHIBITS A-S**

SUMMONS

DEMAND FOR JURY TRIAL

University of Maryland, Baltimore County,
1000 Hilltop Circle
Baltimore, Md. 21250
Baltimore County
Defendants.

VERIFIED COMPLAINT

COME NOW PLAINTIFFS, Rock for Life-UMBC, Olivia Ricker, and Miguel Méndez, by and through their counsel, and for their Complaint against Defendants Freeman A. Hrabowski, President of the University of Maryland, Baltimore County (UMBC); Charles J. Fey, former Vice President of Student Affairs at UMBC; Nancy L. Young, interim Vice President of Student Affairs at UMBC; Lee A. Calizo, Acting Director of Student Life at UMBC; Joseph Reiger, Executive Director of the Commons at UMBC; and Eric Engler, Acting Director of the Commons at UMBC, hereby allege and aver as follows:

INTRODUCTION

1. The University of Maryland, Baltimore County (University or UMBC) holds itself out as a dynamic “honors university” in the University System of Maryland. This reputation leads many men and women—young and old—to study at its campus. But when students matriculate, they enter an environment that squelches their First Amendment freedoms to speak, associate, and assemble. The University threatens to expel, suspend, or sanction any student or student organization that engages in speech that constitutes “intimidation,” a term that UMBC does not define. It also prohibits any speech that “has the purpose or effect . . . of creating an intimidating, hostile, or offensive educational or working environment” without defining those terms and without placing any reasonable or objective limits on their scope. Thus, any speech that the University deems to be “offensive” or to have an “offensive” purpose can be punished, regardless of

whether or not it actually disrupts the campus. As a result, UMBC students such as Plaintiffs have less freedom to speak and express themselves on the UMBC campus than do children at most public secondary schools.

2. In addition to sanctioning disfavored speech, the University claims the unchecked right to regulate the location of student expression and assembly on campus. According to University policies, although a student or student organization may reserve a campus facility to hold an event on campus, UMBC officials “may move an event to a different location without notice.” Thus, the University claims unlimited discretion to change an event’s location without notice to the student-organizers and without reimbursing them for the costs resulting from the change. In fact, when Plaintiff Rock for Life-UMBC attempted to hold a pro-life event on campus, Defendants used this unbridled discretion to engage in blatant viewpoint discrimination by moving the event to an undesirable, nearly deserted area of campus, and they have informed Plaintiffs that any future such events will also be assigned to this nearly deserted area. By creating and implementing these policies, Defendants have established a system by which they can selectively promote favored student expression and impede, restrict, or eliminate disfavored expression.

JURISDICTION & VENUE

3. This Court has jurisdiction over the matter pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and the Civil Rights Act of 1871, 42 U.S.C. §§ 1983 and 1988.

4. This Court has jurisdiction to award damages pursuant to 28 U.S.C. § 1343, declaratory relief pursuant to 28 U.S.C. § 2201, injunctive relief pursuant to 42 U.S.C. § 1983 and Fed. R. Civ. P. 65, and attorneys fees and costs pursuant to 28 U.S.C. § 1988.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because Defendants reside in this district and/or all of the acts described in this Complaint occurred in this district.

PLAINTIFFS

6. Plaintiff Rock for Life-UMBC is an unincorporated student association at the University of Maryland, Baltimore County. Rock for Life-UMBC is a student organization founded to defend the right of the unborn and to awake consciousness and awareness in the UMBC community about the catastrophic effects of abortion for all persons involved and our moral duty to stop its practice. Rock for Life-UMBC is a registered student organization (RSO) of the University of Maryland, Baltimore County, and is thereby entitled to all the rights, privileges, and benefits that accompany that status. Rock for Life-UMBC brings this action on its own behalf and on behalf of its individual student members.

7. Plaintiff Olivia Ricker is a rising senior at UMBC. During the 2007–08 school year, she serves as Vice-President of Rock for Life-UMBC. Ms. Ricker brings this action on her own behalf and as an officer of Rock for Life-UMBC.

8. Plaintiff Miguel Méndez is a rising third year graduate student at UMBC. During the 2007–08 school year, he serves as Secretary of Rock for Life-UMBC. Mr. Méndez brings this action on his own behalf and as an officer of Rock for Life-UMBC.

DEFENDANTS

9. Defendant Freeman A. Hrabowski is, and was at all times relevant to this Complaint, the President of the University of Maryland, Baltimore County, a public university organized and existing under the laws of the State of Maryland. As such, Defendant Hrabowski is responsible for overseeing campus administration and policy-making, including the policies and procedures contained herein. Defendant Hrabowski is

sued both in his individual and official capacities.

10. Defendant Charles J. Fey was at some of the times relevant to this Complaint, Vice President of Student Affairs at the University of Maryland, Baltimore County. As such, Defendant Fey was responsible for overseeing campus administration and policy-making, including the policies and procedures contained herein. Defendant Fey is sued in his individual capacity.

11. Defendant Nancy Young is, and was at some of the times relevant to this Complaint, the Interim Vice President of Student Affairs at the University of Maryland, Baltimore County. As such, Defendant Young is responsible for overseeing campus administration and policy-making, including the policies and procedures contained herein. Defendant Young is sued both in her individual and official capacities.

12. Defendant Lee Calizo is the Acting Director of Student Life at the University of Maryland, Baltimore County. As such, Defendant Calizo is responsible for overseeing campus administration, including the policies and procedures contained herein. During some of the times relevant to this Complaint, Ms. Calizo served as Associate Director of Student Life at UMBC. Defendant Calizo is sued both in her individual and official capacities.

13. Defendant Joseph Reiger is, and was at all times relevant to this Complaint, the Executive Director of the Commons at the University of Maryland, Baltimore County. As such, Defendant Reiger is responsible for overseeing campus administration, including the policies and procedures contained herein. Defendant Reiger is sued both in his individual and official capacities.

14. Defendant Eric Engler is, and was at all times relevant to this Complaint,

the Acting Director of the Commons at the University of Maryland, Baltimore County. As such, Defendant Engler is responsible for overseeing campus administration, including the policies and procedures contained herein. Defendant Engler is sued both in his individual and official capacities.

FACTUAL BACKGROUND

I. UNIVERSITY POLICIES

A. UNIVERSITY MISSION & VISION

15. The University of Maryland, Baltimore County purports to be “a dynamic public research institution integrating teaching, research and service to benefit the citizens of Maryland.” As an Honors University in the University System of Maryland, UMBC claims that it offers “academically talented students a strong undergraduate liberal arts foundation that prepares them for graduate and professional study, entry into the workforce, and community service and leadership.” In its mission statement, UMBC also states that it is “dedicated to cultural and ethnic diversity, social responsibility and lifelong learning.” A copy of UMBC’s mission statement is attached as Exhibit A to the Complaint.

16. In its vision statement, UMBC states that it “seeks to become the best public research university of [its] size by combining the traditions of the liberal arts academy, the creative intensity of the research university, and the social responsibility of the public university.” It also seeks to “be known for integrating research, teaching and learning, and civic engagement so that each advances the others for the benefit of society.” A copy of UMBC’s vision statement is included as part of Exhibit A.

B. UNIVERSITY SPEECH CODE POLICIES

1. Sexual Harassment Policy.

17. In 1992, the University System of Maryland (USM) Board of Regents

adopted a policy condemning sexual harassment and declaring that it is “inconsistent with commitment to the goals of quality, access and choice that characterize the activities of the System and its constituent institutions.” This policy mandated that constituent institutions develop procedures for prohibiting sexual harassment. A copy of the University of Maryland System Policy on Sexual Harassment is attached as Exhibit B to this Complaint.

18. In response, UMBC adopted a “policy and commitment . . . to maintain a campus environment which is free of discrimination and permits equal access and opportunity for all campus members. Sexual harassment, a form of sex discrimination, is prohibited.” A copy of UMBC’s Policy on Sexual Harassment is attached as Exhibit C to this Complaint.

19. On information and belief, Defendant Hrabowski or one of his predecessors authored, approved, or supervised the creation of this sexual harassment policy.

20. UMBC’s Policy on Sexual Harassment applies to everyone associated with the University, and violating this policy can result in expulsion from University activities:

Sanctions against UMBC faculty and staff for violations of this sexual harassment policy may range from formal reprimand to termination. Likewise, sanctions against UMBC students, for violations of this sexual harassment policy, may range from formal reprimand to suspension or expulsion from UMBC educational programs or extracurricular activities.

(Compl. Ex. C at 3.)

21. UMBC defines sexual harassment the same way for students, faculty, staff, and other employees:

For the purposes of this Policy, sexual harassment is defined as

unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Such conduct has the *purpose or effect* of unreasonably interfering with an individual's academic or work performance, or *of creating an intimidating, hostile, or offensive educational or work environment*; . . .

(Compl. Ex. C at 3 (emphasis added).)

2. Code of Student Conduct.

22. In 1990, the USM Board of Regents adopted a policy empowering the presidents of the constituent institutions to establish rules governing student affairs, including rules governing residential life and student organizations. This policy provides:

Each President shall establish rules for the administration of student affairs, including, but not limited to, resident life, student discipline, and the handling of student grievances at the institution. Such rules shall serve to further educational and cultural objectives through student government and activities. Student organizations, including fraternities and sororities, may be established at each institution subject to applicable policies of the Regents and of the institution.

A copy of the USM Policy on Student Affairs is attached as Exhibit D to this Complaint.

23. On information and belief, Defendants Hrabowski, Fey, Young, Calizo, or their predecessors in office drafted, adopted, approved, or supervised the creation of UMBC's Code of Student Conduct pursuant to the USM Board of Regents policy referenced in paragraph 22. A copy of the UMBC Code of Student Conduct is attached as Exhibit E to this Complaint.

24. All students must comply with UMBC's Code of Student Conduct, under which a student can be sanctioned for engaging in "behavior which jeopardizes the emotional or physical safety of self or others." (Capitalization altered.) Prohibited behavior includes, but is not limited to: ". . . e) *intimidation*; f) physical or *emotional harassment*; [or] g) sexual harassment; . . ." (See Compl. Ex. E at 13–14 (emphasis added).) This pol-

icy does not define the terms “intimidation” and “emotional harassment.”

25. Under the UMBC Code of Student Conduct, students who commit the offenses described in paragraphs 22–24 above can receive sanctions ranging from disciplinary reprimand to probation to suspension to dismissal. (Compl. Ex. E at 18–19.)

3. Residential Life Policies.

26. Pursuant to the UMBC Code of Student Conduct, students can also be punished for “violations of residential life policies, rules and regulations,” which are contained in the *Guide to Community Living* and the Residential Life contract (herein “Residential Life Policies”). (Compl. Ex. E at 16.) A copy of the UMBC Residential Life Policies is attached as Exhibit F to this Complaint.

27. On information and belief, Defendants Hrabowski, Fey, Young, Calizo, or one of their predecessors, authored, approved, or supervised the creation of these Residential Life Policies.

28. Pursuant to the *Guide to Community Living*, students face “the administrative or judicial termination of the Housing Contract and possible suspension or expulsion from UMBC” for engaging in “*behaviors which jeopardize the emotional or physical safety of others.*” (Capitalization altered, emphasis added.) These behaviors include, but are not limited to, the following: “*intimidation*; physical or *emotional harassment*; and sexual harassment or misconduct.” (See Compl. Ex. F at 52 (emphasis added).)

4. Code of Student Organization Conduct.

29. Defendants or their predecessors in office have also drafted and adopted a “UMBC Code of Student Organization Conduct.” A copy of the UMBC Code of Student Organization Conduct is attached as Exhibit G to this Complaint.

30. All UMBC student organizations, including Plaintiff Rock for Life-UMBC, are subject to the provisions of the UMBC Code of Student Organization Conduct. In fact, “Student Organizations are responsible for the misconduct of its [sic] members, whether or not those members are currently students.” (*See* Compl. Ex. G at 64.)

31. Under the UMBC Code of Student Organization Conduct, student organizations are prohibited from engaging in “*behavior which endangers the emotional or physical safety of self or others.*” (*See* Compl. Ex. G at 67 (capitalization altered, emphasis added).) Prohibited behavior includes, but is not limited to, “e) *intimidation*; f) physical or *emotional harassment*; g) sexual harassment or misconduct; . . .” (*Id.* (emphasis added).)

32. The UMBC Code of Student Organization Conduct also prohibits student organizations from violating “Residential Life policies, rules, or regulations, as provided in the *Guide to Community Living* and the Residential Life contract.” (Compl. Ex. G at 69.)

33. According to the UMBC Code of Student Organization Conduct, if a student organization—or any of its members—violates the rules listed in paragraphs 29–32 above, then it faces a range of discipline from a disciplinary reprimand to probation to suspension to permanent expulsion. (Compl. Ex. G at 70.)

C. UNIVERSITY SPEECH ZONE POLICY—UNIVERSITY POLICY ON FACILITIES

34. In 1990, the USM Board of Regents adopted a policy which instructs the presidents of the constituent institutions to create rules for the use of facilities at each campus. This policy provides: “Each president will be responsible for adopting rules governing the use of its facilities, and procedures for the application for such use.” A copy of the USM Policy on the Use of the Physical Facilities of the University System for Public Meetings is attached as Exhibit H to this Complaint.

35. Under the UMBC Policy on Facilities Use, students and student organizations can reserve non-classroom space subject to the following process:

The Registrar's and Summer and Winter Program Offices reserve the right to make changes to academic space assignments at any time. Events approved through the Campus Scheduling and Guest Services Office may be moved to accommodate changes in the class schedule. Nonacademic space is scheduled through Campus Scheduling and Guest Services. ***Requests must be submitted appropriately through the web-based form and are scheduled based on room appropriateness and on a first come, first served basis. Campus Scheduling has the final authority on scheduling all non-academic requests and has the right to deny requests dependent upon circumstances.*** (Emphases added.)

A copy of the UMBC Policy on Facilities Use is attached as Exhibit I to this Complaint.

36. The UMBC Policy on Facilities Use also provides: "Scheduling may move an event to a different location ***without notice***. UMBC is not responsible for any costs incurred by a user resulting from a change in location." (Compl. Ex. I at 79.)

37. Under the UMBC Code of Student Conduct, students can be punished for "unauthorized entry or presence in or on University property." (Capitalization altered.) This offense includes "failure or refusal to leave University grounds, or a specific portion thereof, or a University facility when requested by an authorized University official." (Compl. Ex. E at 15.)

38. Under the UMBC Code of Student Conduct, students who are guilty of "unauthorized entry or presence in or on University property" can receive sanctions ranging from disciplinary reprimand to probation to suspension to dismissal. (Compl. Ex. E at 18–19.)

39. On information and belief, Defendants Hrabowski, Fey, Young, Calizo, Reiger, Engler, or one of their predecessors, authored, approved, or supervised the creation of these facility use policies.

**II. DEFENDANTS' DISCRIMINATION AGAINST
ROCK FOR LIFE-UMBC'S SPEECH AND ASSEMBLY**

40. In the fall of 2006, Mr. Alexander Vernet, then Treasurer of Plaintiff Rock for Life-UMBC, and other members of Rock for Life-UMBC were looking for ways to communicate the pro-life message to the campus community.

41. Through Mr. Leif Parsell, the senior field representative for the Leadership Institute's Campus Leadership Program, Mr. Vernet learned of the Genocide Awareness Project as a possible way to accomplish this goal. An affidavit from Mr. Parsell describing his work with Rock for Life-UMBC is attached as Exhibit J to this Complaint. (*See* Compl. Ex. J ¶¶ 3, 7–9.)

42. During the spring semester of the 2006–2007 academic year, Rock for Life-UMBC invited the Genocide Awareness Project to come to the UMBC campus as part of its continuing efforts to share its pro-life message with students and faculty.

43. GAP is an outreach of the Center for Bio-Ethical Reform (CBR). CBR exists “to establish prenatal justice and the right to life for the unborn, the disabled, the infirm, the aged and all vulnerable peoples through education and the development of cutting edge educational resources.” It is “strictly-nonviolent,” and it “operates on the principle that abortion represents an evil so inexpressible that words fail us when attempting to describe its horror. Until abortion is seen, it will never be understood.” An overview of the Center for Bio-Ethical Reform is attached as Exhibit K to this Complaint. (**CAUTION:** This exhibit contains graphic abortion images.)

44. As part of CBR's mission, it has created the Genocide Awareness Project (GAP). GAP's purpose is relatively simple:

The Genocide Awareness Project (GAP) is a traveling photo-mural exhibit which compares the contemporary genocide of abortion to historically

recognized forms of genocide. It visits university campuses around the country to show as many students as possible what abortion actually does to unborn children and get them to think about abortion in a broader historical context.

A summary of the Genocide Awareness Project's purpose is attached as Exhibit L to this Complaint.

45. Recognizing that the images in its display are unpleasant, GAP has strict rules for how its volunteers and staff conduct themselves:

It is our policy to treat everyone who approaches the GAP display with respect. We do not yell or use amplified sound. CBR holds staff and volunteers to strict rules of engagement. We know that the images we display are not pleasant. They represent an injustice of such magnitude that words alone fail us. Until injustice is recognized, however, it cannot be eradicated. We place our images in the public square because it is the last mass-media venue available to us. For all the people who will not take the time to be educated about abortion themselves, we bring the education to them.

(See Compl. Ex. L.)

46. The images in GAP's display illustrate the parallels between abortion and other forms of genocide throughout history to "expand the context in which people think about abortion." (Compl. Ex. L.) In particular, the display focuses on how various groups of human beings—including the unborn—have been categorized as less than human to justify killing them. (*Id.*) A copy of the signs used in the GAP display is attached as Exhibit M to this Complaint. (**CAUTION:** This exhibit contains graphic images of abortion and other atrocities.)

47. Beginning in the second or third week of March 2007, Rock for Life-UMBC began preparing to bring GAP to the UMBC campus. Mr. Parsell assisted in this effort by helping Mr. Vernet work with campus officials to arrange a time and place for the display. (See Compl. Ex. J ¶ 9.)

48. On April 17, 2007, Mr. Vernet and Rock for Life-UMBC approached Ms. Sheryl Gibbs, the office supervisor for the Office of Student Life, to reserve space on campus for the display on April 30, 2007. They wanted to reserve a location directly in front of the University Center to maximize the number of students and faculty who would see the display. This location is a sizeable open area bounded by the University Center, the Mathematics and Psychology Building, and the Meyeroff Chemistry Building on the UMBC campus. A map of the UMBC campus is attached as Exhibit N to this Complaint, with the University Center area marked with a boxed "1." Photographs of the UMBC campus, including the University Center area, are provided as Exhibit O to this Complaint. (*See* Compl. Ex. O at 94–95 (depicting the area in front of the University Center).)

49. A student employee in the Office of Student Life informed Rock for Life-UMBC's representatives that this area in front of the University Center was open and that Rock for Life-UMBC could reserve it. Rock for Life-UMBC reserved this location for the morning and afternoon of April 30, 2007.

50. Ms. Gibbs also stated that due to the nature of the GAP display, Rock for Life-UMBC would need some security at the event. To arrange for this, she referred Mr. Vernet and Rock for Life-UMBC to the UMBC Police Department to determine the required level of security.

51. Mr. Vernet went to the UMBC campus police station and spoke with Lt. Ernest Howe to arrange security for the GAP display. Because of the content of the GAP display's signs, the UMBC Police Department determined that the display would require a uniformed officer rather than a student marshal. (*See also* Compl. Ex. J ¶ 10.)

52. As a consequence of the UMBC Police Department's decision, Mr. Vernet

learned that Rock for Life-UMBC would be charged \$50.00 per hour for security (in contrast to \$15.00 per hour for a student marshal). (*See also* Compl. Ex. J ¶ 10.) This would equate to a \$400.00 charge for holding the eight-hour event.

53. Mr. Vernet provided the UMBC Police Department with information from Rock for Life-UMBC's legal counsel documenting that UMBC could not constitutionally charge Rock for Life-UMBC for the security. A copy of the information that Mr. Vernet provided is attached as Exhibit P to this Complaint.

54. Shortly thereafter, Mr. Parsell met with Mr. Chris Tasek, UMBC University Counsel, and discussed the constitutionality of charging Rock for Life-UMBC for the security costs surrounding the GAP display. (Due to a medical emergency, Mr. Vernet could not attend this meeting.) Mr. Parsell provided Mr. Tasek with a letter from Rock for Life-UMBC's legal counsel which demonstrated that UMBC's policy of charging student organizations for security based on the content of their speech and expression was unconstitutional and outlined UMBC's constitutional duty to protect Rock for Life-UMBC from outside interference. (*See also* Compl. Ex. J ¶¶ 12–13.)

55. During this conversation, Mr. Tasek conceded that UMBC was a public university, but he indicated that it was not subject to all of the constitutional requirements that apply to public universities. Hence, he claimed that UMBC had the authority to move events without notice. He also stated that the letter Mr. Parsell gave him was not specific enough to affect UMBC, and thus, he concluded: "We are not obligated to do any of this." (*See also* Compl. Ex. J ¶ 13.)

56. Mr. Tasek also expressed concern that UMBC students would feel "emotionally harassed" because of the GAP display, and he stated that UMBC had the

right to prevent this alleged offense. (*See also* Compl. Ex. J ¶ 13.)

57. Mr. Tasek stated that the GAP display should be moved from the front of the University Center to the patio area of the Commons (*i.e.*, just to the south of the Commons). (*See* Compl. Ex. J ¶ 14; Compl. Ex. N, boxed “2” (denoting the patio area of the Commons); Compl. Ex. O at 96–99 (depicting the patio area of the Commons).) Seeking an accommodation, Mr. Parsell reluctantly conceded. (*See* Compl. Ex. J ¶ 14.)

58. Shortly thereafter, Defendant Lee Calizo, then the Associate Director of Student Life,¹ announced that Rock for Life-UMBC would not need to have security at the GAP display. However, the UMBC Police Department informed Mr. Vernet that the Police Department had not changed its security recommendation. Instead, the University had arbitrarily and unilaterally changed its requirements rather than bear the security costs, in apparent disregard of its perceived obligation to protect Rock for Life-UMBC participants at the display.

59. On April 25, 2007, Ms. Calizo also decided that the GAP display would be moved from the front of the University Center to the patio area of the Commons (*i.e.*, on the south side of the Commons). (*See* Compl. Ex. N, boxed “2” (denoting the patio area of the Commons); Compl. Ex. O at 96–99 (depicting the patio area of the Commons).) She justified this arbitrary and unilateral change by saying that the original location posed a fire hazard because the large signs might obstruct the exits of the surrounding buildings. A copy of Ms. Calizo’s handwritten note directing that the GAP display be moved to the Commons patio is attached as Exhibit Q to this Complaint.

60. Upon information and belief, UMBC has allowed other organizations,

1. Ms. Calizo now serves as the Acting Director of Student Life.

groups, and events to put up displays in the area in front of the University Center, including displays involving stand-alone signage. The list of permitted displays includes, but is not limited to, political campaigns, organizations setting up tables to solicit members or participants in other extracurricular events, and organizations holding up signs for various events and causes on campus. (*See also* Compl. Ex. J ¶ 11.)

61. The twenty-four signs in the GAP display were not going to be placed in front of the exits and measure only six (6) feet by thirteen (13) feet in size.

62. In view of the presence of some foot traffic passing along the long patio area in front of the Commons, and out of a desire to reach an accommodation, Rock for Life-UMBC acquiesced in this change. (*See also* Compl. Ex. J ¶¶ 13–14.)

63. At approximately 8:00 a.m. on April 30, 2007, Mr. Vernet met the trucks transporting the signs and materials for the GAP display. Rock for Life-UMBC members and staff from the GAP display began setting up the display as planned along the patio in front of the Commons.

64. Almost immediately, Defendant Eric Engler emerged from the Commons accompanied by several uniformed UMBC police officers. He informed Mr. Vernet that the display had been moved yet again to the large vacant field behind the Commons (*i.e.*, on the north side of the Commons between the Commons and the library), an area through which few students travel. (*See* Compl. Ex. N, boxed “3” (denoting the vacant field); Compl. Ex. O at 100–06 (depicting the vacant field).)

65. According to Defendant Engler, Defendant Fey, the Vice President of Student Affairs, made the decision to move the GAP display on Friday, April 27, 2007. However, no one communicated this decision to Mr. Vernet or other members of Rock for

Life-UMBC. A document, dated April 27, 2007, noting this decision to move the GAP display once again is attached as Exhibit R to this Complaint.

66. Shortly after Defendant Engler's announcement, two uniformed UMBC police officers repeated this instruction to Mr. Vernet and Mr. Parsell. Mr. Parsell attempted to explain the accommodation he had made with Mr. Tasek to hold the event at the Commons, but the police indicated that the GAP display was supposed to be in the field and that UMBC retained the right to determine where in that field the display would be located. (*See* Compl. Ex. J ¶¶ 15–16.)

67. As a consequence of Defendant Engler's arbitrary and capricious decision, Rock for Life-UMBC was forced to move its GAP display to a far more deserted area of campus. The part of the field on the north side of the Commons where Rock for Life-UMBC was ordered to set up the GAP display was well away from the sidewalks where students occasionally passed by. Due to the much lower level of foot traffic through this area, the move substantially impaired Rock for Life-UMBC's ability to confront students and faculty with its message of the sanctity of human life and to persuade them of the pro-life perspective. (*See also* Compl. Ex. J ¶¶ 15, 21.)

68. After helping to assemble the GAP display, Mr. Vernet went to the Office of Student Life to discuss the matter with Ms. Gibbs. Ms. Gibbs stated that Mr. Tasek had told her that the GAP display would be moved to the north side of the Commons, but no one provided Mr. Vernet with any explanation for the sudden change in location.

69. Sometime after the GAP display was set up, Mr. Tasek visited the area to inspect the GAP display and ensure that it was in the proper location. (*See* Compl. Ex. J ¶ 18.)

70. After approximately two hours, Rock for Life-UMBC was able to move

the GAP display closer to the north side of the Commons so as to be closer to the sidewalks where students occasionally passed, but it was never allowed to move to the patio area of the Commons. (*See* Compl. Ex. J ¶ 19.)

71. At one point, members of Rock for Life-UMBC attempted to place some of the GAP signs across the walkway from the main GAP display, but UMBC police officers who were patrolling the area regularly ordered that these signs be taken down. (*See* Compl. Ex. J ¶ 20.)

72. On September 5, 2007, the University sponsored Involvement Fest and placed it in the patio area of the Commons (*i.e.*, on the south side of the Commons). Involvement Fest reserved substantially more space than Rock for Life-UMBC required for the GAP display.

73. In November 2007, Rock for Life-UMBC again asked UMBC officials to allow the GAP display on campus. In view of the anticipated negative response from the University, and in the interest of accommodation, Plaintiffs requested to set up on the Commons patio area, rather than the most-traveled University Center area.

74. This proposed GAP display was a smaller version of the first GAP display. These smaller posters measure four feet by eight feet, rather than the regular size of six feet by thirteen feet. Descriptions of this smaller GAP display are attached as Exhibit S to this Complaint.

75. Through University Counsel, the University refused Rock for Life-UMBC's request on November 16, 2007, insisting that any future similar displays would have to take place on the field on the north side of the Commons. In view of the futility of trying to convey its pro-life message to students in that location, Rock for Life-UMBC

canceled this display.

III. THE IMPACT OF DEFENDANTS' UNCONSTITUTIONAL POLICIES AND ACTIONS ON ROCK FOR LIFE-UMBC AND UMBC STUDENTS

76. Plaintiffs Ricker and Méndez are officers and members of Rock for Life-UMBC, a politically-interested, expressive student organization which holds (and seeks to advance) opinions and beliefs regarding issues of race, gender, politics, and religion that may be objectionable or offensive to other students and sanctionable under applicable University speech codes.

77. By moving Rock for Life's event several times without reason and without reasonable notice, Defendants violated rights guaranteed to Plaintiffs by the First and Fourteenth Amendments to the United States Constitution.

78. Defendants' discrimination against Rock for Life-UMBC's speech have caused it and its members, including Ms. Ricker, Mr. Méndez, and Mr. Vernet, to rethink and reduce their expressive activities on campus and to question whether engaging in free speech at UMBC is worth the risk of possible punishment and discriminatory treatment. Defendants' movement of Rock for Life-UMBC's GAP display, a protected activity, had a chilling effect on the rights of Ms. Ricker, Mr. Méndez, Mr. Vernet, and other Rock for Life-UMBC members to engage freely and openly in appropriate discussions of their viewpoints, theories, ideas, and political and religious beliefs. These rights are clearly established by well-known legal authority, and Defendants' violations were knowing, intentional, and without justification.

79. The University's speech codes contained in the Code of Student Conduct, the Policy on Sexual Harassment, the Code of Student Organization Conduct, the *Guide to Community Living*, and the Policy on Facilities Use have a chilling effect on Plaintiffs'

rights to engage freely and openly in appropriate discussions of their viewpoints, theories, ideas, and political and religious beliefs. Plaintiffs have already been subjected to discrimination under the Policy on Facilities Use, and based on the University's treatment of their constitutionally protected expression, they realistically fear that discrimination and prosecution under the other speech codes may occur at any time.

80. By adopting these speech codes and speech zones, Defendants have violated rights guaranteed to the Plaintiffs—and to all UMBC students—by the First and Fourteenth Amendments to the United States Constitution. These rights are clearly established by governing legal authority, and Defendants' violations are knowing, intentional, and without justification.

81. The speech code and zone policies outlined above are vague, overbroad, discriminate on the basis of religious and political viewpoint, interfere with the rights of free association, impose unconstitutional conditions on the receipt of state benefits, and constitute an illegal prior restraint on Plaintiffs' rights of free speech and assembly. These speech policies are therefore facially invalid and invalid as applied under the Free Speech Clause of the First Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment. So long as these speech policies remain in effect, the Defendants are causing ongoing and irreparable harm to Plaintiffs and to every student and student organization at the University.

FIRST CAUSE OF ACTION

First Amendment Freedoms of Speech and Assembly
(42 U.S.C. § 1983)

82. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint.

83. The speech restrictive policies described above—including, but not limited to, UMBC’s Policy on Sexual Harassment, Code of Student Conduct, *Guide to Community Living*, and Code of Student Organization Conduct—condition compliance on the subjective emotional experiences of listeners, and they limit and prohibit speech without providing any objective guidelines by which Plaintiffs may guide their behavior.

84. The Speech Code policies described above—including, but not limited to, UMBC’s Policy on Sexual Harassment, Code of Student Conduct, *Guide to Community Living*, and Code of Student Organization Conduct—explicitly and implicitly discriminate on the basis of viewpoint.

85. By enacting the UMBC Policy on Facilities Use, described above, Defendants have enacted an unreasonable time, place, and manner restriction on Plaintiff’s speech, by giving University officials unbridled discretion (1) to deny requests for campus facilities, and (2) to move Plaintiff’s events and displays without notice or reimbursement.

86. Defendants, acting under color of state law, have enacted and enforced regulations that are both vague and overbroad, discriminate on the basis, of viewpoint, and grant Defendants unbridled discretion in granting or denying access to public fora on the UMBC campus. In so doing, they have deprived Plaintiffs of their clearly established constitutional rights to freedom of speech and freedom of expression guaranteed by the First Amendment to the Constitution of the United States, entitling Plaintiffs to the relief prayed for below.

SECOND CAUSE OF ACTION

Fourteenth Amendment Right to Due Process of Law **(42 U.S.C. § 1983)**

87. Plaintiffs repeat and reallege each of the foregoing allegations in this

Complaint.

88. The speech restrictive policies described above—including, but not limited to, UMBC’s Policy on Sexual Harassment, Code of Student Conduct, *Guide to Community Living*, and Code of Student Organization Conduct—condition compliance on the subjective emotional experiences of listeners, and they limit and prohibit speech without providing any objective guidelines by which Plaintiffs may guide their behavior.

89. Defendants, acting under color of state law, have enacted and enforced regulations that are both vague and overbroad, and therefore, they have deprived Plaintiffs of their clearly established constitutional rights to due process of law guaranteed by the Fourteenth Amendment to the Constitution of the United States, entitling Plaintiffs to the relief prayed for below.

THIRD CAUSE OF ACTION

Fourteenth Amendment Right to Equal Protection of the Law **(42 U.S.C. § 1983)**

90. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint.

91. By enforcing the UMBC Policy on Facilities Use, described above, Defendants have enacted an unreasonable time, place, and manner restriction on Plaintiff’s speech, by giving University officials unbridled discretion (1) to deny requests for campus facilities, (2) to move Plaintiffs’ events and displays without notice or reimbursement, and (3) to treat Plaintiffs’ student organization differently than similarly situated student organizations. Defendants have in fact administered their regime for access to the traditional, designated and/or limited public fora on the UMBC campus in an arbitrary, capricious, and viewpoint discriminatory manner to favor speech and

assembly of other less controversial and more politically favored groups.

92. Defendants, acting under color of state law, have enacted and enforced these speech code and facilities use regulations in a manner that deprive Plaintiffs of their right to equal protection of the law and have therefore deprived Plaintiffs of rights established and secured by the Fourteenth Amendment to the Constitution of the United States.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Rock for Life-UMBC, Olivia Ricker, and Miguel Méndez respectfully request a jury trial, that the Court enter judgment against Defendants Hrabowski, Fey, Young, Calizo, Reiger, and Engler, and that the Court provide Plaintiffs with the following relief:

(A) A declaration that UMBC's speech code policies—including, but not limited to UMBC's Policy on Sexual Harassment, Code of Student Conduct, *Guide to Community Living*, and Code of Student Organization Conduct—violated the Plaintiffs' rights to free speech and assembly, due process of law, and equal protection;

(B) A declaration that the UMBC Policy on Facilities Use violates Plaintiffs' rights to the due process of law, free speech, and equal protection;

(C) A preliminary and permanent injunction invalidating and restraining enforcement of UMBC's speech code policies, including, but not limited to UMBC's Policy on Sexual Harassment, Code of Student Conduct, *Guide to Community Living*, and Code of Student Organization Conduct;

(D) A preliminary and permanent injunction invalidating and restraining enforcement of the UMBC Policy on Facilities Use;

(E) Damages (including nominal and punitive damages) in an amount to be

determined by the Court;

(F) Plaintiffs' reasonable attorneys' fees, costs, and other disbursements in this action pursuant to 42 U.S.C. § 1988; and

(G) All other further relief to which Plaintiffs may be entitled.

Respectfully submitted this ___th day of April, 2008.

s/Steven L. Tiedemann

STEVEN L. TIEDEMANN
JPB Enterprises, Inc.
8820 Columbia 100 Parkway, Suite 400
Columbia, Maryland 20145
(410) 884-1960
(410) 884-1457—facsimile
sltiedemann@jpbe.com

BENJAMIN W. BULL (*Of Counsel*)
Arizona Bar No. 009940
Alliance Defense Fund
15100 North 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
(480) 444-0028—facsimile
bbull@telladf.org

STEVEN H. ADEN*
ADF Center for Academic Freedom
801 G. St., N.W.
Suite 509
Washington, DC 20001
(202) 637-4610
(202) 347-3622—facsimile
saden@telladf.org

JOSEPH J. MARTINS*
North Carolina Bar No. 31666
TRAVIS C. BARHAM*
Arizona Bar No. 024867
ADF Center for Academic Freedom
12 Public Square
Columbia, Tennessee 38401
(931) 490-0591
(931) 490-7989—facsimile
jmartins@telladf.org
tbarham@telladf.org

* *Pro hac vice* application concurrently filed

ATTORNEYS FOR PLAINTIFFS

DEMAND FOR JURY TRIAL

COME NOW, Plaintiffs, and hereby demand trial by jury of all matters so triable herein.

Respectfully submitted this ___th day of April, 2008.

s/Steven L. Tiedemann

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JPB Enterprises, Inc.
8820 Columbia 100 Parkway, Suite 400
Columbia, Maryland 20145
(410) 884-1960
(410) 884-1457—facsimile
sltiedemann@jpbe.com

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Arizona Bar No. 009940
Alliance Defense Fund
15100 North 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
(480) 444-0028—facsimile
bbull@telladf.org

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ADF Center for Academic Freedom
801 G. St., N.W.
Suite 509
Washington, DC 20001
(202) 637-4610
(202) 347-3622—facsimile
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North Carolina Bar No. 31666
TRAVIS C. BARHAM*
Arizona Bar No. 024867
ADF Center for Academic Freedom
12 Public Square
Columbia, Tennessee 38401
(931) 490-0591
(931) 490-7989—facsimile
jmartins@telladf.org
tbarham@telladf.org

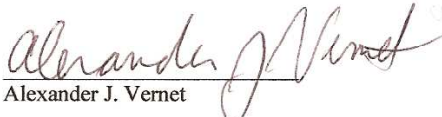
* *Pro hac vice* application concurrently filed

ATTORNEYS FOR PLAINTIFFS

VERIFICATION OF COMPLAINT

I, Alexander J. Vernet, a citizen of the United States and resident of the State of Maryland, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 28 day of March, 2008, at Baltimore, Maryland.


Alexander J. Vernet

Verification of Complaint

I, Olivia Ricker, a citizen of the United States and resident of the State of Maryland, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 27 day of March 2008, at Baltimore, Maryland.

Olivia Ricker

Olivia Ricker

VERIFICATION OF COMPLAINT

I, Miguel Méndez, a legal resident of the United States and the State of Maryland, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 26 day of March 2008, at Baltimore, Maryland.

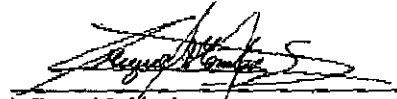

Miguel Méndez

TABLE OF EXHIBITS TO COMPLAINT

- A. UMBC's Mission Statement and Vision Statement
- B. University of Maryland System Policy on Sexual Harassment
- C. UMBC's Policy on Sexual Harassment
- D. USM Policy on Student Affairs
- E. UMBC Code of Student Conduct
- F. UMBC Residential Life Policies (i.e., *Guide to Community Living* and the Residential Life contract)
- G. UMBC Code of Student Organization Conduct
- H. USM Policy on the Use of the Physical Facilities of the University System for Public Meetings
- I. UMBC Policy on Facilities Use
- J. Affidavit of Leif Parsell
- K. Overview of the Center for Bio-Ethical Reform
- L. Summary of the Genocide Awareness Project's purpose
- M. Signs used in the GAP display
- N. UMBC Campus Map
- O. Photographs of UMBC Campus
- P. Letter from Rock for Life-UMBC's legal counsel regarding the security cost issue
- Q. Handwritten note of Defendant Lee Calizo directing that the GAP display be moved to the Commons Patio
- R. A document, dated April 27, 2007, moving the GAP display to the north of the Commons
- S. Descriptions of the smaller GAP display