

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

BETA UPSILON CHI, UPSILON CHAPTER)
AT THE UNIVERSITY OF FLORIDA, a student)
organization at the University of Florida on)
behalf of itself and its individual members; and)
BETA UPSILON CHI, INC., a Texas nonprofit)
corporation,)

Plaintiffs,)

vs.)

CIVIL ACTION NO. _____)

J. BERNARD MACHEN, in his official capacity)
as President of the University of Florida;)
PATRICIA TELLES-IRVIN, in her official)
capacity as Vice President for Student Affairs;)
EDDIE DANIELS, JR., in his official capacity as)
Executive Director of the J. Wayne Reitz Union;)
CHRIS CUPOLI, in his official capacity as the)
Director of Student Involvement; and CARLOS)
ALFONSO, C. DAVID BROWN, II,)
COURTNEY CUNNINGHAM, ROLAND C.)
DANIELS, MANNY A. FERNANDEZ, W.A.)
"MAC" McGRIFF, III, JOELEN MERKEL,)
DIANNA FULLER MORGAN, RYAN)
MOSELEY, CYNTHIA O'CONNELL, EARL)
W. POWELL, ALFRED C. WARRINGTON, IV,)
and RICHARD A. YOST, in their official)
capacities as the members of the Board of)
Trustees of the University of Florida,)

Defendants.)

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

PRELIMINARY STATEMENT

Each academic year, the University of Florida “recognizes” more than 650 student organizations, thereby giving them access to numerous valuable benefits, including on-campus facilities for meetings and events, numerous channels of communication for promoting and advertising their organization, the right to apply for funding for their activities, and the opportunity to recruit new members at the annual Student Organization Fair. Student organizations recognized by the University of Florida represent a broad spectrum of interests and viewpoints on social, cultural, political, and religious matters. Some of these organizations are single-sex organizations, such as club sports teams, singing groups, service organizations, and fraternities and sororities. Nonetheless, the University declined to recognize a single-sex, Christian fraternity, Plaintiff Beta Upsilon Chi, Upsilon Chapter, on the ground that it impermissibly “discriminates” on the basis of sex.

Plaintiffs Beta Upsilon Chi, Inc. and its local chapter, Beta Upsilon Chi, Upsilon Chapter at the University of Florida, have a basic organizational purpose: to provide a fraternity where male college students are taught to be Christian men while avoiding the lifestyle often associated with college fraternities. To that end, Plaintiffs limit membership and officer positions in their association to college men who affirm basic Christian tenets and agree to live by a Code of Conduct based on those tenets. Because Plaintiffs select members on the basis of sex, Defendants have denied Beta Upsilon Chi, Upsilon Chapter the status and benefits of recognition.

Plaintiffs bring this Complaint through their undersigned counsel, Timothy J. Tracey of the Center for Law & Religious Freedom, Springfield, Virginia, and Benjamin W. Bull, Glen Lavy, and David French of the Alliance Defense Fund, Scottsdale, Arizona, against the above-named Defendants in their official capacities. In support thereof, Plaintiffs allege as follows:

JURISDICTION AND VENUE

1.1 Plaintiffs Beta Upsilon Chi, Inc., and Beta Upsilon Chi, Upsilon Chapter at the University of Florida, bring this civil rights action pursuant to 42 U.S.C. §§ 1983 and 1988 for deprivations of Plaintiffs' rights secured by the First and Fourteenth Amendments to the United States Constitution.

1.2 Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1343(a)(3) and 1343(a)(4), which provide for original jurisdiction in this Court of all suits brought pursuant to 42 U.S.C. § 1983. Jurisdiction is also conferred on this Court by 28 U.S.C. § 1331 because the cause of action arises under the Constitution and laws of the United States.

1.3 Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because, upon information and belief, the Defendants reside in the Northern District of Florida and may be found and served in the Northern District of Florida, and because a substantial part of the events or omissions giving rise to these claims arose in this District.

PARTIES

2.1 Plaintiff Beta Upsilon Chi, Inc. ("National BYX") is an IRC 501(c)(3) nonprofit corporation organized under the laws of the State of Texas. National BYX is a

fraternity of Christian men founded in 1985. It currently has twenty-one chapters, including the University of Florida chapter, and is actively seeking to expand to other college and university campuses. Local BYX chapters are IRC 501(c)(7) qualified social fraternities.

2.2 Plaintiff Beta Upsilon Chi, Upsilon Chapter at the University of Florida (“BYX”) is a student organization at the University of Florida (“UF” or “University”). It is a local chapter of National BYX, and was officially founded at UF on March 16, 2007.

2.3 Defendant J. Bernard Machen is the President of UF. He is appointed by the Board of Trustees and is the chief executive officer of the University. His duties include the general administration of all university activities. Defendant Machen is sued in his official capacity.

2.4 Defendant Patricia Telles-Irvin is the Vice President for Student Affairs for UF. Her duties include administrative leadership for the seven departments of the Division of Student Affairs, including the J. Wayne Reitz Union and the Center for Student Involvement, in the areas of policy development, program development, budgeting and priority setting. Defendant Telles-Irvin reports to President Machen. Defendant Telles-Irvin is sued in her official capacity.

2.5 Defendant Eddie Daniels, Jr. is the Executive Director of the J. Wayne Reitz Union at UF. His duties include oversight of student activities and involvement, the direction of the activities of the J. Wayne Reitz Union, including the Center for Student Involvement and its staff, and responsibility for the interpretation and application

of University policies within the J. Wayne Reitz Union. Defendant Daniels is sued in his official capacity.

2.6 Defendant Chris Cupoli is the Director of Student Involvement at UF. His duties include the registration of student organizations at the University and the review of applications to register student organizations to ensure compliance with all UF policies and regulations, including its Nondiscrimination Policy. Defendant Cupoli is sued in his official capacity.

2.7 Defendants Carlos Alfonso, C. David Brown, II, Courtney Cunningham, Roland C. Daniels, Manny A. Fernandez, W.A. “Mac” McGriff, III, Joelen Merkel, Dianna Fuller Morgan, Ryan Moseley, Cynthia O’Connell, Earl W. Powell, Alfred C. Warrington, IV, and Richard A. Yost are the members of the UF Board of Trustees. The Board of Trustees is the public body corporate of the University. *See Fla. Stat. § 1001.72(1) (2007)*. It sets policy for the institution, and serves as the institution’s legal owner and final authority. The Board of Trustees holds the University’s resources in trust and is responsible for their efficient and effective use. The Board of Trustees specifically “has responsibility for policies related to students, enrollment of students, student activities and organizations, financial assistance, and other student services.” *Id.* at § 1001.74(10). The members of the Board of Trustees are sued in their official capacities. *See id.* at § 1001.72(1).

BYX AND ITS LOCAL UF CHAPTER

3.1 National BYX is a fraternity of Christian male college students. The purpose of the fraternity is to establish brotherhood and unity among college men, based

on the common bond of faith in Jesus Christ. National BYX advances this purpose through a variety of activities including, but not limited to, the following: Bible studies, accountability groups, service projects, fellowship activities, parties, evangelistic outreaches, and team athletic events.

3.2 All members of National BYX must be admitted by rushing and pledging a local chapter. In this process, a prospective member affirms his personal relationship with the Lord Jesus Christ and his willingness to adhere to the purpose of National BYX. A pledge is required to be a college student in the area represented by a local chapter and must express a desire to develop his relationship with Jesus Christ and others.

3.3 National BYX currently has twenty-one chapters across the country. None of these chapters are affiliated with the Interfraternity Councils that typically exist on college campuses. National BYX desires to distinguish its chapters from typical university fraternities and thus objects to having them affiliate with the Interfraternity Councils on their respective campuses.

3.4 BYX is the local UF chapter of National BYX.

3.5 BYX is governed by a chapter constitution provided by National BYX. A true and correct copy of the BYX Constitution is attached as Exhibit A.

3.6 Pursuant to the constitution provided by National BYX, BYX requires its members and officers to profess faith in Jesus Christ, to affirm the organization's Doctrinal Statement, and to adhere to its Code of Conduct. True and correct copies of the Doctrinal Statement and the Code of Conduct are attached as Exhibits B and C respectively.

3.7 The Doctrinal Statement provides:

1. We believe there is one God, eternally existing in three persons: the Father, the Son, and the Holy Spirit.
2. We believe that the Bible is God's written revelation to man, that it is inspired, authoritative, and without error in the original manuscripts.
3. We believe in the deity of Jesus Christ, His virgin birth, His sinless life, His miraculous works, His substitutionary death, His bodily resurrection, His ascension into heaven, His present ministry of intercession for us, and His return to earth in power and glory.
4. We believe in the personality and deity of the Holy Spirit, that He performs the miracle of regeneration in new believers—sealing them for the day of redemption—and then indwells them, thus enabling them to live godly lives.
5. We believe that man was created in the image of God, but because of sin, became alienated from God. But God, while we were still sinners, demonstrated His own love toward us by sending His only Son, Jesus Christ, to die on a cross in our place. Thus, the removal of that alienation was made possible by His grace, and indeed has been applied to everyone who has trusted in the death and resurrection of Jesus Christ alone for his salvation.

Exhibit B, at 1.

3.8 The Code of Conduct calls officers and members of BYX to sexual purity.

It provides in pertinent part:

We believe that sex is a gift of God to be enjoyed only inside the covenant of marriage between a man and a woman. Therefore, we will not condone such activity as homosexuality, fornication, or adultery. {1 Corinthians 6:15-20; Hebrews 13:4}

Exhibit C, at 1.

3.9 BYX interprets its Constitution, Doctrinal Statement, and Code of Conduct to require that all members must be Christians. Pursuant to its Constitution, a

panel of at least three elected officers, or if not possible, appointed officers or committee chairs, interviews applicants for membership “[t]o determine the prospective member’s understanding of salvation and their personal relationship to the Lord Jesus Christ, and their willingness to adhere to the purpose of Beta Upsilon Chi Fraternity.” Exhibit A, at 5. The “[m]inimum questions to be asked” during an interview are as follows: “1) Have you trusted Jesus Christ as your Savior and Lord? Explain. 2) In your understanding, what is the purpose of BYX? Are you willing to adhere to and fulfill the purpose of BYX? 3) Are you willing to uphold the BYX Code of Conduct?” Exhibit A, at 5. Upon the unanimous vote of the panelists a prospective member may be admitted as a pledge.

3.10 A prospective member who is accepted as a pledge engages in a semester-long pledgship that concludes in the pledge becoming an active member of BYX. The purpose of pledgship, among other things, is to “build Christ-like character in the pledges” and “Spiritual growth in their commitment to Christ.” Exhibit A, at 5.

3.11 The objectives of pledgship include understanding key Scripture verses emphasized in the Constitution, memorizing the fraternity song, and knowing the spiritual significance of the fraternity colors.

3.12 Upon completion of pledgship, the pledge is accepted as an active member of BYX via an initiation ceremony. The ceremony includes prayer, a time of worship, the reading of Scripture, the singing of the fraternity song, and the recitation of the New Member Oath by the chapter president and by all pledges, which reads:

I, (state your name)/, as a member of Brothers Under Christ/, pledge to strive towards/ the purpose of the fraternity/ in establishing brotherhood and unity among college men/ based on the common bond of Jesus Christ./ Amen.

Exhibit A, at 11.

3.13 Through its Bible studies, accountability groups, and other meetings and activities, BYX seeks to teach male college students what it means to be Christian men and to instill in them certain values, including those values in its Code of Conduct, such as sexual purity. *See* Exhibit C, at 1.

3.14 BYX believes that in order to achieve its purposes and instill these values, it must require its members and officers to be male students and to have a personal relationship with Jesus Christ.

3.15 Female students and students who do not have a personal relationship with Jesus Christ are not eligible to be official members or officers. Such persons, however, are free to attend an “open party,” where anyone is welcome, and female students are welcome to attend a “closed” party at the invitation of a pledge or member.

UNIVERSITY OF FLORIDA AND STUDENT ORGANIZATIONS

4.1 UF is a public university located in Gainesville, Florida. It is an agency and/or instrumentality of the State of Florida. *See* Fla. Stat. § 1004.21 *et seq.* (2007).

4.2 UF permits students to organize and form student organizations. UF officially “recognizes” these organizations through the Center for Student Involvement (“CSI”), part of the J. Wayne Reitz Union and the Division of Student Affairs.

4.3 Each academic year, UF recognizes more than 650 student organizations. A true and correct copy of UF’s List of Recognized Student Organizations as of July 2, 2007, is attached as Exhibit D.

4.4 Recognition as a UF student organization conveys numerous substantial benefits and privileges. These rights, benefits, and privileges include, but are not limited to:

- Use of University facilities, including buildings, grounds, and services.
- Ability to request funds from Student Government or its designated student organizations.
- Access to CSI staff and resources.
- Participation in the Student Organization Fair.
- Office or cubicle space.
- Student organization mailbox.
- Filing and storage cabinet space.
- Work tables.
- Conference room access.
- Bulletin boards
- Flier stands.
- Computers and typewriters
- Tip sheets for student organization success.
- Use of the student organization resource library.
- Student organization email address.
- Student organization website.
- Use of listservs.
- Inclusion in all UF official lists of student organizations, including website and hardcopy.

- Ability to “table” in the R. Wayne Reitz Student Union.
- Mailing labels.

A true and correct copy of UF’s Handbook of Student Activities, including a listing of the benefits of registered student organization status, is attached as Exhibit E.

4.5 UF puts recognized student organizations into three categories: (1) Registered Student Organizations; (2) Sponsored Organizations; and (3) Social Sororities and Fraternities.

4.6 The majority of recognized student organizations at UF are Registered Student Organizations. These organizations are formed by any group of students currently enrolled at UF sharing a common interest and/or goal.

4.7 On information and belief, many Registered Student Organizations are similarly situated to BYX in that they limit membership and/or leadership on the basis of sex. For example, The Sedoctaves is a women’s *a cappella* singing group. *See* Exhibit D, at 13. Progressive Black Men is a professional service organization for African-American men. *See* Exhibit D, at 11. Women’s Chorale is a singing group for UF women. *See* Exhibit D, at 14. Sistuhs is a professional service organization for African-American women. *See* Exhibit D, at 12. UF also recognizes numerous single-sex club sports teams, such as Florida’s Elite Ultimate Ladies (a women’s ultimate Frisbee club), Men’s Lacrosse, and Men’s Ice Hockey. *See* Exhibit D, at 6, 9.

4.8 Sponsored Organizations are student organizations that serve a function of or obtain sponsorship from a University department. Sponsorship is typically only given to groups whose purpose and activities are consistent with the mission of the sponsoring

department. The sponsoring department supports, endorses, supervises, and assumes responsibility for the actions and activities of a Sponsored Organization.

4.9 Social Sororities and Fraternities are single-sex organizations approved by the Office of Sorority and Fraternity Affairs and affiliated with the appropriate Greek governing council. Fraternities are typically affiliated with the IFC and sororities with the Panhellenic Council.

4.10 To register with UF as a Registered Student Organization, a Sponsored Group, or a Social Sorority or Fraternity, and thereby gain access to the rights, benefits, and privileges enumerated in Paragraph 4.4, a student organization must submit an approved constitution and completed Student Organization Registration Form to the CSI.

4.11 The Student Organization Registration Form requires a student organization's officers to confirm their understanding of UF's policies governing student organizations. *See* Student Organization Registration Form, at 1 (2007-2008). A true and correct copy of the Student Organization Registration Form (2007-2008) is attached as Exhibit F.

4.12 UF's policies concerning student organizations include a Nondiscrimination Policy, which provides:

A registered student organization shall be in full compliance with all federal and state nondiscrimination and equal opportunity laws, orders, and regulations.

A registered student organization may not discriminate against a member or prospective member on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, disability, unfavorable discharge from the military, or status as a disabled veteran or veteran of the Vietnam era, except as specifically exempted by law. Likewise, among the individual

discrimination prohibited by the University policy, but not by law, is sexual orientation.

Exhibit E, at 21.

4.13 The Nondiscrimination Policy is alleged by UF to be based on Rule 6C1-1.006 of the Rules of the University of Florida, entitled “University of Florida; Non-Discrimination Policy.” A true and correct copy of Rule 6C1-1.006 of the Rules of the University of Florida is attached as Exhibit G.

4.14 A student organization’s constitution must comply with CSI’s Constitution Guidelines. The Constitution Guidelines provide that a student organization’s constitution “must state that the organization will not discriminate on the basis of race, creed, color, sex, age, national origin, and disability.” Exhibit E, at 17. The Guidelines emphasize that “**the statement must include ‘sex.’**” Exhibit E, at 17 (emphasis in original). UF’s Constitution Checklist and Sample Constitution reiterate these same requirements. True and correct copies of the Constitution Checklist and the Sample Constitution are attached as Exhibit H and Exhibit I respectively.

4.15 Once a student organization has turned in the Student Organization Registration Form and constitution to the CSI, it must complete the registration process online at the CSI’s website. There, the organization must supply the names of the organization’s officers and their UF identification numbers, the number of members, the purpose of the organization, and the organization’s meeting times and locations. Registration is complete once the student organization receives a confirmation email from the CSI.

4.16 Student organizations must re-register with UF each school year.

4.17 In addition to the above requirements, Sponsored Organizations must have a signed letter from the sponsoring department on departmental letterhead confirming the department's sponsorship of the organization and acceptance of responsibility for the organization.

4.18 In addition to the above requirements, Social Sororities and Fraternities must abide by the policies, regulations and procedures of UF's Office of Sorority and Fraternity Affairs, their national office, and the appropriate Greek governing council, for example, the IFC or the Panhellenic Council.

4.19 Social Sororities and Fraternities may *not* request funds from Student Government.

4.20 Notwithstanding Rule 6C1-1.006 of the Rules of the University of Florida and the University Nondiscrimination Policy governing student organizations, the CSI's Constitution Guidelines, the CSI's Constitution Checklist, and the CSI's Sample Constitution, Social Sororities and Fraternities are specifically permitted by UF to select members on the basis of sex. *See* Exhibit E, at 7.

4.21 UF will not recognize a Social Sorority or Fraternity unless one of the Greek governing councils has first permitted it to "affiliate" with the relevant council. The Greek governing councils, such as the IFC and the Panhellenic Council, have discretion regarding whether or not to allow a Social Sorority or Fraternity to affiliate with their council, even if the group complies with all relevant University rules governing student organizations. Typically, a Greek governing council will only add one fraternity or sorority each academic year and sometimes none at all.

4.22 The Greek governing council that generally “affiliates” fraternities is the IFC.

4.23 The expansion procedures in the IFC’s Constitution provide that “[f]raternities with constitutions that restrict membership on the basis of . . . religious grounds will not be permitted to colonize at the University of Florida.” Art. IX, § 6(A), Constitution of the IFC (Aug. 24, 2005). A true and correct copy of the Constitution of the IFC (Aug. 24, 2005) is attached as Exhibit J.

RECENT DEVELOPMENTS

5.1 On or about May 17, 2007, the Vice President of BYX, Ryan Peterman, met with UF’s Director of Student Involvement, Defendant Chris Cupoli, to inquire about the University recognizing BYX as a Registered Student Organization.

5.2 Defendant Cupoli informed Peterman that UF would not recognize BYX as a Registered Student Organization, because BYX discriminates in its membership on the basis of sex. Defendant Cupoli suggested to Peterman that BYX seek UF recognition and attendant benefits by asking the IFC to “affiliate” BYX as a Social Sorority or Fraternity. Defendant Cupoli further indicated that BYX could be an off-campus student group.

5.3 Off-campus student groups are not entitled to any of the rights, privileges, and benefits available to groups officially recognized by UF. Off-campus student groups are permitted to purchase advertising in *The Alligator*, a newspaper unaffiliated with the University, and to post notices on “green boards,” which are bulletin boards generally available for use by all UF students and the general public. Off-campus student groups

are specifically denied the ability to host events or to reserve meeting space on campus, and the ability to seek student government funding.

5.4 BYX cannot affiliate with the IFC, because it selects members on the basis of religion, and, as explained above, the IFC's expansion procedures in its Constitution bar organizations that select members on the basis of religion from affiliating. Moreover, BYX desires funding from Student Government, and, as explained above, recognized Social Sororities and Fraternities are not eligible for this funding.

5.5 BYX is caught in a conundrum. UF refuses to recognize BYX as a Registered Student Organization because the group discriminates on the basis of sex. UF cannot recognize BYX as a Social Fraternity because BYX is unable to affiliate with the IFC due to the group's religious criteria for members.

5.6 As a Christian fraternity, BYX is locked out of the UF campus. The only way UF will recognize BYX is if it chooses to give up its identity as a men's organization or if it abandons its religious criteria for members.

5.7 On or about June 7, 2007, counsel for BYX sent a demand letter to Defendant Cupoli explaining that UF's refusal to register BYX violates the First and Fourteenth Amendments to the United States Constitution. The letter requested that Defendant Cupoli confirm by June 22, 2007, that UF would recognize BYX as a Registered Student Organization for the 2007-2008 academic year.

5.8 By June 22, 2007, UF provided no response to the letter from counsel for BYX.

5.9 On or about June 29, 2007, counsel for BYX telephoned Defendant Cupoli to follow up on the letter. Defendant Cupoli informed counsel for BYX that he had received the letter, but he could not guarantee that UF would respond to the letter and certainly not by a particular date.

5.10 The 2007-2008 academic year begins on August 23, 2007. If BYX is not recognized by the start of the 2007-2008 academic year, National BYX may miss the opportunity to have an established local chapter at UF.

5.11 There are currently only eight members of the local BYX chapter at UF. Without being officially recognized by UF, BYX is significantly hampered in its ability to recruit new pledges, since it cannot reserve meeting space on campus or host events on campus. It also cannot advertise social events, its upcoming rush, or other events on campus.

5.12 BYX desires the privileges and status of a Registered Student Organization at UF. National BYX also desires that its local UF chapter have these privileges and status.

5.13 During the 2005-2006 and 2006-2007 academic years, UF recognized Kappa Upsilon Chi, a Christian fraternity, and Sigma Phi Lambda, a Christian sorority, as Registered Student Organizations. Even though these groups were recognized as Registered Student Organizations, rather than as Social Sororities and Fraternities, UF permitted the groups to select members on the basis of sex.

5.14 The membership and leadership policies of BYX do not violate any federal, state, or local laws concerning nondiscrimination.

5.15 By withholding the status and benefits of a Registered Student Organization from BYX unless the group abandons its identity as a Christian men's organization, Defendants have violated and continue to violate National BYX's and BYX's rights of freedom of speech, freedom of association, free exercise of religion, and equal protection of the laws under the First and Fourteenth Amendments to the United States Constitution.

5.16 The possible availability of recognition as a Social Sorority or Fraternity does not ameliorate UF's violation of National BYX's and BYX's First and Fourteenth Amendment rights. Other than selecting members on the basis of sex, BYX is otherwise qualified to be recognized as a Registered Student Organization.

5.17 All acts of Defendants, their officers, agents, servants, employees, or persons acting at their behest or direction herein alleged, were done and are continuing to be done under the color of state law, including the statutes, regulations, customs, policies and usages of the State of Florida, and pursuant to policies and/or customs established by UF through Defendants.

5.18 Unless and until Defendants are enjoined from denying the status of a Registered Student Organization and its attendant benefits to BYX, Plaintiffs will suffer and continue to suffer irreparable harm to their First and Fourteenth Amendment rights.

COUNT I

FREEDOM OF EXPRESSIVE ASSOCIATION UNITED STATES CONST. AMEND. I

6.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 5.18 as if set forth verbatim herein.

6.2 By denying BYX's application for recognition as a Registered Student Organization and the rights, benefits, and privileges thereto on the basis of BYX's membership and leadership policies, and denying National BYX the ability to maintain a recognized chapter at UF, Defendants have violated and will continue to violate the right to freedom of expressive association guaranteed to National BYX, BYX and its members by the First Amendment to the United States Constitution and made applicable to the states and their political subdivisions by the Fourteenth Amendment.

COUNT II

FREEDOM OF INTIMATE ASSOCIATION UNITED STATES CONST. AMEND. I

7.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 6.2 as if set forth verbatim herein.

7.2 By denying BYX's application for recognition as a Registered Student Organization and the rights, benefits, and privileges thereto on the basis of BYX's membership and leadership policies, and denying National BYX the ability to maintain a recognized chapter at UF, Defendants have violated and will continue to violate the right of intimate association guaranteed to National BYX, BYX and its members by the First Amendment to the United States Constitution and made applicable to the states and their political subdivisions by the Fourteenth Amendment.

COUNT III

FREE SPEECH
UNITED STATES CONST. AMEND. I

8.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 7.2 as if set forth verbatim herein.

8.2 By denying BYX's application for recognition as a Registered Student Organization and the rights, benefits, and privileges thereto on the basis of BYX's membership and leadership policies, and denying National BYX the ability to maintain a recognized chapter at UF, Defendants have violated and will continue to violate the right of free speech guaranteed to National BYX, BYX and its members by the First Amendment to the United States Constitution and made applicable to the states and their political subdivisions by the Fourteenth Amendment.

COUNT IV

FREE EXERCISE CLAUSE
UNITED STATES CONST. AMEND. I

9.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 8.2 as if set forth verbatim herein.

9.2 By denying BYX's application for recognition as a Registered Student Organization and the rights, benefits, and privileges thereto on the basis of BYX's membership and leadership policies, and denying National BYX the ability to maintain a recognized chapter at UF, Defendants have violated and will continue to violate the right to free exercise of religion guaranteed to National BYX, BYX and its members by the

First Amendment to the United States Constitution and made applicable to the states and their political subdivisions by the Fourteenth Amendment.

COUNT V

EQUAL PROTECTION CLAUSE
UNITED STATES CONST. AMEND. XIV

10.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 9.2 as if set forth verbatim herein.

10.2 By denying BYX's application for recognition as a Registered Student Organization and the rights, benefits, and privileges thereto on the basis of BYX's requirement that its members be male college students, while extending Registered Student Organization status to other student organizations, including Christian fraternities and sororities, without regard to whether they select members on the basis of sex, Defendants have denied and will continue to deny the equal protection of the laws guaranteed to National BYX, BYX and its members as a religious association by the Fourteenth Amendment to the United States Constitution.

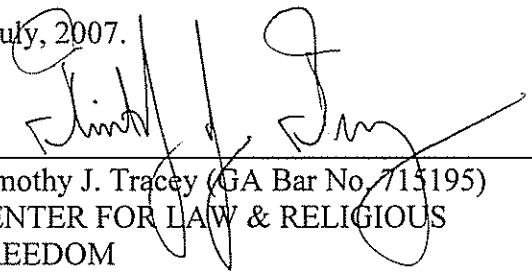
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs National BYX and BYX respectfully request that this Court order the following relief:

- (1) A declaration that Defendants' denial of BYX's Registered Student Organization status and its attendant rights, privileges, benefits, and incidents violates the First and Fourteenth Amendments to the United States Constitution;

- (2) A preliminary and permanent injunction enjoining Defendants from denying to BYX Registered Student Organization status; and prohibiting Defendants, their employees, officers, and agents, and all persons acting by and through them, from withholding the rights, privileges, benefits, or incidents of registered status from BYX and from retaliating against Plaintiffs and its members directly or indirectly for exercising their constitutional rights;
- (4) An award of reasonable costs and attorneys' fees incurred by Plaintiffs in prosecuting this action pursuant to 42 U.S.C. § 1988;
- (5) That this Court retain jurisdiction over this case for the purposes of enforcement of any order; and
- (6) Such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted this 9th day of July, 2007.



Timothy J. Tracey (GA Bar No. 715195)
CENTER FOR LAW & RELIGIOUS
FREEDOM
8001 Braddock Road, Suite 300
Springfield, VA 22151-2110
Tel: (703) 642-1070
Fax: (703) 642-1075

OF COUNSEL:

Benjamin W. Bull. (AZ Bar No. 009940)
ALLIANCE DEFENSE FUND
15333 North Pima Road, Suite 165
Scottsdale, AZ 85260-2781

Tel: (800) 835-5233
Fax: (480) 444-0028

David A. French, (TN Bar No. 16692)
ALLIANCE DEFENSE FUND
7141 Old Zion Road
Columbia, TN 38401-6035
Tel: (931) 490-0591
Fax: (931) 490-7989

Attorneys for Plaintiffs

VERIFICATION

I, Ryan, a citizen of the United States and a resident of the State of Florida, am Vice President of Beta Upsilon Chi, Upsilon Chapter at the University of Florida. I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief and declare under penalty of perjury under the laws of the United States of America that the foregoing factual averments are true and correct to the best of my knowledge and belief.

Beta Upsilon Chi, Upsilon Chapter at the University
of Florida



Vice President, BYX