

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ORIT SKLAR and RUTH
MALHOTRA,

Plaintiffs,

vs.

G. WAYNE CLOUGH, individually
and in his official capacity as president
of the Georgia Institute of Technology;
GAIL DiSABATINO, individually and
in her official capacity as Dean of
Students; DANIELLE McDONALD,
individually and in her official capacity
as Dean of Student Involvement;
STEPHANIE RAY, individually and in
her official capacity as Director of
Diversity Programs; and MICHAEL D.
BLACK, individually and in his official
capacity as Director of Housing,

Defendants.

Case No.:

VERIFIED COMPLAINT

Plaintiffs Orit Sklar and Ruth Malhotra, by and through counsel, and for their Complaint against Defendants G. Wayne Clough, president of the Georgia Institute of Technology (the “Institute”), Gail DiSabatino, Danielle McDonald, Stephanie Ray, and Michael D. Black, state as follows:

INTRODUCTION

1. Georgia Institute of Technology claims to be one of the nation's preeminent public research universities. The allure of this reputation leads many men and women, young and old, to pursue academic studies at the Institute. Yet, when students matriculate the Institute, they enter an environment that, by policy and practice, squelches their most cherished First Amendment freedoms. The Institute threatens punishment ranging from sanction to expulsion for any student or student organization that engages in "intolerant" speech, expression and behavior. Indeed, students are less free to speak and express themselves at the Institute than they are in downtown Atlanta.

2. The Institute not only actively censors disfavored expression on its campus, it also engages in a comprehensive and unlawful scheme of indoctrination of individuals into particular religious beliefs. Through its "Safe Space" program, the Institute and Defendants engage in religious counseling, instruct community members in what they believe is the correct interpretation of holy texts on issues of homosexuality, promote the beliefs of religions that favor homosexual behavior, and denigrate religions that oppose this behavior. In doing so, the Institute and Defendants have unlawfully established what is orthodox and permissible in the realm of religious belief in Georgia.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 (federal question) and the Civil Rights Act of 1871, 42 U.S.C. §§ 1983 and 1988. This Court also has jurisdiction to award damages pursuant to 28 U.S.C. § 1343, declaratory relief pursuant to 28 U.S.C. § 2201, and injunctive relief pursuant to 42 U.S.C. 1983 and Fed. R. Civ. Pro. 65.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and LR 3.1 because the Defendants reside in this district and all of the acts described in this Complaint occurred in this district.

PLAINTIFFS

5. Plaintiff Orit Sklar is a junior at the Institute and is a member of College Republicans at Georgia Tech and the president of the campus chapter of Hillel, a predominantly Jewish student organization whose mission is to “enrich the lives of Jewish undergraduate and graduate students so that they may enrich the Jewish people and the world.”

6. Plaintiff Ruth Malhotra is a senior at the Institute and is Chairman of the College Republicans at Georgia Tech and is involved in Catalyst Ministries at Georgia Tech, a predominantly Christian student organization whose mission is “to

reach those around us with the hope of Christ and build them up in their faith, providing a community through which they can impact their world.”

DEFENDANTS

7. Defendant G. Wayne Clough is the President of Georgia Institute of Technology, a public university organized and existing under the laws of the State of Georgia, is responsible for overseeing campus administration including the policies and procedure contained herein, and is sued both in his official and individual capacities.

8. Defendant Gail DiSabatino is the Dean of Students at the Georgia Institute of Technology, oversees Associate Dean Stephanie Ray, and is responsible for overseeing campus administration, including the policies and procedures contained herein, and is sued both in her official and individual capacities.

9. Defendant Danielle McDonald is the Dean of Student Involvement at the Georgia Institute of Technology, and is responsible for overseeing campus administration, including the policies and procedures contained herein, and is sued both in her official and individual capacities.

10. Defendant Stephanie Ray is an Associate Dean at the Georgia Institute of Technology and the Director of Diversity Programs. Upon information and

belief, Ms. Ray is responsible for implementing the Institute’s “Safe Space” training program and is responsible for the content of that program. Ms. Ray is sued in both her official and individual capacities.

11. Defendant Michael D. Black is the Director of Housing at the Georgia Institute of Technology, and is responsible for overseeing campus housing administration, including the policies and procedures contained herein, and is sued both in his official and individual capacities.

FACTUAL BACKGROUND

A. The Institute’s Speech Codes

12. Student life for undergraduate students at the Institute is governed in part by two primary documents, the Institute’s Student Code of Conduct (“Student Code”) and the Community Guide, also called “*Technically Speaking*.” These documents contain comprehensive student conduct guidelines that regulate the bounds of permissible speech and expression on campus and regulate the conduct of expressive student organizations. These guidelines will be referred to throughout this Complaint as the Institute’s “speech codes.”

13. The Community Guide, promulgated by Defendants and the Institute’s Department of Housing and Residential Life, requires students to abide by certain “community policies,” in conjunction with the Student Code.

14. The Community Guide contains the following statement:

The following are Acts of Intolerance and are considered unacceptable:

A. Any attempt to injure, harm, malign, or harass a person because of race, religious belief, color sexual/affectional orientation, national origin, disability, age, or gender.

B. Direct verbal or physical assaults upon an individual because of their racial, ethnic, or sexual/affectional identity.

C. Posting, painting, engraving or otherwise displaying derogatory slogans or symbols on personal or state property.

...

F. Denigrating written/verbal communications (including the use of telephones, emails and computers) directed toward an individual because of their characteristics or beliefs. (Emphasis added.)

15. Violation of the Community Guide will result in disciplinary action, ranging from warnings to dismissal from the Institute. A copy of the Institute's Community Guide is attached as Exhibit A to this Complaint.

16. The Student Code also states that its provisions—as well as other Institute regulations (including, presumably, the Community Guide)—apply not only to individual students but also to student organizations: “Student Groups and Organizations are accountable to this Code. A Student Group or Organization and its officers may be held collectively and individually responsible” when violations

of the Student Code have “received the consent or encouragement of the Group or Organizations, or of the Group’s or Organization’s leaders or officers.” A copy of the Institute’s Student Code is attached as Exhibit B to this Complaint.

17. The Conduct Code and Disciplinary Procedures for Student Organizations state that “Student Organizations may be charged with violations of the Student Code of Conduct.”

18. The Conduct Code and Disciplinary Procedures for Student Organizations contains the following:

An Organization violates an Institute policy or rule when:

1. one or more of its officers or authorized representatives acting in the scope of their Organization capacities commits the violation;
2. a member of an Organization or group acting with apparent authority of the Organization commits the violation;
3. one or more members of an Organization or group fail to promptly report their knowledge or reasonable information about a violation to the appropriate Institute authorities;

...

5. one or more members of an Organization or group or its officers, under circumstances in which such person(s) knew an act constituting a violation was occurring or about to occur, and/or fails to prevent the act or encourages, aids and abets the act.

A copy of the Institute’s Conduct Code and Disciplinary Procedures for Student Organizations is attached as Exhibit C to this Complaint.

19. Finally, on information and belief, the Institute’s Event Scheduling policy limits free speech for “members of the GT community and the general public” to the “small amphitheater located near the Ferst Theater.” A copy of the relevant portion of Institute’s Event Scheduling policy is attached as Exhibit D to this Complaint.

20. Because of the Institute’s onerous speech codes and intolerance of any students who dissent from its orthodoxy on matters relating to—among other things— race, religious belief, color sexual/affectional orientation, national origin, disability, age, or gender, Plaintiffs cannot engage in the full range of dialogue on matters of political, cultural, and religious importance. Further, the Institute’s speech codes have been applied to and enforced against Plaintiffs.

21. Plaintiffs are members of College Republicans and consistently engage in conversations and class discussions regarding issues implicated by the speech codes. Plaintiffs fear that the discussion of their social, cultural, political and/or religious views regarding these issues may be sanctionable under applicable Institute speech codes.

22. Additionally, Plaintiffs are members of religiously expressive student organizations which hold (and seek to advance) opinions and beliefs regarding issues of race, gender, religion and homosexual behavior that may be objectionable

or offensive to other students and sanctionable under applicable Institute speech codes.

23. Upon information and belief, the Institute and Defendants Clough, DiSabatino, McDonald and Black enforce the speech code through both formal disciplinary proceedings and through informal, verbal warnings and directives.

24. Specifically, on one occasion the Institute and Defendants Clough, DiSabatino, and McDonald enforced the speech code against Plaintiffs by ordering them to cover material portions of a written protest of the controversial, ideologically-charged play “The Vagina Monologues” with white paint. This prevented Plaintiffs from delivering a lawful, non-obscene protest against a play performed with the official support of Institute officials, including officials at the Institute’s Women’s Resource Center.

25. In addition, on or about March 16, 2005, Defendant McDonald requested a meeting with Plaintiff Malhotra. On information and belief, at the meeting, Defendant McDonald told Plaintiff Malhotra that “College Republicans has become a joke on campus,” and condemned three of the organization’s activities: a letter College Republicans wrote to the Georgia Tech Coming Out Week Committee; the aforementioned Vagina Monologues display; and a Diversity Bake Sale organized by College Republicans. In the Fall of 2003, the

College Republicans organized a Diversity Bake Sale, which campus police shut down pursuant to the Institute's speech code and administrators' demands. Defendant McDonald strongly warned Plaintiff Malhotra that College Republicans should not engage in this expression again.

26. The Institute's speech codes contained in the Student Code and Community Guide have a chilling effect on Plaintiffs' rights to freely and openly engage in appropriate discussions of their theories, ideas and political and/or religious beliefs. By adopting these speech codes, the Institute and Defendants Clough, DiSabatino, McDonald and Black have violated rights guaranteed to Plaintiffs—and to all Institute students—by the First and Fourteenth Amendments to the Constitution of the United States of America. These rights are clearly established by governing legal authority, and Defendants' violations are knowing, intentional and without justification.

27. The speech codes outlined above are vague, overbroad, discriminate on the basis of religious and/or political viewpoint, interfere with the right 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 codes are therefore facially invalid and invalid as-applied under the Free Speech clause of the First Amendment and the Due Process and Equal

Protection provisions of the Fourteenth Amendment. So long as these speech codes survive, the Institute and Defendants Clough, DiSabatino, McDonald and Black are causing ongoing and irreparable harm to Plaintiffs and to every student and student organization at the Institute.

28. The Institute's Conduct Code and Disciplinary Procedures for Student Organizations has a chilling effect on Plaintiffs' student organizations and the members' rights to freely and openly engage in appropriate discussions of their theories, ideas and political and/or religious beliefs. By adopting these policies, the Institute and Defendants Clough, DiSabatino, and McDonald and Black have violated rights guaranteed to Plaintiffs—and to all Institute students—by the First and Fourteenth Amendments to the Constitution of the United States of America. These rights are clearly established by governing legal authority, and Defendants' violations are knowing, intentional and without justification.

B. The Institute's Student Activity Fee Policy

29. Additionally, every undergraduate student at the Institute is required, in addition to paying tuition, to pay a mandatory Student Activity Fee. This fee must be paid in advance of each academic year.

30. According to the Institute's Fact Sheet on Mandatory Student Activity Fees, the purpose of the fee is "used to fund various organizations benefiting

students, such as...student-run organizations.” A copy of the Institute’s Fact Sheet on Mandatory Student Activity Fees is attached as Exhibit E to this Complaint.

31. The disbursement of Student Activity Fee money is governed in part by the “Policies and Priorities of the Joint Finance Committee” (the “Policies and Priorities”) a publication of the Georgia Tech Student Government Association.

32. The Policies and Priorities provide the “general usage rules associated with student activity fee monies” and limit the eligibility of student organizations for funding and the manner in which Student Fee money may be spent. A copy of the Policies and Priorities is attached as Exhibit F to this Complaint.

33. Upon information and belief, the Student Activity Fee funds a wide variety of student organizations, including organizations with specific ideological viewpoints that are engaged in speech regarding cultural, political, ideological, and religious issues.

34. The Policies and Priorities states, however, that the Institute will not fund either “Partisan Political Activities” or “Religious Activities” through the Student Activity Fee.

35. As a result of this policy, Plaintiffs have been denied the ability to participate in student organizations and receive funding on an equal basis to

students engaged in other forms of expressive ideological activity not subject to the Institute's funding ban.

36. The prohibition against the funding of political or religious activities at the same time that the Institute funds a wide variety of cultural and ideological activities constitutes impermissible viewpoint discrimination both facially and as-applied. By adopting this Student Activity Fee policy, the Institute and Defendants Clough, DiSabatino and Black have violated rights guaranteed to Plaintiffs—and to all Institute students—by the First and Fourteenth Amendments to the Constitution of the United States of America. These rights are clearly established by governing legal authority, and Defendants' violations are knowing, intentional and without justification.

C. The Institute's Establishment of Religion

37. In addition to enforcing its unlawful speech codes and Student Activity Fee policies, the Institute and Defendants Clough, DiSabatino and Ray also engage in unconstitutional religious indoctrination through a program called "Safe Space." The purported mission of Safe Space is "to dispel negative stereotypes and present factually accurate information about GLBT [Gay, Lesbian, Bisexual, and Transgendered] people, and...to publicize other support resources or structures that are available on or off campus." In fact, Safe Space is a program

explicitly infused with religious meaning and purpose, and is designed in part to advance a specific religious view of homosexual behavior.

38. Participation in Safe Space is “open to all Georgia Tech faculty and staff members as well as student staff, including Housing Staff, Teaching Assistants, Student Assistants, and leaders of campus organizations.” All participants are asked “to attend an orientation session and sign a statement expressing their agreement with the program’s mission and goals.” The purpose of the Safe Space training is to cause students to “learn an ‘*automatic response*’ to anti-LGBT bias.” (Emphasis added.)

39. The Safe Space training seeks “to present factual answers to questions most often asked about homosexuality and to identify resources for those seeking additional information.”

40. The Safe Space Training Manual purports to answer a series of questions, including: “Is homosexuality immoral?” The answer to this question establishes the Institute’s explicit religious viewpoint:

Many religious traditions have taught, and some continue to teach, that homosexuality is immoral. *These condemnations are based primarily on a few isolated passages from the Bible. Historically, Biblical passages taken out of context have been used to justify such things as slavery, the inferior status of women, and the persecution of religious minorities.* In recent years, many theologians and clergy have begun to look at sexual relationships in terms of the love, mutual support, commitment, and the responsibility of the partners rather than

the sex of the individuals involved. Currently, there are many gay and lesbian religious groups and religious congregations that are open, accepting, and supportive of the gay community. (Emphasis added).

41. Additionally, the Safe Space Training Manual contains a section entitled “GLBT People and Spirituality” that instructs individuals on the beliefs of particular religions with respect to homosexual behavior. This section of the training is entitled: “Summaries of some [sic] Religious Views on Homosexuality.” The language of the Manual is explicitly and intentionally slanted to reflect disapproval with traditional religious views of homosexual behavior (labeling those views “anti-gay”) and approval of religious views that are morally accepting of that behavior.

42. The Training Manual evaluates differing religious beliefs as follows:

United Methodist Church

In 1972 the church stated that homosexuality was incompatible with Christian teaching, but it supported the civil rights of gays. In general this characterized the Methodist position in succeeding years and was formally reaffirmed in 1992. Church policy states that gay ministers could be banned; they do not perform same-sex union ceremonies. Within the Methodist Church there are a growing number of "Reconciling Congregations" that disagree with the official stand and are trying to change the discipline. These congregations perform same-sex ceremonies, although theoretically they can get in trouble for doing so, and they are welcoming communities for people of all sexual orientations.

Mormons (Church of Jesus Christ of Latter-day Saints)

The Church of Jesus Christ of Latter-Day Saints (LDS) has the most anti-gay policies of any religion widely practiced in the United States.

The Reorganized Church of Jesus Christ of Latter-Day Saints (RLDS) adopted a policy to include sexual orientation in their antidiscrimination policy. Gay and lesbian individuals can be members without fear of excommunication and do hold lay priesthood offices with some restrictions, but those restrictions are under review.

Episcopal

Historically the Episcopal Church has been more receptive to gay worshipers than many other Christian denominations. They welcome gay and lesbian members, ordain non-practicing homosexuals, and participate in anti-hate programs. They do not, however, perform same-sex union ceremonies.

Evangelical Lutheran

The Lutheran Church believes that the sexual behavior of consenting adults is not an acceptable subject for legislation or police action. They believe that persons who engage in homosexual behavior are sinners only as are all other persons alienated from God and neighbor. They allow gay members and ordain non-practicing homosexuals. In 1990 they suspended two San Francisco churches for ordaining openly gay and lesbian ministers.

Metropolitan Community Church

Founded by the Rev. Troy Perry in 1968, the Metropolitan Community Church is an ecumenical religious denomination that predominately serves the gay, lesbian, and bisexual community, although they welcome all worshipers. The church ordains openly gay and lesbian clergy, performs same-sex union ceremonies, and believes that the Bible does not condemn homosexuality.

Presbyterian Church - USA

In 1991 delegates issued a letter stating that homosexuality is not God's wish for humanity, rejected the sanctioning of same-sex unions, and forbade the ordination of openly gay clergy. The following year, a church court revoked the appointment of the Rev. Jane Spahr, a lesbian co-pastor in Rochester, N.Y. In 1993 the church reaffirmed that practicing homosexuals could not be ordained.

Roman Catholic Church

The Roman Catholic Church has consistently condemned all homosexual "activity" as being sinful. It does, however, distinguish between homosexual orientation, which it considers morally neutral, and homosexual behavior, which it considers to be sinful.

In September of 1997, U.S. Catholic bishops released a pastoral letter urging parents to accept, love, respect, and support their gay children. The message, described as an "outstretched hand" to parents who learn that their children are gay, was developed by the National Conference of Catholic Bishops' committee on marriage and family.

The letter states, "A shocking number of homosexual youth end up on the streets because of rejection by their families. This, and other external pressures, can place young people at greater risk of self-destructive behaviors, like substance abuse, and suicide." It went on to say, "[g]enerally, homosexual orientation is experienced as a given, not as something freely chosen. By itself, therefore, a homosexual orientation cannot be considered sinful, for morality presumes the freedom to choose."

While the letter said fundamental rights of homosexual men and women were to be respected and defended, it insisted sexual intimacy be limited to man and wife in a marriage.

United Church of Christ

In 1972 the United Church of Christ became the first Christian denomination to ordain an openly gay person to the ministry. In 1983, UCC delegates voted in favor of a statement that said sexual orientation should not be grounds for barring a person from being ordained. The United Church of Christ performs same-sex union ceremonies and takes an active interest in securing and protecting the rights of homosexuals.

Southern Baptist

In 1987 the Southern Baptist Convention condemned homosexuality as a manifestation of a depraved nature and a perversion of divine standards. They also linked homosexuality to a general problem with moral decline in modern society.

American Baptists

In general the American Baptists support the rights of minorities. In 1974, church president Peter Armacost said the Church is open to any individual, regardless of whether he's sinned or not. "We are all sinners and no church should be closed to someone just because he is a homosexual."

Seventh-Day Adventists

This small sect has been vocal in its condemnation of homosexuality. They believe that same-sex practices are obvious perversions of God's original plan.

Orthodox Jews

Generally take a dim view regarding homosexual behavior as an abomination which is forbidden by the Torah.

Conservative Jews

Conservative Jews voted in 1990 to recognize the equality of congregation members regardless of sexual orientation. They also went on record as favoring the decriminalization of homosexual activities between consenting adults and the passage of laws that prohibit discrimination against gay and lesbian people. They support equal rights for homosexual people; gay and lesbian people are welcomed at synagogues.

Reform Jews

In 1990 the Central Conference of American Rabbis accepted gay and lesbian rabbis. They do not currently discriminate on the basis of either gender or sexual orientation when ordaining rabbis. In March 1996, they voted to support same-sex civil marriages and to oppose state government efforts to ban such unions. In practice, Reform rabbis are divided on whether to perform same-sex commitment ceremonies; officiating by rabbis at such rituals is expected [sic] to be voted upon in 200 [sic].

Buddhism

Buddhism does not condemn homosexuality. Buddhist countries tend to have few social and legal prohibitions against homosexuality. Some, such as Thailand, are relatively free of homophobia.

Islam

The Moslem religion has a long tradition of severely proscribing homosexuality in theory, but it's often conveniently overlooked in practice.

43. Safe Space uses the Training Manual statements to instruct students, faculty, and staff on the morality of homosexual behavior. The training is especially used for those questioning such behavior and “seeking additional information.” Thus, it is explicitly designed to have a specific impact on students’ religious views and to direct students with moral questions about sexual behavior to Institute-approved religious organizations and is therefore viewpoint based.

44. On information and belief, Safe Space is operated and administered Defendant Stephanie Ray, Associate Dean and Director of Diversity Programs, and supervised by Defendant DiSabatino, Dean of Students. A copy of the relevant portion of the Institute’s Safe Space policies and practices is attached as Exhibit G to this Complaint.

45. Because of the Institute’s and Defendants’ advocacy of particular religious beliefs in the Safe Space training program and denigration of any religious belief system that dissents from its orthodoxy on matters relating to homosexual behavior, Defendants’ program has the purpose and primary effect of

advancing religion and conveys or attempts to convey the message that a particular religious belief is favored or preferred.

46. Plaintiff Orit Sklar is a religiously observant Jew who has deeply held religious beliefs on matters of religion and homosexual behavior.

47. Plaintiff Ruth Malhotra is a religiously observant Southern Baptist Christian who has deeply held religious beliefs on matters of religion and homosexual behavior.

48. Plaintiffs have suffered a direct and cognizable injury as a result of the Institute's actions. Because of the conclusive nature of the Institute's statements on religion and homosexuality, Plaintiffs are made to feel like outsiders to the Institute's orthodoxy.

49. Moreover, Plaintiffs fear that speech in opposition to the Institute's approved theology of homosexual behavior may lead to prosecution under the Institute's speech code policies outlined above.

50. The reaction of Plaintiffs, as average and reasonable observers, to the Defendants' policy and training program is that the Institute has endorsed particular religious viewpoints, particularly of religions that favor homosexual behavior.

51. The Defendants' policy of establishing what they believe are the "correct" Biblical views on homosexuality and the "incorrect" beliefs of various religious denominations has the effect of advancing one religious belief system while inhibiting many others. The Safe Space training is motivated by a purpose to advance religions that morally agree with the Institute's policies on homosexual behavior.

52. The Defendants' Safe Space policies and training program send the message to Plaintiffs that they are outsiders, not full members of the Institute's community, and send a message to adherents of the favored religions and religious denominations that they are insiders, favored members of the Institute's community. This is particularly so for Institute students, faculty and staff who are vulnerable and impressionable when they come to Safe Space training graduates for help and counsel.

53. By distributing materials and providing training to students, faculty, and staff on the Institute's policies regarding the religious morality of homosexual behavior, the Safe Space program excessively entangles the government with religion.

54. By adopting these Safe Space policies, the Institute and Defendants Clough, DiSabatino and Ray have established a religious orthodoxy at the Institute

and violated rights guaranteed to Plaintiffs—and to all Institute students—by the First Amendment to the Constitution of the United States of America. These rights are clearly established by governing legal authority, and Defendants’ violations are knowing, intentional and without justification.

55. The Defendants’ Safe Space policies and practices outlined above have a religious purpose, advance some religions while inhibiting other religions, and excessively entangle the government with religion. These Safe Space policies and practices are therefore facially invalid under the Establishment Clause of the First Amendment. So long as these Safe Space policies and practices survive, the Institute is causing ongoing and irreparable harm to the Plaintiff and to every student and student organization at the Institute.

FIRST CAUSE OF ACTION

Violation of the Plaintiff’s Rights to Freedom of Expression and Due Process of Law (42 U.S.C. § 1983)—Speech Code

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

57. By prohibiting, among other things, “acts of intolerance” and by prohibiting “denigrating written/verbal communications” or acts that “malign” another individual on the basis of “race, religious belief, color sexual/affectional orientation, national origin, disability, age, or gender,” Defendants have

conditioned compliance with Institute speech codes on the subjective emotional experience of the listener and have enacted regulations that limit and prohibit speech without providing any objective guidelines by which Plaintiffs can guide their behavior.

58. Defendants, acting under color of state law, have enacted regulations that are both vague and overbroad and have therefore deprived Plaintiffs of their clearly established due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and their clearly established rights to freedom of speech and expression secured by the First Amendment to the Constitution of the United States.

59. Because of Defendants actions, Plaintiffs have suffered, and continue to suffer, irreparable injury which cannot be fully compensated by an award of money damages.

60. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a preliminary and permanent injunction invalidating and restraining enforcement of the Institute's speech restrictive Student Code and Community Guide and other speech-restrictive policies. Additionally, Plaintiffs are entitled to damages in an amount to be determined by the Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

SECOND CAUSE OF ACTION

Violation of Plaintiff's First Amendment Right to Freedom of Expression (42 U.S.C. § 1983)—Speech Code

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

62. By, among other things, prohibiting “acts of intolerance” directed at others based on “race, religious belief, color sexual/affectional orientation, national origin, disability, age, or gender,” and enforcing the Institute’s speech codes against Plaintiffs’ individual and organizational expression, Defendants, acting under color of state law, have explicitly and implicitly discriminated on the basis of viewpoint and deprived Plaintiffs of their clearly established rights to freedom of speech and expression secured by the First Amendment to the Constitution of the United States.

63. Because of Defendants’ actions, Plaintiffs have suffered, and continue to suffer, irreparable injury which cannot be fully compensated by an award of money damages.

64. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a preliminary and permanent injunction invalidating and restraining enforcement of the Institute’s speech restrictive Student Code and Community Guide and other speech-restrictive policies. Additionally, Plaintiffs are entitled to damages in an

amount to be determined by the Court and the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

THIRD CAUSE OF ACTION

Violation of Plaintiff's Right to Freedom of Expression (42 U.S.C. § 1983)—Conduct & Funding Policies

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

66. By enacting student organization conduct and funding guidelines that are vague, overbroad, compel students to engage in unwanted speech activities, and explicitly and implicitly discriminate on the basis of viewpoint (by refusing to fund political and religious activities), Defendants, acting under color of state law, have deprived Plaintiffs of their clearly established right to freedom of expression secured by the First Amendment to the Constitution of the United States.

67. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, irreparable injury which cannot be fully compensated by an award of money damages.

68. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a preliminary and permanent injunction invalidating and restraining enforcement of the Institute's speech restrictive Student Code, Community Guide, Policies and Priorities, and other speech-restrictive policies. Additionally, Plaintiffs are entitled

to damages in an amount to be determined by the Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

FOURTH CAUSE OF ACTION

Violation of Plaintiff's Right to Freedom of Association (42 U.S.C. § 1983)—Conduct & Funding Policies

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

70. By enacting student organization conduct and funding guidelines that are vague, overbroad and explicitly and implicitly discriminate on the basis of viewpoint, Defendants, acting under color of state law, have deprived Plaintiffs of their clearly established right to freedom of association secured by the First Amendment to the Constitution of the United States.

71. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, irreparable injury which cannot be fully compensated by an award of money damages.

72. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a preliminary and permanent injunction invalidating and restraining enforcement of the Institute's speech restrictive Student Code, Community Guide, Policies and Priorities, and other speech-restrictive policies. Additionally, Plaintiffs are entitled

to damages in an amount to be determined by the Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

FIFTH CAUSE OF ACTION

Freedom of Expression Unreasonable Time, Place and Manner Restrictions (42 U.S.C. § 1983)—Speech Zone

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

74. By enacting the speech-restrictive speech zone policy outlined in the Event Scheduling policy, Defendants have enacted unreasonable time, place and manner restrictions on Plaintiffs' speech by, among other things, essentially destroying multiple traditional public forums for speech, restricting the size of currently available public forums and failing to leave open ample alternative means of communication. Defendants, acting under color of state law, have placed unreasonable restrictions on Plaintiffs' rights to freedom of speech, expression, association and assembly and have therefore deprived Plaintiffs of rights clearly established and secured by the First Amendment to the Constitution of the United States.

75. Because of Defendants’ actions, Plaintiffs have suffered, and continue to suffer, irreparable injury which cannot be fully compensated by an award of money damages.

76. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a preliminary and permanent injunction invalidating and restraining enforcement of the Institute’s speech restrictive Event Scheduling Policy and other speech-restrictive policies. Additionally, Plaintiffs are entitled to damages in an amount to be determined by the Court and the reasonable costs of this lawsuit, including their reasonable attorneys’ fees.

SIXTH CAUSE OF ACTION

Violation of Establishment Clause (42 U.S.C. § 1983)—Safe Space

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

78. By advancing some religious beliefs over all others, by distributing training materials in furtherance of that belief, and by seeking to cause students to have an “automatic response” (which includes a religious response) to the issue of homosexual behavior and morality, Defendants have endorsed a particular religious belief, excessively entangled the Institute with religion, and made the

Plaintiffs and others in the Institute's community feel like outsiders to the Institute's beliefs.

79. Defendants, acting under color of state law, have enacted policies and practices that endorse particular religious beliefs, thereby violating the Establishment Clause of the First Amendment to the Constitution of the United States.

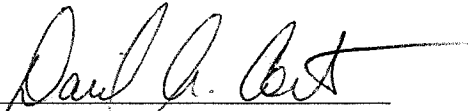
80. Because of Defendants actions, Plaintiffs have suffered, and continue to suffer, irreparable injury which cannot be fully compensated by an award of money damages.

81. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a preliminary and permanent injunction invalidating and restraining enforcement of the Institute's Safe Space policies and practices endorsing religion. Additionally, Plaintiffs are entitled to damages in an amount to be determined by the Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

WHEREFORE, Plaintiffs Orit Sklar and Ruth Malhotra respectfully request that the Court enter judgment against Defendants G. Wayne Clough, Gail DiSabatino, Danielle McDonald, Stephanie Ray, and Michael D. Black and provide Plaintiffs with the following relief:

- (A) A preliminary and permanent injunction invalidating and restraining enforcement of the Institute's speech restrictive Student Code, Community Guide, Conduct Code and Disciplinary Procedures for Student Organizations, Policies and Priorities, Event Scheduling policy, Mandatory Student Fee policy, Safe Space policies and practices, and other speech-restrictive policies;
- (B) A declaration that the Institute's speech restrictive Student Code, Community Guide, Conduct Code and Disciplinary Procedures for Student Organizations, Policies and Priorities, Event Scheduling policy, Mandatory Student Fee policy, Safe Space policies and practices, and other speech-restrictive policies are unconstitutional;
- (C) Damages in an amount to be determined by the Court;
- (D) Plaintiffs' reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and
- (E) All other further relief to which Plaintiffs may be entitled.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFF

VERIFICATION OF COMPLAINT

I, Orit Sklar, a citizen of the United States and resident of the State of New York, 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.

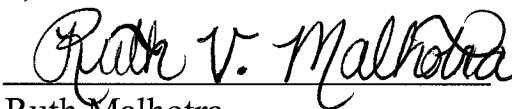
Executed this 14 day of March, 2006.



Orit Sklar

I, Ruth Malhotra, a citizen of the United States and resident of the State of Georgia, 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 14 day of March, 2006.



Ruth Malhotra