

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION**

**CHRISTIAN FELLOWSHIP OF
SHIPPENSBURG UNIVERSITY OF
PENNSYLVANIA**, an unincorporated
Student Organization on behalf of itself
and its individual members and
MATTHEW LONG.

Plaintiffs,

v.

WILLIAM N. RUUD, individually and
in his official capacity as the President of
Shippensburg University; **ANTHONY
F. CEDDIA**, in his individual capacity;
GEORGE F. HARPSTER, in his
official capacity as Vice President for
Student Affairs; and **DAVID LOVETT**,
in his official capacity as Associate Vice
President for Student Affairs and Dean of
Students; and **DOE
GOVERNMENTAL OFFICIALS
AND INDIVIDUALS 1-10**.

Defendants.

Case No. _____.

JURY TRIAL REQUESTED

VERIFIED COMPLAINT

Plaintiffs, Christian Fellowship of Shippensburg University of Pennsylvania, and Matt Long, by and through their counsel, Steven H. Aden, Washington, D.C., Joseph J. Martins, Columbia, Tennessee, and Benjamin W. Bull, Scottsdale, Arizona, of the Alliance Defense Fund, and Leonard G. Brown, III, Lancaster, Pennsylvania, and for their complaint against Defendants William N. Ruud, An-

thony F. Ceddia, George F. Harpster, and David Lovett hereby state as follows:

INTRODUCTION

1. Shippensburg University (SU or University), a taxpayer-funded public university, declares that as “an academic institution [it] must protect and encourage intellectual inquiry, divergent points of view, pursuit of knowledge, discourse, and research.” Despite its status as a public institution of higher learning and its bold proclamation of support for intellectual diversity, SU officials have undermined free inquiry and the pursuit of knowledge by enacting vague and overbroad speech codes. Allegedly designed to stop “harassment,” “intimidation,” and “subordination,” SU’s undefined and sweepingly broad policies actually chill free speech and discourage diversity. Furthermore, SU enforces these codes in part through a system of reporting that requires students to inform on their fellow students whenever those students say or do things that are subjectively considered “harass[ing]” or “intimidat[ing].” Moreover, *SU has re-enacted speech codes that this Court has previously enjoined.* Thus, instead of cultivating an environment that encourages inquiry and the pursuit of knowledge, SU officials have intentionally enacted and enforced vague and overbroad speech codes that violate the free speech rights of each and every student on campus. Indeed, SU officials expelled Plaintiff Christian Fellowship because its leadership and membership requirements allegedly violated these speech codes.

2. With this suit, Plaintiffs seek injunctive relief against the policies that chill their speech and seek damages caused by the University's impermissible closure of the "marketplace of ideas."

JURISDICTION AND VENUE

3. This action raises federal questions under the First and Fourteenth Amendments to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. § 1983.

4. This Court has original jurisdiction over these federal claims pursuant to 28 U.S.C. §§ 1331 and 1343.

5. This Court has authority to award the requested declaratory relief under 28 U.S.C. § 2201; the requested injunctive relief under 28 U.S.C. § 1343(3); the requested damages under 28 U.S.C. § 1343(3); and attorneys' fees and costs under 42 U.S.C. § 1988.

6. Venue is proper under 28 U.S.C. § 1391 in the Middle District of Pennsylvania because a substantial part of the actions or omissions giving rise to this case occurred within this district, and at least one Defendant resides in this district.

PLAINTIFFS

7. Plaintiff Christian Fellowship of Shippensburg University of Pennsylvania (CF) is an unincorporated expressive student organization at Shippensburg University, in Shippensburg, Pennsylvania. CF is a registered stu-

dent organization and has been recognized by the University since about 1973. As part of its purposes to serve as a witness for Jesus Christ on campus, CF desires to express theories, ideas, political, and/or religious beliefs on the subjects of race, gender, and religion from a Biblical viewpoint. However, SU's speech codes have a chilling effect on the rights of CF members' to freely and openly engage in appropriate discussions on these subjects. CF brings this action on behalf of itself and its individual student members.

8. Plaintiff Matthew Long, a leader and member of CF, is a senior at SU.

DEFENDANTS

9. Defendant William N. Ruud is the President of Shippensburg University, a public university organized and existing under the laws of the Commonwealth of Pennsylvania. Defendant Ruud is responsible for developing and implementing policies and procedures for the administration of Shippensburg University. He is also responsible for establishing policies and procedures for the admission, discipline, and expulsion of students. Furthermore, Defendant Ruud has the final authority in all matters related to student conduct and discipline. He is sued in both his individual and official capacities.

10. Defendant Anthony F. Ceddia is the former President of Shippensburg University. Defendant Ceddia was responsible for developing and implementing the policies and procedures for the administration of Shippensburg University. He

was also responsible for establishing policies and procedures for the admission, discipline, and expulsion of students. Furthermore, Defendant Ceddia had the final authority in all matters related to student conduct and discipline. He is sued in his individual capacity.

11. Defendant George F. Harpster is the Executive Vice President of Student Affairs at Shippensburg University, and is the President's designee for the general oversight of student conduct and discipline matters. He is sued in his official capacity.

12. Defendant David Lovett is the Associate Vice President of Student Affairs and the Dean of Students at Shippensburg University, and is specifically responsible for the administration of discipline and conduct matters. He is sued in his official capacity

13. Doe Governmental Officials and Individuals 1–10 are persons whose identities are unknown to Plaintiffs and could not be ascertained despite a diligent search of public documents, but whose actions and/or inactions substantially contributed to the deprivations of constitutional rights alleged herein by Plaintiffs. Plaintiffs will move to name said Doe defendants as soon as their identities and the acts giving rise to their liability are discovered by Plaintiffs.

FACTUAL BACKGROUND

A. THE UNIVERSITY'S SPEECH CODES

14. Student life for undergraduate students at the University is governed

in part by three primary documents:

- the University's Student Handbook, known as the "Swataney";
- the Sexual Harassment Policy Statement; and
- the Shippensburg University Code of Conduct and Judicial Process ("Code of Conduct" or "the Code").¹

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 University's "speech codes." A copy of the Swataney is attached to this Complaint as Exhibit 1.

15. The Code of Conduct, which can be found in the Swataney and on SU's website, contains a listing of rules and regulations that govern conduct at the University and that directly impact students' freedom of speech, expression, and association.

16. The Code states that it is "promulgated according to Act 188, the enabling legislation for the Pennsylvania System of Higher Education." This legislation expressly gives Defendant Ruud, the President of the University, the power and duty to "establish policies and procedures for the admission, discipline, and

¹ The Code of Conduct and a reference to the Sexual Harassment Policy Statement are contained in the Swataney. However, the SU website also contains the Code of Conduct as well as the entire Sexual Harassment Policy Statement.

expulsion of students” (*See* Compl. Ex. 1 at 68.)

17. The Code of Conduct further appoints Defendant Harpster, the Vice President for Student Affairs, as the President’s “designee for the general oversight of student conduct and discipline matters.” (*See* Compl. Ex. 1 at 68.)

18. The Code also delegates “[s]pecific responsibility for the administration of discipline and conduct matters” to Defendant Lovett, the Dean of Students. (*See* Compl. Ex. 1 at 68.)

19. The jurisdictional statement in the Code of Conduct stresses that University students, including registered student organizations, are subject to the Code when they are on or off campus. (*See* Compl. Ex. 1 at 68–69.)

20. The Code of Conduct describes three categories of regulations: (1) proprietary regulations, which are primarily related to “violations occurring in University residence halls and apartments”; (2) community regulations, which govern the “conduct of individuals occurring on and off campus” and are further “designed to promote positive COMMUNITY, harmonious living, and a safe/secure environment”; and (3) general regulations, which are expected of “all students,” and which focus on “academic integrity and University administrative issues.” (*See* Compl. Ex. 1 at 69 (emphasis in original).) The Code emphasizes that “[a]ll students, whatever their place of residence, are responsible for following all the rules and regulations listed within the three categories.” (*See id.*)

21. General Regulation 4.6 on Student Organizations further requires students and groups to adhere to the University Rules: “No group, or its members, shall violate any of the rules, and regulations of the University, including those comprising the student code of conduct.” (*See* Compl. Ex. 1 at 76.)

22. General Regulation 5.1 on Policy Regulations mandates the following: “No person shall violate any published University policies, rules and regulations including those published in the Swataney.” (*See* Compl. Ex. 1 at 76.)

23. After setting forth an extensive list of sanctions for conduct violations, the Code of Conduct’s statement on Student Organizations, Fraternities, and Sororities clearly states that organizations and individuals are subject to such sanctions:

Registered student organizations, Fraternities, and Sororities are subject to the student code of conduct. Alleged violations will be adjudicated according to the judicial process previously outlined. When guilt is established, the aforementioned sanctions and stipulations may be levied. Disciplinary action may proceed against both the organization and the responsible parties.

(*See* Compl. Ex. 1 at 81.)

24. The Code of Conduct purports to prohibit “racism/ethnic intimidation and harassment” through the following Racism and Cultural Diversity Policy statement:

As an institution of higher learning, Shippensburg University is committed without qualification to all aspects—moral, legal and administrative—of racial and cultural diversity. It is the unequivocal position of Shippensburg University to prohibit [sic] racism/ethnic intimidation and harassment; and to affirm cultural diversity, social justice and equality.

Racism shall be defined as the subordination of any person or group

based upon race, color, creed or national origin. *It shall be a violation of this policy for any person or group to maliciously intend to engage in any activity, (covert or overt that attempts to injure, harm, malign or harass), that causes the subordination, intimidation and/or harassment of a person or group based upon race, color, creed, national origin, sex, disability or age.*

Shippensburg University's commitment to racial tolerance, cultural diversity and social justice will require every member of this community to ensure that the principles of these ideals will be mirrored in their attitudes and behaviors.

(See Compl. Ex. 1 at 89–90 (emphasis added).)

25. On April 22, 2003, SU students Walter A. Bair and Ellen Wray, filed suit in this District Court challenging the constitutionality of various SU speech policies, including the Racism and Cultural Diversity Policy. *Bair v. Shippensburg Univ. of Pa.*, Civ. No.4:03-cv-00671-JEJ (M.D. Pa.).

26. On September 4, 2004, the Honorable John E. Jones, III issued an Order preliminarily enjoining several SU speech policies, including the Racism and Cultural Diversity Policy, on the grounds that such policies were overbroad, and thus were likely to violate the First and Fourteenth Amendments to the United States Constitution.² A copy of this Preliminary Injunction Order is attached to

² *Bair v. Shippensburg Univ.*, 280 F. Supp. 2d 357, 371 (M.D. Pa. 2003) (citing *American Booksellers Ass'n v. Hudnut*, 771 F.2d 323 (7th Cir. 1985)) (“To the extent that the Statement defines racism as ‘the subordination of any person or group based upon race, color, creed or national origin[,]’ and to the extent that speech that advocates subordination qualifies as racism under the definition, based upon the prohibition against racism set forth above we find that the Statement is so expansive as to have treaded into the area of protected expression.”).

this Complaint as Exhibit 2.

27. Plaintiffs Bair and Wray and Defendant Anthony F. Ceddia, the president of SU at the time, subsequently settled the lawsuit. In exchange for the filing of a voluntary dismissal, among other things, Defendant Ceddia agreed to revoke all speech policies preliminarily enjoined by the Court's Order. Moreover, SU agreed to rewrite the Racism and Diversity Policy to make it explicitly clear that the policy is an unenforceable university statement of values and does not bind student conduct or expression in any way.

28. Despite this agreement, on information and belief, Defendants Ruud, Ceddia, Harpster, Lovett, and Doe Governmental Officials and Individuals 1–10 have failed and/or refused to rewrite the Racism and Diversity Policy, and instead, reenacted the stricken policy *verbatim* in the Code of Conduct. This action violated both the Court's Order and the settlement agreement in *Bair v. Shippensburg*, 280 F. Supp. 2d 357 (M.D. Pa. 2003). Alternatively, if Defendants and Doe Governmental Officials and Individuals 1–10 did not personally reenact the policies, they had knowledge that the policy was effective and that such policy violated both a court order and a settlement agreement.

29. On information and belief, Defendants and Doe Governmental Officials and Individuals 1–10 have enforced this unconstitutional policy against Shippensburg students.

30. SU's Code of Conduct contained in the Swataney includes other policies that further impact students' freedom of speech, expression, and association.

31. The Code of Conduct's Community Regulations grant each student the right to be "free from *harassment, intimidation, physical harm, and emotional abuse.*" (See Compl. Ex. 1 at 71.)

32. The Code of Conduct's Community Regulations also contain a "Harassment, Intimidation, and Disruptive Conduct" rule which states the following:

No person shall *harass* or *help create conditions that support the harassment* of another person. This includes, but is not limited to, sexual harassment and stalking.

(See Compl. Ex. 1 at 72.)

33. The Harassment, Intimidation, and Disruptive Conduct regulation also has a notation stating the following:

**Sexual harassment is defined by the "Shippensburg University Sexual Harassment Policy Statement." This statement also outlines grievance procedures that are separate and distinct from the processes outlined herein.*

(See Compl. Ex. 1 at 72.)

34. The Sexual Harassment Policy Statement is contained in full on the website of the SU Office of Social Equity. The Policy Statement asserts the following:

It shall be the policy of Shippensburg University to prohibit harassment of employees or students on the basis of sex. This policy is related to and is in conformity with the equal employment opportunity policy of the University to recruit, employ, retain and promote employees without regard to sex, disability, age, race, color, religion, or

national origin. Prompt investigation of allegations will be made on a confidential basis to ascertain the veracity of complaints and appropriate corrective action will be taken under the Grievance Procedures contained herein.

Shippensburg University affirms its commitment to respect for the individual and to an environment free of prejudicial, discriminatory, or harassing conduct. Sexual harassment is a form of sex discrimination occurring when there is deliberate or repeated use of sexual comments, attempted physical contact, or actual physical contact in the workplace or academic environment that creates a hostile environment for the recipient. Notably, sexual harassment involves knowledge that a sex-based condition is being imposed in exchange for personal advancement, academic achievement, or any other benefit.

For purposes of this policy, unsolicited sexual advances, requests for sexual favors, *verbal comments*, gestures, or physical contact of a sexual nature *which are unwelcome* constitute sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing.
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or
- (3) Such conduct has the effect of unreasonably interfering with an individual's work or academic performance or *creating an intimidating, hostile, or offensive work or academic environment.*

It is a violation of policy for any member of the University community to engage in sexual harassment or to take action against an individual for reporting sexual harassment. In keeping with this policy, a concerted effort will be made to protect employees and students from sexual harassment at Shippensburg University.

A copy of the Sexual Harassment Policy Statement is attached to this Complaint as Exhibit 3.

35. The Sexual Harassment Policy Statement, as well as all other refer-

ences to “harassment” in the Code of Conduct, are further clarified in the Swatney’s “Policy Statement Reporting Violence and Aggressive Behavior on Campus.” The “Definitions” section states the following:

Legal obligations exist under Title VI and Title VII of the Civil Rights Act, Title IX of the Education Amendments of 1972, and the Pennsylvania Human Relations Act to prevent harassment in the workplace and academic environment, be it based on sex, race, religion, national origin or disability. Interpretations of these statutes by the courts, the EEOC, and the PHRC define “harassment” as conduct that unreasonably interferes with an individual’s work or academic performance *or creates an intimidating, hostile or offensive work or academic environment. The type of conduct that creates the hostile environment is typically not criminal in nature; instead the conduct is a pattern of behavior that creates a hostile environment as perceived by the victim.* The harassment policies promulgated by the Office of Social Equity include specific procedures that are to be followed when a person asserts that he or she is being unlawfully harassed.

(See Compl. Ex. 1 at 93.)

36. The Code of Conduct’s Community Regulations also list “Individual Responsibilities and Community Rights.” Among the student responsibilities listed therein is the following: “No person shall fail to report a violation of the student code of which he/she has knowledge.” (See Compl. Ex. 1 at 72.)

B. THE UNIVERSITY’S EXPULSION OF PLAINTIFFS

37. Plaintiff Christian Fellowship is a religious expressive student organization whose members hold and seek to advance Biblically-based 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.

38. The purposes of CF are as follows:

- (a) To serve as a witness for the Lord Jesus Christ as God incarnate and to help others develop a personal faith and relationship in Him as Savior and Lord;
- (b) To deepen and strengthen the spiritual life of its members by Bible study, prayer, worship, and fellowship;
- (c) To manifest the unity of the Body of Christ on the campus of Shippensburg University; and
- (d) To maintain the centrality, simplicity, the supremacy, and the preeminence of Christ are the sole basis of fellowship—apart from denominational doctrine and dogma.

A copy of the November 1, 2005 CF constitution is attached to this Complaint as Exhibit 4.

39. In an effort to carry out its purposes and maintain the Christian character of CF, the CF constitution restricts official membership to students who affirm CF's statement of faith. (*See* Ex. 4 at art. II–III.)

40. Furthermore, according to principles CF derives from its interpretation of Biblical scriptures, CF's constitution reserves a majority of the leadership positions—including the chair position—for men. (*See* Ex. 4 at art. IV.)

41. The Swataney authorizes the Student Senate to determine whether or not a student organization may obtain and/or maintain official recognition. The Extra Curricular Activities Committee (ECAC) reviews student organization documents and requests for recognition, and submits its recommendations to the full

Student Senate for a final decision.

42. On or about the end of October 2007, Ray Ryan, the Vice President of the Student Senate and Chair of the ECAC, contacted Matt Long, the President of CF, and informed him that there were “problems” with the membership and leadership provisions in the CF constitution. At a subsequent meeting, Mr. Ryan and the ECAC informed Mr. Long that CF’s constitution would be rejected if it did not change the membership and leadership provisions.

43. In response to an email from Mr. Long requesting clarification as to the ECAC’s position, Mr. Ryan stated the following:

I went over with you exactly what changes my committee felt you needed to make. ***The issue here is separation between church and state and being exclusive in your membership. Clubs NEED to be open to everyone regardless of religious background. Here, the references made within your constitution do exactly that.*** I think what we might have to do is to bring your executive council in for a meeting.

(Emphasis added.) A copy of Mr. Ryan’s November 7, 2007 email is attached to this Complaint as Exhibit 5.

44. At about this time, Mr. Long contacted the Alliance Defense Fund (ADF) for assistance in protecting CF’s constitutional rights.

45. On or about December 11, 2007, Mr. Ryan emailed Mr. Long stating that the ECAC had reviewed CF’s constitution and made changes to it. In response to Mr. Long’s email requesting further clarification, Mr. Ryan emailed the following message:

Your constitution is limiting the position Chair of the Ministry team to

only men. ***This is a state institution and you are not allowed to do this as it is discriminatory against others who wish to fill this position. I told you this before. CF Needs to change this document and practice accordingly.***

(Emphasis added.) A copy of Mr. Ryan's December 11, 2007 email is attached to this Complaint as Exhibit 6.

46. On or about December 12, 2007, Mr. Long met with Mr. Ryan to discuss the CF constitution. Mr. Ryan threatened that the Student Senate would reject CF's constitution and revoke its recognition if it did not change the "discriminatory" membership and leadership provisions. Mr. Ryan also stated that the Student Senate had placed CF on "inactive" status.

47. The following day, CF met to discuss how to respond to the Student Senate's threat. Because CF was concerned that it would be further sanctioned under Shippensburg policies for adhering to its religious principles, Mr. Long again contacted ADF for legal advice.

48. After speaking with counsel, CF voted unanimously not to adopt the Student Senate's recommendations with respect to the membership and leadership constitutional provisions. Mr. Long communicated CF's decision to Mr. Ryan and further stated that CF had a constitutional right to choose its members and leaders. Mr. Ryan responded that the Student Senate would render a decision shortly.

49. After almost two months without receiving a formal decision from the Student Senate, CF again met to discuss its next course of action. CF again sought

the advice of counsel, and then voted unanimously to amend the membership provisions in the constitution so that the necessity of belief in the statement of faith was *even more explicit*. A copy of the revised constitution is attached to this Complaint as Exhibit 7.

50. On February 11, 2008, Mr. Long submitted the revised constitution to Mr. Ryan along with a letter demanding a formal and final decision from the Student Senate on CF's constitution and recognition status.

51. On or about February 12, 2008, Mr. Ryan informed Mr. Long that the Student Senate had voted to revoke CF's recognition status, and that, effective immediately, all CF's meetings were cancelled. Because of the Student Senate's actions enforcing SU's policies, CF was expelled from campus, during which time CF and its members were stripped of all the rights and privileges of recognized student organizations, were forced to cancel two small group meetings and a Bible Study, and were compelled to hold their large-group meetings off campus. On information and belief, Defendants were aware of or approved of the Student Senate's decision.

52. On information and belief, after consulting with University counsel, Mr. Ryan later informed Mr. Long that CF would be able to continue to function under its constitution as a recognized student organization.

53. Despite this "assurance," members of CF have a reasonable apprehension that due to SU's hostile stance towards their constitution and their *practices*

(see Compl. ¶ 44), CF and its members are under threat of further investigation for discrimination and harassment charges under the SU's Code of Conduct.

C. THE EFFECT OF SU'S UNCONSTITUTIONAL SPEECH CODES ON PLAINTIFFS

54. During the five months that CF was attempting to defend its First Amendment right to freedom of association, CF discovered that SU's speech codes again prohibited "harassment" and "subordination" of persons based on "religion" and/or "sex" in derogation of this Court's Order in *Bair v. Shippensburg Univ.*, 280 F. Supp. 2d 357 (M.D. Pa. 2003). Accordingly, members of CF became fearful that they could be sanctioned under these policies for speaking out about these subjects. These CF members are particularly concerned that they could be sanctioned for speaking out about the requirement in CF's constitution that the ministry chair and a majority of the CF leadership must be male.

55. The extended investigation of CF's constitution generated a substantial amount of controversy and publicity on SU's campus.

56. Since February, the SU newspaper, *The Slate*, has run a front-page story on the subject and has had several editorials in which students and members of the community have commented on the matter. A copy of the original article and three editorials from *The Slate* are attached to this Complaint as Exhibits 8, 9, 10, and 11 respectively.

57. As a result of SU's extended investigation of CF over the constitution

issue, some of CF's members have become wary that SU might also attempt to sanction them under the speech codes for speaking out too openly about the matter.

58. CF's leaders and members desire to advance Biblically-based opinions and beliefs regarding issues of race, gender, politics, and religion in their meetings and on the campus in general. These opinions and beliefs might be sanctionable under the applicable speech codes. Members of CF fear that discussion on these topics may be objectionable or offensive to other students, and thus sanctionable under applicable University speech codes. Some of CF's members therefore feel restrained from speaking on these issues as openly as they would if SU did not maintain its speech codes.

59. Meredith Everett is a current member of the ministry team of CF. She also leads a cell group for CF. In her position of leadership and in pursuit of CF's purposes, Ms. Everett frequently discusses topics implicated by the speech code. Ms. Everett reasonably fears that discussion of her social, cultural, and/or religious views may be sanctionable under the applicable speech codes.

60. Erika Zimmerman is a current member of the ministry team of CF. In her position of leadership and in pursuit of CF's purposes, Ms. Zimmerman frequently discusses topics implicated by the speech code. Ms. Zimmerman reasonably fears that discussion of her social, cultural, and/or religious views may be sanctionable under the applicable speech codes.

61. SU's speech codes contained in the Swataney, Code of Conduct, and Sexual Harassment Policy Statement have a chilling effect on Plaintiffs' rights to engage freely and openly in appropriate discussions of their theories, ideas and political and/or religious beliefs. By adopting these speech codes, the Defendants Ruud, Ceddia, Harpster, Lovett, and Doe Governmental Officials and Individuals 1–10 violated rights guaranteed to the Plaintiffs—and to all University 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 and the violations of Doe Governmental Officials and Individuals 1–10 are knowing, intentional, and without justification.

62. The speech codes outlined above are vague, overbroad, discriminate on the basis of religious and/or political viewpoint, impose unconstitutional conditions on the receipt of state benefits, and constitute an illegal prior restraint on the Plaintiffs' right of free speech. These speech codes are therefore facially invalid under the Free Speech, Assembly, and Free Exercise Clauses of the First Amendment. So long as these speech codes survive, the University is causing ongoing and irreparable harm to every student and student organization at the University.

63. The speech codes outlined above infringe upon the speech of Plaintiffs and other similar religious associations regarding their religious beliefs. The actions of Defendants and Doe Governmental Officials and Individuals 1–10 vi-

olated Plaintiffs' rights to freedom of association and freedom of speech by infringing upon their right to communicate their religiously-based leadership and membership standards to prospective members and others on campus. Accordingly, Defendants' speech codes are invalid as applied under the Free Speech, Assembly, and Free Exercise Clauses of the First Amendment.

FIRST CAUSE OF ACTION

Violation of the Plaintiffs' Right to Freedom of Expression and Due Process of Law (42 U.S.C. § 1983)

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

65. By prohibiting, among other things, conduct that has for its purpose the "subordination, intimidation, and/or harassment of a person or group based upon race, color, creed, national origin, sex, disability or age," by requiring that "every member of this [University] community . . . ensure that the principles of these ideals will be mirrored in their attitudes and behaviors," by requiring that student expressive organizations refrain from employing criteria for leadership and membership based upon sincerely held religious beliefs, by expelling CF and its members from campus for employing such leadership and membership criteria, and by defining "harassment," "intimidation," and "emotional abuse" in a manner that is both vague and overbroad, Defendants and Doe Governmental Officials and Individuals 1–10, acting under color of state law, have explicitly and implicitly

discriminated on the basis of viewpoint, chilled Plaintiffs' free expression, 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. Defendants and Doe Governmental Officials and Individuals 1–10 have conditioned compliance with University speech codes on the listener's subjective emotional experience and have enacted regulations that limit and prohibit speech without providing any objective guidelines by which Plaintiffs can guide their behavior.

66. Defendants and Doe Governmental Officials and Individuals 1–10, acting under color of state law, have enacted regulations that deprive 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 and Fourteenth Amendments to the Constitution of the United States.

67. Because of Defendants' actions and the actions of Doe Governmental Officials and Individuals 1–10, 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 University's speech restrictive Code of Conduct, Sexual Harassment Policy

Statement, 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 Plaintiffs' First Amendment Right to Freedom of Association(42 U.S.C. § 1983)

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

70. By prohibiting, among other things, conduct that has for its purpose the "subordination, intimidation, and/or harassment of a person or group based upon race, color, creed, national origin, sex, disability or age," by requiring that "every member of this [University] community . . . ensure that the principles of these ideals will be mirrored in their attitudes and behaviors," by requiring that student expressive organizations refrain from employing criteria for leadership and membership based upon sincerely held religious beliefs, by expelling CF and its members from campus for employing such leadership and membership criteria, and by defining "harassment," "intimidation," and "emotional abuse" in a manner that is both vague and overbroad, Defendants and Doe Governmental Officials and Individuals 1-10, acting under color of state law, have deprived Plaintiffs of their clearly established right to freedom of association secured by the First and Fourteenth Amendments to the Constitution of the United States.

71. Because of Defendants' actions and the actions of Doe Governmental Officials and Individuals 1–10, the 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, the Plaintiffs are entitled to a preliminary and permanent injunction invalidating and restraining enforcement of the University's speech restrictive Code of Conduct, Sexual Harassment Policy Statement, 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.

THIRD CAUSE OF ACTION

Violation of the Plaintiffs' First Amendment Right To Free Exercise of Religion (42 U.S.C. § 1983)

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

74. By prohibiting, among other things, conduct that has for its purpose the "subordination, intimidation, and/or harassment of a person or group based upon race, color, creed, national origin, sex, disability or age," by requiring that "every member of this [University] community . . . ensure that the principles of these ideals will be mirrored in their attitudes and behaviors," by requiring that student expressive organizations refrain from employing criteria for leadership and membership based upon sincerely held religious beliefs, by expelling CF and its

members from campus for employing such leadership and membership criteria, and by defining “harassment,” “intimidation,” and “emotional abuse” in a manner that is both vague and overbroad, Defendants and Doe Governmental Officials and Individuals 1–10, acting under color of state law, have suppressed Plaintiffs’ religious expression and deprived Plaintiffs of their clearly established rights to free exercise of religion secured by the First and Fourteenth Amendments to the Constitution of the United States.

75. Because of Defendants’ actions and the actions of Doe Governmental Officials and Individuals 1–10, the 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, the Plaintiffs are entitled to a preliminary and permanent injunction invalidating and restraining enforcement of the University’s speech restrictive Code of Conduct, Sexual Harassment Policy Statement, 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 attorney’s fees.

FOURTH CAUSE OF ACTION

Unconstitutional Conditions (42 U.S.C. § 1983)

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

78. By enacting the speech-restrictive regulations outlined above, by requiring that every member of the Shippensburg community mirror the University's policy on racism and cultural diversity in the "attitudes and behaviors," and by requiring that student expressive organizations refrain from employing criteria for leadership and membership based upon sincerely held religious beliefs, Defendants and Doe Governmental Officials and Individuals 1–10, acting under color of state law, have placed unconstitutional conditions on the receipt of state benefits—specifically, the benefit of a higher education at a state-supported University—and have therefore deprived the Plaintiffs of their clearly established rights to freedom of speech, association, and religious expression secured by the First and Fourteenth Amendments to the Constitution of the United States.

79. Because of Defendants' actions and the actions of Doe Governmental Officials and Individuals 1–10, the Plaintiffs have suffered, and continue to suffer, irreparable injury, which cannot be fully compensated by an award of money damages.


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

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Christian Fellowship and Matt Long respectfully request a jury trial and that the Court enter judgment against Defendants Ruud, Ceddia, Harpster, Lovett, and Doe Governmental Officials and Individuals 1–10, and provide Plaintiffs with the following relief:

- (1) A preliminary and permanent injunction invalidating and restraining enforcement of the University's speech restrictive Code of Conduct, Sexual Harassment Policy, and other speech-restrictive policies until such time as Defendants amend them to conform to constitutional standards;
- (2) Monetary damages against Defendants Ruud, Ceddia, Harpster, Lovett, and Doe Governmental Officials and Individuals 1–10 in an amount to be determined by the Court;
- (3) Nominal damages against Defendants Ruud, Ceddia, Harpster, Lovett, and Doe Governmental Officials and Individuals 1–10, in the amount of ONE DOLLAR (\$1.00);
- (4) The Plaintiffs' reasonable attorney's fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and
- (5) All other further relief to which Plaintiffs may be entitled.

Respectfully submitted this 7th day of May, 2008,

s/ 

LEONARD G. BROWN, III (*Local Counsel*)
Pennsylvania Bar No. 83207
CLYMER & MUSSER, P.C.
408 West Chestnut Street
Lancaster, Pennsylvania 17603
(717) 299-7101
(717) 299-5115—facsimile
lcn.brown@clymerlaw.com

STEVEN H. ADEN*
Virginia Bar No. 48036
District of Columbia Bar No. 466777
Alliance Defense Fund
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

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

JOSEPH J. MARTINS*
North Carolina Bar No. 31666
Alliance Defense Fund
ADF Center for Academic Freedom
12 Public Square
Columbia, Tennessee 38401
(931) 490-0591
(931) 490-7989—facsimile
jmartins@telladf.org

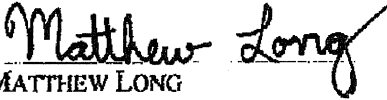
(**Pro Hac Vice* application concurrently filed)

ATTORNEYS FOR PLAINTIFFS

DECLARATION UNDER PENALTY OF PERJURY

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

Executed this 6th day of May, 2008, at Shippensburg, Pennsylvania.


MATTHEW LONG
Student of Shippensburg University
Member of Christian Fellowship

DECLARATION UNDER PENALTY OF PERJURY

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

Executed this 6th day of May, 2008, at Shippensburg, Pennsylvania.



MEREDITH EVERETT

As a Member of Christian Fellowship and on behalf of
Christian Fellowship as an officer of Christian Fellowship

DECLARATION UNDER PENALTY OF PERJURY

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

Executed this 6 day of May, 2008, at Shippensburg, Pennsylvania.



ERIKA ZIMMERMAN
Member, Christian Fellowship