AlaFile E-Notice

47-CV-2021-900878.00

Judge: ALISON S. AUSTIN

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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

YOUNG AMERICANS FOR LIBERTY UNIVERSITY OF AL HSV ET AL V. MIKE BROCK E
47-CV-2021-900878.00

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CIRCUIT COURT OF
MADISON COUNTY, ALABAMA
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IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

YOUNG AMERICANS FOR LIBERTY UNIVERSITY OF AL HSV, GREER JOSHUA, Plaintiffs, V. BROCK MIKE, BROOKS KAREN, DAWSON DARREN, ENGLAND JOHN JR. ET AL, Defendants.	)	Case No.: CV-2021-900878.00

ORDER

This matter comes before the Court on Defendants' Motion to Dismiss the Verified Complaint (the "Motion"). After studying the Parties' briefs and hearing their arguments, the Court finds the Motion is due to be granted, and all of Plaintiffs' claims are hereby dismissed.

BACKGROUND

Alabama Campus Free Speech Act

The Alabama Campus Free Speech Act, Ala. Code § 16-68-1 et *seq*. (the "ACFSA"), requires "the board of trustees of each public institution of higher education" to "adopt a policy on free expression that is consistent with this chapter." Ala. Code § 16-68-3(a). In relevant part, the ACFSA requires the policies to adhere to the following:

- That students, administrators, faculty, and staff are free to take positions on public controversies and to engage in protected expressive activity in outdoor areas of the campus, and to spontaneously and contemporaneously assemble, speak, and distribute literature. Ala. Code § 16-68-3(a)(3).

- That the outdoor areas of a campus of a public institution of higher education shall be deemed to be a forum for members of the campus community, and

the institution shall not create free speech zones or other designated outdoor areas of the campus in order to limit or prohibit protected expressive activities. Ala. Code § 16-68-3(a)(4).

- That the campus of the public institution of higher education shall be open to any speaker whom the institution's student organizations or faculty have invited, and the institution will make all reasonable efforts to make available all reasonable resources to ensure the safety of the campus community, and that the institution will not charge security fees based on the protected expressive activity of the member of the campus community or the member's organization, or the content of the invited guest's speech, or the anticipated reaction or opposition of the listeners to the speech. Ala. Code § 16-68-3(a)(5).

- That the public institution of higher education shall not permit members of the campus community to engage in conduct that materially and substantially disrupts another person's protected expressive activity or infringes on the rights of others to engage in or listen to a protected expressive activity that is occurring in a location that has been reserved for that protected expressive activity and shall adopt a range of disciplinary sanctions for anyone under the jurisdiction of the institution who materially and substantially disrupts the free expression of others. Ala. Code § 16-68-3(a)(6).

- That the public institution of higher education may maintain and enforce constitutional time, place, and manner restrictions for outdoor areas of campus only when they are narrowly tailored to serve a significant institutional interest and when the restrictions employ clear, published, content-neutral, and viewpoint-neutral criteria, and provide for ample alternative means of expression. All restrictions shall allow for members of the university community to spontaneously and contemporaneously assemble and distribute literature. Ala. Code § 16-68-3(a)(7).

The University's Use of Outdoor Areas of Campus Policy

The University of Alabama in Huntsville's (the "University") Use of Outdoor Areas of Campus Policy (the "Policy") provides:

> The Board of Trustees of The University of Alabama, an independent, constitutional instrumentality of the state, controls The University of Alabama Huntsville ("UAH" or "University"), an enclave created for the pursuit of higher learning, and is committed to free and open inquiry and expression for members of its campus communities. Except as limitations on that freedom are appropriate to the functioning of the campuses and permissible under the First Amendment to the Constitution of the United States, UAH will regulate access to the outdoor areas of UAH's campus,

> including sidewalks on its campus, in a manner that respects and supports the freedom of all members of each campus community "to discuss any problem that presents itself." To that end, this policy provides UAH's affiliates access to outdoor areas of campus while preserving the primacy of UAH's teaching, research, and service mission. Among other significant interests, this policy is intended to facilitate responsible stewardship of institutional resources; to protect the educational experience of its students; preserve the primacy of its teaching and research mission; to ensure health, safety, and on campus; to regulate competing uses of its facilities and grounds and protect campus property; and protect the safety and wellbeing of those with the right to use outdoor areas to engage in protected speech, while also providing opportunities for freedom of expression and assembly that is consistent with UAH's teaching, research, and service mission.
>
> Policy, which is attached as Ex. 7 to the Compl., at p. 1.

Further, according to the Policy, the University's grounds and facilities "are intended primarily for the support of the teaching, research, and service components of its mission." *Id.* The Policy sets forth that "UAH has a significant interest in protecting the educational experience of its students, in ensuring health, safety, and order on its campus, in regulating competing uses of its facilities and grounds, and in protecting the safety and wellbeing of those with the right to use its facilities and grounds to engage in protected speech, among other significant interests." *Id.* at § F. "[T]o ensure that these interests are protected, and that expression does not disrupt the ordinary activities of the institution[,]" the Policy articulates time, place, and manner procedures for use of the University campus. *Id.*

The Policy's time, place, and manner procedures vary by the intended use of the University's campus. For instance, the Policy permits students to distribute written materials such as pamphlets or leaflets anytime and anywhere on campus without the need to register or seek pre-approval. *Id.,* § F(2). With respect to holding events on campus, the Policy distinguishes between events that can be planned and those that

cannot, i.e. events that are "spontaneous." For any "spontaneous activities of expression," students can do so whenever they choose, without any requirement to register or seek any pre-approval of such an event. *Id*., § F(1). In order to preserve the educational mission of the University, and protect other's rights to engage in free expression, the University has designated certain areas on campus where students can engage in such spontaneous expression at any time. *Id.,* § F(1)(b). But spontaneous expression is not limited to these designated areas under the Policy. If students desire to engage in spontaneous expression in any other campus space—i.e., parts of campus that risk interfering with the educational mission of the University or other's right to engage in free expression—then the students can make an expedited request to use those spaces with just twenty-four (24) hours' notice. *Id.,* § F(1)(d). Plaintiffs do not allege that they ever sought to use such spaces or that they were ever denied such a request. *See generally,* Compl.

For activities and expression that can be planned in advance, i.e., events that are not spontaneous, the University provides procedures for registering for the use of campus space and buildings to ensure that those activities do "not interfere with the academic mission or operation of UAH" including "protecting the educational experience of its students; ensuring health, safety, and order on its campus; regulating competing uses of its grounds as well as protecting campus property; and protecting the safety and wellbeing of those with the right to use its facilities and grounds to engage in protected speech." *Id.* at p. 2. According to the Policy, the University must grant the request "unless there are reasonable grounds to believe that one or more of the following conditions are present":

1. The applicant has had their/its available privileges, such as the use of certain University space, withdrawn, suspended, and/or restricted.
2. The proposed space is unavailable at the time requested because of conflicting events previously planned in or around that location.
3. The proposed date, time, or requested space is unreasonable given the nature of the Event and/or the impact it would have on UAH's resources and teaching and research mission.
4. The Event would present logistical complexities that cannot be accommodated based on when the GUR application was submitted, the size of the event, and when the Event is to occur.
5. The Event would not comply with the provisions of Paragraph E (General Provisions Applying to All Use of Outdoor Space).
6. The Event would reasonably constitute an immediate and actual danger to the health or safety of UAH students, faculty, or staff, or to the peace or security of UAH that available law enforcement officials could not control with reasonable effort.
7. The University affiliate who submits the application has on prior occasions damaged UAH property and has not paid in full for such damage.
8. The requested use of campus space is inconsistent with the terms of University policy.

Id., § C(4).

The Complaint does not allege that the University has failed to comply with its

own policy. Compl.

The Plaintiffs

The Plaintiffs are Joshua Greer, a student at the University, and Young Americans for Liberty at University of Alabama in Huntsville ("YAL") an "inactive" student organization. Compl., ¶¶ 20, 103. Plaintiffs do not allege that they have ever been prevented from speaking on campus by the University. Plaintiffs only allege that they desire to express their message on campus, and that the Policy violates the ACFSA and the free speech provision of Alabama's Constitution.

STANDARD

At the motion to dismiss stage, the court is only "required to accept [Plaintiffs'] factual allegations [it is] not required to accept [their] conclusory allegations." *Ex parte Gilland*, 274 So. 3d 976, 985 n.3 (Ala. 2018) (emphasis original). "[T]o survive [a] motion to dismiss, [Plaintiffs are] required to plead facts that would support those conclusory allegations." *Id.* (emphasis original). Further, at this stage, the court is not required to accept the Plaintiffs' "legal allegations" as true. *Ex parte Marshall*, No. 1190644, 2020 WL 5743227, at *10 n.3 (Ala. Sept. 25, 2020).

1. The University's Policy Complies with the Act.

Plaintiffs allege that the ACFSA "guarantees all students at public universities in Alabama the right to speak freely in any outdoor area of campus without prior approval." Compl., ¶ 47. In support, Plaintiffs rely on Ala. Code § 16-68-3(a)(4), which provides that "the outdoor areas of a public institution of higher education shall be deemed to be a forum for members of the campus community, and the institution shall not create free speech zones or other designated outdoor areas of campus in order to

limit or prohibit protected expressive activities." Plaintiffs' interpretation, however, conflicts with the remainder of the ACFSA.

Importantly, the ACFSA expressly requires the University to institute procedures to regulate expressive activity on campus. The ACFSA dictates:

> That the public institution of higher education shall not permit members of the campus community to engage in conduct that materially and substantially disrupts another person's protected expressive activity or infringes on the rights of others to engage in or listen to a protected expressive activity that is occurring in a location that has been reserved for that protected expressive activity and shall adopt a range of disciplinary sanctions for anyone under the jurisdiction of the institution who materially and substantially disrupts the free expression of others.

Ala. Code § 16-68-3(a)(6). In other words, the ACFSA requires the University to allow students to "reserve[]" space for "protected expressive activity," and the University must protect against any "conduct that materially and substantially disrupts" the speech rights of the students who reserved the space. Under Plaintiff's interpretation, the University could not comply with both § 16-68-3(a)(4) and § 16-68-3(a)(6). *See Ex parte Lambert*, 199 So. 3d 761, 766 (Ala. 2015) ("A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant, and so that one section will not destroy another unless the provision is the result of obvious mistake or error.").

In addition, ACFSA provides that the University "may maintain and enforce constitutional time, place, and manner restrictions" as long as they "are narrowly tailored to serve a significant institutional interest and when the restrictions employ clear, published, content-neutral, and viewpoint-neutral criteria, and provide for ample alternative means of expression." Ala. Code § 16-68-3(a)(7). In other words, the Legislature adopted a requirement that the University enact procedures to protect "the

discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate" on campus, Ala. Code § 16-68-3(a)(1), but also mandated that those time, place, and manner restrictions are narrowly tailored and content and viewpoint neutral.

A. The University's Policy is Viewpoint-Neutral

"[V]iewpoint discrimination occurs when government allows one message while prohibiting the messages of those who can reasonably be expected to respond." *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 894 (1995) (Souter, J., dissenting). Plaintiffs allege the University's spontaneous speech exception is not viewpoint-neutral because it only applies to "newsworthy" speech. The plain language of the Policy, however, does not support Plaintiffs' allegation. The Policy, as required by the ACFSA, applies to all spontaneous speech. Ex. 7 to the Complaint, § F(1)(b). The Policy does provide that spontaneous expression is "generally prompted by news or affairs coming into public knowledge less than forty-eight (48) hours prior to the spontaneous expression." *Id.* But the Policy does not limit that term to expression "exclusively" prompted by these circumstances.[1]

Plaintiffs' argument that the Policy is viewpoint-discriminatory because it grants the University "unbridled discretion" in determining whether to grant or deny an application also fails. Plaintiffs first claim the provision allowing the denial of the permit where "[t]he proposed date, time, or requested space is unreasonable given the nature of the Event and/or the impact it would have on UAH's resources and teaching and research mission" allows the University to ban speech it does not like. But by its terms, the University can only deny a permit if the "proposed date, time, or requested spaced

is unreasonable." Nothing in the plain language of this provision permits the University to discriminate by viewpoint, and Plaintiffs do not adequately allege in the Complaint or argue in their Opposition how this provision grants the University "unbridled discretion." Merely including the term "unreasonable" in the provision does not grant the University unbridled discretion. *Thomas v. Chicago Park Dist.*, 534 U.S. 316, 324 (2002) (finding criteria asking whether "the intended use would present an unreasonable danger to the health or safety of park users . . . reasonably specific and objective, and do[es] not leave the decision 'to the whim of the administrator."') (emphasis added). Instead, the University's ability to limit speech under the provision is narrowly restricted to a limited number of clearly delineated factors.

Plaintiffs next claim the Policy is viewpoint discriminatory because a permit can be denied if it "would jeopardize the 'well-being of members of the campus community collectively and individually as well as the education experience.'" Doc. 80 at p. 18 (quoting Ex. 7 to the Compl., § E(9)). Plaintiffs' argument, however, is based on a partial quotation of the Policy. The full provision reads:

> The safety and well-being of members of the campus community collectively and individually, as well as the educational experience and other significant interests of the University as outlined herein, must be protected at all times. The University maintains the right to regulate reasonable time, place, and manner restrictions for Events occurring on campus in a viewpoint-neutral manner to ensure that expressive activity is protected and that expression does not disrupt the ordinary activities of the institution. This includes, but is not limited to, modifying, disbanding or relocating an Event or activity that conflicts with previously scheduled events in or around that space or that reasonably creates a health or safety risk to persons or risk to property on campus.[2]

In *Thomas*, the Supreme Court explicitly upheld a virtually identical provision protecting the "health and safety of park users" against a similar challenge that it

granted the government too much discretion. 534 U.S. at 324. The ACFSA by its terms, requires the University to "make all reasonable efforts to make available all reasonable resources to ensure the safety of the campus community." Ala. Code § 16-68-3(a)(5). Taken in its entirety, this provision is required to comply with the ACFSA, not barred by the ACFSA.

Plaintiffs claim that the University's "ability to deny requests 'inconsistent with the terms of University policy,'" is viewpoint-based likewise fails. The disputed provision provides that the permit will be granted unless, "The requested use of outdoor space is inconsistent with the terms of this policy." Ex. 7 to the Compl., § C(4). This provision says nothing about the viewpoint of the speech. The provision is also not vague as it refers specifically to "the terms of this policy." "Terms" means "provisions that determine the nature and scope of an agreement."[3] The inclusion of "terms" in the provision means it must be set forth in a policy; it is not just the University's whim. Plaintiffs, however, point to no term of any University policy that could be construed as viewpoint discriminatory.

Finally, Plaintiffs' argument that the Policy is viewpoint-discriminatory because "Defendants can decide what speech is acceptable merely by amending their own policies" fails. If this were the case, every constitutional policy would be rendered unconstitutional because the government could decide to amend it in an unconstitutional way. In view of the Policy's plain language, the Court finds the University's Policy is viewpoint neutral.

B. The University's Policy is Content-Neutral

"Government regulation of speech is content based if a law applies to particular

speech because of the topic discussed or the idea or message expressed." *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015). Plaintiffs argue that the Policy is content-discriminatory for essentially the same reasons they argue the Policy is viewpoint-discriminatory. Namely, Plaintiffs claim the Policy's purported "newsworthy" exception and provision allowing the denial of a permit that is "inconsistent with the terms of this policy" are content discriminatory. Neither argument is persuasive.

First, the Policy contains no "newsworthy" exception. The Policy contains a provision allowing "Spontaneous activities of expression, which are generally prompted by news or affairs coming into public knowledge less than forty-eight (48) hours prior to the spontaneous expression." Ex. 7 to the Compl., § (F)(1)(b). While "newsworthy" speech may be included in this provision, "[s]pontaneous activities of expression" is broader. Under the plain language of the Policy, the distinction between spontaneous events and those that can be planned is temporal—applying equally to all topics and ideas—not content-based.

Second, the plain meaning of the Policy's provision allowing denial of a permit that is "inconsistent with the terms of this policy" requires it be inconsistent with an existing University policy. Otherwise, it could not be inconsistent with any "terms." Here, Plaintiffs cannot point to any "terms of [the University's] policy," that discriminate based on the "topic discussed or the idea or message expressed." *Reed*, 576 U.S. at 163. As such, the Policy is not content-discriminatory.

C. The University's Policy is Narrowly Tailored and Provides Ample Alternative Means of Expression.

Plaintiffs do not dispute that the University's Policy addresses at least two significant institutional interests: (1) regulating competing uses of the space; and (2)

ensuring the safety and order on campus. Plaintiffs only claim the Policy is not narrowly tailored. Given that the Policy is content- and viewpoint-neutral, any time, place, and manner restrictions on speech "'need not be the least restrictive or least intrusive means of doing so.'" *Bloedorn v. Grube*, 631 F.3d 1218, 1238 (11th Cir. 2011) (citing *Ward v. Rock Against Racism*, 491 U.S. 781, 799 (1989). Instead, the University need only avoid "'regulat[ing] expression in such a manner that a substantial portion of the burden on speech does not serve to advance its goals.'" *Id.* (citing *Ward*, 491 U.S. at 799).

Plaintiffs first argue the University relies purely on speculation to support the fact that its Policy is narrowly tailored. This argument, however, ignores that numerous courts have addressed virtually identical policies and found them narrowly tailored. *Bloedorn*, 631 F.3d at 1240; *Sonnier v. Crain*, 613 F.3d 436, 445 (5th Cir. 2010). Plaintiffs' conclusory allegations to the contrary, do not require a different result here.

Plaintiffs' argument that the University must present "some pre-enactment evidence that the regulation would serve its asserted interests," is likewise misplaced. First, this requirement only applies when the government is attempting to address "the secondary effects of protected speech," such as bans on tattoo parlors or adult bookstores. *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425, 438–39 (2002); *see also Buehrle v. City of Key W.*, 813 F.3d 973, 979 (11th Cir. 2015). No cases have applied this standard when the government is enacting time, place, and manner restriction for speech on its own property. Moreover, even if the University were required to present such pre-enactment evidence, it has done so as "[t]his burden is not a rigorous one." *Buehrle*, 819 F.3d at 979. "Such evidence can include anything

'reasonably believed to be relevant—including a municipality's own findings, evidence gathered by other localities, or evidence described in a judicial opinion."' *Id.* (quoting *Peek–A–Boo Lounge of Bradenton, Inc. v. Manatee Cty.,* 337 F.3d 1251, 1268 (11th Cir. 2003) (emphasis added). As discussed above, numerous judicial opinions have set forth the necessity of such speech policies on university campuses.

Plaintiffs next claim the University's Policy is not narrowly tailored because its "ensnares" all student speech, including a single student's speech which poses no risk to regulating competing uses of campus space or ensuring campus safety. However, if more than one student wants to speak in the same space, the University needs a way to regulate the competing use of campus space. Moreover, the ACFSA requires the University prevent substantial disruption to expressive activities taking place in reserved locations. Ala. Code § 16-68-3(a)(6). A single person could disrupt the expressive activities at a location that was previously reserved by someone else.

Plaintiffs also argue that the three-day requirement is arbitrary and too long because it cuts off speech for three days without providing any alternative means for speaking. The three-day requirement, however, is in line with the advance notice requirements upheld by other courts. *Bloedorn*, 631 F.3d at 1240; *Bowman*, 444 F.3d at 982 (finding a 3–day notice requirement was narrowly tailored to serve a significant interest in campus safety, because "a university is less able than a city or other entity with police powers to deal with a significant disruption on short notice"); *Sonnier*, 613 F.3d at 445 (upholding a 7–day notice requirement imposed by Southeastern Louisiana University, because "[u]niversities are less equipped than cities and other public fora [or designated public fora] to respond to disruptions on short notice. Providing a university

with advance notice allows the university to adequately take care of any issues associated with the public speech or demonstration that might hamper the university's ability to meet its primary goal—the education of its students.").

Plaintiffs further argue the Policy exempts spontaneous speech and literature distribution from the permission requirement without justification. The ACFSA, however, mandates that the University allow both spontaneous speech and literature distribution without prior notice. Ala. Code § 16-68-3(a)(3), (7). Moreover, these broad exceptions further demonstrate the Policy's narrow tailoring. The Policy allows immediate speech on contemporaneous issues, but limits it to specified areas to prevent interference with other events and classes. The Policy also exempts literature distribution which allows students to immediately convey any message they wish without interfering with other events and classes. Thus, the Court finds that the University's Policy is narrowly tailored.

Finally, the University's Policy provides ample alternative channels for speaking within Plaintiffs' desired forum—the University's campus. The Policy specifically allows spontaneous speech to occur immediately in several prominent areas on campus, and within 24-hours anywhere on campus. It also allows students to immediately pass out literature—which Plaintiffs acknowledge is a "a manner of speech"[4]—anywhere on campus without notice. Ex. 7 to the Compl., § F(2)(a). Therefore, the Court finds the University's Policy provides ample alternative means for Plaintiffs to speak on campus.

II. The Policy's Time, Place, and Manner Restrictions Comply with Alabama's Free Speech Provision.

Article I, § 4 of the Constitution of the State of Alabama provides, "That no law shall ever be passed to curtail or restrain the liberty of speech or of the press; and any

person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty." Plaintiffs claim that this provision is broader than the First Amendment's speech provisions. Numerous courts, however, have interpreted Alabama's free speech provision to be consistent with the First Amendment. *King v. State*, 674 So. 2d 1381, 1384 (Ala. Crim. App. 1995) ("The construction given by the United States Supreme Court to provisions of the United States Constitution is persuasive in construing similar provisions of the Alabama Constitution."); *see also State v. City of Birmingham*, 299 So. 3d 220, 234 (Ala. 2019), *reh'g denied* (Jan. 17, 2020) ("Section 4 of the Alabama Constitution, like the First Amendment to the United States Constitution, 'restricts government regulation of private speech[.]'"); *J.C. v. WALA-TV, Inc.*, 675 So. 2d 360, 362 (Ala. 1996) ("In accord with the First Amendment to the United States Constitution is Art. I, § 4, of the Alabama Constitution of 1901.").

Even if Article I, § 4 is broader than the First Amendment, it still allows the University to implement time, place, and manner restrictions. Plaintiffs' argument that Alabama's Constitution prohibits prior restraints relies solely on a citation to a Washington State case—*State v. Coe*, 679 P.2d 353 (Wash. 1984). The Court in *Coe*, however, made clear that "a regulation may not rise to the level of a prior restraint if it is merely a valid time, place or manner restriction on the exercise of protected speech." *Id*. at 359.

The University's Policy does not prevent Plaintiffs' expression; it merely regulates, in a viewpoint- and content-neutral manner, when and where Plaintiffs may speak on the University's property. Such time, place, and manner restrictions are permissible under Alabama's Constitution. Were it otherwise, the ACFSA would be

unconstitutional, as it specifically allows the University to implement "time, place, and manner restrictions for outdoor areas of campus." As discussed at length above, the Court finds the University's time, place, and manner restrictions are content and viewpoint neutral and are narrowly tailored to serve a significant University interest. As a result, the Court finds the University's Policy complies with Alabama's Constitution.

III. The Court Need Not Reach the Issue of Whether the ACFSA is Unconstitutional.

The University has argued the ACFSA violates Article XIV, § 264 of the Alabama Constitution. The Court, however, declines to reach this issue pursuant to the doctrine of constitutional avoidance. *Chism v. Jefferson Cty.*, 954 So. 2d 1058, 1063 (Ala. 2006), *as modified on reh'g* (Oct. 5, 2006) ("Generally courts are reluctant to reach constitutional questions, and should not do so, if the merits of the case can be settled on non-constitutional grounds.").

CONCLUSION

The Court finds that the University's Policy complies with the ACFSA.

DONE this 9th day of February, 2022.

/s/ ALISON S. AUSTIN
CIRCUIT JUDGE

[1] According to Merriam-Webster, the term "generally" means "usually" not "exclusively." *Merriam-Webster.com Dictionary*, Merriam-Webster, https://www.merriam-webster.com/dictionary/generally. Accessed 26 Aug. 2021.

[2] Ex. 7 to the Compl., § E(9).

[3] "Term." *Merriam-Webster.com Dictionary*, Merriam-Webster, https://www.merriam-webster.com/dictionary/term. Accessed 26 Aug. 2021.

[4] Doc. 80 at p. 19.

[5] To be clear, the Court does not find that laws of general applicability do not apply on campus as such laws would not remove management and control from the Board of Trustees. For example, no one could honestly contend that laws that apply to all citizens of Alabama such as murder, assault, theft, and other criminal offenses interfere with the management and control of a person or entity. The ACFSA, however, is clearly not a law of general application. The ACFSA is specifically directed at the University, requires the University to adopt specific policies, explicitly dictates how to its property is used, and requires mandatory training of students, faculty, and staff.

[6] The *Stevens* court ultimately concluded that "We do not think that the act in question invades the powers of management and control of the trustees, within the provision of Section 264, but relates to a matter within the legislative power of the state . . . ." *Stevens*, 86 So. at 79. The court's conclusion must be read in light of Article XIV, Section 267, which gives the Legislature the power to change the location of the University. "[W]hen the two sections [264 and 267] are considered together, it is manifest that the power of management and control does not include the power of removal . . . ." *Id.* at 81 (J. Brown concurring).