

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

**STUDENTS FOR LIFE AT GEORGIA
TECH, BRIAN COCHRAN, and HALEY
THEIS,**

Plaintiffs,

v.

**REGENTS OF THE UNIVERSITY
SYSTEM OF GEORGIA—W. Allen
Gudenrath, Erin Hames, Samuel D.
Holmes, Bárbara Rivera Holmes, C.
Thomas Hopkins, Jr., James M. Hull,
Cade Joiner, Everett Kennedy,
Rachel B. Little, Lowery May, Jose R.
Perez, Neil L. Pruitt, Jr., Sarah-
Elizabeth Langford Reed, Harold
Reynolds, Sachin Shailendra, T.
Dallas Smith, Kessel D. Stelling, Jr.,
Don L. Waters, and Philip A. Wilheit,
Sr.—each individually and in his or
her official capacity; **ÁNGEL
CABRERA**, individually and in his
official capacity as President of
Georgia Institute of Technology;
KELLY FOX, individually and in her
official capacity as Executive Vice
President of Administration &
Finance of Georgia Institute of
Technology; **JAMES FORTNER**,
individually and in his official
capacity as Associate Vice President
of Finance & Planning of Georgia
Institute of Technology; **JIM PIERCE**,
individually and in his official
capacity as Senior Director of Bursar
& Treasury Services; **GLORIA
KOBUS**, individually and in her
official capacity as Bursar of Georgia
Institute of Technology, and **THE
STUDENT GOVERNMENT
ASSOCIATION OF GEORGIA
INSTITUTE OF TECHNOLOGY,****

Defendants.

Case No. _____

COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs Brian Cochran, Haley Theis, and Students for Life at Georgia Tech, by and through counsel, and for their Complaint against Defendants, state as follows:

INTRODUCTION

1. Just over fifty years after the assassination of the Reverend Dr. Martin Luther King Jr., rising and future generations have much to learn from his legacy in the civil rights movement. In the Summer of 2019, Brian Cochran, Haley Theis, and their fellow Students for Life members worked hard to plan events for the coming year. Their first large event featured Alveda King, the niece of Dr. King and former member of the Georgia House of Representatives, speaking about her experience in the civil rights movement and how students can continue to protect civil rights today. Excited to offer this opportunity to students at Georgia Tech, Mr. Cochran, Ms. Theis, and the Students for Life group submitted a request to the Student Government Association (SGA) for funding out of the pool of mandatory student activity fees available for such events.

2. While requests like this are routinely “fast tracked” without any discussion, that was not the case when Brian Cochran presented his request to the graduate and undergraduate houses of the SGA. Instead, SGA members interrogated Brian on the content and viewpoints that would be presented by SFL and Ms. King. SGA members stated that, because Ms. King has been involved in religious ministries, Ms. King’s life was “inherently religious,” and they could not separate the religious aspects of Ms. King’s life from the event about civil rights and abortion. SGA then denied the application. Under such

a standard, the Reverend Dr. Martin Luther King Jr. himself would not even be welcome.

3. Although Brian, Haley, and all SFL members pay the same student activity fees as other students, the SGA voted to deny funding for the event because the SGA was concerned that some members may be offended by Ms. King's presence on campus and the viewpoints she had expressed. The SGA discriminated against Brian, Haley, and SFL's viewpoints and Ms. King's viewpoints in favor of the views of students the SGA was afraid to offend.

4. It is discriminatory and unconstitutional to withhold funding from student activity fees that students have already paid into simply because a group holds a pro-life, conservative, or religious belief. But, although Defendants force Brian, Haley, and SFL members to pay student activity fees, Defendants deny them equal access to those funds.

5. The Supreme Court made it clear twenty years ago that if public universities wish to force students to pay student activity fees, then those universities have an affirmative duty to ensure that the funds are distributed in a viewpoint neutral manner—not by a simple majority vote. But the officials at Georgia Tech have done the opposite. They force students to fund other students' expression through the student activity fee, but students may only access those funds through a system that permits, and in some cases demands, viewpoint discrimination.

6. When universities dictate, or grant students the power to dictate, which messages and messengers are allowed on campus they transform

universities from “marketplaces of ideas” to a seller’s market of a single ideology deemed acceptable to the SGA.

7. The University, however, is meant to be the marketplace of ideas, where students can hear and be exposed to ideas that they may disagree with, where intellectual diversity thrives, and where truth is discovered through a multiplicity of voices rather than marginalized by majority rule.

8. Defendants violate the First and Fourteenth Amendments by compelling the Plaintiffs to pay the student activity fee but permitting and engaging in viewpoint discrimination in the distribution of the fee’s proceeds.

9. This action is based on the denial of Plaintiffs’ fundamental rights to free speech, equal protection, and due process under the United States Constitution. The policies and actions detailed below are challenged on their face and as applied to Plaintiffs. Defendants’ policies and actions have deprived and will continue to deprive Plaintiffs of their rights and guarantees under the United States Constitution.

JURISDICTION & VENUE

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

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

12. This Court has authority to award the requested damages pursuant to 28 U.S.C. § 1343; the requested declaratory relief pursuant to 28 U.S.C. §§

2201–02; the requested injunctive relief pursuant to 28 U.S.C. § 1343 and Fed. R. Civ. P. 65; and costs and attorneys’ fees under 42 U.S.C. § 1988.

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391(b) and L.R. 3.1, NDGa., because all of the Defendants reside in this district and/or all of the acts described in this Complaint occurred in this district and division.

PLAINTIFFS

14. Plaintiff Students for Life at Georgia Tech (“Students for Life”) is an unincorporated expressive student organization comprised of University students.

15. Students for Life is recognized as an official student organization at the University. It is a student-led, non-partisan, pro-life expressive student organization.

16. Every student member of Students for Life pays mandatory student activity fees at the University.

17. Students for Life currently includes over 35 members.

18. Students for Life and each of its members is entitled to viewpoint neutral access to and allocation of mandatory student activity fees collected by the University, to the repayment of the fees they have paid, and to be exempt from paying such fees in the future.

19. Part of Students for Life’s mission is to be an expressive student organization at the University and to protect its members’ constitutional rights on campus.

20. Part of Students for Life's mission is to serve and inform the entire student body regarding resources available for pregnant and parenting students.

21. Students for Life has organized service projects, including volunteering at the Birthright of Atlanta Pregnancy Resource Center.

22. If Students for Life succeeds in this lawsuit, it will be able to obtain viewpoint neutral access to the mandatory student activity fee funding, and its members will not be compelled to pay for others' expression in a system that permits viewpoint-discriminatory allocation of those funds to views they oppose.

23. Students for Life brings this suit on behalf of itself as a registered student organization at the University and on behalf of its individual student members, all of whom are compelled to pay mandatory student fees for the expression of viewpoints they oppose and are denied viewpoint-neutral access to the University's organizational funding mechanism through a system that permits discrimination against them because of the viewpoint of their speech activities and which actually does advantage others' opposing views over their own.

24. Plaintiff Brian Cochran is the former President of Students for Life and a December 2019 recent graduate of the University.

25. Plaintiff Haley Theis is the President of Students for Life and a full-time student at the University.

DEFENDANTS

26. Defendants W. Allen Gudenrath; Erin Hames; Samuel D. Holmes; Bárbara Rivera Holmes; C. Thomas Hopkins, Jr.; James M. Hull, Vice Chair of the Board of Regents; Cade Joiner; Everett Kennedy; Rachel B. Little; Lowery May; Jose R. Perez; Neil L. Pruitt, Jr.; Sarah-Elizabeth Langford Reed; Harold Reynolds; Sachin Shailendra, Chair of the Board of Regents; T. Dallas Smith; Kessel D. Stelling, Jr.; Don L. Waters; and Philip A. Wilheit, Sr. (collectively, the “Board Defendants”), are, and were at all times relevant to this Complaint, members of the Board of Regents of the University System of Georgia, a public university system organized and existing under the laws of the State of Georgia.

27. Defendant Ángel Cabrera is the President of Georgia Institute of Technology.

28. Georgia Institute of Technology is a public university organized and existing under the laws of the State of Georgia.

29. Defendant Kelly Fox is the Executive Vice President of Administration & Finance of Georgia Institute of Technology and reports to Defendant Cabrera.

30. Defendant James Fortner is the Associate Vice President of Finance & Planning of Georgia Institute of Technology and reports to Defendant Fox.

31. Defendant Jim Pierce is the Senior Director of Bursar & Treasury Services of Georgia Institute of Technology and reports to Defendant Fortner.

32. Defendant Gloria Kobus is the Bursar of Georgia Institute of Technology and reports to Defendant Pierce.

33. The Board Defendants, and Defendants Cabrera, Fox, Fortner, Pierce and Kobus, are each sued individually and in his or her official capacity.

34. The Board Defendants, and Defendants Cabrera, Fox, Fortner, Pierce, and Kobus are collectively referred to as “the University Defendants.”

35. The Student Government Association of Georgia Institute of Technology (SGA) is a mandatory student union comprised of the students enrolled at the Georgia Institute of Technology.

36. The SGA includes the Undergraduate Student Government Association and the Graduate Student Government Association.

37. The legislative branch of the Graduate Student Association is the Graduate Student Senate.

38. The legislative branch of the Undergraduate Student Association is the Undergraduate House of Representatives.

39. The University Defendants delegated the authority to the SGA to distribute the mandatory student activity fees.

FACTS

I. Defendants’ policies are unconstitutional both facially and as applied because they compel and restrict speech by requiring students to pay mandatory student activity fees without providing viewpoint neutral access to the forum created by distributing the fees.

40. The University Defendants require that students pay a mandatory student activity fee.

41. These same Defendants delegate to the SGA the authority to distribute the fees without viewpoint-neutral criteria.

42. In addition, student organizations may only access the funds under the

distribution policy by going through a complex recognition process.

43. As described below, each of these acts of Defendants and the policies that authorize them is challenged as unconstitutional both facially and as applied.

A. The Board Defendants mandate that Plaintiffs pay student activity fees without any provision requiring viewpoint neutral distribution.

44. Pursuant to state law, the Board Defendants are charged with the establishment and oversight of the University System.

45. The Board Defendants are empowered by state law to “make such reasonable rules and regulations as are necessary for the performance of its duties.” Ga. Code Ann. § 20-3-31.

46. Pursuant to Board Policy Manual 7.3.2.1, the Board of Regents require students attending a university within the system to pay mandatory student activity fees.

47. A true, accurate, and complete copy of the Board of Regents Policy Manual Section 7.3 is attached to this Complaint as Exhibit 1.

48. The “purposes and rates for all mandatory fees must be approved by the Board of Regents to become effective the following semester.” Ex. 1 § 7.3.2.1. The Board Defendants are responsible for ensuring that fees are collected and distributed in a constitutional manner.

49. On or about April 16, 2019, the Board Defendants voted unanimously to approve the mandatory student fees for Fiscal Year 2020 and which became effective for the Fall 2019 semester.

50. After this vote, Defendants required any Georgia Tech student taking four or more credits to pay a mandatory student activity fee amounting to \$40 per semester.

51. The student activity fee has been \$40 per semester since the Fall 2017 semester.

52. In Spring 2017, the Board of Regents voted to split the former student activity fee into multiple smaller fees starting in the Fall 2017 semester.

53. Prior to Fall 2017, the student activity fee was \$123 per semester.

54. The mandatory student activity fee is used to fund student organizations—including expressive events.

B. Defendants Cabrera, Fox, Fortner, Pierce and Kobus enforce the mandatory student activity fee requirement.

55. The Board Defendants delegated the authority to administer the collection and distribution of the fee to Defendant Cabrera. Ex. 1 at § 7.3.2.1.

56. The Board Defendants require that “Mandatory student fees shall be used exclusively to support the institution’s mission to enrich the educational, institutional, and cultural experience of students.” Ex. 1 at § 7.3.2.1.

57. The Board Defendants do not provide any specific guidance to Defendant Cabrera that limit the University President’s or any other official’s discretion to discriminate in the distribution of the fee.

58. The Board Defendants do not limit the University President’s or any other delegates’ discretion with a list of comprehensive viewpoint-neutral criteria that must be used to govern the distribution of fees.

59. The Board Defendants granted and continue to grant Defendant

Cabrera unbridled discretion to establish policies for the distribution of student activity fees, and have failed to establish constitutional Policies that govern student fee distribution.

60. Under the authority delegated by the Board of Regents, Defendant Cabrera requires that students taking more than four credits pay the mandatory student activity fee to attend Georgia Tech.

61. Defendants Fox, Fortner, Pierce, and Kobus act under the direction and authority of Defendant Cabrera to enforce the requirement that students pay the mandatory student activity fee.

62. On information and belief, Defendant Cabrera directed and authorized Defendants Fox, Fortner, Pierce, and Kobus to collect the mandatory fee on his behalf.

63. Under the authority delegated by the Board of Regents to the University President, and at the direction of the University President, Defendants Fox, Fortner, Pierce, and Kobus require that students taking more than four credits pay the mandatory student activity fee to attend Georgia Tech.

C. Plaintiffs paid the mandatory fee.

64. Plaintiff Cochran paid the student activity fee each semester he attended Georgia Tech.

65. Plaintiff Cochran paid \$446 in student activity fees while attending Georgia Tech.

66. Plaintiff Theis has paid \$240 in mandatory student activity fees to date

while attending Georgia Tech and continues to be required to pay the mandatory student activity fee as a condition of attending Georgia Tech.

67. Each member of Students for Life has paid the student activity fee while attending Georgia Tech and continues to be required to pay the mandatory student activity fee as a condition of attending Georgia Tech.

D. University defendants do not provide viewpoint-neutral policies to limit discretion to discriminate.

68. On information and belief, Defendant Cabrera caused, or directed other Defendants Fox, Fortner, Pierce, or Kobus to cause, the proceeds of the student activity fee to be distributed at the discretion of Defendant SGA for the Fall 2019 and Spring 2020 semesters.

69. On information and belief, Defendant Cabrera's predecessor in office caused, or directed other officials to cause, the proceeds of the student activity fee to be distributed at the discretion of the SGA for the Semesters between the Fall of 2016 until the Spring of 2019.

70. When Defendant Cabrera authorized the SGA to distribute the proceeds of the student activity fee, he did not limit the SGA's discretion with a Policy that contains a list of comprehensive viewpoint-neutral criteria that must be used to govern the distribution of fees.

71. Defendant Cabrera granted and continues to grant the SGA unbridled discretion to establish policies for the distribution of student activity fees.

72. The Board Defendants granted and continue to grant the other University Defendants and the SGA unbridled discretion to establish policies for the distribution of student activity fees, and have failed to establish

constitutional Policies that govern student fee distribution.

E. The Defendants' Fee Distribution Policies discriminate based on viewpoint.

73. As detailed in subsequent and prior paragraphs, Plaintiffs challenge, facially and as-applied, the provisions of Defendants' student organization tier system, fee collection, and fee distribution policies and practices that,

- a. Require students to pay a mandatory student activity fee (Board Policy Manual 7.3.2.1),
- b. Include viewpoint discriminatory distribution criteria and do not contain a comprehensive list of viewpoint neutral criteria (Board Policy Manual 7.3.2.1; Policy of the Joint Finance Committee),
- c. Include a discriminatory organizational tier system that explicitly discriminates based on viewpoint and does not include a comprehensive list of viewpoint neutral criteria, (Board Policy Manual 7.3.2.1; Joint Campus Organizations Committee Policy, Art. I, §§ 2–5, Art. II, § 5), and
- d. Impose a recognition requirement on student organizations seeking student activity fee funding, but do not utilize a comprehensive list of viewpoint-neutral criteria for those recognition decisions (Board Policy Manual 7.3.2.1; Joint Campus Organizations Committee Policy, Art. I, §§ 2–5, Art. II, § 5).

1. The student activity fee distribution policy includes viewpoint discriminatory criteria and does not contain a comprehensive list of viewpoint-neutral criteria.

74. The SGA's policies for distributing student activity fees include the

“Policy of the Joint Finance Committee” (“the JFC Policy”).

75. A true and accurate copy of the JFC Policy is attached as Exhibit 2.

76. The Joint Finance Committee reviews all joint allocations of the student activity fee and amends the applications for funding to meet the Joint Finance Committee’s interpretation of the JFC Policy.

77. Under the JFC Policy, student activity fees are distributed to registered student organizations through two methods: budgets and bills. Ex. 2 at Art. 4, § 2.

78. The first step for either method is to submit the request to the SGA’s Joint Finance Committee.

79. The Joint Finance Committee reviews the funding request and recommends to the SGA legislature whether to approve or deny the request—including line item recommendations.

80. The Undergraduate House and the Graduate Senate (together, “the SGA Legislature”) must each approve a funding bill (including a joint bill submitting a budget proposal) with 60% of votes cast in favor.

81. The SGA Legislature has the discretion to make amendments to funding bills prior to approving them.

82. The SGA Legislature has the discretion to amend budgets both before and after approving them.

83. After the SGA Legislature approves a budget, it is submitted to the Student Activities Committee.

84. “If the [Student Activities Committee] disapproves of any portion of the

budget, the entire budget shall be reintroduced to the legislature in the form recommended by [Student Activities Committee].” Ex. 2 at Art. 6, § 9.

85. Until the SGA Legislature approves a final budget, “the [Student Activities Committee]-recommended budget shall be used in order to comply with the budget submission policies of the Board of Regents (BOR) of the University System of Georgia.” Ex. 2 at Art. 6, § 9.

86. The SGA Legislature may vote by “an enactment ratio greater than 0.75, with a minimum of one-half affirmative votes in each chamber,” to fund bills with Student Activities Fees even if the requests do not conform to the JFC Policy requirements. Ex. 2 at Art. 7, § 5.

87. Board Policy does not limit the SGA Legislature to fund allocations in a viewpoint-neutral manner, nor is it governed by a comprehensive list of viewpoint-neutral criteria as a condition of receiving or approving the funds.

88. Defendants Cabrera, Fox, Fortner, Pierce, and Kobus do not require the SGA Legislature to fund allocations in a viewpoint-neutral manner governed by a comprehensive list of viewpoint-neutral criteria as a condition of receiving the funds.

89. The JFC Policy permits funding decisions to be made based on majority viewpoints of the SGA representatives.

90. The JFC Policy prohibits distribution of student activity fees for “political activities” and “religious activities.” Ex. 2 at Art. 8, § 1(A).

91. The SGA’s policies for distributing student activity fees do not include a comprehensive list of viewpoint-neutral criteria.

92. The SGA's Fee Distribution Policies permit the SGA to favor some viewpoints over others.

93. The SGA's Fee Distribution Policies allow the SGA Legislature to consider whatever factors its members wish, including the viewpoint of the student organization requesting funding.

94. The Board of Regents has the authority to condition the SGA's distribution of the student activity fee on the use of viewpoint-neutral criteria.

95. The Board of Regents has the obligation to condition the SGA's distribution of the student activity fee on the use of viewpoint-neutral criteria.

96. The Board of Regents permits the SGA to consider the viewpoints of organizations or events when making decisions whether to fund an organization or event.

97. Defendants Cabrera, Fox, Fortner, Pierce, and Kobus have the authority to condition the SGA's distribution of the student activity fee on the use of viewpoint-neutral criteria.

98. Defendants Cabrera, Fox, Fortner, Pierce, and Kobus have the obligation to condition the SGA's distribution of the student activity fee on the use of viewpoint-neutral criteria.

99. Defendants Cabrera, Fox, Fortner, Pierce, and Kobus permit the SGA to consider the viewpoints of organizations or events when making decisions whether to fund an organization or event.

2. The student activity fee distribution policy includes a tier system that explicitly discriminates based on viewpoint and does not include a comprehensive list of viewpoint-neutral criteria.

100. For purposes of allocating budgets, the SGA divides organizations into Tier II and Tier III organizations.

101. The JFC Policy (Exhibit 2) describes how the SGA treats the tiers differently.

102. “Tier II organizations are the top priority of student organizations. Tier II organizations may create new, funded positions and eliminate vacant positions with the joint approval of the legislature via a joint bill adopted with an enactment ratio of greater than 0.6. These organizations may also create funded positions for students. Tier II organizations will submit detailed line item budgets.” Ex. 2, at Art. 5, § 2(A).

103. “Tier III organizations are the secondary priority of student organizations. Tier III organizations may not pay salary or benefits out of the SAF. Tier III organizations may not have funded positions for staff or students. Tier III organizations may submit a detailed line item budget.” Ex. 2 at Art. 5, § 2(B).

104. The Joint Campus Organizations Committee Policy (“the JCOC Policy”) contains the policies for recognizing student organizations and assigning student organizations to Tier II or Tier III status.

105. A true, accurate, and complete copy of the JCOC Policy is attached to this Complaint as Exhibit 3.

106. “Tier II organizations are the top funding priority for student

organizations.” Ex. 3 at Art. II, § 5(A)(1)(a).

107. Tier II organizations are supposed to “provide information or services that substantially impact the student body.” Ex. 3 at Art. II, § 5(A)(1)(b).

108. Whether a student organization has a “substantial impact . . . is ultimately left to the discretion of the Joint Campus Organizations Committee and the legislative bodies” Ex. 3 at Art. II, § 5(A)(1)(b).

109. “Tier III organizations are the secondary priority of student organizations.” Ex. 3 at Art. II, § 5(A)(2)(a).

110. Organizations which are assigned Tier II status receive preferred treatment in budget allocations.

111. Tier II organizations are not required to charge membership fees in order to receive a budget.

112. Tier III organizations are required to charge a \$10 membership fee per semester per student in order to receive a budget.

113. All organizations are automatically assigned Tier III status when they are initially chartered. Ex. 3 at Art. II, § 5(B)(1).

114. Students for Life is a Tier III organization.

115. MOVE is a Tier II student organization that describes itself as a community service organization.

116. For example, MOVE has coordinated service opportunities at medical facilities.

117. An organization may request to have its tier assignment reassessed by the Joint Campus Organizations Committee. Ex. 3 at Art. II, § 5(B)(2).

118. The Joint Campus Organizations Committee will first “evaluate the ideological motivation of the proposal.” Ex. 3 at Art. II, § 5(B)(3)(a).

119. “In order to be approved, the proposal must pass the Joint Campus Organizations Committee by a two-thirds majority vote.” Ex. 3 at Art. II, § 5(B)(3)(b).

120. The Joint Campus Organizations Committee is not required to follow any comprehensive list of objective, viewpoint-neutral criteria when determining whether to approve an organization for Tier II status.

121. The JCOC policy requires that it consider the “ideological motivation” of the student organization requesting Tier II status when voting whether to approve Tier II status. Ex. 3 at Art. II, § 5(B)(3)(a).

122. If the Joint Campus Organizations Committee approves an application for Tier II status by a two-thirds majority, then the application is presented to the Joint Finance Committee. Ex. 3 at Art. II, § 5(B)(3)–(4).

123. “In order to be approved, the proposal must pass the Joint Finance Committee by a two-thirds majority vote.” Ex. 3 at Art. II, § 5(B)(4)(b).

124. The Joint Finance Committee is not required to follow any comprehensive list of viewpoint-neutral criteria when determining whether to approve an organization for Tier II status.

125. If both the Joint Campus Organizations Committee and the Joint Finance Committee approve Tier II status by a two-thirds majority vote, then the application is presented to both houses of the SGA legislature where it must be approved by at least 60% of the vote. Ex. 3 at Art. II, § 5(B)(5).

126. The University Defendants have the authority and obligation to require the use of a comprehensive list of viewpoint-neutral criteria when determining whether to approve an organization for Tier II status.

127. The University Defendants do not require the use of a comprehensive list of viewpoint-neutral criteria when determining whether to approve an organization for Tier II status.

3. Official recognition is a gateway requirement for receiving student activity fee funding, but being granted or denied official recognition is not limited by a comprehensive list of viewpoint-neutral criteria.

128. To access student activity fees, a student organization must be recognized by the University and the SGA.

129. Policies for recognition are contained in the JCOC Policy. Ex. 3.

130. After an application for an organization to be recognized is submitted, “[t]he Joint Campus Organization Committee has the authority to interpret the guidelines established in [the JCOC] policy as necessary.” Ex. 3 at Art. I, § 5(A)(3).

131. After review by the SGA’s Joint Campus Organization Committee, “[a]ll materials and testimonies presented are reviewed by the Student Activities Committee of the Faculty Senate, which transmits their positive or negative recommendation to the Faculty Senate.” Ex. 3 at Art. I, § 5(A)(4).

132. “The Student Activities Committee has the power to refrain from immediate action on a charter in order to ask the organization to make appropriate changes to their constitution in order to conform to policy and to clear up areas of ambiguity or confusion.” Ex. 3 at Art. I, § 5(A)(3).

133. The Student Activities Committee has the discretion to hold up a student organization's recognition application indefinitely.

134. No Defendant has implemented a policy limiting the Student Activities Committee's discretion to hold up an organization's application.

135. No Defendant has implemented a policy limiting the Student Activities Committee's discretion to treat student organizations' applications differently based on viewpoint.

136. After approval by the Student Activities Committee, "[t]he Faculty Senate, or the Executive Board on the Senate's behalf, conveys its approval or denial to the President of the Institute for his/her action." Ex. 3 at Art. I, § 5(A)(6).

137. Defendant Cabrera has the discretion to approve or deny recognition of a student organization.

138. Defendant Cabrera's authority is derived by delegation from the Board Defendants.

139. The Board Defendants have not restricted Defendant Cabrera's discretion to approve or deny recognition to a student organization with comprehensive viewpoint-neutral criteria.

140. The "criteria" Defendants consider when denying recognition to an organization include the following:

- a. "Only those organizations whose functions and constitution are consistent with the educational mission of the Institute and the policies and procedures of the Student Government Association will

be considered for chartering,” and

- b. “Only organizations with a unique mission statement to previously chartered student organizations in good standing will be considered for chartering.”

Ex. 3 at Art. I, § 5(B)(1)–(2).

141. These criteria Defendants consider when denying recognition to an organization are vague, allow unbridled discretion, and are not comprehensive in that Defendants may consider any other criteria when approving or denying recognition.

142. These policies discriminate based on viewpoint because they require consideration of a group’s mission and purpose and do not limit Defendants’ discretion to discriminate.

143. The JCOC Policy includes an appeal process which grants discretion that is not limited by comprehensive viewpoint-neutral criteria to the Student Government Association, Defendant Cabrera, and Board Defendants.

144. Specifically:

- a. “Any decision to apply inactive status to an organization in the chartering process made by the JCOC may be appealed to the appropriate legislative body or bodies of the Student Government Association.”
- b. “Any decision to apply inactive status to an organization in the chartering process made by the legislative bodies of the Student Government Association may be appealed to the Student Activities

Committee of the Faculty Senate, and subsequently the Faculty Senate.”

- c. And, “[a]ny decision made by the Student Activities Committee of the Faculty Senate, or the Faculty Senate may be appealed to the President of the Institute, and subsequently to the Board of Regents of the University System of Georgia.”

Ex. 3 at Art. I, § 5(C).

145. Defendants have the authority and obligation to require the use of viewpoint-neutral criteria for student organization recognition.

146. Defendants do not require the use of viewpoint-neutral criteria for student organization recognition.

F. Plaintiffs object to paying the student activity fee and would not fund the viewpoints that the student activity fee funds if they were not forced to by Defendants.

147. Plaintiffs Brian Cochran and Haley Theis object to paying the student activity fee.

148. The student activity fee is used to fund other student organizations that express messages that Brian Cochran and Haley Theis do not wish to fund and would not fund if given the choice.

149. For example, the SGA used \$2,760 in student activity fees to fund travel for Georgia Tech students to attend the Young Democratic Socialists of America Winter National Conference.

150. Young Democratic Socialists of America is the youth branch of the Democratic Socialists of America, which is a political party.

151. Brian Cochran and Haley Theis disagree with the platform of the

Democratic Socialists of America and would not voluntarily fund travel to the Young Democratic Socialists of America conference if given the choice.

152. Defendants also allocated \$5,000 in student activity fees to fund an event featuring Andrew Gillum.

153. Andrew Gillum is a pro-choice Democrat.

154. Brian Cochran and Haley Theis disagree with the viewpoints of Andrew Gillum and would not voluntarily fund an event featuring him if given the choice.

155. The mandatory student activity fee was also used to fund other expressive events and messages that Brian Cochran, Haley Theis, and members of Students for Life strongly disagree with and oppose.

G. Defendants were on notice that their policies are unconstitutional.

156. Georgia Tech officials were sued over a decade ago by students alleging that the prohibition on religious and political funding and the unbridled discretion present in the distribution policies was unconstitutional.

157. Although the court granted summary judgment to Defendants in that case on technical grounds, it noted with respect to these policies that funding prohibition on religious and political activities likely violated the Supreme Court's holding in *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819 (1995), and that in addition, "[t]o the extent that viewpoint neutrality requires a policy to be administered without unbridled discretion, it would be difficult to see how Georgia Tech's policy meets that expectation." *Sklar v. Clough*, No. 1:06-CV-0627-JOF, 2008 WL 11404944, at *24 (N.D. Ga. Apr. 29,

2008).

158. At the time the Court admonished that it was “not confident that Georgia Tech has appreciated the nature and degree of this problem” and that it “has no doubt that [a similar] challenge will occur in the future, and it would behoove the school to prepare for that eventuality.” *Id.*

159. Defendants and their predecessors in office did not do so.

II. Defendants denied Plaintiffs access to the student activity fee forum based on Plaintiffs’ viewpoints.

160. On September 6, 2019, Brian Cochran, on behalf of Students for Life, submitted Joint Bill 20J065 (“the Alveda King Bill”) to the SGA.

161. A true, accurate, and complete copy of Joint Bill 20J065 is attached to this Complaint in Exhibit 4 at 1–2.

162. The Alveda King Bill requested \$2,346.16 in funding for Students for Life to host Alveda King to speak on campus on October 1, 2019.

163. The event, and other Students for Life events, was designed to provide information and services to the entire student body.

164. The Joint Finance Committee discussed whether the event was political or religious and deemed that it was not political or religious and sent it to the SGA Legislature.

165. The Alveda King Bill complied with all procedural requirements for funding requests.

166. Most event-funding requests are “Fast Tracked.”

167. Fast Tracking means that there is little to no discussion on the bill and it is voted on in a package with other Fast Tracked bills.

168. Students for Life was not given the option to Fast Track the Alveda King Bill because members of the Joint Funding Committee felt that the Legislature would want to discuss the viewpoints that would be presented at the event.

A. The SGA Graduate Senate discriminates against Students for Life's viewpoints.

169. The Alveda King Bill was first heard by the Graduate Student Senate on September 17, 2019.

170. A true and accurate copy of the minutes from the September 17, 2019 meeting of the Graduate Student Senate is attached to this Complaint as Exhibit 5.

171. At that meeting, members of the Graduate Student Senate questioned Mr. Cochran about whether Ms. King would discuss abortion or religion.

172. For example, one Senator stated that since Ms. King's life was "inherently religious," they could not separate Ms. King's religious life from the event about civil rights and abortion. Ex. 5 at 11.

173. The discussion focused almost exclusively on the political, religious, and social viewpoints that might be expressed at the event.

174. The Graduate Student Senate voted to postpone the bill one week.

B. The SGA House of Representatives discriminates against Students for Life's viewpoints.

175. Later that same day, the Bill was heard in the Undergraduate House of Representatives.

176. A true and accurate copy of the minutes from the September 17, 2019 meeting of the Undergraduate House of Representatives is attached to this

Complaint as Exhibit 6.

177. The House members engaged in a lengthy discussion regarding the content and viewpoints to be presented at the event.

178. A House member asked Brian Cochran to “guarantee there won’t be any questions regarding religion or abortion” on a post-event questionnaire. Ex. 6 at 3.

179. Another House member asked Brian Cochran to “guarantee that the speaker will not talk about LGBT issues.” Ex. 6 at 4.

180. On information and belief, the SGA has never required another organization to “not talk about LGBT issues.”

181. Another House member expressed that the member felt that funding this event would “promote and provoke hate speech.” Ex. 6 at 4.

182. Another House member stated that “[w]hen talking about freedom of speech, the line is drawn when it comes to whether groups will feel attacked.” Ex. 6 at 4.

183. Multiple other House members stated they oppose the bill because of the viewpoints Ms. King expressed in the past.

184. A House member stated that “[m]y concern isn’t only along the speech’s content, though that’s a concern. My concern is that if we support this bill, we’re supporting a speaker that’s said such hateful, dangerous rhetoric. She hasn’t apologized for these beliefs either.” Ex. 6 at 4.

185. The speaker was referring to Alveda King’s past statements regarding her beliefs on same-sex marriage.

186. Another House Member stated the member opposes the bill because “[a]s we represent the student body, there are so many perspectives and challenges to keep in mind. When we’re presented with speakers that fundamentally challenge the dignity and existence of these groups that’s when we have to do our due diligence.” Ex. 6 at 5.

187. Before a motion to call the question, the Speaker of the House stated: “As UHR, we’re here to represent our constituents and see if this is a good use of the [student activity fee].” Ex. 6 at 5.

188. The question was called, and the House rejected the Bill with four votes in favor, twenty-one opposed, and four abstaining.

189. Ironically, September 17, 2019, was Constitution Day, which is designed to celebrate the freedoms enshrined in our Constitution. Instead, SGA members spent the day questioning whether the First Amendment protects expression they do not agree with.

C. The SGA Graduate Senate finalizes its discrimination against Students for Life’s viewpoints.

190. The next week, on September 24, 2019, the Graduate Student Senate considered the Bill again.

191. A true and accurate copy of the minutes from the September 24, 2019, meeting of the Graduate Student Senate is attached to this Complaint as Exhibit 7.

192. During this discussion, some Senators expressed their opposition, stating that the event was “inherently religious.” Ex. 7 at 7.

193. Another senator opposed the Bill, stating: “A Pro-life stance is certainly

political, given the dividing nature of this in current national politics.” Ex. 7 at 7.

194. The discussion focused on the content of the event and the viewpoint of Dr. Alveda King.

195. The Graduate Student Senate rejected the bill by a vote of six in favor, fifteen opposed, and five abstaining.

D. The Judiciary Cabinet affirms the SGA’s discriminatory denial of funding.

196. After the funding request was rejected by the SGA Legislature, Students for Life appealed the denial of funding to the Undergraduate Judiciary Cabinet in accordance with the Undergraduate SGA Bylaws, Art. IV, §§ 1–2.

197. A true and accurate copy of the Undergraduate SGA Bylaws is attached as Exhibit 8.

198. A true and accurate copy of Students’ for Life’s appeal packet is attached as Exhibit 4.

199. As part of the appeal process, Students for Life pointed the Undergraduate Judiciary Cabinet to federal court decisions holding that denying student activity fee funding based on the speaker’s viewpoint was unconstitutional in situations very similar to the SGA’s denial of funding to Students for Life.

200. On October 17, 2019, the Undergraduate Judiciary Cabinet rejected the appeal of the Legislature’s funding denial by a vote of 3–1.

201. A true, accurate, and complete copy of the Opinion of the

Undergraduate Judiciary Cabinet, Oct. 17, 2019, is attached as Exhibit 9.

202. The appeal alleged that the Legislature engaged in biased decision making. Ex. 9 at 1.

203. The Undergraduate Judiciary Cabinet ruled that this biased decision-making was appropriate and a “necessary evil” for the Legislature to “fulfill their mission and purpose as representatives of the student body.” Ex. 9 at 3.

204. The majority opinion stated that “[i]t is in the UHR and GSS’s jurisdiction to make funding decisions based on external information, such as the knowledge of Dr. King’s past comments, whether it is positive or negative. In this situation, there were sentiments that Dr. King’s comments related to the LGBT+ community did not align with their individual values on the subject, nor their belief of what their constituent’s values were. Legislative branch members have a responsibility to take into account the concerns of their constituents.” Ex. 9 at 2.

205. The opinion went on to defend how the legislators rejected funding based on their own views or how they thought students might react to Dr. Alveda King’s lecture:

The legislative branch of any government is the branch that interacts most intimately with the general population and is therefore more likely to reflect the values and behaviors of the general population. While this standing ideology can often hinder the objective fairness and functionality of the legislative branch, it is a necessary evil for the branch to succumb to in order for them to fulfill their mission and purpose as representatives of the student body. Legislative branch members cannot be put at fault for voicing the concerns of constituents and adhering to the typical functioning and nature of their branch of student body governance.

Ex. 9 at 3.

206. The dissenting opinion noted that the denial of funding was a violation of the First Amendment.

E. Plaintiffs were forced to fund the event out-of-pocket.

207. To hold the event despite the SGA's funding denial, Brian Cochran paid \$3,000 from his personal account.

208. Haley Theis paid approximately \$90 out of pocket to cover expenses for the event that would have been covered by the Funding Bill.

209. The Georgia Tech Parents fund agreed to reimburse Students for Life \$1,100 to cover part of the costs of the event.

210. The Student Organizations Finance Office manages the distribution of the Georgia Tech Parents fund and student organization's account funds.

211. The Student Organizations Finance Office has, to date, refused to release the \$1,047.24 from the Georgia Tech Parents fund to Brian Cochran as reimbursement for his out-of-pocket costs in funding the event.

212. Plaintiffs also sought to use \$952.76 from Students for Life's account to pay for Dr. Alveda King's lecture.

213. The Student Organizations Office manages Students for Life's account.

214. The Student Organizations Finance Office has, to date, refused to release the \$952.76 from Students for Life's account to Brian Cochran as reimbursement for his out-of-pocket costs in funding Dr. Alveda King's lecture.

F. Defendants used their discretion to compel Students for Life to change the content of its speech.

215. In October 2019, Students for Life submitted a request for student activity fee funding for an educational banner—Joint Bill 20J170 (“the Banner

Bill”).

216. A true, accurate, and complete copy of the Banner Bill is attached as Exhibit 10.

217. The original banner design contained images of the different stages of human development from conception until two to three years of age and the text, “Human Development Timeline.”

218. A true, accurate, and complete copy of the proposed banner that was shown to the JFC is attached as Exhibit 11.

219. The event, and other Students for Life events, was designed to provide information and services to the entire student body.

220. The Joint Finance Committee engaged in extensive discussion about whether this constituted prohibited “Political Activity” under the JFC Policy.

221. A true and accurate copy of the minutes from the October 31, 2019 JFC meeting is attached as Exhibit 12.

222. The Joint Finance Committee determined that as drafted the banner was “Political Activity.”

223. The Joint Finance Committee directed Students for Life to compose new text for the banner, or to delete the text before meeting with the SGA Legislature to discuss the funding bill.

224. Specifically, the Committee minutes state that “JFC suggested removal of the title (reflected in the change in the Line description) and expects the organization to come up with a new title or decide to remove the title before the legislative meetings.” Ex. 12 at 4.

225. Although the Banner Bill would normally have been Fast Tracked, the Joint Finance Committee declined to FastTrack the bill because of its content and viewpoint. Ex. 12 at 3–4.

226. Specifically, the committee minutes state that, “Even though this bill is under \$3500, the committee felt this should be sent to the legislative bodies due to the extensive discussion surrounding this bill” and “JFC Fast Track – DENIED (Lots of Discussion Still Needed).” Ex. 12 at 4.

227. On November 5, 2019, the Undergraduate House discussed Students for Life’s funding request.

228. A true, accurate, and complete copy of the minutes from the November 5, 2019 meeting of the Undergraduate House is attached to this Complaint as Exhibit 13.

229. At the meeting, House Members asked whether Students for Life had changed the title as required by the Joint Finance Committee.

230. Students for Life representatives responded that rather than change the text, they would consider just not including the text at all.

231. The House then voted to table the Bill so that the Bill would be modified to note that the text “Human Development Timeline” would not be included.

232. At the next meeting, on November 12, 2019, Brian Cochran asked the House if it would reconsider the Joint Finance Committee recommendation and allow Students for Life to include the title, “Human Life Development.”

233. The House declined the request and voted to fund the banner only if Students for Life removed the “Human Life Development” title. Ex. 13 at 4–5.

234. Students for Life revised the text of the banner to comply with the SGA's demand, and in so doing their speech was prohibited.

ALLEGATIONS OF LAW

235. All of the acts of Defendants, their officers, agents, employees, and servants, were executed and are continuing to be executed by Defendants under the color and pretense of the policies, statutes, ordinances, regulations, customs, and usages of the State of Georgia.

236. Defendants are not engaging in government speech or their own speech in their allocation of mandatory student activity fees.

237. Defendants knew or should have known that by forcing Brian Cochran, Haley Theis, and Students for Life's members to pay into a viewpoint discriminatory student activity fee system and by denying Students for Life's application for funding due to its viewpoints, Defendants violated Plaintiffs' constitutional rights.

238. Defendants acted with willful or reckless disregard for Plaintiffs' constitutional rights.

239. The student activity fee policies which Defendants applied to violate Plaintiffs' constitutional rights remains in full force and effect.

240. Plaintiffs are suffering irreparable harm from the student activity fee policies and conduct of Defendants, which cannot be fully compensated by an award of money damages.

241. Plaintiffs have no adequate or speedy remedy at law to correct or redress the deprivation of their rights by Defendants.

242. Defendants' actions and policies, as set forth above, do not serve any legitimate or compelling state interest.

243. Defendants' actions and policies, as set forth above, were not narrowly tailored to achieve any legitimate government interest.

244. Defendants have deprived, and continue to deprive, Plaintiffs of their clearly established rights under the United States Constitution, as set forth in the causes of action below.

245. Unless the conduct of Defendants is enjoined, Plaintiffs will continue to suffer irreparable injury.

246. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to appropriate relief invalidating Defendants' student activity fee policies, along with the related practices and procedures, compensating Plaintiffs for their losses under the unconstitutional policies, and for litigation costs and attorneys' fees.

FIRST CAUSE OF ACTION
Violation of Plaintiffs' First Amendment Right to Freedom of Speech:
Compelled Speech and Viewpoint Discrimination
(42 U.S.C. § 1983)

247. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–246 of this Complaint.

248. Defendants violated Plaintiffs' First Amendment rights by:

- a. compelling them to fund private expression through a mandatory student activity fee,
- b. compelling them to fund private expression through a mandatory student activity fee that is distributed in a viewpoint discriminatory

manner (including through discriminatory criteria and with unbridled discretion),

- c. denying them access to the forum created by the fee-distribution policy, and
- d. compelling them to alter the content and viewpoint of their expression.

A. Defendants compel speech in violation of the First Amendment (*Southworth*).

249. If University Defendants are permitted to mandate that Plaintiffs pay the student activity fee, the First Amendment requires that University Defendants ensure the fees are distributed in a viewpoint neutral manner.

250. Defendants violate the First Amendment by engaging in viewpoint discrimination when distributing the mandatory fee in at least three ways:

- a. The University Defendants do not limit the SGA's discretion to discriminate based on viewpoint, neither do the SGA's policies limit its discretion,
- b. The SGA's policies include criteria that require viewpoint discrimination, and
- c. Defendants' student organization recognition policies confer unbridled discretion to discriminate and thus block student organizations from receiving funding based on viewpoint.

251. Defendants' distribution policies lack a complete list of objective criteria, factors, or standards for determining who may access the student organization funding forum.

252. This lack of criteria gives Defendants unbridled discretion to exclude or prohibit speech based on its viewpoint in violation of the First Amendment.

253. The criteria prohibiting funding of “Political Activities” or “Religious Activities” are viewpoint discriminatory criteria.

254. Defendants do not permit unrecognized student organizations to receive funding, but they retain unbridled discretion to deny recognition to student organizations and explicit policies that require consideration of an organization’s viewpoints when deciding whether to recognize it.

255. Defendants organizational tier policies are viewpoint discriminatory because they permit unbridled discretion, require consideration of the organization’s viewpoints, and treat similarly situated student organizations differently based on their viewpoints.

256. The policies requiring organization’s functions and constitution to be “consistent with the educational mission of the Institute” and to have a “unique mission statement” compared to other “previously chartered student organizations” require consideration of a student organization’s expressive content and viewpoints.

257. Thus, the student activity fee allocation system is viewpoint discriminatory because it:

- a. does not bridle Defendants’ discretion to discriminate in the distribution of funds or in the recognition of student organizations, and
- b. includes discriminatory criteria for the distribution of funds and for

the recognition of student organizations.

258. Defendants' student activity fee collection and distribution policies compel Plaintiffs Brian Cochran and Haley Theis, along with the student members of Plaintiff Students for Life, to fund and support speech and viewpoints with which they disagree and which they find offensive and objectionable.

259. Requiring Plaintiffs to pay into the mandatory system that permits and requires viewpoint discrimination violates the First Amendment both facially and as applied.

B. Defendants compelled speech in violation of the First Amendment (*Janus*).

260. University Defendants compel Plaintiffs Brian Cochran, Haley Theis, the members of Students for Life, and all University students to pay a mandatory student activity fee that is used in part to fund student organization speech on campus.

261. This mandatory fee violates the First Amendment which prohibits compelling individuals to fund the private expression of others.

C. Defendants denied Plaintiffs access to a speech forum based on Plaintiffs' viewpoint.

262. Defendants also discriminated against Plaintiffs by denying them access to the funding forum created by the student activity fee.

263. The SGA Defendants exercised the unbridled discretion granted by the remaining Defendants through the challenged policies to deny Plaintiff Students for Life's application for funding for the Alveda King event.

264. Defendants engaged in content- and viewpoint-based discrimination

by favoring the expressive activities of other speakers and organizations but denying Students for Life's event funding request for the Alveda King event based on Plaintiff's viewpoints.

265. Defendants engaged in content- and viewpoint-based discrimination by requiring Students for Life to delete the title of its banner in order to receive funding.

266. Defendants have no legitimate interest to support by discriminating against Students for Life's chosen content or viewpoint.

267. Accordingly, Defendants' student activity fee policies, including the collection and distribution of the fees and its student organization recognition policies, and their enforcement of those policies against Plaintiffs violate Plaintiffs' right to freedom of speech guaranteed by the First Amendment.

268. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They are entitled to an award of monetary damages and equitable relief.

SECOND CAUSE OF ACTION
Violation of Plaintiffs' Fourteenth Amendment
Right to Equal Protection of the Law

269. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–268 of this Complaint.

270. The Fourteenth Amendment to the United States Constitution guarantees Plaintiffs the equal protection of the laws, which prohibits Defendants from treating Plaintiffs differently than similarly situated students and student organizations.

271. The government may not treat a person or group disparately as compared to similarly situated persons or groups when such disparate treatment burdens a fundamental right, targets a suspect class, or has no rational basis.

272. Plaintiffs Brian Cochran, Haley Theis, and the other student members of Students for Life are similarly situated to all other students at the University because they pay student activity fees as a condition of enrollment at the University.

273. Pursuant to the student activity fee policies, Defendants treated Plaintiffs Brian Cochran, Haley Theis and the other student members of Students for Life disparately to other students because Defendants have used Plaintiffs' fees to fund the speech of students that Plaintiffs disagree with, but have denied funding to Plaintiffs because other students disagree with Plaintiffs.

274. Defendants' student activity fee policies and related practices violate Plaintiffs Brian Cochran, Haley Theis, and the other student members of Students for Life's fundamental right to freedom of speech.

275. Plaintiff Students for Life is similarly situated to other Recognized Student Organizations at the University that engage in expressive activity on campus to advocate for their own viewpoints.

276. Plaintiff Students for Life is similarly situated to other Tier II organizations that provide information and resources to the campus community.

277. Pursuant to the student activity fee policies, Defendants granted mandatory student activity fee funding to other Registered Student Organizations for events with speakers but denied the same to Plaintiff Students for Life based on the content and viewpoint of Students for Life's event.

278. Pursuant to the student activity fee policies, Defendants treated Plaintiff Students for Life disparately when compared to the organization that received funding to bring in Andrew Gillum to speak as well as other organizations that received speaker funding.

279. Defendants treat Plaintiff Students for Life differently that similarly situated organizations by classifying it as a Tier III organization with the disadvantages that come therewith.

280. Defendants' student activity fee policies and related practices violate Plaintiff Students for Life's fundamental right to freedom of speech.

281. When government regulations, like Defendants' mandatory student activity fee funding policies and practices challenged herein, infringe on fundamental rights, discriminatory intent is presumed.

282. Defendants' mandatory student activity fee funding policy and practices have also been applied to discriminate intentionally against Plaintiffs' right to freedom of speech.

283. Defendants lack a rational or compelling state interest for such disparate treatment of Plaintiffs.

284. Defendants' student activity fee policies and their practices are not

narrowly tailored as applied to Plaintiffs because Plaintiffs' speech does not implicate any of the compelling or even legitimate interests Defendants might have.

285. Defendants have applied the student activity fee policies and their procedures, practices, and customs to Plaintiff Students for Life in a discriminatory and unequal manner in violation of Plaintiff's right to equal protection of the laws under the Fourteenth Amendment.

286. Because of Defendants' actions pursuant to the student activity fee policies, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. Plaintiffs are entitled to an award of monetary damages and equitable relief.

THIRD CAUSE OF ACTION
Violation of Plaintiffs' Fourteenth Amendment Right to Due Process

287. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–286 of this Complaint.

288. The Fourteenth Amendment to the United States Constitution guarantees Plaintiffs the right to due process of law and prohibits Defendants from promulgating and employing vague standards that allow for content or viewpoint discrimination in Defendants' handling of Plaintiffs' expression and association.

289. The government may not regulate expression or association based on policies that permit arbitrary, discriminatory, and overzealous enforcement.

290. The government may not regulate expression or association based on policies that cause persons of common intelligence to guess at their meaning and differ as to their application.

291. Defendants' recognition policies that require organizations' functions and constitution to be "consistent with the educational mission of the Institute" and that each organization have a "unique mission statement" compared to other "previously chartered student organizations" are unconstitutionally vague.

292. Defendants' fee distribution policies that permit students to discriminate against "religious" and "political" speech are unconstitutionally vague.

293. These criteria are subject to varying interpretations, do not provide adequate notice of their meaning, and permit differing applications to different viewpoints.

294. The lack of specific criteria, factors, or standards in Defendants' organization recognition and fee distribution policies and practices renders them unconstitutionally vague in violation of Plaintiffs' right to due process of law under the Fourteenth Amendment.

295. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, irreparable harm. They are entitled to an award of monetary damages and equitable relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants and grant Plaintiffs the following relief:

- A. A declaratory judgment that Defendants' student activity fee collection and distribution policies and practices, including Board Policy Manual 7.3.2.1, the Policy of the Joint Finance Committee, and the Joint Campus Organizations Committee Policy Art. I, §§ 2–5, and

- Art. II, § 5, facially and as-applied, violate Plaintiffs' rights under the First and Fourteenth Amendments;
- B. A declaratory judgment that Defendants' denial of student activity fee funding to Plaintiff Students for Life and censorship of its banner text violated Plaintiff's rights under the First and Fourteenth Amendments;
- C. A preliminary and permanent injunction prohibiting Defendants, their agents, officials, servants, employees, and any other persons acting on their behalf from collecting or distributing the student activity fee challenged in this complaint under the current policies;
- D. Compensatory damages in the amount of \$2,346.16 (that Defendants denied Students for Life) for infringing Students for Life's exercise of its First and Fourteenth Amendment rights;
- E. Compensatory damages in the amount of mandatory student activity fees paid by each of Plaintiff Students for Life's student members, including Plaintiffs Cochran and Theis, that was collected pursuant to a viewpoint-discriminatory policy that infringed Plaintiffs' First Amendment rights;
- F. Punitive and nominal damages for the violation of Plaintiffs' First and Fourteenth Amendment rights;
- G. Plaintiffs' reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and
- H. All other further relief to which Plaintiffs may be entitled.

Respectfully submitted this 1st day of April, 2020,

/s/ Travis C. Barham

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*Application for admission Pro Hac Vice to be filed.

DEMAND FOR TRIAL BY JURY

Plaintiffs demand a trial by jury for all issues so triable herein.

/s/ Travis C. Barham

Travis C. Barham
Attorney for Plaintiffs