

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

<p>Lance Steiger,</p> <p>Plaintiff,</p> <p>v.</p> <p>Vicki Lord-Larson, Interim Chancellor of the University of Wisconsin, Eau Claire; Charles Major, Director of Housing and Residence Life of the University of Wisconsin, Eau Claire; and Deborah Newman, Associate Director of Housing and Residence Life, of the University of Wisconsin, Eau Claire; and the following members of the University of Wisconsin Board of Regents: Roger A. Axtell, Mark J. Bradley, Elizabeth Burmaster, Eileen Connolly-Keesler, Judith V. Crain, Danae D. Davis, Gregory L. Gracz, Thomas A. Loftus, Milton McPike, Charles Pruitt, Gerald A. Randall, Jr., Peggy Rosenzweig, Jesus Salas, Chistopher M. Semenas, Brent Smith, Michael J. Spector, David G. David, individually and in their official capacities,</p> <p>Defendants.</p>	<p>CIV NO.:</p>
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VERIFIED COMPLAINT

Comes now the Plaintiff, by counsel and pursuant to the Federal Rules of Civil Procedure, and for his causes of action against Defendants avers the following:

I.

INTRODUCTION

1. This is a civil rights action under 42 U.S.C. § 1983 to protect the constitutional rights of students at The University of Wisconsin, Eau Claire (“University”). By policy and practice the University unlawfully restricts these rights, as its policies

are facially vague and overbroad, involve content based and viewpoint discrimination, and unconstitutionally restrict student speech. These constitutional defects give rise to both facial and as-applied constitutional challenges to the discriminatory policies.

2. University policy and practice prohibits student Resident Assistants (“RA”) from holding Bible Studies in their dorm, including their own rooms. (“Policy and Practice”).
3. Applying this Policy and Practice, Defendants have denied the Plaintiff the right to meet with students anywhere in his dorm building to discuss the Bible.
4. To redress the irreparable harm that Plaintiff and other RAs are suffering, and have suffered, under the University’s Policy and Practice, Plaintiff seeks a declaratory judgment that the Defendants’ Policy and Practice violates First Amendment rights on its face and as applied and threatened to be applied to the Plaintiff and others.
5. Plaintiff is also seeking preliminary and permanent injunctive relief to prevent Defendants from further enforcing the challenged Policy and Practice in a manner inconsistent with his constitutional rights, and nominal damages.

II.

JURISDICTION AND VENUE

6. Jurisdiction for this case is based on 28 U.S.C. §§ 1331, 1343, 1367, 2201, 2002, and 42 U.S.C. §§ 1983 and 1988.
7. Venue is proper under 28 U.S.C. § 1391 in the Western District of Wisconsin because this claim arose there.

III.

IDENTIFICATION OF PLAINTIFF

8. Plaintiff Lance Steiger is and was at all times relevant to this Complaint a resident of the City of Eau Claire, Wisconsin, and a student at the University.
9. Mr. Steiger is an RA and has been for four semesters.

IV.

IDENTIFICATION OF DEFENDANTS

10. Defendant Vicki Lord-Larson is and was at all times relevant to this Complaint the Interim-Chancellor and chief executive officer of the University. Among other things, she and her staff are charged with the responsibility for administering and enforcing the University's policies and practices as they relate to student speech and expressive activities.
11. Defendant Charles Major is and was at all times relevant to this Complaint the Director of Housing and Residence Life of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies and practices as they relate to student speech and expressive activities.
12. Defendant Deborah Newman is and was at all times relevant to this Complaint the Assistant Director of Housing and Residence Life of the University. Among other things, she is charged with the responsibility for enacting and enforcing the University's policies and practices as they relate to student speech and expressive activities.
13. Defendant Roger E. Axtell is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is

- charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
14. Defendant Mark J. Bradley is and was at all times relevant to this Complaint Vice President of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
 15. Defendant Elizabeth Burmaster is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, she is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
 16. Defendant Eileen Connolly-Keesler is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, she is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
 17. Defendant Judith V. Crain is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, she is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
 18. Defendant Danae D. Davis is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, she is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.

19. Defendant Gregory L. Gracz is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
20. Defendant Thomas A. Loftus is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
21. Defendant Milton McPike is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
22. Defendant Charles Pruitt is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
23. Defendant Gerard A. Randall, Jr. is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
24. Defendant Peggy Rosenzweig is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is

- charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
25. Defendant Jesus Salas is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
 26. Defendant Christopher M. Semenas is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
 27. Defendant Brent Smith is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
 28. Defendant Michael J. Spector is and was at all times relevant to this Complaint a member of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.
 29. Defendant David G. Walsh is and was at all times relevant to this Complaint President of the Board of Regents of the University. Among other things, he is charged with the responsibility for enacting and enforcing the University's policies as they relate to student speech and expressive activities.

30. Each defendant is sued in his or her official capacity, and in his or her individual and personal capacity.

V.

STATEMENT OF FACTS

The Policy and Practice

31. On July 26, 2005, Defendant Newman sent a letter to several RAs, including Mr. Steiger, stating that University Policy and Practice prohibits RAs from leading Bible Studies in their residence hall. A copy of this letter is attached as Ex. 1 and incorporated herein by reference.
32. On or about August 24, 2005, Plaintiff and other RAs attended a training session where they were told that, as an RA they cannot lead a Bible Study anywhere in their dorms, even in their own room.
33. On or about September 20, 2005, Mr. Steiger sent an e-mail to Defendant Major, asking him to elaborate on the policy and practice of prohibiting RAs from leading Bible Studies in their dorms.
34. On or about September 22, 2005, Mr. Steiger received an e-mail from Defendant Newman stating that “my preference is that you not lead a Bible Study.” A copy of this e-mail is attached as Ex. 2 and incorporated herein by reference.
35. At that point, Mr. Steiger contacted the Foundation for Individual Rights in Education (“FIRE”), seeking assistance to protect his constitutional rights.
36. Defendants received a letter from FIRE advising them that this ban on student speech is unconstitutional on or about October 10, 2005.

37. Defendants responded to FIRE's October 10, 2005 letter in a letter dated November 8, 2005, from the University's General Counsel. A copy of this letter is attached as Ex. 3, and incorporated herein by reference.
38. The November 8, 2005 letter broadens Defendants' Policy and Practice so as to prohibit RAs from "leading, organizing or recruiting students for organizations or activities within the residence halls in which they work."
39. Defendants have applied the Policy and Practice so as to allow non-religious speech by RAs and other student employees in their dorms, but prohibit religious speech.

Application to the Plaintiff

40. The Plaintiff has been an RA for four semesters.
41. Part of his duties as an RA are to help organize and promote educational, recreational, social, and cultural activities that the students want and need, and to actively assist in the political programs of the dorm.
42. Plaintiff is compensated for the duties he performs as an RA by receiving room, board, and \$675 per semester.
43. Upon information and belief, RAs are paid from a fund comprised entirely of student fees, not tax dollars.
44. Plaintiff has led a Bible Study in his dorm room all four of the semesters he has served as an RA at the University.
45. Plaintiff noted in his application to become an RA that he is a Bible Study leader.
46. Plaintiff's Bible Study is undertaken in his capacity as a private individual and is not an official dorm function.

47. Plaintiff does not, nor has he ever, pressured fellow students to attend his Bible Study.
48. Plaintiff does not, nor has he ever, advertised his Bible Study by posting notices in the dorm or distributing flyers.
49. Some of the topics Plaintiff discusses with those who attend his Bible Study are integrity, hypocrisy, faith, and good deeds.
50. Other RAs lead official dorm functions, in their dorm building, where groups of students discuss or advocate on various topics, such as feminism, sexual issues, assisting the poor.
51. Peer Diversity Educators (PDEs) are students who are paid by the University to present programs in residence halls.
52. PDEs lead groups of students in their own dorms in discussions of various social topics such as feminism and political egalitarianism.
53. Plaintiff was never informed of a restriction on leading Bible Studies or any other group until he received the July 26, 2005 letter from Defendant Newman.
54. The July 26, 2005 letter specifically states that Mr. Steiger will be subjected to disciplinary action if he continues to lead a Bible Study anywhere in his dorm building, including his own room.
55. Since receiving the July 26, 2005, Mr. Steiger has held his Bible Study in the dorm basement but is still in fear of being disciplined.
56. Mr. Steiger now limits his discussion with other students of the existence of the Bible Study since receiving the July 26, 2005 letter.

57. Plaintiff is suffering irreparable harm from the conduct and challenged Policy of Defendants.
58. Unless and until the conduct and challenged Policy and Practice of Defendants are enjoined, Plaintiff will continue to suffer irreparable harm.

VI.

STATEMENT OF LAW

59. At all times relevant to this Complaint, each and all of the acts alleged herein were attributed to the Defendants, acting under the color, authority and pretense of state law, statutes, ordinances, regulations, customs, usages, and policies of the University.
60. Religious speech is entitled to comprehensive protection under the First Amendment.
61. First Amendment rights of speech, association, and religious freedom extend to campuses of state universities.
62. Defendants' Policy and Practice of limiting speech are prior restraints, and grant University officials unfettered discretion in the restriction of expression.
63. Defendants' Policy and Practice is unconstitutional because it is overbroad, and impermissibly restricts student expression.
64. Defendants' Policy and Practice of limiting RA speech is unconstitutional on its face and as applied because it is vague and overbroad, impermissibly restricts student expression and association, is a prior restraint, violates freedom of religion, and grants University officials unfettered discretion in the restriction of expression.

65. Plaintiff is suffering irreparable injury from the challenged Policy and Practice, which cannot be fully compensated by an award of money damages.
66. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to appropriate relief invalidating the unconstitutional University Policy and Practice.

VII.

FIRST CAUSE OF ACTION

VIOLATION OF THE RIGHT TO FREEDOM OF SPEECH UNDER THE UNITED STATES CONSTITUTION

67. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporate them herein.
68. The Policy and Practice of the Defendants constitute a violation of the First and Fourteenth Amendments of the United States Constitution, by among other things, prohibiting RAs from engaging in religious and other speech anywhere in their dorm, including their own rooms.
69. Defendants' Policy and Practice constitute impermissible viewpoint-based and content-based restrictions of constitutionally protected expression.
70. The Policy and Practice vest unfettered discretion in the Defendants to restrict constitutionally protected expression.
71. The Policy and Practice of the Defendants are prior restraints and restrictions on student speech.
72. The Policy and Practice are not content-neutral time, place, and manner restrictions on expression. Further, they are not narrowly tailored, do not serve significant government interests, and do not leave open ample alternative channels of communication, as the Constitution requires.

73. Defendants' Policy and Practice are vague and overbroad.
74. The Policy and Practice restrict students' freedom of association and are not supported by a narrowly tailored compelling state interest.

WHEREFORE Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

VIII.

SECOND CAUSE OF ACTION

**VIOLATION OF THE RIGHT TO DUE PROCESS
UNDER THE UNITED STATES CONSTITUTION**

75. Plaintiffs reallege all matters set forth in the preceding paragraphs and incorporate them herein.
76. The Policy and Practice of the Defendants constitute a violation of the Due Process Clause of the Fourteenth Amendment of the Constitution.
77. Defendants' Policy and Practice are vague.
78. Defendants' Policy and Practice fail to adequately advise, notify, or inform student RAs of what speech is prohibited.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

IX.

THIRD CAUSE OF ACTION

**VIOLATION OF THE EQUAL PROTECTION CLAUSE
UNDER THE UNITED STATES CONSTITUTION**

79. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporate them herein.

80. Defendants' Policy and Practice, on their face and as applied, treat Plaintiff and other student RAs differently from other similarly situated individuals and groups on the basis of the religious content of their speech and religious viewpoint.
81. Defendants do not have a compelling state interest for such disparate treatment of religious expression.
82. Therefore, said conduct of Defendants comprises an unconstitutional and continuing interference and infringement upon the rights of Plaintiff and other RAs to equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

X.

FOURTH CAUSE OF ACTION

**VIOLATION OF THE PLAINTIFF'S RIGHT
TO FREEDOM OF ASSOCIATION**

83. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporate them herein.
84. By enacting and enforcing highly restrictive speech policies and practices that are vague, overbroad and explicitly and implicitly discriminate on the basis of viewpoint, Defendants, acting under color of state law, have deprived the Plaintiff and other students of their clearly established right to freedom of association secured by the First Amendment to the Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

XI.

FIFTH CAUSE OF ACTION

FREE EXERCISE OF RELIGION
UNDER THE UNITED STATES CONSTITUTION

85. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporate them herein.
86. Defendants' Policy and Practice burden the free exercise of religion guaranteed by the First and Fourteenth Amendments to the United States Constitution.
87. The Policy and Practice, as interpreted and enforced by the Defendants, burden the Plaintiff's right to speak about his personal religious beliefs.
88. Defendants discriminate against religious persons because they condition access to an important government benefit upon students self-censoring any religious content and expression in their dorms in order to serve as an RA.
89. Defendants' Policy and Practice thus constitute violations of Plaintiff's rights under the Free Exercise Clause of the First Amendment to the United States Constitution because they singles out religious individuals for discriminatory treatment and conditions a government benefit on the forfeiture of a fundamental individual right.
90. Defendants have no compelling reason that would justify their discrimination against Plaintiff.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that the Court:

- a. Declare that the University Policy and Practice described in this Complaint are unconstitutional on their face because they violate the rights to freedom of speech, freedom of association, due process, equal protection, and free exercise of religion, all guaranteed to the Plaintiff and others under the Constitution of the United States and by operation of federal law;
- b. Declare that the University Policy and Practice, described in this Complaint are unconstitutional as applied or threatened to be applied to the activities of Plaintiff, described in this Complaint, because they violate the Plaintiff's rights to freedom of speech, freedom of association, due process, equal protection, and free exercise of religion, all guaranteed to the Plaintiff and others under the Constitution of the United States and by operation of federal law;
- c. Issue a preliminary and permanent injunction against the Defendants, their agents, officials, servants, employees, and any other persons acting in their behalf, from enforcing said Policy and Practice against the Plaintiff and;
- d. Grant to Plaintiff an award of nominal damages in an amount deemed appropriate by this Court;
- e. Grant to Plaintiff an award of his costs of litigation, including reasonable attorneys' fees and expenses; and,
- f. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted this 30th day of November, 2005.

Attorneys for Plaintiff,

ALLIANCE DEFENSE FUND LAW CENTER

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+Of Counsel, not admitted in this jurisdiction

*Application for Admission to be submitted