

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

BETA UPSILON CHI, PI CHAPTER AT THE)
UNIVERSITY OF GEORGIA, a student)
organization at the University of Georgia on)
behalf of itself and its individual members; and)
BETA UPSILON CHI, INC., a Texas nonprofit)
corporation,)

Plaintiffs,)

vs.)

CIVIL ACTION NO. _____)

MICHAEL F. ADAMS, in his official capacity as)
President of the University of Georgia; RODNEY)
BENNETT, in his official capacity as Vice)
President for Student Affairs and Dean of)
Students; PAT DAUGHERTY, in his official)
capacity as Assistant Vice President for Student)
Affairs, WILLIE BANKS, in his official capacity)
as Director of the Department of Campus Life &)
The Tate Student Center, ED MIRECKI, in his)
official capacity as Director of Student Activities)
and Organizations, JOSHUA PODVIN, in his)
official capacity as Assistant Director of Student)
Activities, and HUGH A. CARTER, JR.,)
WILLIAM H. CLEVELAND, MICHAEL J.)
COLES, ROBERT F. HATCHER, JULIE)
EWING HUNT, FELTON JENKINS, W.)
MANSFIELD JENNINGS, JR., JAMES R.)
JOLLY, DONALD M. LEEBERN, JR.,)
ELRIDGE W. McMILLAN, PATRICK S.)
PITTARD, DOREEN STILES POITEVINT,)
WILLIS J. POTTS, WANDA YANCEY)
RODWELL, J. TIMOTHY SHELNUT,)
BENJAMIN J. TARBUTTON, III, RICHARD L.)
TUCKER, and ALLAN VIGIL, in their official)
capacities as the members of the Board of)
Regents of the University System of Georgia,)

Defendants.)

VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

PRELIMINARY STATEMENT

Each year the University of Georgia registers approximately three hundred student organizations for which it provides on-campus facilities for meetings and events, numerous communication channels for promoting and advertising an organization, potential funding for activities, and opportunities to recruit new members at the bi-annual Activities Fair. The University of Georgia's registered student organizations represent a broad spectrum of interests and viewpoints on social, cultural, political, and religious matters. However, in order to become a registered student organization, an organization must include in its constitution a statement of nondiscrimination dictated by the University that *inter alia* pledges that an organization will not select members and officers on the basis of religious belief.

Plaintiffs Beta Upsilon Chi, Inc. and its local chapter, Beta Upsilon Chi, Pi Chapter at the University of Georgia, have a basic organizational purpose: to provide a fraternity for Christian men where close bonds of brotherhood can be cultivated while avoiding the unchristian lifestyle often associated with college fraternities. To that end, Plaintiffs limit membership and officer positions in their association to persons who affirm the basic Christian tenets and agree to live by a Code of Conduct based on those tenets. Because Plaintiffs limit membership and officer positions to those holding their shared religious commitment, Defendants have excluded the fraternity from registration as a student organization.

Plaintiffs bring this Complaint through their undersigned counsel, Timothy J. Tracey, Steven H. Aden, Gregory S. Baylor, and Kimberlee W. Colby of the Center for Law & Religious Freedom, Springfield, VA, Kelly Shackelford and Hiram Sasser of Liberty Legal Institute, Plano, TX, and Benjamin W. Bull, Glen Lavy, David French and David Cortman of the Alliance

Defense Fund, Scottsdale, AZ, against the above-named Defendants in their official capacities. In support thereof, Plaintiffs allege as follows:

JURISDICTION AND VENUE

1.1 Plaintiffs Beta Upsilon Chi, Inc., and Beta Upsilon Chi, Pi Chapter at the University of Georgia, bring this civil rights action pursuant to 42 U.S.C. §§ 1983 and 1988 for deprivations of Plaintiffs' rights secured by the First and Fourteenth Amendments to the United States Constitution.

1.2 Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1343(a)(3) and 1343(a)(4), which provide for original jurisdiction in this Court of all suits brought pursuant to 42 U.S.C. § 1983. Jurisdiction is also conferred on this Court by 28 U.S.C. § 1331 because the cause of action arises under the Constitution and laws of the United States.

1.3 Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because, upon information and belief, the Defendants reside in the Middle District of Georgia and may be found and served in the Middle District of Georgia, and because a substantial part of the events or omissions giving rise to these claims arose in this District.

PARTIES

2.1 Plaintiff Beta Upsilon Chi, Inc. ("National BYX") is an IRC 501(c)(3) nonprofit corporation organized under the laws of the State of Texas. National BYX is a fraternity of Christian men founded in 1985. It currently has seventeen chapters, including the University of Georgia chapter, and is actively seeking to expand to other college and university campuses.

2.2 Plaintiff Beta Upsilon Chi, Pi Chapter at the University of Georgia ("BYX") is an unincorporated student organization at the University of Georgia ("UGA" or "University"). It is a local chapter of National BYX. BYX was founded at the University in the Fall of 2005, and

was recognized by the University as a registered student organization during the 2005-2006 academic year.

2.3 Defendant Michael F. Adams is the President of UGA. He is the chief executive officer of the University. His duties include overall leadership of and responsibility for the University, direction of the activities of the deans, and responsibility for the interpretation and application of the policies of the Board of Regents of the University System of Georgia. Defendant Adams is sued in his official capacity.

2.4 Defendant Rodney Bennett is the Vice President for Student Affairs and the Dean of Students for UGA. His duties include overall leadership of and responsibility for the Division of Student Affairs, direction of the activities of the division's staff, and responsibility for the interpretation and application of university policies and procedures within the Division of Student Affairs. Defendant Bennett is sued in his official capacity.

2.5 Defendant Pat Daugherty is the Assistant Vice President for Student Affairs for UGA. Her duties include assisting in leadership of and responsibility for the Division of Student Affairs, direction of the activities of the division's staff, and responsibility for the interpretation and application of University policies and procedures within the Division of Student Affairs. Defendant Daugherty is sued in her official capacity.

2.6 Defendant Willie Banks is the Director of the Department of Campus Life & The Tate Center for UGA. His duties include leadership of and responsibility for the Department of Campus Life and the Tate Center, including the oversight of student organizations and their interactions with UGA's facilities and services staff, the direction of the activities of the Department of Campus Life's and the Tate Center's staff, and responsibility for the interpretation

and application of University policies and procedures within the Department of Campus Life and the Tate Center. Defendant Banks is sued in his official capacity.

2.7 Defendant Ed Mirecki is the Director of Student Activities and Organizations for UGA. His duties include leadership of and responsibility for student activities and organizations at the University, the direction of the activities of Student Activities and Organizations staff, and responsibility for the interpretation and application of University policies and procedures with respect to student activities and organizations. Defendant Mirecki is sued in his official capacity.

2.8 Defendant Joshua Podvin is the Assistant Director of Student Activities for UGA. His duties include the registration of student organizations at the University and the review of applications to register student organizations to ensure compliance with all UGA policies and regulations, including its policy on nondiscrimination. Defendant Podvin is sued in his official capacity.

2.9 Defendants Hugh A. Carter, Jr., William H. Cleveland, Michael J. Coles, Robert F. Hatcher, Julie Ewing Hunt, Felton Jenkins, W. Mansfield Jennings, Jr., James R. Jolly, Donald M. Leebern, Jr., Elridge W. McMillan, Patrick S. Pittard, Doreen Stiles Poitevint, Willis J. Potts, Wanda Yancey Rodwell, J. Timothy Shelnut, Benjamin J. Tarbutton, III, Richard L. Tucker, and Allan Vigil are the members of the Board of Regents of the University System of Georgia (“Board of Regents”). Their duties include oversight of all public universities in the State of Georgia and the formulation and promulgation of policies governing those universities. The members of the Board of Regents are sued in their official capacities.

BYX AND ITS LOCAL UGA CHAPTER

3.1 National BYX is a fraternity of Christian male college students. The purpose of the fraternity is to “establish brotherhood and unity among college men, based on the common

bond of Jesus Christ.” BYX Constitution, at 3. A true and correct copy of the BYX Constitution is attached as Exhibit A. National BYX advances this purpose through a variety of activities including, but not limited to, the following: Bible studies, accountability groups, service projects, fellowship activities, parties, evangelistic outreaches, and team athletic events. In furtherance of its purpose, National BYX maintains student chapters throughout the country.

3.2 All members of National BYX must be admitted by rushing and pledging a local chapter. In this process, a prospective member affirms his personal relationship with the Lord Jesus Christ and his willingness to adhere to the purpose of National BYX. A pledge is required to be a college student in the area represented by a local chapter and must express a desire to develop his relationship with Jesus Christ and others.

3.3 BYX is the local UGA chapter of National BYX.

3.4 BYX is governed by a chapter constitution provided by National BYX.

3.5 Pursuant to the constitution for BYX chapters of the National BYX, BYX requires its members and officers to profess faith in Jesus Christ, affirm the Doctrinal Statement, a true and correct copy of which is attached as Exhibit B, and to adhere to the Code of Conduct, a true and correct copy of which is attached as Exhibit C. Specifically, BYX’s Doctrinal Statement provides:

1. We believe there is one God, eternally existing in three persons: the Father, the Son, and the Holy Spirit.
2. We believe that the Bible is God's written revelation to man, that it is inspired, authoritative, and without error in the original manuscripts.
3. We believe in the deity of Jesus Christ, His virgin birth, His sinless life, His miraculous works, His substitutionary death, His bodily resurrection, His ascension into heaven, His present ministry of intercession for us, and His return to earth in power and glory.

4. We believe in the personality and deity of the Holy Spirit, that He performs the miracle of regeneration in new believers--sealing them for the day of redemption--and then indwells them, thus enabling them to live godly lives.
5. We believe that man was created in the image of God, but because of sin, became alienated from God. But God, while we were still sinners, demonstrated His own love toward us by sending His only Son, Jesus Christ, to die on a cross in our place. Thus, the removal of that alienation was made possible by His grace, and indeed has been applied to everyone who has trusted in the death and resurrection of Jesus Christ alone for his salvation.

3.6 BYX interprets its Constitution, Doctrinal Statement, and Code of Conduct to require that all members must be Christians. Pursuant to its Constitution, a panel of at least three elected officers, or if not possible, appointed officers or committee chairs, interviews applicants for membership “[t]o determine the prospective member’s understanding of salvation and their personal relationship to the Lord Jesus Christ, and their willingness to adhere to the purpose of Beta Upsilon Chi Fraternity.” Exhibit A, at 5. The “[m]inimum questions to be asked” during an interview are as follows: “1) Have you trusted Jesus Christ as your Savior and Lord? Explain. 2) In your understanding, what is the purpose of BYX? Are you willing to adhere to and fulfill the purpose of BYX? 3) Are you willing to uphold the BYX Code of Conduct?” Exhibit A, at 5. Upon the unanimous vote of the panelists a prospective member may be admitted as a pledge.

3.7 A prospective member who is accepted as a pledge engages in a semester-long pledgship that concludes in the pledge becoming an active member of BYX. The purpose of pledgship, among other things, is to “build Christ-like character in the pledges” and “Spiritual growth in their commitment to Christ.” Exhibit A, at 5.

3.8 The objectives of pledgship, among other things, include understanding key Scripture verses emphasized in the Constitution, memorizing the fraternity song, and knowing the spiritual significance of the fraternity colors.

3.9 Upon completion of pledgship, the pledge is accepted as an active member of BYX via an initiation ceremony. The ceremony includes prayer, a time of worship, the reading of Scripture, the singing of the fraternity song, and the recitation of the New Member Oath by the chapter president and by all pledges, which reads:

I/, (state your name)/, as a member of Brothers Under Christ/, pledge to strive towards/ the purpose of the fraternity/ in establishing brotherhood and unity among college men/ based on the common bond of Jesus Christ./ Amen.

Exhibit A, at 11.

3.10 BYX believes that in order to achieve its purpose, it must require its members and officers to have a personal relationship with Jesus Christ.

3.11 Female students and students who do not have a personal relationship with Jesus Christ are not eligible to be official members or officers. Such persons, however, are free to attend an "open" party or an "Island Party," where anyone is welcome, and female students are welcome to attend a "closed" party as the date of a pledge or member.

UNIVERSITY OF GEORGIA AND STUDENT ORGANIZATIONS

4.1 UGA is a public university located in Athens, Georgia and is a campus of the University System of Georgia.

4.2 UGA permits students to form and register student organizations through the Department of Campus Life, part of the Division of Student Affairs.

4.3 To date, the Department of Campus Life has registered approximately 300 student organizations for the academic year 2006-2007. Among the registered student organizations at UGA are approximately 14 religious student organizations. On information and belief, all or some of these registered and unregistered groups of students and/or organizations are similarly situated to Plaintiff BYX in that they require their members and/or leaders to adhere to certain

religious beliefs. A true and correct copy of the UGA Student Organizations Master List as of November 30, 2006, is attached as Exhibit D.

4.4 Recognition as a UGA registered student organization conveys numerous substantial benefits and privileges. These rights, benefits, and privileges include, but are not limited to:

- Facilities for meeting and events and promotional and advertising space.
- Reservation of meeting space or equipment on campus.
- Advertising via posted flyers, bus cards, banners, and other methods.
- Opportunity to participate in the bi-annual Activities Fair with a display board and distribution of flyers. The 2007 Winter Activities Fair will be held on January 23, 2007.
- Listing of the organization's name, purpose, current officer, address, phone number, and e-mail address in the Student Organization Directory.
- Campus mailbox at the Tate Student Center.
- A full range of audiovisual, lighting, and public address equipment from Technical Services, as well as services for equipment which may be operated only by Technical Services.
- Access to Student Organization Workshops, providing resources for registered student organizations to help them to thrive, for example, the workshop on "Promoting Your Organization and Events" held on November 27, 2006.
- Right to apply for funds via College, Small Clubs Allocation Committee, or annual allocation process.
- University account, which may enable the club to direct bill certain charges.
- Fundraising on campus.
- Block seating at home athletic events.
- Updates via the Student Organization Listserv.
- Financial advice for the organization from the Campus Life Business Office.
- Van rentals.

- Distribution and collection of applications for membership, awards, etc. at the Tate Center Information Desk.
- Appearance on mailing labels list, allowing the Department of Campus Life to refer inquiries from students, staff, faculty and outside sources to the registered group.

A true and correct copy of the UGA Resource Guide for Student Organizations, including a listing of the benefits of registered student organization status, is attached as Exhibit E.

4.5 To register with UGA and gain access to the rights, benefits, and privileges enumerated above, student organizations must fill out and submit to the University's Center for Student Organizations the following: a registration form, a constitution, and the UGA Hazing Compliance Form. Student organizations must re-register with the University each school year.

4.6 Starting this academic year, the registration process is handled online through the University's website.

4.7 The University's online registration form provides that "[m]embership and all privileges, including voting and officer positions, must be extended to all students without regard to age, ethnicity, gender, disability, color, national origin, race, religion, sexual orientation, or veteran status." Student Organization Registration Certificate, at 4 (2006-2007). A true and correct copy of the Student Organization Registration Certificate is attached as Exhibit F.

4.8 The online form specifically requires that student organizations pledge:

I certify that this organization does not discriminate on the basis of race, nationality, ethnic origin, color, religion, gender, sexual orientation, age and/or handicap in any of its programs, activities, services, benefits or membership practices. I understand that the eligibility for assistance from the University is contingent upon adherence to this policy of nondiscrimination.

Exhibit F, at 4.

4.9 As part of the online registration process, student organizations must also read and acknowledge a series of policies, including constitution guidelines. The constitution

guidelines provide that student organizations may limit membership by “grade point average, area of interest, etc.,” but mandate that all student organization constitutions “shall” include the following provision:

Membership shall not be denied to any person because of age, race, sex, religion, handicap, sexual orientation or national origin.

Guide for New Organizations in Forming a Constitution, at 1. A true and correct copy of the Guide for New Organizations in Forming a Constitution is attached as Exhibit G.

4.10 The UGA Student Handbook list somewhat different requirements. It provides in pertinent part:

Student organizations must be in compliance with University policy and local, state, or federal laws and may not exclude members on the basis of race, nationality, ethnic origin, color, religion, sex, age, and/or disability.

UGA Student Handbook, at 30. A true and correct copy of the UGA Student Handbook is attached as Exhibit H. According to the Handbook, the “[f]ailure to comply with these regulations will make the organization ineligible to obtain assistance from the University.” Exhibit H, at 30; *see also* Exhibit F, at 4 (“If at any time your organization no longer meets the requirements for eligibility, you are no longer entitled to the privileges granted to registered student organizations and are obligated to inform the Center for Student Organizations.”).

4.11 Upon information and belief, the University’s nondiscrimination requirements for student organizations stem from Board of Regents Policy No. 401.02, entitled “Non-Discrimination.” The policy provides:

The Board of Regents stipulates that no student of the University System, on the ground of race, color, sex, religion, creed, national origin, age or handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Board of Regents of the University System of Georgia or any of its several institutions now in existence or hereafter established (BR Minutes, October, 1969, p. 154; 1979-80, p. 15).

Board of Regents Policy No. 401.02; *see also* Official Opinion No. 97-32 of the Attorney General of the State of Georgia (concluding that applying Board of Regents Policy No. 401.02 so as to deny a religious student organization official university recognition violates the First Amendment right of expressive association). A true and correct copy of Board of Regents Policy No. 401.02, "Non-Discrimination," is attached as Exhibit I.

RECENT DEVELOPMENTS

5.1 In early May 2006, the president of BYX, Jacob Webster, attempted to re-register the fraternity with the University for the 2006-2007 academic year using the online registration form provided by the University.

5.2 At the start of this academic year, Webster discovered that his attempt to re-register BYX with the University had been unsuccessful when he was unable to reserve rooms on campus for BYX meetings or conduct joint activities with sororities.

5.3 Webster inquired of the Center for Student Organizations about the problem and was informed by a secretary that the University needed an updated BYX constitution and membership roster.

5.4 On or about October 19, 2006, Webster e-mailed the BYX's constitution and roster to the Assistant Director of Student Activities, Joshua Podvin.

5.5 Four days later, on October 23, 2006, Podvin informed Webster via e-mail that in order to complete registration, BYX must add "the university's non-discrimination clause" to its constitution. A true and correct copy of Podvin's e-mail to Webster dated October 23, 2006, is attached as Exhibit J.

5.6 Webster went to Podvin's office and informed him that because BYX is an IRC 501(c)(7) qualified social or recreational club, it is permitted to discriminate on the basis of

religion and gender. Podvin told Webster that UGA followed the education code, not the tax code, and therefore BYX's status as a 501(c)(7) organization did not exempt the group from UGA's nondiscrimination requirement.

5.7 Concerned about the religion and gender provisions of the University's nondiscrimination rule, Webster contacted National BYX regarding the University's request. National BYX Executive Director, Jason Hoyt, provided Webster with copies of tax code and education code provisions demonstrating that BYX's gender and religion membership and leadership requirements are not properly considered invidious "discrimination," but rather federally recognized associational classifications.

5.8 In late October 2006, Webster informed Podvin that BYX could not add the gender and religion portions of the University's nondiscrimination clause to its constitution because the group had to select officers and members using gender and religion criteria to ensure it retained its identity as a Christian men's fraternity.

5.9 Podvin responded that while Title IX of the Educational Amendments of 1972 permitted BYX to discriminate on the basis of gender, it did not allow the group to discriminate on the basis of religion.

5.10 Webster then showed Podvin the tax code and education provisions Hoyt had provided him earlier. Podvin reviewed the provisions and told Webster that they were not applicable to the educational context and therefore did not demonstrate that BYX was permitted to discriminate on the basis of religion.

5.11 On or about November 3, 2006, Webster e-mailed the same documents to Podvin and asked that he send them to the University's legal counsel for review.

5.12 Hoyt subsequently e-mailed Podvin directly and copied Webster inquiring whether BYX was denied re-registration because it is an “all male group” or because it is “a religious organization furthering the teachings of Christianity.”

5.13 On November 13, 2006, Podvin e-mailed Webster and Hoyt again stating that he had spoken with the University’s legal counsel and confirmed that BYX “is fine to organize as a single sex organization,” but BYX is “unable to register because of their desire to limit membership based on religion.” A true and correct copy of Defendant Podvin’s e-mail to Webster and Hoyt dated November 13, 2006, is attached as Exhibit K.

5.14 BYX desires the privileges and status of an official UGA registered student organization. National BYX also desires that its local UGA chapter have the privileges and status of an official UGA registered student organization, and that other chapters may be formed at campuses within the University System of Georgia.

5.15 National BYX and BYX object to the University’s application to BYX of a requirement that it pledge to open its officer and membership positions to all students regardless of religious belief.

5.16 National BYX and BYX’s objections to application of this requirement stem from its members’ sincerely held religious beliefs.

5.17 The membership and leadership policies of BYX do not violate any federal, state, or local laws concerning nondiscrimination.

5.18 Upon information and belief, UGA exempts fraternities and sororities, including BYX, from the University’s prohibition on sex discrimination. UGA also explicitly permits student organizations to discriminate on the basis of “areas of interest.” Exhibit G, at 1.

5.19 UGA has not consistently applied its nondiscrimination requirement to other registered student organizations that require their members and/or leaders agree with the organizations' beliefs and purposes. The Bahá'í Association of UGA, for example, represents that it requires its officers to be members of the Bahá'í faith. A true and correct copy of the Bahá'í Association of the University of Georgia's Constitution is attached as Exhibit L. The Crossway Fellowship College Ministry represents that it requires its officers to be "involved in a weekly Care Group" and "regularly attending the Sunday Worship Services" of the Crossway Fellowship Church. A true and correct copy of the Crossway Fellowship College Ministry's Constitution is attached as Exhibit M. BYX, however, is prohibited from requiring that its members and officers affirm its Doctrinal Statement and endeavor to live their lives in accordance with its Code of Conduct.

5.20 Due to Defendants' requirement that religious student organizations pledge to extend "[m]embership and all privileges, including voting and officer positions, . . . to all students without regard to . . . religion," and Defendants' maintenance of a policy that threatens the members of religious student organizations with sanctions as long as they maintain their requirement that all members and leaders must share their religious beliefs, Defendants have violated and continue to violate National BYX's and BYX's rights of freedom of speech, freedom of association, free exercise of religion, and equal protection of the laws under the First and Fourteenth Amendments to the United States Constitution.

5.21 Because of the University's refusal to re-register BYX, the chapter has been unable to advertise its social activities, its upcoming rush, and other events. BYX has reserved meeting space for its weekly chapter meetings until the end of the semester. However, because the group is unregistered, it is barred from reserving meeting space for the upcoming Spring

semester. Additionally, the group is planning its Spring 2007 outreach event to be held on campus at Legion Field. Because BYX is unregistered, it will cost the group an additional \$1,000.00 to reserve the field than it otherwise would cost the group if registered.

5.22 All acts of Defendants, their officers, agents, servants, employees, or persons acting at their behest or direction herein alleged, were done and are continuing to be done under the color of state law, including the statutes, regulations, customs, policies and usages of the State of Georgia, and pursuant to policies and/or customs established by the University System of Georgia and/or UGA through Defendants.

5.23 Unless and until the Defendants are enjoined from denying registered student organization status and its attendant benefits and privileges to BYX on the basis of its religious membership and leadership policies, National BYX, BYX, and its members will suffer and continue to suffer irreparable harm to their First and Fourteenth Amendment rights.

COUNT I

FREEDOM OF EXPRESSIVE ASSOCIATION UNITED STATES CONST. AMEND. I

6.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 5.23 as if set forth verbatim herein.

6.2 By denying BYX's application for recognition as a registered student organization and the rights, benefits, and privileges thereto on the basis of BYX's membership and leadership policies, and denying National BYX the ability to maintain a recognized chapter at UGA, Defendants have violated and will continue to violate the right to freedom of expressive association guaranteed to National BYX, BYX and its members by the First Amendment to the United States Constitution and made applicable to the states and their political subdivisions by the Fourteenth Amendment.

COUNT II

FREEDOM OF INTIMATE ASSOCIATION UNITED STATES CONST. AMEND. I

7.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 6.2 as if set forth verbatim herein.

7.2 By denying BYX's application for recognition as a registered student organization and the rights, benefits, and privileges thereto on the basis of BYX's membership and leadership policies, and denying National BYX the ability to maintain a recognized chapter at UGA, Defendants have violated and will continue to violate the right of intimate association guaranteed to National BYX, BYX and its members by the First Amendment to the United States Constitution and made applicable to the states and their political subdivisions by the Fourteenth Amendment.

COUNT III

FREE SPEECH UNITED STATES CONST. AMEND. I

8.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 7.2 as if set forth verbatim herein.

8.2 By denying BYX's application for recognition as a registered student organization and the rights, benefits, and privileges thereto on the basis of BYX's membership and leadership policies, and denying National BYX the ability to maintain a recognized chapter at UGA, Defendants have violated and will continue to violate the right of free speech guaranteed to National BYX, BYX and its members by the First Amendment to the United States Constitution and made applicable to the states and their political subdivisions by the Fourteenth Amendment.

COUNT IV

FREE EXERCISE CLAUSE
UNITED STATES CONST. AMEND. I

9.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 8.2 as if set forth verbatim herein.

9.2 By denying BYX's application for recognition as a registered student organization and the rights, benefits, and privileges thereto on the basis of BYX's membership and leadership policies, and denying National BYX the ability to maintain a recognized chapter at UGA, Defendants have violated and will continue to violate the right to free exercise of religion guaranteed to National BYX, BYX and its members by the First Amendment to the United States Constitution and made applicable to the states and their political subdivisions by the Fourteenth Amendment.

COUNT V

EQUAL PROTECTION CLAUSE
UNITED STATES CONST. AMEND. XIV

10.1 Plaintiffs restate and reallege each allegation set forth in paragraphs 1.1 through 9.2 as if set forth verbatim herein.

10.2 By denying BYX's application for recognition as a registered student organization and the rights, benefits, and privileges thereto on the basis of BYX's requirement that its members and leaders commit to its purpose via pledgship, while extending registered status to other religious and non-religious student organizations without regard to whether they require their members and/or officers to affirm the organizations' beliefs and purposes, Defendants have denied and will continue to deny the equal protection of the laws guaranteed to National BYX,

BYX and its members as a religious association by the Fourteenth Amendment to the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs National BYX and BYX respectfully request that this Court order the following relief:

- (1) A declaration that Defendants' denial of BYX's registered student organization status and its attendant rights, privileges, benefits, and incidents violates the United States Constitution;
- (2) A preliminary and permanent injunction enjoining Defendants from denying to BYX registered student organization status; and prohibiting Defendants, their employees, officers, and agents, and all persons acting by and through them, from withholding the rights, privileges, benefits, or incidents of registered status from Plaintiffs and similarly situated religious student organizations and from retaliating against Plaintiffs and its members directly or indirectly for exercising their constitutional rights;
- (4) An award of reasonable costs and attorneys' fees incurred by Plaintiffs in prosecuting this action pursuant to 42 U.S.C. § 1988;
- (5) That this Court retain jurisdiction over this case for the purposes of enforcement of any order; and
- (6) Such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted this 5th day of December, 2006.

s/ Timothy J. Tracey

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VERIFICATION

I, Jacob Webster, a citizen of the United States and a resident of the State of Georgia, am President of Beta Upsilon Chi, Pi Chapter at the University of Georgia, a/k/a BYX at UGA. I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief and declare under penalty of perjury under the laws of the United States of America that the foregoing factual averments are true and correct to the best of my knowledge and belief.

Beta Upsilon Chi, Pi Chapter at the University of
Georgia, a/k/a BYX at UGA

A handwritten signature in black ink, appearing to read "Jacob Webster", written over a horizontal line.

Jacob Webster
President, BYX at UGA