FAITH AND LEARNING:
THE ROLE OF RELIGION IN HIGHER EDUCATION

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Introduction

In recent years, the "culture wars" have manifested themselves in higher education in part through arguments about the appropriate role of religion[2] on campus. In many respects, the current battles reflect and are related to similar arguments that have long been a part of the landscape in the K-12 context. In higher education, these arguments can be reflected in contexts such as (1) questions about expression in and outside the classroom, (2) course requirements and assignments, and (3) the funding, activities and membership rules of student organizations, among others. National organizations have gotten into the act, coordinating with student groups at individual institutions to test the limits of constitutional principles regarding the separation of church and state and free exercise. These disputes are playing out against a backdrop in which our student bodies are increasingly diverse in terms of religious backgrounds—and in which studies are showing that students are more interested in studying religion and reporting a higher degree of spirituality than in the recent past. *See, e.g.*, "The Spiritual Life of College Students" (a study by UCLA's Higher Education Research Institute), www.spirituality.ucla.edu.

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[1] The views expressed herein are solely those of the author and do not necessarily reflect the views of Rutgers, The State University of New Jersey.

[2] For purposes of this discussion, the term religion is considered to be any sincerely held moral or ethical belief of an individual. This is the definition used by the federal Equal Employment Opportunity Commission and the courts to determine protected rights under Title VII of the Civil Rights Act in the employment context as well as under the First Amendment. Protections under the law extend not just to beliefs but to all aspects of religious observance and practice. *See* 42 U.S.C. § 2000e(j). The Supreme Court has held that when considering whether an individual's professed beliefs are sincere and "religious", "[t]he test might be stated in these words: [a] sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption comes within the statutory definition." *Welsh v. United States*, 398 U.S. 333, 339 (1970). Courts have also held that the belief must be "sincerely held" or "bona fide" in order to be protected, which can turn on an assessment of an individual adherent's credibility. *See EEOC v. Union Independiente de la Autoridad de Acueductos y Al cantarillaclos de Puerto Rico*, 279 F.3d 49, 56 (1st Cir. 2002). In most cases, courts presume that individuals sincerely adhere to the religious beliefs or practices they profess.

In responding to the challenges posed by these difficult issues, educational institutions must be guided by their educational mission as well as by relevant legal principles. Public institutions must of course comply with constitutional requirements under the First Amendment relating to the establishment, and free exercise, of religion.[3]

Some private institutions may choose to seek the same sort of balance in light of their educational mission, while many others are religiously affiliated and must continually assess the impact of those religious affiliations on their policies and practices. This outline will provide a brief overview of these legal issues in higher education, with a focus on the rights and responsibilities of students and the institutions at which they are enrolled.[4]

I. Expression and Religious Exercise on Campus

A variety of organizations and commentators in recent years have claimed that higher education is hostile to religious viewpoints in general, and in particular to the expression of conservative, evangelical Christians. These discussions are also often related to the alleged suppression of conservative political viewpoints. Organizations such as the Alliance Defense Fund, Foundation for Individual Rights in Education (FIRE), and Christian Legal Society have used actual or threatened litigation to challenge policies and decisions at individual institutions that these organizations believe have curtailed the free expression or religious rights of students. These challenges have included assaults on institutional anti-discrimination and hate speech policies, decisions related to the right of speakers and organizations to appear on campus, the ability of students to speak up in class on issues related to religion, etc. Conservative Christian student leaders have also been encouraged to attend national workshops to discuss how to defend their faith in college. *See* "Faith Camp," The Chronicle of Higher Education (Sep. 23, 2005).

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[3] In addition, some states have "religious freedom restoration acts" that increase scrutiny on state action that may infringe religious exercise. *See, e.g.*, ARIZ. REV. STAT. ANN. § 41-1493 (Supp. 2002); FLA. STAT. ANN. § 761.01 (2002); 775 ILL. COMP. STAT. ANN. § 35/1 (2001); R.I. GEN. LAWS § 42-80-1 (1998).

[4] The National Association of University Attorneys has recently compiled a comprehensive overview of the issues and applicable case law and guidance for understanding and responding to claims of religious discrimination and requests for accommodations by employees and students. *See* Religious Discrimination and Accommodation Issues in Higher Education: A Legal Compendium, Richard A. Weitzner, ed., National Association of College and University Attorneys (2006). This compendium also includes articles that address the issues from the perspective of public and private independent as well as religiously-affiliated institutions of higher education.

A. "Intellectual Diversity" and the Academic Bill of Rights

These organizations have also argued that conservative scholars are less likely to be hired and promoted in academe, although the assumptions and methodology of studies in that area have been widely debated. *See, e.g.*, "New Paper Assails Report That Said Bias Against Conservative Professors Is Common in Academe," The Chronicle of Higher Education (Aug. 9, 2005). Based on such claims, activist David Horowitz, president of the Center for the Study of Popular Culture, has led a national campaign to urge federal and state legislators to pass the so-called "Academic Bill of Rights," which would require public universities to expose students to a diversity of views in curricula, reading lists, and campus speakers. *See* http://www.studentsforacademicfreedom.org. The document also calls for the prohibition of the grading of students and the hiring and firing of professors based on their political or religious beliefs. The proposal has been sternly criticized by the American Association of University Professors and other higher education organizations and leaders as an infringement on academic freedom by legislating that particular types of views be formally incorporated in higher education, even if faculty experts believe that the inclusion of such views may be inconsistent with rigorous standards for scholarship or appropriateness in their fields of expertise. *See, e.g.,* Ann Marie B. Bahr, "The Right to Tell the Truth," The Chronicle of Higher Education (May 6, 2005). The measure has been discussed at the federal level, and similar legislation has been introduced in over a dozen states, generally without much success.

In response to the increasing attention to these issues from all sides, the American Council on Education and 27 other higher-education groups, including the American Association of University Professors, issued a "Statement on Academic Rights and Responsibilities," outlining principles to protect academic freedom and intellectual pluralism (*see* www.acenet.edu). That statement was in turn criticized by the American Federation of Teachers and others as being insufficiently protective of academic freedom. *See* "Academic Groups' Statement on Rights and Freedoms is Criticized as Too Weak," The Chronicle of Higher Education: Academe Today (July 1, 2005). University presidents from 16 leading research universities around the world also released a statement in summer 2005 that focused on academic autonomy through the rights and responsibilities of scholars, students, and universities. *See* "University Presidents From Around the World Issue Statement Supporting Academic Freedom," The Chronicle of Higher Education: Academe Today (June 30, 2005).

As a follow-up to the Academic Bill of Rights, supporters of so-called "intellectual diversity" have launched a new legislative initiative, known as the Intellectual Diversity in Higher Education Act (IDHEA). Much of its language tracks the language of the Academic Bill of Rights, and versions of it have been introduced in a number of states such as Georgia, Montana, Virginia, and Missouri. Free Exchange on Campus has been tracking both the Academic Bill of Rights and Intellectual Diversity laws. For a summary of current laws, *see* http:/www.freeexchangeoncampus.org/index.php?option=com_content&task=section&id=5&Itemid=61.

The language in these proposals may seem reasonable and balanced on its face, but the attempts to legislate and enforce intellectual balance within higher education can also be seen as a significant threat to institutional academic freedom and autonomy--particularly on core academic issues involving who may teach (and what are considered the appropriate qualifications in a particular field of study), what is taught and how it is taught, what constitutes valid research in any particular field, etc. *See Sweezy v. New Hampshire,* 354 U.S. 234, 263 (1957) ("It is the business of a university to provide that atmosphere which is most conducive to speculation, experiment, and creation. It is an atmosphere in which there prevail 'the four essential freedoms' of a university—to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.") (Frankfurter, J. concurring) (citations omitted); *see also Keyishian v. Board of Regents,* 385 U.S. 589, 603 (1967) ("Our nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment."). *See also, e.g.,* Alyson Klein, "Worried on the Right and the Left," The Chronicle of Higher Education (July 9, 2004) (noting concerns from both sides of the political spectrum with government attempts to define academic freedom). Although there have been attempts by executive and legislative branch entities from time to time to become more involved or prescriptive in these academic issues at the higher education level, courts have historically given significant deference to the considered educational judgment of colleges and universities. *See, e.g., Grutter v. Bollinger,* 539 U.S. 306 (2003).

B. Controversial Speakers and Performances on Campus

Issues have also arisen with regard to the presence or sponsorship of controversial speakers or performances on campus. In some instances, student organizations may want to invite controversial speakers to campus who may offend some religious groups. In other instances, speakers may make remarks that some students perceive as hostile to their religious faith. In all such instances, public institutions must of course comply with First Amendment protections for free expression as well as with their own anti-discrimination policies. In most incidents that do not involve violence, explicit threats, or other forms of unlawful conduct (arson, vandalism, etc.), the right of free speech will prevail even if some people are offended by the language or ideas expressed. When institutions attempt to suppress speech, such incidents can quickly take on a life of their own, create martyrs out of people who make offensive statements, and simply prolong the hurt caused by such statements.

Public institutions have run into questions when plays or other dramatic performances have been sponsored on campus featuring themes that are perceived as being hostile to particular religious viewpoints. For example, in the case of *Linnemeir v. Board of Trustees, Indiana University-Purdue University, Fort Wayne,* 260 F.3d 757 (7th Cir. 2001), state residents tried to enjoin a state university in Indiana from presenting a play that allegedly endorsed anti-Christian beliefs. The play, *Corpus Christi*, depicts Christ as a homosexual who had sexual relations with his disciples. The play was to be

presented at a theater on campus that was open to any group that wanted to use it, so long as the use would comport with the university's educational mission. The play was being put on by a student (theater major) as part of his course requirements. The playbill included a disclaimer from the university, saying that the university did not select the play or endorse its viewpoints. The 7th Circuit Court of Appeals rejected the argument that providing a venue for the expression of views through an artistic performance with religious overtones somehow indicated a broader hostility of the university with regard to a particular religion. As the court pointed out in that case, in keeping with the fostering of a marketplace of ideas that is central to the academic mission, colleges and universities allow for the teaching, presentation, and discussion of many works and points of view that challenge the orthodoxy of all sorts of religious traditions.

> The contention that the First Amendment forbids a state university to provide a venue for expression of views antagonistic to conventional Christian beliefs is absurd. It would imply that teachers in state universities could not teach important works by Voltaire, Hobbes, Hume, Darwin, Mill, Marx, Nietzsche, Freud, Yeats, Heidegger, Sartre, Camus, John Dewey, and countless other staples of Western culture.

Id. at 759.

II. Accommodation of Student Religious Beliefs and Backgrounds: Curriculum and Classroom Requirements

Given the educational mission of colleges and universities in acting as a marketplace of widely varying ideas—many of which may be controversial and which may present challenges to the traditional institutions in society, including established religions—it is not surprising that some of the most difficult cases have arisen with regard to the teaching of controversial thinkers, works, and subject matter in the classroom. Institutions may be faced with difficult choices when students object on religious grounds to the material or viewpoints expressed in class, and ask for accommodations based on their individual religious preferences. At public institutions, such complaints may have implications for claims with regard to the establishment of particular religious views as well as interference with the free exercise of students' religious beliefs and their free speech rights in general.

The case of *Axson-Flynn v. Johnson,* 356 F.3d 1277 (10th Cir. 2004), illustrates this sort of clash. In that case, a Mormon student in an actor training program at the University of Utah claimed that her constitutional rights to free exercise of religion and free speech were violated when she was forced to recite all lines written for a particular character in a play. She had objected to certain language that she did not want to use based on her religious beliefs, and her grade was lowered on at least one assignment after she removed such phrases without the instructor's approval. The school countered that the requirement to perform offensive scripts advanced a pedagogical interest in teaching acting in several ways.

The 10th Circuit Court of Appeals found the school's actions to constitute school-sponsored speech because it was a required part of the curriculum. In doing so, the court applied an analytical framework developed in the K-12 school context as reflected in the decision in *Hazelwood School Dist. v. Kuhlmeier*, 484 U.S. 260 (1988). In *Hazelwood*, the Supreme Court held that administrators may restrict the "school-sponsored" extracurricular speech of high school students so long as the regulations "are reasonably related to legitimate pedagogical concerns." The 10th Circuit in *Axson-Flynn* found that *Hazelwood* provides an appropriate framework for evaluating student free speech claims even at the college level, at least with regard to curriculum issues. Using this standard, the court ruled that Axson-Flynn's speech could be restricted so long as it was "reasonably related to pedagogical concerns." The court also noted, however, that important differences exist between K-12 and higher education based on the age, maturity, and sophistication level of the students. Other courts have declined to apply the *Hazelwood* framework to higher education because the purpose of higher education is to expose students to a wide variety of viewpoints and ideas. *See, e.g., Keyishian*, 385 U.S. at 603. *Compare with Bethel School Dist. v. Fraser, 4*78 US. 675, 681 (1986) (describing the purpose of K-12 education as inculcating "fundamental values necessary to the maintenance of a democratic political system").

In *Axson-Flynn*, the court acknowledged that students cannot have veto power over the curriculum. It also held, however, that there was a genuine issue of fact regarding whether the school's real rationale was pedagogical, or a pretext for religious discrimination. Noting that the school had made other exceptions for Jewish students, the court said that the institution must show that the script requirement was a neutral one of general applicability, or establish that that the requirement was narrowly tailored to advance a compelling interest. The case was eventually settled, and the University of Utah developed a policy to let students opt out of activities that conflict with their religious beliefs with the approval of a professor, dean, or university vice president.

In some instances, religious conflicts can also arise with regard to the ethical or professional standards in particular disciplines. For example, in 2006 a graduate of Missouri State University's social work program filed a lawsuit alleging that she was punished because of her objections on religious grounds to a project in which her professor required students to write and sign a letter to the Missouri legislature in favor of the rights of gay parents to adopt children. After complaining, the student, Emily Brooker, was allowed to write a letter on an alternative subject. She alleged, however, that she was forced to appear before the school's ethics committee, told that her religious beliefs contradicted the National Association of Social Workers' Code of Ethics, and made to sign a contract requiring her to comply with this Code. The Alliance Defense Fund brought the suit on her behalf, and the university settled the case shortly thereafter. The university also agreed to review the state's social work program and its requirements. *See* www.alliancedefensefund.org; "University settle's student's lawsuit," The Kansas City Star (Nov. 11, 2006).

Another manifestation of the clash of professional standards in a particular discipline and faculty judgment with students' religious beliefs arose when a biology

professor at Texas Tech University refused to write letters of recommendation for graduate work for students who were unwilling to state a belief in the theory of evolution. *See* Megan Rooney, "Biology Professor's Policy of Linking Recommendations to Belief in Evolution Prompts Federal Probe," The Chronicle of Higher Education (Feb. 3, 2003). The professor had a written policy explaining to students that he could not recommend them for further education in the biomedical sciences if they could not "affirm a scientific answer" to the question of how the human species originated. A student contacted the U.S. Department of Justice, alleging religious discrimination. The Justice Department dropped the probe after the professor eliminated the evolution belief requirement from his recommendations policy and replaced it with a requirement that students be able to explain the theory of evolution.

In another prominent recent case, the academic judgment of institutions and faculty members was called into question with regard to decisions relating to credit for coursework of a religious nature. A group of private Christian high schools sued the University of California over its faculty-established standards for admission, alleging that its refusal to credit high school science courses taught with selected Christian religious texts violated students' freedom of religion. *See* "Christian Schools Sue the U. of California Over Credit for Courses," The Chronicle of Higher Education (Aug. 29, 2005). While educational judgments regarding how and when to award academic credit for high school coursework are the types of decisions that would ordinarily be entitled to a high degree of deference from courts as a matter of law, the implication that such decisions were made on grounds hostile to religion raises constitutional questions that can in turn lead to greater scrutiny.

The rights and responsibilities of students are summarized in the 1967 Joint Statement on Rights and Freedoms of Students, AAUP Policy Documents & Reports 273-79 (10th ed. 2006), which provides that

> Students should be free to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.

Id. at 274.

In acknowledging the academic freedom of institutions and faculty members to determine curriculum, the courts have held that students do not have the legal right to demand that classes be viewpoint neutral or "balanced." *See Edwards v. Aguillard*, 482 U.S. 578, 586 n.6 (1987). In that case, the Supreme Court rejected the argument that a student's academic freedom to be informed of views regarding both evolution and creationism could justify a legislative requirement that both views be taught, noting as follows:

> The Act [in question] actually serves to diminish academic freedom by removing the flexibility to teach evolution without also teaching creation-science even if

> teachers determine that such curriculum results in less effective and comprehensive science instruction.

Id.

In another well-publicized controversy, students and taxpayers backed by a self-described conservative Christian organization sued the University of North Carolina at Chapel Hill for its scheduled freshman orientation discussion on a book regarding the Koran. *See Yacovelli v. Moeser,* Case No.02-CV-596 (M.D.N.C. 2002), *aff'd,* Case No. 02-1889 (4th Cir. 2002); 324 F. Supp.2d 760 (M.D.N.C. 2004). The plaintiffs sought to halt the summer program on the grounds that the assignment of the book constituted an endorsement of religion and violated the Free Exercise Clause. The university countered that the book was chosen purely for secular, academic, and pedagogical reasons, and that the purpose of the program was to educate, not indoctrinate, students. The federal district court ruled in favor of the university, agreeing that the program had a secular purpose in developing critical thinking and enhancing the intellectual atmosphere for incoming students. The decision reinforces the notion that choices with regard to teaching materials are fundamentally academic in nature, and that courts should defer to such educational judgments. An opposite result in such cases could lead to endless litigation and second-guessing with regard to decisions made every day in classrooms around the country, and could also have a significant chilling effect on the ability of institutions and faculty to cover topics and materials that may be controversial.

These cases reflect tensions between the academic freedom of institutions and faculty members v. the academic freedom and First Amendment rights of students. There may also be tensions, however, between the rights of individual faculty members to control the curriculum and classroom environment when students object to teaching methods and viewpoints, and the rights of institutions to make such judgments.

This tension was illustrated by the case of *Edwards v. California University of Pennsylvania,* 156 F.3d 488 (3d Cir. 1998), *cert. denied,* 525 U.S. 1143 (1999). In that case, a tenured professor in media studies sued the administration for violating his right to free speech by restricting his choice of classroom materials in an educational media course. A student alleged that Professor Edwards was using the course to advance his religious ideas, and the school determined that Edwards was teaching from a non-approved syllabus in an introductory course. The court in that instance deferred to the educational judgment of the institution as represented by Edwards' departmental colleagues—not to the individual faculty member.

Issues can also arise when students request accommodations in terms of class schedules and exams due to religious observances and holidays. In such instances, as is done with students with disabilities, it is usually best to work with the students on a case-by-case basis to determine what is essential to the course and what options might be available. Consistency in treatment of students from varying religious backgrounds is important. For example, as students from other faith traditions have pointed out, the calendars at many institutions already accommodate major Christian holidays. As our

institutions become more diverse, it will be more important than ever to educate faculty and staff about different religious traditions and to provide resources so that faculty and staff have somewhere to turn if they have questions or concerns.

III. Accommodation of Student Religious Beliefs and Backgrounds: Other Campus Contexts

Issues relating to accommodation of student religious beliefs and practices can also arise in other campus settings such as access to institutional facilities and equipment, student employment, dormitories and living arrangements, food preparation and service, and use of athletic facilities. In most of these instances, schools can work together with students to figure out common-sense approaches to meet the students' needs after everyone has a clear understanding of the religious practices and the space and resource constraints on campus.

For example, a number of institutions with significant populations of Muslim students have installed footbaths to accommodate the foot-washing rituals observed by many such students. This action has in turn triggered debate about whether such plans constitute a legitimate accommodation of students' right to practice their religion or unconstitutional support for that religion. *See, e.g.*, Tamar Lewin, "Universities Install Footbaths to Benefit Muslims, and Not Everyone is Pleased," The New York Times (Aug. 7, 2007). The University of Michigan-Dearborn argued that the footbaths installed on that campus were a health and safety measure—not a religious decision—and that they would be available to all students (including lacrosse players who want to wash their feet, for example). These types of accommodations can also be seen as an attempt to create a welcoming environment for diverse populations in keeping with a school's interest in the educational benefits of a diverse student body. *See Grutter v. Bollinger*, 539 U.S. 306 (2003).

As institutions make decisions about the use of finite resources and space, the rationale for such decisions should be based on legitimate health, safety, or other content-neutral reasons—not on favoring one religious viewpoint or background over another. *See Widmar v. Vincent*, 454 U.S. 263 (1981) (policies restricting the use of campus facilities such as meeting rooms must be "content neutral"). Such neutrality must be consistently applied. If exceptions are made to rules for a lot of other reasons, it is difficult to justify not making exceptions for the purpose of religious accommodations. For example, the University of Nebraska at Kearney ran into a challenge to a housing rule requiring all freshmen to live on campus. The school had a variety of legitimate rationales to justify this policy (e.g., fostering diversity, promoting tolerance, ensuring full occupancy of residence halls, promoting better academic achievement), but it also granted exemptions for non-religious reasons to more than 1/3 of the student body. It nevertheless refused to grant an exemption for religious reasons to a Christian student who wanted to live in an off-campus Christian housing facility based on his faith. In light of all of the other exceptions made, a court found that the interests articulated by the institution were legitimate, but not compelling. *See Rader v. Johnston*, 924 F. Supp. 1540 (D. Neb. 1996).

Still other disputes have arisen when students or others at public colleges and universities complain about displays of art on such campuses that may include pieces with religious themes or connotations. In such cases, the courts have applied the *Lemon* balancing test (described below) to determine whether such displays constitute an unconstitutional endorsement of religion. *See, e.g., O'Connor v. Washington*, 416 F.3d 1216 (10th Cir. 2005) (over objections of some Catholics in the community, court accepted state university's rationale for displaying a work of art [depicting a Roman Catholic bishop with a distorted facial expression] on a campus sidewalk as part of a larger educational art exhibit around campus, noting that the university decision to display the art had an educational purpose and was not based on hostility toward the Catholic religion--and that a reasonable observer would not have perceived the overall display as favoring or disfavoring a particular religion).

The role of religious displays on campus can also become enmeshed in debates about history. The College of William and Mary, a colonial era public institution with private, religious roots, was the battleground for a long debate about whether a historic cross should be displayed in a chapel on campus. The president at one point had the cross taken off permanent display to make the chapel welcoming to students of different faiths, although it remained available upon request for placement on the altar during religious services or other events. After review by a special committee, the College agreed to restore the cross in a glass case in a "prominent, readily visible place, accompanied by a plaque explaining the college's Anglican roots and its historic connection" to a church building on campus. *See* Thomas Bartlett, "Controversial Cross Will Regain a Permanent Place in Chapel at William and Mary," The Chronicle of Higher Education (Mar. 7, 2007).

IV. Student Organizations: Recognition and Funding

Many recent controversies have involved the institutional recognition and funding of student organizations that are religious in nature, and whose views, practices and activities may sometimes clash with institutional policies. Once again, public institutions must be concerned with the provisions of the First Amendment relating to religion and speech.

A private institution, on the other hand, may have greater latitude (absent other possible applicable laws such as state or local anti-discrimination laws, for example) to make such decisions based in part on the mission of the institution—especially if it is a religious institution, and if it is clear about its mission and related policies so as not to create expectations that it will operate in all respects like a public institution. *See, e.g., Romeo v. Seton Hall*, 875 A.2d 1043 (N.J. Super. 2005) (upholding Catholic-affiliated university's denial of application for recognition from a gay and lesbian student organization which the university felt was antithetical to the values and mission of the Catholic Church; the court found that the denial did not constitute a breach of contract). In the Seton Hall case, the court concluded its analysis by saying:

> [A] private university's values and mission must be left to the discretion of the university. The case for such discretion is even greater, where as here, the values and mission in question address fundamental religious ideals.

Id. at 1050.

Applying forum analysis, the Supreme Court has clearly stated that a public institution that provides funding in general to a variety of student organizations cannot single out religious viewpoints as a reason for denying funding to particular student organizations. *See Rosenberger v. Rectors and Visitors of the University of Virginia,* 515 U.S. 819 (1995). In the *Rosenberger* case, the Court held that a university's refusal to provide student activity fees to a Christian publication constituted viewpoint discrimination that violated the students' First Amendment rights. *Id.* In a subsequent case, *Board of Regents of the University of Wisconsin System v. Southworth,* 529 U.S. 217 (2000), the Court held that a system of using mandatory student fees to fund student organizations must be accompanied by viewpoint neutrality in allocating fees.

In the past several years, a series of cases have been brought involving situations in which religiously-affiliated student organizations have sought to receive funding while maintaining rules regarding membership or leadership that exclude students who do not agree with or adhere to the religious tenets of the organization. In particular, campus organizations such as the Christian Legal Society have sought to exclude students who are not willing to affirm religious beliefs against homosexuality. These restrictions have sometimes been at odds with antidiscrimination laws or institutional policies prohibiting discrimination on the basis of sexual orientation.

Student organizations seeking to enforce restrictions on membership and leadership at public institutions have relied on a variety of constitutional claims, including freedom of association under the First Amendment, free speech and freedom from compelled speech, free exercise of religion, and equal protection. The right to freedom of association in particular is a core principle for such organizations. *See Healy v. James,* 408 U.S. 1769 (1972) (Supreme Court held that a university could not refuse to recognize a student organization because of the organization's viewpoint). In discussing the importance of the right of association, the Supreme Court has stated that "[t]here can be no clearer example of an intrusion into the internal structure or affairs of an association than a regulation that forces the group to accept members it does not desire." *Roberts v. Jaycees,* 468 U.S. 609, 623 (1984).

The students in these organizations have argued that they have the right to choose the individuals with whom they associate. The Court has held that the right to associate for expressive purposes is <u>not</u> absolute, however, and that it may need to be balanced with the state's right to serve compelling state interests that cannot be achieved through less restrictive means. *Id.* at 623 (in which the Court held that Minnesota had a compelling interest in ending gender discrimination that justified infringing on the association rights of male members of the Jaycees organization by requiring them to accept female members). In the *Jaycees* case, the Court found that admission of women

would not impede the organization from engaging in its usual activities or expressing its preferred views on political, cultural and social affairs. *Id.* at 627. *See also Board of Directors of Rotary International v. Rotary Club of Duarte*, 481 U.S. 537 (1987), and *New York State Club Association, Inc. v. City of New York*, 487 U.S. 1 (1988).

Using this balancing test, however, the Court has sometimes found that organizations can legitimately refuse to take in members where doing so would interfere with the organization's core activities and views. For example, in *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000), the Supreme Court held that prohibiting the Boy Scouts from excluding an avowed homosexual as an assistant scoutmaster under New Jersey's public accommodation law violated the organization's right of expressive association. In reaching this conclusion, the Court focused on the fact that the Boy Scouts as an organization have a right to express the view that homosexual conduct is not "a legitimate form of behavior." *Id.* at 653 & 659. The Supreme Court's decisions in this area have therefore focused attention on the degree to which a particular state "intrusion" (e.g., a rule prohibiting discrimination against a particular class of individuals) interferes with a central tenet of an organization.

The Christian Legal Society ("CLS"), a national organization with local chapters that have sought campus recognition and funding at schools across the country, has brought a series of cases against public institutions under these principles. It has been supported in part by the Alliance Defense Fund. *See, e.g.*, www.telladf.org/UserDocs/CLSUMcomplaint.pdf (suit recently filed against the University of Montana School of Law for derecognizing a CLS chapter). Among the tenets of the CLS is a religious belief that sexual relations outside of marriage are inappropriate, whether between members of the opposite or same sex. This belief has been reflected in a "Statement of Faith" that CLS chapters at some colleges and universities have required members and officers to sign. Some institutions have countered that this practice violates the institutions' own anti-discrimination policies, which in many cases include protection against discrimination on the basis of sexual orientation in campus programs and activities. Similar issues have been raised by religiously-affiliated fraternities and sororities such as the Christian fraternity Beta Upsilon Chi (Brothers Under Christ).

While the U.S. Supreme Court has not yet reviewed one of these cases, lower courts have reached mixed results to date. For example, in a case involving a public law school in Illinois that had revoked CLS' status as a registered student organization, the 7th Circuit Court of Appeals ruled in favor of CLS on the basis of freedom of association. In that case, the court found that the forced inclusion of members who did not subscribe to the Statement of Faith would have a significant impact on CLS' expressive activity—and that the organization's expressive association interests outweighed the law school's interest in preventing discrimination in that instance. *See Christian Legal Society Chapter at Southern Illinois University School of Law v. Walker*, 453 F.3d 853 (7th Cir. 2006). The court in that instance equated the school's insistence on forcing CLS to accept members who disagreed with its beliefs as an attempt to force the organization to essentially change the content of its expression. The court noted that the CLS' policies

applied to heterosexuals as well as homosexuals and that they were not based on an individual's sexual preference, but rather on one's belief and behavior and refusal to comply with the CLS' rules.

Other courts have reached different results, however. *See Christian Legal Society Chapter of University of California, Hastings College of Law v. Kane*, 2006 WL 997217 (N.D. Cal. 2006) (unreported decision)**.** In that case, the Hastings College of Law declined to permit a CLS chapter to register as a student organization unless it permitted any interested law student to become a member—regardless of religious beliefs or sexual orientation. The federal district court reasoned that the law school was not forcing the organization to accept members it did not desire or prohibiting it from meeting or expressing itself; instead, the law school was merely refusing to provide funding for the organization's activities. As an unofficial student group, CLS was still permitted to use university classrooms and equipment, post messages on campus, etc. The court thus found that the denial of recognition and funding was not a "substantial impediment to CLS' abilities to meet and communicate as a group." *Id.* The case is now on appeal to the 9th Circuit Court of Appeals.

These challenges continue to arise at campuses around the country, fueled by national organizations seeking to set legal precedents. Depending on the specific issue(s) at stake (funding, membership rules, etc.), the courts may weigh the institutional and student organizations' needs and interests differently (e.g., funding might get a lower level of scrutiny if its withholding would not threaten the existence of the organization or prevent it from exercising its expression rights).

A compromise solution recently adopted by a number of schools is to permit such student organizations to receive recognition and funding so long as they base their decisions about membership and leadership on the willingness of individuals to subscribe or adhere to their stated mission and beliefs, but not on the mere status of those individuals (e.g., their sexual orientation). Other student organizations (e.g., those associated with particular racial and ethnic groups) have often operated in this fashion—pursuing interests and agendas that are in many instances related to particular groups within society or within the institutions themselves, but not automatically excluding people from participation because of their status (e.g., their race or ethnicity). Arizona State University settled a case with a CLS chapter in this manner, revising its nondiscrimination policy statement as follows:

> Membership and all privileges, including voting and officer positions, must all be extended to all students without regard to age, ethnicity, gender, disability, color, national origin, race, religion, sexual orientation, or veteran status. . . . Religious student organizations will not be denied registration solely because they limit membership or leadership positions to students who share the same religious beliefs. These groups, however, may not discriminate in membership or leadership on any other prohibited basis (i.e., age, ethnicity, gender, disability, color, national origin, race, sexual orientation, or veteran status).

Arizona State University, USI 1302-01: Student Organization Registration (revised 3/1/2007). Arizona State also agreed that CLS did not violate this policy by requiring its members to agree to the CLS belief in celibacy outside of marriage.

Likewise, Washburn University settled a case with CLS when the Washburn Board of Regents revised its nondiscrimination policy in 2005 to allow religious organizations to utilize non-discrimination language that reflected their members' beliefs. Under the revised policy, student organizations have to comply with the University's EEO policy and applicable federal, state and local laws, but an exception was granted as follows: "organizations formed to foster or affirm the sincerely held beliefs of their members may adopt a nondiscrimination statement that is consistent with those beliefs." The Ohio State University adopted a similar nondiscrimination policy in 2004. In response to a lawsuit filed by the Maranatha Christian Fellowship, the University of Minnesota adopted language in its nondiscrimination policy stating that "[r]eligious student organizations may require their voting members and officers to adhere to the organization's statement of faith and its rules of conduct." Rutgers University resolved a dispute with a student organization known as the Rutgers InterVarsity Multi-Ethnic Christian Fellowship through a similar approach. Other institutions that have recently adopted variations of this policy language include Florida State University, the University of Iowa, the University of Wisconsin, the University of Kentucky, and the University of Wyoming.

This balancing approach is also consistent with The Joint Statement on Rights and Freedoms of Students, which provides that

> Campus organizations, including those affiliated with an extramural organization, should be open to all students without respect to race, creed, or national origin, except for religious qualifications which may be required by organizations whose aims are primarily sectarian. (footnote omitted)

AAUP Policy Documents & Reports at 275 (10th ed. 2006).

With regard to voting for leaders of organizations, however, it is to a large extent impossible to legislate how students will act on their beliefs. Even if it is not a matter of official policy, therefore, students may harbor their own preferences and prejudices when voting for their leaders—just as voters do in other contexts.

As a general rule, content-neutral, even-handed application of institutional policies should generally prevail against other constitutional claims such as those based on free speech, free exercise of religion, equal protection, etc. *See, e.g., Employment Division, Department of Human Resources v. Smith,* 494 U.S. 872 (1990) (holding that the Free Exercise Clause does not relieve individuals of the obligation to comply with valid, neutral laws of general applicability on the ground that the laws permit or disallow conduct that the individuals' religion permits or disallows). *See also Bob Jones Univ. v. U.S.,* 461 U.S. 574, 604 n. 30 (1983) ("[A] regulation does not violate the Establishment

Clause merely because it happens to coincide or harmonize with the tenets of some or all religions.").

V. State Support and Funding of Programs at Religiously-Affiliated Institutions

While public institutions must comply with constitutional parameters under the First Amendment, private institutions—even those that are religiously affiliated—are not immune from government regulation and from struggling with issues that involve balancing competing considerations related to the appropriate role of religion. Protections for religious beliefs and practices at private institutions sometimes also bump up against other important public policy considerations. These debates sometimes play out in the context of questions regarding public support (in the form of tax benefits, funding, etc.) for programs and activities at religiously-affiliated institutions.

For example, the U.S. Supreme Court has held that a private, religiously-affiliated university that prescribes and enforces racially discriminatory admissions standards on the basis of religious doctrine may not qualify as a tax-exempt organization under the Internal Revenue Code—and that contributions to such an institution may not be deductible as charitable contributions. *See Bob Jones Univ. v. U.S.*, 461 U.S. 574 (1983). Bob Jones University denied admissions to applicants engaged in interracial marriage or known to advocate interracial marriage or dating, based on a genuine belief that the Bible forbids these practices. The Court found that tax exemption is a privilege intended to encourage certain types of activities for the public good, noting that the public purpose of a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code must not be so at odds with the "common community conscience as to undermine any public benefit that might otherwise be conferred." *See id.* One could imagine other religious tenets on which institutional policies might be based that might also fail to meet the standard for tax exemption because of important competing public policy considerations—such as beliefs in human sacrifice or child molestation as legitimate religious rituals.

Questions also arise with regard to the use of public funds to support specific programs or students at religiously-affiliated institutions. As noted above, the Establishment Clause of the First Amendment provides that "Congress shall make no law respecting the establishment of religion." U.S. Const. Amend. I, cl. 1. The Court has established a balancing test to determine whether a rule or regulation is consistent with the establishment clause, indicating that such a rule or regulation could pass muster if it (1) has a secular purpose, (2) has a principal or primary effect that neither advances nor inhibits religion, and (3) does not create excessive entanglement between government and religion. *See Lemon v. Kurtzman*, 403 U.S. 602, 612-13 (1971). The so-called "Lemon" test has been subsequently modified by the Court, which has continued to emphasize the first two prongs of the test while indicating that entanglement could be considered as one aspect of the second prong. *See Agostini v. Felton*, 521 U.S. 203, 222-23 (1997). Direct state aid may be considered to have a "principal or primary effect" of advancing religion if such aid goes to institutions that are "pervasively sectarian." *Bowen v. Kendrick*, 487 U.S. 589, 610 (1988).

An interesting variation of this constitutional question is raised when public funds are awarded for scholarships to individuals that might be used at religiously-affiliated institutions or otherwise for religious purposes. The case of *Locke v. Davey*, 540 U.S. 712 (2004), involved a student who was awarded a scholarship by the state of Washington to pay for his education based on academic merit and financial need. The student was permitted to attend any college of his choice--including a religiously-affiliated private institution—and could take any classes of his choice, including unlimited classes in religion. He could also select any major except theology, because the state constitution (based on the Establishment Clause in the First Amendment) prohibited public funds from being used to train ministers or to support students pursuing degrees that are devotional in nature or designed to induce religious faith. The student asserted that the state violated his First Amendment free exercise rights by funding training for all secular professions while refusing to fund theology majors, but the U.S. Supreme Court found that the state's interest in not funding theological instruction was legitimately designed to avoid an establishment of religion (rather than to disfavor any particular religion). The Court noted that the state's choice not to fund religious instruction would in no way prevent the student from freely exercising his religious beliefs.

In a recent California case, religious colleges won a major victory when the state's Supreme Court ruled that even "pervasively sectarian" institutions can have bonds issued by government agencies on their behalf, if they offer a broad array of courses and use facilities in ways that are equivalent to the use of facilities at secular institutions. *See* "Big Win for Religious Colleges," insidehighered.com (May 6, 2007). Thus such funds could be used for dormitories, dining halls, and classrooms for courses so long as they were not focused primarily on religion, but not for churches or other buildings that would be focused on religious instruction. The court held that "[t]he straightforward assessment … is whether the academic content of a religious school's course in a secular subject such as math, chemistry, or Shakespeare's writings is typical of that provided in nonreligious schools." *Id.* A strong dissenting opinion argued that the majority failed to pay sufficient attention to the ways in which such government-issued bonds would directly or indirectly allow religiously-affiliated schools to advance their religious missions.

VI. Some Practical Suggestions

In light of the legal principles and precedents discussed above, here are some practical suggestions for balancing rights and responsibilities with regard to students' religious beliefs and practices in light of the educational mission.

A. Free Expression

1. Articulate values of tolerance and civility, and respond with "more speech" when controversial or offensive speech occurs.

Colleges and universities can and should articulate core values that create the foundation for a learning environment in which faculty and students from all backgrounds and perspectives can participate and learn. These core values may include tolerance and civility. These values may be articulated as general principles in mission and vision statements, rather than as vague or overbroad standards in rules and regulations which are meant to be enforced in very specific ways (and which potentially carry specific penalties for non-compliance). This distinction is especially important for public institutions that are subject to First Amendment constraints, because rules and regulations that are vague and overbroad may be found to be unconstitutional (e.g., such as campus "speech codes" that have focused on banning controversial or offensive speech).

An institution and its representatives can also exercise their own free speech rights to disagree with or denounce offensive or denigrating comments made by faculty, students, guest speakers, or others—even if they are constrained by First Amendment principles from limiting or regulating objectionable speech on the basis of its content. The most effective antidote to offensive speech is more speech within the marketplace of ideas. Protection of academic freedom and free speech rights does not mean that controversial viewpoints and expression need to go unchallenged in the academic environment. Many institutional leaders avoid referring to difficult topics and expression altogether in order to avoid a chilling effect on campus discussions. While this goal is a laudable one, there may be times when it may be entirely appropriate for administrators or other campus leaders to disagree publicly with particular viewpoints and to emphasize that they protect even some speech with which they disagree and/or find hostile or offensive.

2. Take advantage of "teachable moments."

On many occasions, offensive or controversial speech provides the impetus for teaching opportunities in formal and less formal settings. For example, after an incident at Rutgers University-Newark involving a graduation speaker who gave a speech focusing largely on his religious beliefs and their supremacy, the University convened a series of campus forums to allow faculty, staff and students to meet and talk about the issues raised by the speech and its aftermath.

When these difficult circumstances arise on campus and tensions are high, institutions can use their responses to these situations to model the values at the core of the educational mission. Leaders of colleges and universities have a special responsibility to lead by example in establishing a civil, tolerant, and open educational climate and atmosphere that is conducive to learning and participation by all students, and that welcomes and encourages discussion of diverse issues and viewpoints. In his recent book, *Restoring Free Speech and Liberty on Campus* (The Independent Institute, 2005), Donald Alexander Downs—an ardent critic of speech codes—makes the point that encouragement of more speech, rather than suppression of speech, is a way of treating postsecondary students with respect while reinforcing the educational mission:

> A university is a humanitarian institution that has several values that are sometimes in conflict: pursuing truth, preparing students for competent participation in constitutional citizenship, and promoting civility and mutual respect. … [Speech codes] have promoted limited political agendas over the pursuit of truth, and do not envision or treat students as young adults who possess the inherent strength to handle the responsibilities of constitutional citizenship.

Id. at 271.

3. Publicize and implement policies protecting freedom of speech and expression on campus.

Most institutions already have policies on free expression, but it is worth reminding everyone in the campus community about such policies on a regular basis (especially students, given the constant turnover in the student population).

4. Train institutional leaders and employees to recognize free speech and academic freedom principles and issues.

Many free speech issues on campuses get out of hand quickly because well-meaning people feel that they must respond quickly and decisively to any allegations of potential harassment or to bias-related incidents more generally. Often, a first response is to seek ways to shut down offensive expression before it spreads further in a campus community. When this happens, however, speakers with controversial viewpoints who have engaged in offensive or provocative expression may become martyrs or lightning rods who draw even more attention as examples of the suppression of civil liberties on campus. Once the possible suppression of civil liberties becomes the issue, relatively minor incidents can take on a much larger life of their own.

Institutions cannot assume that all leaders, managers and members of the campus community know and understand the legal nuances and differences between free speech and discriminatory conduct. Accordingly, providing training and resources on these issues on a regular basis can be very helpful in raising campus awareness of these legal principles. Institutional counsel may be able to play an important and proactive role in this regard.

5. Consider formation of campus entities that can provide proactive outreach on these issues, and that can react swiftly to campus incidents.

Incidents involving offensive expression can quickly spiral out of control by sparking protests or other offensive expression. The typical processes in place at institutions of higher education to investigate such incidents, and perhaps discipline the offending parties, are often ill-equipped to address the need for a rapid and strategic response. Thus, in addition to normal investigatory and disciplinary processes to handle complaints of discrimination or other policy violations, institutions may want to consider the establishment of less formal entities that can intervene in a positive way to foster

campus dialogue and healing. For example, after a series of incidents of offensive expression at Arizona State University, that institution formed a broad-based Campus Advisory Team, which is advisory to the university president and has as its mission to: (1) create and maintain a civil and just campus environment that values diversity, (2) promote respect for all individuals regardless of their status, (3) protect free speech and academic freedom, and (4) promote the pursuit of individual goals without interference from discriminatory harassment. *See* http:www.asu.edu/president/cet/cetsum.htm.

6. Be clear about the roles in which people are speaking, and on whose behalf they speak.

Especially when dealing with complicated and controversial issues related to speech and religion, it is critical for institutional staff members (including administrators and faculty members) to be clear when they are speaking on behalf of the institution in an official capacity, versus when they are speaking on their own in a strictly individual capacity. It may be especially difficult for department chairs, for example, because of the fact that their positions require management responsibilities as well as some other traditional faculty responsibilities.

7. Use content-neutral policies whenever possible (e.g., time, place and manner restrictions).

In many instances of potentially offensive or inappropriate conduct, content-neutral policies (e.g., on disorderly conduct, disruption of educational activities, drug or alcohol abuse, vandalism, disturbing the peace, etc.) might come into play – rather than constitutionally sensitive restrictions on the content of speech or the practice of religion. Public institutions that are subject to the First Amendment may use content-neutral time, place and manner regulations when they are narrowly tailored to serve a significant governmental interest unrelated to the suppression of speech, *see, e.g., Clark v. Community for Creative Non-Violence,* 468 U.S. 288 (1984), so long as they "[l]eave open alternative channels for communication of the information." *Metromedia, Inc. v. San Diego,* 453 U.S. 490, 516 (1991) (quoting *Virginia Pharmacy Bd. v. Virginia Citizens Consumer Council,* 425 U.S. 748, 771 (1976) (citation omitted). Institutions should always keep in mind the ability to discipline students, faculty or staff for conduct rather than the content of their speech.

8. Ensure that rules have a nexus to the educational environment.

Institutions must be especially careful with policies that purport to regulate expression off-campus when faculty members or students are acting in their roles as citizens. Institutional regulations should always have a direct nexus to some impact on the educational environment, even if they can be construed to reach some conduct which occurs off-campus or online.

9. Treat groups consistently.

Whenever requests are received from particular religious or political groups (e.g., to get money, hold events, etc.), the answer should always include an analysis of how the decision would have been made if it had to be applied to groups all across the religious and political spectra.

10. Be sure adequate grievance procedures exist for faculty and students with complaints regarding religious and political/viewpoint discrimination.

Many schools already have policies and procedures in place to address complaints in this area, but sometimes forget when these policies and procedures might be applicable in particular cases. *See, e.g.,* "Academic Freedom" (in State Digest section), *The Chronicle of Higher Education: Academe Today* (Sep. 23, 2005) (An Ohio lawmaker dropped proposed legislation to protect students with unpopular beliefs from bias, and to prevent professors from discussing controversial topics unrelated to their courses, after the Inter-University Council of Ohio agreed to adopt a resolution urging colleges to respect opinions of students and faculty members and not to judge them on their political beliefs. The resolution, based on a 2005 statement by the American Council on Education, also calls on colleges to create grievance procedures for students and instructors who feel mistreated because of their views.) The "Statement on Academic Rights and Responsibilities" from the ACE et al. says that "[a]ny member of the campus community who believes he or she has been treated unfairly on academic matters must have access to a clear institutional process by which his or her grievance can be addressed."

11. Consider curricular and extracurricular opportunities to discuss difficult issues.

As student and faculty populations become more diverse, institutions should look carefully at how examination of various religious and political perspectives can be examined thoughtfully in the curriculum, as well as in safe spaces and events on campus that allow for dialogue on difficult issues (with trained discussion leaders to ensure that all perspectives are respected and heard). The University of North Carolina, for example, has prepared background materials for faculty members who teach about controversial issues to help them think about how to engage students and create a classroom climate that is safe for vigorous discussion and disagreement. *See* http://ctl.unc.edu/fyc21.html.

B. Accommodating Various Religions on Campus

1. Provide information about various religious traditions, and resources when questions arise.

Many faculty and staff who are approached by students seeking accommodations will not necessarily be aware of the tenets or practices of religious traditions with which they are unfamiliar. As our campuses become more diverse, opportunities to learn about varying traditions—as well as resources about varying traditions—will become increasingly important. In keeping with the role of higher education as the marketplace of ideas, institutions must also be open to learning about new or different faith traditions.

2. Don't question the truth of religious beliefs, but verify the sincerity of them when necessary to establish a real burden in need of accommodation.

While the law looks with disfavor on attempts to question or debate the truth or reasonableness of a professed religious belief, institutions may request that students or organizations submit information about their professed belief in order to determine whether it is in fact sincere. *See Morin v. MGH Institute of Health Professions,* 15 Mass. L. Rep. 417 (Mass. Sup. Ct. 2002) (plaintiff who objected to campus vaccination requirement failed to show a sincerely held belief merely by demonstrating that she had not been vaccinated previously). The point of such a request would be to establish whether and to what extent there is a real burden on religion imposed by institutional policies or practices. Of course, consistency is important in this area as well—you do not want to question only those religious beliefs that you find offensive or that are held by individuals you might not like.

3. When students request accommodations in courses, consider whether their request would require changes in essential course requirements as determined by sound academic judgment.

If a student requests a particular accommodation in a course (e.g., an alternative writing or project assignment) on religious grounds, consider whether granting such an accommodation would alter or interfere with essential course requirements. In making this determination, it is helpful to consider whether any other exceptions to the same course requirements might be or have been made (e.g., for individuals with disabilities). If other exceptions can be and have been made, then it weakens the argument that the requirement is truly essential. Also consider whether any other alternatives might be available to the student to achieve their same educational goals (e.g., an alternate section of a course).

4. Hold students accountable for learning the content or subject matter of a course, but do not evaluate them based on their personal beliefs.

Students can be expected to learn the substantive content in a course or field of study and to explain it, but they should not be judged on whether they agree with particular points of view, theories, etc. because of their religious faith.

5. Treat students from different religious backgrounds with equal consideration.

Once again, consistency is important when reviewing requests for accommodations. The fact that some religious faiths have received more attention on campus (and received more accommodations) in the past because of their prevalence does not mean that other, "minority" faith traditions are entitled to less consideration.

6. Campus policies should be neutral, generally applicable, and rationally related to legitimate objectives that can be easily articulated.

Campus policies on issues such as facilities use should be based on neutral principles of general application that can be clearly articulated, rather than on favoring particular religious groups or perspectives over others. If you find that you are making exceptions for other reasons, you should also be prepared to do so for the purpose of religious accommodations. Selective application of policies weakens the argument that such policies are genuinely necessary and of general application.

7. When displaying artwork or allowing performances on campus that may have religious themes or that may be offensive to some community members based on religion, be sure to be clear that the institution is not endorsing particular expression or viewpoints.

In keeping with their educational mission, institutions of higher education can and should be open to artistic or intellectual presentations, performances, or displays that are provocative and thought-provoking on a wide range of ideas and from a wide range of perspectives. Institutions should also be clear, however, that they do not endorse any particular point of view in such situations. This point can be made through institutional policies and communications.

C. Creating a Welcoming and Inclusive Environment

1. Foster inclusiveness with campus celebrations of a variety of cultures, contributions, etc.

Institutions can raise awareness of various religious (and other groups) by ensuring that visible campus events are held to celebrate or commemorate the contributions, culture, or history of various groups.

2. Find ways to encourage interfaith dialogues, projects, and events.

As learning environments, institutions of higher education should find ways to create safe opportunities for community members to learn about different faith traditions and to work together across religious lines to sponsor discussions and events.

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