

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

YOUNG AMERICANS FOR FREEDOM
AT UNIVERSITY OF FLORIDA;
SARAH LONG; and DANIEL
WELDON,

Plaintiffs,

v.

THE UNIVERSITY OF FLORIDA
BOARD OF TRUSTEES; THE
TRUSTEES OF THE UNIVERSITY OF
FLORIDA—Morteza Hosseini,
Thomas G. Kuntz, David L.
Brandon, Ian M. Green, James W.
Heavener, Leonard H. Johnson,
Daniel T. O’Keefe, Rahul Patel,
Marsha D. Powers, Jason J.
Rosenberg, Robert G. Stern,
Katherine Vogel Anderson, and
Anita G. Zucker—each in his or
her official and individual
capacities; W. KENT FUCHS,
President of University of Florida,
in his official and individual
capacities; DAVID PARROTT, Vice
President of Student Affairs of
University of Florida, in his official
and individual capacities;

Defendants.

Case No.

JURY TRIAL DEMANDED

**VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF,
MONETARY DAMAGES, AND ATTORNEYS’ FEES AND COSTS**

Plaintiffs Young Americans for Freedom at University of Florida (“YAF”), Sarah Long, and Daniel Weldon, by and through counsel, and for their Verified Complaint against the Defendants, hereby state as follows:

INTRODUCTION

1. The cornerstone of higher education is the ability of students to

participate in the “marketplace of ideas” on campus. The First Amendment dictates that the university can collect a mandatory student activity fee only if it proactively ensures that those funds are allocated in a viewpoint-neutral manner, bridling the discretion of those who allocate the funds.

2. In violation of these principles, the University of Florida (“University”) unconstitutionally compels all students, including Plaintiffs, to subsidize speech that they disagree with through the University’s assessment of a mandatory Activity and Service Fee (the “Student Activity Fee”).

3. The University policy grants University of Florida Student Government (“Student Government”) unbridled discretion in allocating Student Activity Fees for student advocacy.

4. There are two categories of student organizations at the University, budgeted and non-budgeted. Budgeted student organizations receive annual operating budgets. Non-budgeted student organizations receive no guaranteed annual funds, but may apply for funds through a Special Request.

5. Student Government allocates more than \$1 million to budgeted student organizations.

6. YAF attempted to become a budgeted student organization, but Student Government discriminated against Plaintiffs by denying their eligibility to apply for a budget through a system of unbridled discretion,

while granting other student organizations substantial budgets.

7. Student Activity Fees paid by Ms. Long and Mr. Weldon have been and will be allocated to student organizations for causes to which each objects.

8. Defendants fund guest speakers of budgeted student organizations but not of non-budgeted student organizations.

9. These guest speakers often reflect the inviting student organization's own views on a variety of topics.

10. Speaker fees for these guest speakers range from a few thousand dollars to \$125,000.00.

11. The views expressed by these guest speakers often conflict with those of Ms. Long, Mr. Weldon, and YAF.

12. The above budgets and expenditures are funded by Student Activity Fees.

13. Thus, all students are required to subsidize budgeted student organizations and to pay for the budgeted student organization's direct expression and numerous speakers to speak on campus.

14. Despite being denied a budget, YAF still sought to express its message as much as it could through specific event funding called Special Requests.

15. In the past, YAF applied for and received funding through a Special Request to host a nationally recognized author and speaker, Dinesh D'Souza.

16. The University added a policy shortly after, and apparently in response to, the D'Souza event.

17. The new policy prohibits funding guest speakers of all student organizations except for budgeted student organizations.

18. This semester, YAF applied for a Special Request to fund two events featuring Andrew Klavan and Dana Loesch as guest speakers.

19. Student Government denied YAF's request for \$6,225.00 this semester.

20. Student Government cited the recently added policy that prohibits non-budgeted student organizations from paying honoraria.

21. Under this new policy budgeted student organizations can advocate for their own viewpoints both directly and by bringing in guest speakers, but non-budgeted student organizations cannot obtain funding to similarly express themselves.

22. By forcing Plaintiffs to fund the speech of others, and by allocating Student Activity Fees without objective criteria that ensure against viewpoint discrimination, Defendants have violated and will continue to violate Plaintiffs' rights.

23. This action is based on the denial of Plaintiffs' fundamental rights to free speech and equal protection of the laws under the United States Constitution. The policies and actions detailed below are challenged on their face and as applied to Plaintiffs. Defendants' policies and actions have deprived and will continue to deprive Plaintiffs of their paramount

rights and guarantees under the United States Constitution. Each and every act of Defendants alleged herein was committed by Defendants, and each and every act was committed under the color of state law and authority.

JURISDICTION & VENUE

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

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

26. This Court has authority to award the requested damages pursuant to 28 U.S.C. § 1343; the requested declaratory relief pursuant to 28 U.S.C. §§ 2201–02; the requested injunctive relief pursuant to 28 U.S.C. § 1343 and FED. R. CIV. P. 65; and costs and attorneys' fees under 42 U.S.C. § 1988.

27. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because all of the Defendants reside in this district and/or all of the acts described in this Complaint occurred in this district.

PLAINTIFFS

28. Plaintiff Sarah Long is the President of YAF and a full-time student at the University.

29. Plaintiff Daniel Weldon is a member of YAF and a full-time student at the University.

30. Ms. Long and Mr. Weldon pay the Student Activity Fees at the University and have paid these fees every semester in which each of them has been enrolled.

31. The Student Activity Fees at the University are \$19.06 per credit per semester. Ms. Long has paid \$1,658.22 in Student Activity Fees over the course of her time at the University. Mr. Weldon has paid \$1,829.76 in Student Activity Fees over the course of his time at the University.

32. Ms. Long and Mr. Weldon are entitled to the viewpoint-neutral distribution of the Student Activity Fees they have paid and will be required to pay, or to the repayment of fees they have paid and to be exempt from paying such fees in the future.

33. Plaintiff YAF is an unincorporated expressive student organization comprised of University students.

34. YAF is a registered student organization at the University.

35. YAF is a student-led, non-partisan, expressive student organization.

36. Every student member of YAF pays Student Activity Fees at the University.

37. YAF currently has 50 official members and more than 400 students who associate with YAF and are registered for its mailing list.

38. YAF, and each of its members, is entitled to viewpoint-neutral access to and allocation of Student Activity Fees collected by the University, or to the repayment of the fees they have paid and to be

exempt from paying such fees in the future.

39. Part of YAF's mission as an expressive student organization at the University is to protect its members' constitutional rights on campus.

40. YAF brings this suit on behalf of itself as a registered student organization at the University and on behalf of its individual student members, all of whom are compelled to pay Student Activity Fees for the expression of viewpoints they oppose and are denied viewpoint-neutral access to Student Activity Fees through a system that permits viewpoint discrimination against them because of their speech activities and advantages others' opposing views over their own.

DEFENDANTS

41. Defendant Board of Trustees of the University of Florida (the "Board of Trustees") is a public body corporate established pursuant to the laws of Florida.

42. The Board of Trustees is responsible for, among other things, the adoption and authorization of policies that govern students at the University, including the Student Activity Fee Policy and component parts thereof, such as the "Financial Chapter 800 Codes," and related procedures challenged herein (hereinafter all of Defendants' policies and regulations governing student activity fees will be collectively referred to as the "Student Activity Fee Policy"), and their application to Plaintiffs.

43. The Board of Trustees is responsible for enactment, amendment, and repeal of University policies that govern the collection and allocation

of Student Activity Fees, including the Student Activity Fee Policy.

44. The Board of Trustees has acquiesced in, sanctioned, and supported the actions of all Defendants complained of herein, including the enforcement of the Student Activity Fee Policy, and related procedures regarding allocation of Student Activity Fees, to registered student organizations, such as Plaintiff.

45. The Board of Trustees participates in the assessment and allocation of Student Activity Fees by granting the University the authority to assess and allocate the amount of Student Activity Fees that the University will collect each year, including for distribution to student organizations, such as Plaintiff.

46. Defendants Morteza Hosseini, Thomas G. Kuntz, David L. Brandon, Ian M. Green, James W. Heavener, Leonard H. Johnson, Daniel T. O’Keefe, Rahul Patel, Marsha D. Powers, Jason J. Rosenberg, Robert G. Stern, Katherine Vogel Anderson, and Anita G. Zucker are, and were at all times relevant to this Complaint, members of the Board of Trustees of the University of Florida (hereinafter, “Trustee Defendants”) are the Final Policymaking Authority for the University, and are responsible for the adoption and authorization of all policies of the Board, including policies governing Student Activity Fees challenged herein.

47. The Trustee Defendants have not modified the policies challenged herein to comply with constitutional mandates.

48. The Trustee Defendants have oversight authority over all other defendants named in this complaint and each of the Trustee Defendants acquiesces in, sanctions, and supports the actions of the other Defendants in enforcing the policies and procedures governing Student Activity Fees, including the policies challenged herein, and their enforcement against Plaintiffs.

49. None of the Trustee Defendants have instructed University personnel, including the other Defendants, to change or alter the policies and practices challenged herein to comply with constitutional mandates or to change the way those policies are applied.

50. Defendant W. Kent Fuchs is, and was at all times relevant to this Complaint, the President of the University, a public university organized and existing under the laws of the State of Florida.

51. Defendant Fuchs is responsible for the oversight, allocation, and adjustment of Student Activity Fees imposed pursuant to the Student Activity Fee Policy and related procedures challenged herein and their application to YAF in denying its application for funding.

52. As President, Defendant Fuchs is responsible for reviewing and approving the annual budget prepared by Student Government which sets forth the allocation of the Student Activity Fees assessed on the University's students, including Ms. Long, Mr. Weldon, and the other student members of YAF.

53. Defendant Fuchs has enforced the Student Activity Fee Policy in

a viewpoint-discriminatory manner by establishing the policy which authorizes the University to require its students, including Ms. Long, Mr. Weldon, and the members of YAF, to pay Student Activity Fees and grants unbridled discretion to Student Government to discriminate in the allocation of Student Activity Fees by favoring the viewpoints of certain student organizations, and disfavoring the views of YAF.

54. Defendant David Parrott is, and was at all times relevant to this Complaint, Vice President of Student Affairs of the University, a public university organized and existing under the laws of the State of Florida.

55. Defendant Parrott is responsible for administration and oversight of policies for the University, including the Student Activity Fee Policy and related procedures challenged herein which require all students, including Ms. Long, Mr. Weldon, and all other members of YAF, to pay Student Activity Fees as a condition of enrollment.

56. Defendant Parrott is responsible for the enforcement of University policies, including the Student Activity Fee Policy and related procedures challenged herein that were applied to YAF in denying its application for funding and required the members of YAF, including Ms. Long and Mr. Weldon, to pay Student Activity Fees pursuant to a policy that grants unbridled discretion to discriminate in the allocation of funds based on the viewpoint of student speech.

57. Defendant Parrott has enforced the Student Activity Fee Policy in a viewpoint discriminatory manner because he has failed to stop

University officials, including the other defendants, from allocating Student Activity Fee funding in a viewpoint-discriminatory manner, including denying funding to YAF.

58. Defendant Parrott possesses the authority to change and enforce the Student Activity Fee Policy and procedures challenged herein.

59. Defendant Parrott possesses authority to approve or deny all funding requests.

60. Each and every Defendant is sued in his or her official and individual capacities.

FACTUAL BACKGROUND

I. Defendants maintain an unconstitutional Student Activity Fee Funding System.

A. Defendants collect Student Activity Fees pursuant to Florida law.

61. The University is a public university organized and existing under the laws of the State of Florida, and it receives funding from the State of Florida in order to operate.

62. The Board of Trustees governs the University through regulations and policies.

63. The Board of Trustees derives its authority from the Florida Education Code. FLA. Educ. Code § 1009.24, *et seq.*

64. The Board of Trustees established activity fees which “shall be expended for lawful purposes to benefit the student body in general. This shall include, but shall not be limited to . . . grants to duly recognized student organizations. . . .” FLA. EDUC. CODE § 1009.24(10)(b).

65. Pursuant to the Florida Education Code, the University has adopted the Student Activity Fee Policy.

66. A portion of the Student Activity Fee Policy by which the University governs the collection, allocation, distribution, and expenditure of Student Activity Fees is located in a series of University regulations titled the “Financial Chapter,” which may be found in Chapter 800 of the University Governing Documents and practices implementing those policies. A true, accurate, and complete copy of the Financial Chapter, which maybe be found in Chapter 800 of the University Governing Documents (“800 Codes”), is attached as Exhibit 1.

67. As detailed in subsequent paragraphs, Plaintiffs challenge, facially and as-applied, the provisions of Defendants’ Student Activity Fee Policy that:

- Grant Student Government unbridled discretion to allocate Student Activity Fees by not using objective criteria while providing no guidance as to how criteria are to be weighed. *See infra* ¶¶ 69 -129; and Ex. 1 §§ 801, 810.2(1)–(12), 821–22, 824, and 831.21.
- Fails to provide for an appeals process if a student organization’s request for funding is denied. *See infra* ¶¶ 89, 93, 156; Ex. 1 § 831.3.
- Require Student Government to evaluate the content and viewpoint of a student organization’s expression to determine

its level of student activity fee funding. *See infra* ¶¶ 77-79, 83-84; Ex. 1 §§ 810.2(6), and 810.2(12).

- Deny all student organizations, except for budgeted student organizations, the ability to pay for speaker fees for guest speakers with Student Activity Fees. *See infra* ¶ 77-79; Ex. 1 § 810.2(12).
- Require all students, including Ms. Long, Mr. Weldon, and the other members of YAF to pay Student Activity Fees pursuant to a policy which is not viewpoint-neutral, and which they cannot access for at least a year. *See infra* ¶¶ 32-33, 65, 83; Ex. 1 § 810.2(6).
- Employ vague and undefined terms which require students and administrators to guess as to the precise meaning. *See infra* ¶ 125-129; Ex. 1 §§ 801.8, and 831.21.

B. Defendants collect and allocate fees through the Student Activity Fee Policy.

68. Under the Student Activity Fee Policy, “[t]he allocation and expenditure of the fund shall be determined by the Student Government.” Ex. 1 § 800.022.

69. Within Student Government, Student Senate and two Student Senate committees are granted discretion over Student Activity Fee funding and allocation.

70. Student Government allocated \$1,031,930.00 to student

organizations in the last budget cycle. A true, accurate, and complete copy of the last student organization budget passed by the student government is attached as Exhibit 2.

71. Budgeted student organizations receiving student activity fees include but are not limited to: (i) the Dancin Gators, which received an annual budget of \$9,760.00 in the last budget cycle, (ii) the Florida Players, which received an annual budget of \$50,464.00 in the last budget cycle, (iii) the Gator Gaming, which received an annual budget of \$6,694.00 in the last budget cycle, (iv) the Gator Humans vs. Zombies, which received an annual budget of \$2,700 in the last budget cycle, and (v) the Mayors Council, which received an annual budget of \$15,680 in the last budget cycle. Ex. 2 at 1-2.

72. Student Government favored the viewpoints of forty-nine student organizations by granting annual budgets to those forty-nine student organizations. *See* Ex. 2 at 1-2.

73. Budgeted student organizations are permitted to use their budgeted funds for expressive purposes, including direct expression and inviting guest speakers.

74. One of those budgeted student organizations co-sponsored Chelsea Handler with a speaking fee of \$125,000.00.

75. All registered student organizations, whether called a group, union, or council are classified as similar organizations by the university, undergo the same recognition process, and are governed by the same

rules.

76. Student Government granted no budget to any of the other 871 student organizations.

77. All 871 non-budgeted student organizations are prevented from paying any speakers fees or honorariums to guest speakers.

78. YAF has currently been denied all funding and thus is prevented from engaging in various forms of expression.

C. Defendants' Student Activity Fee Policy creates two funding forums open to students and student organizations: Budgets and Special Requests.

1. Defendants impose multiple pre-requisites for funding.

79. The first step to receiving funding is student organization recognition. "The organization must be officially registered with the Department of Student Activities and Involvement" and "must re-register each year." Ex. 1 §§ 810.2(1)–(2).

80. In order to be recognized, a student organization's application for recognition must be "passed favorably by a majority of the Student Senate Judiciary Committee." Ex. 1 § 808.15.

81. No criteria have been published governing the recognition of student organizations in the policies referenced herein.

82. "A new organization may not apply for funding until they have been registered with the Department of Student Activities and Involvement and in existence for at least one (1) academic year [Consecutive Fall and Spring semester]." Ex. 1 § 810.2(6).

83. The requirement that a Student Organization wait one year for any funding and an additional year for a budget places new viewpoints at a significant disadvantage by denying them equal access to funding for at least two years.

2. Special Requests are the first funding forum.

84. Special Requests are *ad hoc* funding tied to a specific expenditure, such as an event.

a. The Special Request process gives unbridled discretion to the Student Senate and Allocations Committee.

85. To be granted a Special Request requires the approval of two different entities within Student Government.

86. First, the Allocations Committee evaluates and provides a recommendation for all proposed Special Requests. Ex. 1 § 831.3

87. A negative recommendation from the Allocations Committee functions as a final denial. Ex. 1 § 831.3.

88. There is not a written means of appealing an Allocations Committee decision.

89. Second, if the Allocations Committee votes for a positive or neutral recommendation, the Special Request is then forwarded to the Student Senate. Ex. 1 § 831.3.

90. Special Requests approved by the Allocations Committee “should be presented to the Student Senate as a Bill of Law.” Ex. 1 § 810.1.

91. Only if the Student Senate votes in favor of the bill containing the

Special Request does the student organization receive its Special Request.

92. If the Student Senate denies the Special Request, the denial is final because there is no published appeal process.

93. There are not objective criteria or standards to guide the Student Government when granting or denying a Special Request.

b. Special Requests serve as a gateway barrier to budget funding.

94. A new student organization must be funded through Special Requests for “a minimum of one (1) academic year [a Fall and a Spring semester in any order, but must be consecutive]” before it becomes eligible for Budgeted Funding. Ex. 1 § 810.2(9)

95. If a student organization is denied Special Requests for a semester, the student organization will fail to meet the two consecutive semester requirement and thus would be forced out of the “cycle.” Ex. 1 §§ 810.2(10) and 810.2(11).

96. Being forced out of the cycle is significant because “[i]f a group drops off of the budget cycle for whatever reason, they will be treated as a new organization” and will be booted back to the beginning of the process, requiring the student organization to go without any funding for another “academic year” and to spend an additional academic year of ad hoc funding through Special Requests “from the Allocations Committee.” Ex. 1, at §810.2(10).

97. There are no exceptions to the policy which requires student organizations who fall out the cycle to start the process over and again wait for one year before being able to apply for funding and spend another year receiving only Special Requests, before becoming eligible to become a budgeted student organization. Ex. 1 § 810.2(10).

98. Thus, through the discretion of being able to deny Special Requests, Student Government can set any student organization back two years in the process and do so by denying funding based on viewpoint.

99. In addition to being granted a Special Request for two consecutive semesters, a Student Organization must spend at least 50% of its Special Requests “in order to be considered eligible for the budget cycle.” Ex. 1 § 810.2(11).

100. The consequence of not spending at least fifty percent (50%) of funds that are allocated through a Special Request is that the student organization does not satisfy this budget pre-requisite and “must remain under the Allocations Committee for another full academic year.” Ex. 1 § 810.2(11).

101. The Allocations Committee maintains the discretion to waive the above requirement for student organizations. “Upon a majority vote by the Student Senate Allocations Committee, this clause may be suspended.” Ex. 1 § 810.2(11).

102. This waiver does not list any criteria governing when the Allocations Committee should grant a waiver and allows viewpoint

discrimination in its application.

3. Budgets are the second funding forum.

103. Once a student organization becomes budget eligible, Student Government decides which student organizations will receive a budget and the amount of any budget through a four step process.

104. Budgeted student organizations receive an annual operating budget from Student Government out of the Student Activities Fees. The budgeting hearing process is governed by the portions of the Student Activity Fee Policy found in “Chapters 821, 822, and 824 in the 800 codes of the Student Body Statute.” Ex. 1 § 822.111(1)(a).

a. First, Student Government sets a student organization’s budget request.

105. A student organization seeking a budget must receive a budget goal from the Budget and Appropriations Committee. A student organization does not set its own budget request, but rather “will have an annual budget goal as determined by the Student Senate Budget and Appropriations Committee.” Ex. 1 § 822.14.

106. The University publishes no criteria, standards, or factors that must be evaluated or applied by the Budget and Appropriations Committee in setting the budget goals of any student organization.

107. The assigned budget goal will be the proposed budget for the student organization even if the student organization asks for additional money.

108. Any request above the level recommended by the Budget and

Appropriations Committee is not considered part of the same budget request. Rather, “[t]he submitting organization must submit any amount exceeding the prescribed budget in the form of a supplemental budget to help prioritize funding. The excess budget request must include a detailed explanation for the additional funding request.” Ex. 1 § 822.15.

b. Second, Student Government subjects the request, that itself previously set, to a hearing process where Student Government evaluates the request.

109. The Budget and Appropriations Committee holds an annual budget review hearing that takes place in the spring semester. Ex. 1 §§ 822.11 and 822.111(1).

110. A representative of the student organization is required to “present their budget for the next fiscal year to the Budget & Appropriations Committee.” Ex. 1 § 822.111(3). After the presentation, there are four rounds of “Pro/Con debate.” Ex. 1 § 822.111(5).

111. After the debate, “the Budget and Appropriations Committee shall hold up to five (5) minutes of discussion with the Treasurer or designated fiscal representative.” Ex. 1 § 822.111(4).

112. Subsequently, the proposed budget is moved and voted on by the Budget and Appropriations Committee. Ex. 1 § 822.111(6)–(7).

113. If a budget is denied by the Budget and Appropriations Committee, the student organization’s budget will not be approved for the year in question.

114. All student organization budgets approved by the Budget and

Appropriations Committee are compiled into a single proposed “Student Government Funded Organizational Budget,” which is submitted to the Student Senate. Ex. 1 § 822.13 and §822.3.

c. Third, the Student Senate twice votes on the budget requests that are approved in the hearing process.

115. In order for a student organization to receive a budget, the Student Senate must twice vote in two separate sessions to approve the student organization’s budget as part of the “Student Government Funded Organizational Budget.” Ex. 1 § 822.32.

116. “Organizations wanting changes to the bill must work with a Senator and submit said changes in the form of a written amendment.” Ex. 1 § 822.311.

117. Thus, if a student organization is unsuccessful before the Budget and Appropriations Committee and cannot gain the support of a student senator, they are unable to have their ideas considered by the Student Senate.

118. There are no limitations on Student Government denying a budget or requirements of viewpoint neutrality regarding the amount allocated to a budget. “The Budget Act shall reflect all organizations requesting money even in the event that none is granted.” Ex. 1 § 821.8.

119. The Student Senate do not have binding parameters governing the amount of student organization budgets and whether to approve any budget at all.

D. Defendants discriminate based on viewpoint in providing student organizations access to the two funding forums.

120. Student Government, in both the Special Request process and the Budget Process, does not rely on objective, discernable criteria. *See* Ex. 1 §§ 801, 810.2(1)–(12), 821–22, 824.

121. Any criteria provided by the University are non-exhaustive because Student Government is permitted to evaluate other criteria it deems appropriate.

122. Even when student organizations meet all of the published criteria, there is no requirement that they be granted any funds.

123. “Prioritization of funding for any student organization event shall be decided by overall benefit to the Student Body, which shall be determined by the following factors:” Ex. 1 § 801.8.

- Cost Ratio Per Person: Cost divided by anticipated attendance for an event. Ex. 1 § 801.8(1).
- Alternative Sources of Funding: A&S Fees should be considered as the last resort if other funding sources are applicable. Ex. 1 § 801.8(2).
- Risk Management: Liability is low enough to lead to a favorable outcome. Ex. 1 § 801.8(3).
- Fiscal Responsibility: Appropriateness of the expenditure. Ex. 1 § 801.8(4).

124. The following concepts, from the prioritization criteria, are undefined, vague, and inherently require Student Government to apply

discretion: “benefit of the student body generally,” “[a]lternative sources of funding,” “last resort,” “[l]iability is low enough to lead to a favorable outcome,” and “appropriateness of the expenditure.”

125. In other sections of the policy, there are further vague and ambiguous requirements, such as an undefined funding exhaustion requirements, that a student organization must satisfy in the discretion of Student Government. “All requesting groups must exhaust all other external potential funding sources before seeking student body funds. The committee hearing the request must approve by two-thirds (2/3) of the members present and voting that this requirement has been met before said committee can approve the request.” Ex. 1 § 831.21.

126. The terms “other external potential funding sources” and “exhaust” are undefined. Ex. 1 § 831.21.

127. The Special Request system subjects student organizations to the voting whims of their fellow students, without an objective and exhaustive list of criteria, factors, or guidelines governing the exercise of those votes.

128. Even when a student organization meets all published criteria, there is no requirement that it be granted a budget.

E. Defendants’ Student Activity Fee Policy grants University officials additional levels of discretion.

129. A student organization seeking funding of either type must obtain prior approval from the Student Body Treasurer. The Student

Body Treasurer possesses unilateral discretion to approve or deny all expenditures. Ex. 1 § 801.4.

130. No criteria, standards, or factors govern the Student Body Treasurer's prior approval.

131. Once the Student Senate passes the Budget Act, the Student Body President and the Student Body Treasurer have the authority to exercise a line item veto over the bill. Ex. 1 at §822.4.

132. There are no published criteria governing the Student Body President and the Student Body Treasurer in their choices to exercise the line item veto.

133. Other examples of discretion include the ability to waive requirements otherwise applicable to student organizations. Student Body Treasurer possesses the "reasonable discretion" to approve spending in violation of the "800 Codes." *See* Ex. 1 §§ 801.5 and 806.3.

134. There are no criteria governing the Treasurer's "reasonable discretion."

135. Both §801.5 and §806.3 explicitly call for the exercise of discretion by the Treasurer. *See Infra* ¶¶ 125–26.

II. YAF is a student group at the University with rights to access Student Activity Fees.

136. YAF is a nonprofit, student-led, expressive, registered student organization at the University.

137. YAF has fifty official members with more than four hundred

students who associate with YAF and are registered for their mailing list.

138. YAF is “committed to ensuring that increasing numbers of young Americans understand and are inspired by the ideas of individual freedom, a strong national defense, free enterprise and traditional values.”

139. YAF exists to promote, among other things, “the individual’s use of his God-given free will, whence derives his right to be free of arbitrary force,” and greater understanding of the Constitution and how it “restrain[s] [government] from the concentration and abuse of power.”

140. YAF trains and equips students regarding conservative values by connecting with students, providing them resources, connecting them with conservative speakers, and hosting conferences, all with a mind to empowering students to express their conservative viewpoint.

141. YAF expresses its message on the University’s campus through a variety of peaceful means, including flyers, signs, peaceful demonstrations, hosting tables with information, film viewings, literature distribution, dialoging with fellow students, and hosting speakers.

142. When engaging in their respective expressive activities, Plaintiffs discuss or desire to discuss ideological, religious, social, cultural, and moral issues and ideas.

143. YAF intends to engage in expressive activities during the

remainder of the 2018 and the 2019 academic years and subsequent years thereafter. YAF wants to apply for a budget from Student Activity Fees to offset the cost of providing these educational opportunities for the University campus.

144. YAF has been and will be denied funding for its events because the Student Activity Fee Policy grants Student Government unbridled discretion to allocate funds based upon the viewpoint of the speech. Student Government has utilized such discretion to favor the speech of certain student organizations, many of which hold views opposed to those of YAF, and to disfavor all other student speech reflecting competing viewpoints, including the speech of YAF.

III. Defendants denied YAF access to Student Activity Fees pursuant to the Student Activity Fee Policy.

145. YAF attempted to become a budgeted student organization but Student Government denied it under the Student Activity Fee Policy.

146. Because Student Government denied YAF's eligibility for a budget, YAF could only receive funding through Special Requests.

147. As required by the Student Activity Fee Policy, YAF submitted an application for a Special Request to host two events that would be open to all students, one featuring Andrew Klavan and the other featuring Dana Loesch. A true, accurate, and complete copy of the application is attached as Exhibit 3.

148. The total cost of both events was approximately \$18,225 which

included the honorariums and advertising for the events.

149. YAF applied for a Special Request in the amount of \$6,225.00.

150. YAF had partners willing to contribute \$12,000.00 to assist in funding the events.

151. In response to the application, Plaintiffs received a text message stating that the application was denied. A true, accurate, and complete copy of the message which denied the request is attached as Exhibit 4.

152. The explanation given was that a new policy had been adopted (§810.2(12)) and now only budgeted student organizations are eligible to receive money for honorariums. *See Ex. 4.*

153. As a result of Student Government's denial of the Special Request, YAF was forced to cancel the event with Dana Loesch because it had insufficient funds to cover the cost of the event and insufficient time to raise the funds.

154. YAF was able to reschedule the event with Andrew Klavan by paying out of pocket for the event, with the financial support of Young America's Foundation.

155. Pursuant to the Student Activity Fee Policy, YAF could not appeal the denial of funding by Student Government, as there is no formal appeals process.

156. YAF opposes the viewpoints of numerous budgeted student organizations.

157. Pursuant to the Student Activity Fee Policy, Defendants have

denied and will continue to deny YAF's request for a Special Request to bring speakers, because Student Government will not pay for speaker fees, except for budgeted student organizations.

158. Pursuant to the Student Activity Fee Policy, Defendants possess unbridled discretion in allocating Student Activity Fees and in evaluating YAF's future applications for Special Requests, and Defendants possess the authority to deny the applications based upon the viewpoint of YAF's expression.

159. YAF desires to apply for a budget through the Budget Allocation process, but has been denied eligibility for a budget by the Student Activity Fee Policies.

160. Pursuant to the University Policies, Defendants exercise unbridled discretion when they set the amount of any proposed budget, approve, deny, or modify any proposed budget, and deny the eligibility of student organizations to apply for a budget.

IV. Defendants changed the Student Activity Fee Policy to make it more difficult for YAF to receive funding.

161. The policy cited by Student Government for its denial of the YAF Special Request was the 800 Codes §810.2(12).

162. "Student organizations will not receive funding for honorariums or speakers through the Allocations committee. Student organizations may receive funding for honorariums or speakers once they have been placed on the regular budget cycle." Ex. 1 § 810.2(12).

163. This policy was adopted in the past year, after YAF's event featuring D'Souza.

164. Several Student Government members specifically requested YAF not to invite D'Souza to campus.

165. According to the Student Government archives, YAF is the only student organization to apply for a Special Request for the purpose of paying an honorarium in the past two years.

166. On information and belief, §810.2(12) was adopted in direct response to the YAF event featuring D'Souza.

167. On information and belief, §810.2(12) was intended to make it more difficult for YAF and their invited speakers to express their viewpoints on campus.

ALLEGATIONS OF LAW

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

169. The Defendants act under color of state law when carrying out their duties and functions pursuant to the Student Activity Fee Policy and when they delegate authority to Student Government pursuant to the Student Activity Fee Policy, with respect to allocating Student Activity Fees.

170. Defendants are not engaging in government speech or their own

speech in allocating Student Activity Fees.

171. Defendants knew or should have known that by forcing Mr. Weldon, Ms. Long, and the other members of YAF to pay into a viewpoint discriminatory Student Activity Fee system, and by denying YAF's application for a Special Request due to the viewpoint of its guest speaker's expression, Defendants violated Plaintiffs' constitutional rights.

172. Defendants knew or should have known that by changing the policy to intentionally make it more difficult for Plaintiffs and Plaintiffs' guest speakers to express their viewpoint, Defendants violated Plaintiffs' constitutional rights.

173. The Student Activity Fee Policy, which Defendants applied to violate Plaintiffs' constitutional rights, remains in full force and effect.

174. Plaintiffs are suffering irreparable harm from the Student Activity Fee Policy and conduct of Defendants, which cannot be fully compensated by an award of money damages.

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

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

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

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

179. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to appropriate relief invalidating Defendants' Student Activity Fee Policy, along with the related practices and procedures.

FIRST CAUSE OF ACTION
Violation of Plaintiffs' First Amendment Right to Freedom of
Speech
Compelled Speech and Viewpoint Discrimination

180. Plaintiffs repeat and re-allege each of the allegations contained in paragraphs 1–172 of this Complaint.

181. The First Amendment's Freedom of Speech Clause prohibits the government from compelling citizens to express or support a message not of their own choosing.

182. The First Amendment's Freedom of Speech Clause prohibits public universities from collecting a Student Activity Fee that is used to fund student organization speech, if that Student Activity Fee is not allocated in a viewpoint-neutral manner because such a fee constitutes compelled speech.

183. The First Amendment's Freedom of Speech Clause prohibits viewpoint discrimination in a public forum created for student speech.

184. The First Amendment's Freedom of Speech clause prohibits the administration of Student Activity Fees and all other forums for expression through a system that grants unbridled discretion to decision-

makers.

185. When a public university collects Student Activity Fees and allows registered student organizations to apply for Student Activity Fee funding, or otherwise makes funds available to student organizations to foster a diversity of viewpoints, it creates a public forum for student speech and expression.

186. The government is not speaking when it allows registered student organizations, promoting a multiplicity of views, to apply for funding, whether through Student Activity Fees or otherwise. Instead, it creates a public forum for student speech and expression.

187. The funds that a public university collects, through a Student Activity Fee, and uses to fund student organizations do not constitute government funds.

188. The government's ability to restrict speech in a public forum is limited.

189. A public university may not apply viewpoint-based standards in allocating student organization funding, including through Student Activity Fees.

190. The Defendants have created a public forum for student speech through its Student Activity Fee Policy.

191. Through the Student Activity Fee Policy, the Defendants compel Plaintiffs Ms. Long, Mr. Weldon, the other members of Plaintiff YAF, and all University students to pay a Student Activity Fee, that is used in part

to fund student organization speech on campus, pursuant to a policy which is not viewpoint-neutral and which supports speech and viewpoints with which Plaintiffs disagree and which they find offensive and objectionable.

192. Defendants' policies governing the allocation of Student Activity Fees, including the Student Activity Fee Policy, confer unbridled discretion on Defendants, or other government officials charged with allocating those funds, to suppress and/or discriminate against disfavored speech based on viewpoint.

193. Defendants' system discriminates against certain viewpoints, especially new viewpoints.

194. The lack of objective criteria, factors, or standards for determining who may access a student organization funding forum gives government officials unbridled discretion to exclude or prohibit speech based on its viewpoint in violation of the First Amendment.

195. The lack of a process for a student organization to set its own budget request and advocate for its own viewpoints in the funding allocation process indicates that the government has unbridled discretion to govern the speech forum.

196. The lack of an appeals process in a student organization funding forum indicates that the government has unbridled discretion to govern the speech forum.

197. Defendants' policies governing the allocation of funds, including

the Student Activity Fee Policy, confer unbridled discretion on Defendants, or other government officials charged with allocating those funds, to suppress and/or discriminate against disfavored speech because of its viewpoint.

198. Defendants' policies governing the allocation of funds, including the Student Activity Fee Policy, grant Defendants unbridled discretion to promote or create student organizations that advocate for Defendants' favored viewpoints.

199. The Defendants have authorized and overseen Student Government as it exercised the unbridled discretion granted by the challenged policies to deny Plaintiff YAF the opportunity to receive Student Activity Fees for speakers. Defendants still force students, including Plaintiffs Ms. Long, Mr. Weldon, and members of Plaintiff YAF, to support speakers reflecting the views of other student organizations through the Student Activity Fee.

200. Pursuant to the Student Activity Fee Policy, Defendants engaged in content- and viewpoint-based discrimination by favoring the expressive activities of the budgeted student organizations, but not providing Plaintiff YAF the same opportunity to access funding.

201. Defendants applied the Student Activity Fee Policy, and procedures, practices, and customs to Plaintiff YAF in a discriminatory manner by (1) permitting Student Government to allocate budgets in excess of \$100,000 to student organizations that Student Government

favors while limiting Plaintiff YAF to Special Requests and then denying Plaintiff YAF Special Requests altogether; (2) granting budgeted student organizations the ability to pay for honorariums and speakers fees while denying that same right to Plaintiff YAF; and (3) changing the regulations by adding §810.2(12) to prevent the use of Student Activity Fees to pay for speakers, intentionally denying funding to YAF to pay for speakers and because it utilizes criteria which penalize certain viewpoints.

202. Defendants' Student Activity Fee Policy constitutes viewpoint discrimination in the allocation of Student Activity Fees because it grants unbridled discretion to University administrators and Student Government.

203. Defendants have no legitimate or compelling interest to support by favoring the speech of the budgeted student organizations and disfavoring the speech of Plaintiff YAF.

204. Accordingly, Defendants' Student Activity Fee Policy and their enforcement of those policies against Plaintiffs, violate Plaintiffs' rights to freedom of speech guaranteed by the First Amendment.

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

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

206. Plaintiffs repeat and re-allege each of the allegations contained in paragraphs 1–198 of this Complaint, as if set forth fully herein.

207. The Fourteenth Amendment to the United States Constitution guarantees Plaintiffs the right to due process of law and prohibits Defendants from implementing vague and overbroad standards that allow for viewpoint discrimination in Defendants' handling of Plaintiffs' speech.

208. The government may not regulate speech through policies that permit arbitrary, discriminatory, or overzealous enforcement.

209. The government also may not regulate speech in ways that do not provide persons of common intelligence fair warning as to what speech is permitted and what speech is prohibited.

210. Defendants' Student Activity Fee Policy contains multiple vague criteria.

211. The following criteria, from the Student Activity Fee Policy, are impermissibly vague and ambiguous: "benefit of the student body generally," "[alternative sources of funding," "last resort," "Liability is low enough to lead to a favorable outcome," "appropriateness of the expenditure" and "exhaust[ing] all other external potential funding sources." The above criteria are incapable of providing meaningful guidance to Defendants and other University officials as to whether the

criteria has been satisfied.

212. Defendants enforced their vague Student Activity Fee Policy when they refused to approve YAF's funding request for the fall of 2018.

213. Under the Student Activity Fee Policy, students must guess whether their funding application will be approved without clear criteria to effectively evaluate funding applications.

214. The lack of clear criteria, factors, or standards in Defendants' Student Activity Fee Policy renders this policy, and associated practices, unconstitutionally vague and in violation of Plaintiffs' right to due process of law under the Fourteenth Amendment.

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

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

216. Plaintiffs repeat and re-allege each of the allegations contained in paragraphs 1–208 of this Complaint.

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

218. The government may not treat someone disparately as compared to similarly situated persons when such disparate treatment burdens a

fundamental right, targets a suspect class, or has no rational basis.

219. Plaintiffs Ms. Long, Mr. Weldon, and the other student members of YAF are similarly situated to all other students at the University because they pay Student Activity Fees as a condition of enrollment at the University.

220. Pursuant to the Student Activity Fee Policy, Defendants treated Plaintiffs Ms. Long, Mr. Weldon, and the other student members of YAF disparately than other students because Defendants have used Plaintiffs' fees to fund the speech of students that agree with the viewpoints advocated for by Student Government, but have denied funding to advocate for Plaintiffs' viewpoints on those same topics.

221. Defendants' Students Activity Fee Policy and related practices violate Plaintiffs Ms. Long, Mr. Weldon, and the other student members of YAF's fundamental rights to freedom of speech.

222. Plaintiff YAF is similarly situated to budgeted student organizations because the student organizations are all student-led organizations that engage in expressive activity on campus to advocate for their own viewpoints.

223. Pursuant to the Student Activity Fee Policy, Defendants granted Student Activity Fee funding to numerous student organizations but denied equal access to funding to Plaintiff YAF.

224. Pursuant to Student Activity Fee Policy, Defendants treated Plaintiff YAF disparately when compared to numerous student

organizations, by denying Plaintiff Student Activity Fee funding.

225. Defendants' Student Activity Fee Policy and related practices violate Plaintiff YAF's fundamental right to freedom of speech.

226. When government regulations, like Defendants' Student Activity Fee funding policy and practices challenged herein, infringe on fundamental rights, discriminatory intent is presumed.

227. Defendants' Student Activity Fee funding policy and practices have also been applied to discriminate intentionally against Plaintiffs' rights to freedom of speech.

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

229. Defendants' Student Activity Fee Policy and their practices are not narrowly tailored as applied to Plaintiffs because Plaintiffs' speech does not implicate any of the compelling or even legitimate interests Defendants might have.

230. Defendants applied the Student Activity Fee Policy and their procedures, practices, and customs to YAF in a discriminatory and unequal manner, allowing the budgeted student organizations to receive preferred treatment, including preferred funding allocations, and authorization to use those funds to pay speakers to advocate for their views, while providing only the opportunity for far less funding for Plaintiff YAF. Additionally, Defendants prohibited YAF from using those funds to bring its own speakers to campus.

231. Because of Defendants' actions pursuant to the Student Activity Fee Policy, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. Plaintiffs are entitled to an award of monetary damages and equitable relief.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this Court enter judgment against Defendants and provide Plaintiffs with the following relief:

- A. A declaratory judgment that Defendants' Student Activity Fee Policy, facially and as-applied, violates Plaintiffs' rights under the First and Fourteenth Amendments;
- B. A declaratory judgment that Defendants' denial of Student Activity Fee funding to Plaintiff YAF violated Plaintiff's rights under the First and Fourteenth Amendments;
- C. A preliminary and permanent injunction prohibiting Defendants, their agents, officials, servants, employees, and any other persons acting on their behalf from enforcing the Student Activity Fee Policy challenged in this complaint;
- D. Actual compensatory damages in the amount for infringing Plaintiff YAF's exercise of its First and Fourteenth Amendment rights;
- E. Actual compensatory damages in the amount of Student Activity Fees paid by each of Plaintiff YAF's student

members, including Plaintiffs Ms. Long and Mr. Weldon, that were collected pursuant to a viewpoint-discriminatory policy that infringed Plaintiffs' First Amendment rights;

F. Nominal damages for the violation of Plaintiffs' First and Fourteenth Amendment rights;

G. Plaintiffs' reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and

H. All other further relief to which Plaintiffs may be entitled.

Respectfully submitted this 20th day of December, 2018.

/s/ David A. Cortman

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DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury for all issues so triable herein.

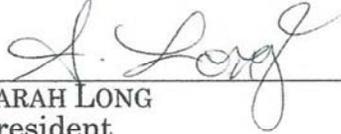
/s/ David A. Cortman

DAVID A. CORTMAN
Attorney for Plaintiffs

VERIFICATION OF COMPLAINT

I, SARAH LONG, President of Young Americans for Freedom at University of Florida, and a citizen of the United States and a resident of the State of Florida, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 18 day of December, 2018, at hantana, Florida.



SARAH LONG
President
Young Americans for Freedom at the
University of Florida

VERIFICATION OF COMPLAINT

I, SARAH LONG, a citizen of the United States and a resident of the State of Florida, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 18 day of December, 2018, at Kantana, Florida.



SARAH LONG

VERIFICATION OF COMPLAINT

I, DANIEL WELDON, a citizen of the United States and a resident of the State of Florida, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 18 day of December, 2018, at Gainesville, Florida.



DANIEL WELDON