

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**STUDENTS FOR LIFE AT EASTERN MICHIGAN UNIVERSITY**, a recognized student organization at Eastern Michigan University,

Plaintiff,

v.

**FRANCINE PARKER, MIKE MORRIS, FLOYD CLACK, BETH FITZSIMMONS, MICHAEL HAWKS, JAMES F. STAPLETON, MARY TREDER LANG,** and **JAMES WEBB**, all individually and all in their official capacities as members of the Board of Regents of Eastern Michigan University; **SUSAN W. MARTIN**, in her official capacity as President of Eastern Michigan University; **GLENNA FRANK MILLER**, individually and in her official capacity as Assistant Vice President of Student Life at Eastern Michigan University; **EASTERN MICHIGAN UNIVERSITY STUDENT GOVERNMENT**, a non-profit student organization; **R. MATTHEW NORFLEET, DESMOND MILLER, DARIUS OSBORNE, LATREACE WILLIAMS, BENJAMIN P. ELMGREN, BRADLEY ARNOLD, JANNELL WHITTED, MATT GILL, ALYSSA JONES, ANDREW WALLA, NINO MONEA, LEO CARTIER, ELIZABETH BURGOON, BRONSON CONRADO, SAMANTHA BAUGHER, JEFFREY HOWLETT, ROCQUELL ARRINGTON, WILLIAM DONALDSON, JABORIUS BALL, BRIANNA VANLEER, DAVID WOLF, ALPER MERCAN, NICOLE XU, TREVIS HARROLD, JOVAN KENNARD, KAITLYN HILL, KRISTEN FLOYD,** and **DEBRA ENNIS**, all individually and all in their official capacities as members of Eastern Michigan University Student Government,

Defendants.

Case No. 2:13-cv-11221

**VERIFIED COMPLAINT**

Plaintiff Students for Life at Eastern Michigan University, by and through counsel, and for its Complaint against the Defendants, hereby states as follows:

### **INTRODUCTION**

1. The cornerstone of higher education is the ability of students to participate in the “marketplace of ideas” on campus. In the context of providing funding to student organizations for their expressive activities, the First Amendment dictates that this marketplace cannot prefer some viewpoints to others. In direct violation of these principles, and relying on overruled case law, Eastern Michigan University (“EMU”) requires each student to pay a mandatory student fee, which is used, in part, to fund student organization speech. EMU prohibits, however, the allocation of these mandatory student fees to student organization activities deemed “political” and “ideological.”

2. In other words, EMU compels all students to fund speech they disagree with, but prohibits some students from accessing the funds to engage in speech they do agree with, and enforces these prohibitions using content- and viewpoint-based standards. EMU officials enforce this discriminatory policy and undertake these discriminatory actions despite EMU’s consistent funding of a wide variety of political, cultural, social, and religious speech by some student organizations. EMU requires student organizations that wish to engage in political or ideological speech to abandon their right to free speech as a condition of access to EMU’s mandatory student fee forum and does not impose this same requirement on non-political and non-ideological student speech.

3. Furthermore, in addition to student organizations not being able to access the mandatory student fees for political and ideological speech, the EMU Student Government acts with unbridled discretion and pursuant to vague policies when allocating the fees, allowing it to favor the speech of popular groups and exclude unpopular ones.

4. When Plaintiff Students for Life at Eastern Michigan University (“Students for Life”) applied for student fee funding to host a pro-life display on campus this spring known as the Genocide Awareness Project, the EMU Student Government denied the request because it

deemed Students for Life's event as too controversial, biased, and one-sided. EMU officials, however, have allocated the same funds to political and ideological speech discussing welfare rights, women's and abortion rights, religion, student activist training, and race-conscious causes, just to name a few.

5. Defendants violated Students for Life's constitutional rights and caused it irreparable injury by treating Students for Life differently than other student organizations simply because of the content and viewpoint of its message; by denying Students for Life student fee funding for its activity; by forcing Students for Life's members to pay a mandatory student fee that funds speech they disagree with without the ability to respond in kind; and by allocating the student fee funds without any criteria or standards.

6. This action is premised on the United States Constitution concerning the denial of Plaintiff's fundamental rights to free speech, equal protection, and due process. The policies and actions detailed below are challenged on their face and as applied to Plaintiff. Defendants' policies and actions have deprived and will continue to deprive Plaintiff of its paramount rights and guarantees under the United States Constitution. Each and every act of Defendants alleged herein was committed by Defendants, each and every one of them, under the color of state law and authority.

### **JURISDICTION AND VENUE**

7. 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.

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

9. 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.

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

**PLAINTIFF**

11. Plaintiff Students for Life at Eastern Michigan University is an unincorporated expressive student organization made up of Eastern Michigan University students, faculty, and staff.

12. Students for Life was founded in 2011 as a student-led expressive student organization at EMU. Students for Life gained recognized student organization status that same year and maintained this status in every academic year since.

13. Every student member of Students for Life pays mandatory student fees at EMU.

14. Students for Life is entitled to viewpoint neutral access to student fees allocated by EMU.

15. Part of Students for Life's mission is to be an expressive student organization at EMU.

16. If Students for Life succeeds in this lawsuit, it will be able to obtain viewpoint neutral access to student fee funding.

17. Students for Life brings this suit on behalf of itself as a registered student organization at EMU and on behalf of its individual student members, all of whom are denied access to EMU's organizational funding mechanism because of the content and viewpoint of their speech activities.

**DEFENDANTS**

18. Defendants Francine Parker, Mike Morris, Floyd Clack, Beth Fitzsimmons, Michael Hawks, James F. Stapleton, Mary Treder Lang, and James Webb are, and were at all times relevant to this Complaint, members of the Board of Regents of Eastern Michigan University (hereinafter collectively, "Regent Defendants"), a public university organized and existing under the laws of Michigan.

19. The Regent Defendants are responsible for, among other things, the adoption and authorization of policies that govern students at EMU, including the policies and procedures challenged herein, and their application to Students for Life by rejecting its student fee funding.

20. The Regent Defendants are responsible for enactment, amendment, and repeal of Board of Regents' policies that govern the collection and allocation of mandatory student fees at EMU.

21. The Regent Defendants acquiesce in, sanction, and support the actions of all Defendants, including Student Government in enforcing the bylaws, policies, and procedures regarding allocation of mandatory student fees to recognized student organizations.

22. The Regent Defendants participate in the allocation of student fees by Student Government by making an initial allocation of funds to Student Government for distribution to student organizations, ensuring the Student Government policies and procedures governing distribution comply with the Regent Defendants' policies, and by correcting illegal Student Government distributions.

23. The Regent Defendants have not instructed the Student Government to change or alter the current student fee funding bylaws, policies, and procedures to comply with constitutional mandates.

24. The Regent Defendants named herein are sued in their official and individual capacities.

25. Defendant Susan Martin is, and was at all times relevant to this Complaint, the President of Eastern Michigan University, a public university organized and existing under the laws of the State of Michigan.

26. Defendant Martin is responsible for enactment and enforcement of EMU policies, including the policies and procedures challenged herein, and their application to Students for Life in denying it student fee funding.

27. As president of EMU, Defendant Martin possesses the authority to change and enforce the student fee funding bylaws, policies, and procedures challenged herein, including those of all EMU officials and the Student Government.

28. Defendant Martin has not instructed the Student Government to change or alter the student fee funding bylaws, policies, and procedures to comply with constitutional mandates.

29. As president of EMU, Defendant Martin has the authority to review, approve, or reject the student fee funding decisions of all EMU officials and the Student Government.

30. Defendant Martin has not overturned the denial of student fee funding to Students for Life made by the Student Government and its officers.

31. As president of EMU, Defendant Martin also instructs Student Government when to raise or lower student fee funding for a particular funding recipient.

32. Defendant Martin has failed to stop EMU officials, including the Student Government, from applying the ban on funding “political or ideological” events of recognized student organizations, including Students for Life.

33. Defendant Martin is sued in her official capacity.

34. Defendant Glenna Frank Miller is, and was at all times relevant to this Complaint, Assistant Vice President of Student Life at Eastern Michigan University, a public university organized and existing under the laws of the State of Michigan, and advisor to Student Government.

35. Defendant Glenna Frank Miller is responsible for administration and policymaking for the university, including the student fee funding policies and procedures challenged herein.

36. Defendant Glenna Frank Miller is responsible for enactment and enforcement of EMU policies, including the policies and procedures challenged herein that were applied to Students for Life in denying its application for student fee funding.

37. Defendant Glenna Frank Miller is responsible for overseeing EMU’s Campus Life office and creating, reviewing, authorizing, and enforcing the policies of Campus Life.

38. Defendant Glenna Frank Miller instructs Campus Life when to approve, deny, raise, or lower student fee funding for a particular funding recipient.

39. Defendant Glenna Frank Miller has failed to stop EMU officials, including the Campus Life, from applying the ban on funding “political or ideological” events of recognized student organizations.

40. Defendant Glenna Frank Miller possesses the authority to change and enforce the student fee funding bylaws, policies, and procedures challenged herein, including those of the Student Government.

41. Defendant Glenna Frank Miller is the official EMU advisor to the EMU Student Government and possesses the authority to instruct the Student Government to change the student fee funding bylaws, policies, and procedures challenged herein.

42. Defendant Glenna Frank Miller has failed to stop EMU officials, including the Student Government, from applying the ban on funding “political or ideological” events of recognized student organizations, including Students for Life.

43. Defendant Glenna Frank Miller instructs Student Government when to approve, deny, raise, or lower student fee funding for a particular funding recipient.

44. Defendant Glenna Frank Miller has not overturned the denial of student fee funding to Students for Life made by the Student Government and its officers.

45. Defendant Glenna Frank Miller is sued both in her individual and official capacities.

46. Defendant EMU Student Government (“Student Government”) is, and was at all times relevant to this Complaint, the official, university-recognized representative of the student body at EMU.

47. The Regent Defendants enforce a policy that allows the EMU student body to establish a Student Government.

48. Student Government is established to further EMU students’ rights while working alongside the university.

49. Student Government is created pursuant to the authority vested in it by the Regent Defendants' policies and is governed by elected student representatives.

50. The Regent Defendants enforce a policy that assigns Student Government the distribution of student activity fees to recognized student organizations pursuant to bylaws and approval of EMU's administration, including Defendants Martin, Glenna Frank Miller, Parker, Morris, Clack, Fitzsimmons, Hawks, Stapleton, Lang, and Webb.

51. Defendants R. Matthew Norfleet, Desmond Miller, Darius Osborne, LaTrace Williams, Benjamin P. Elmgren, Bradley Arnold, Jannell Whitted, Matt Gill, Alyssa Jones, Andrew Walla, Nino Monea, Leo Cartier, Elizabeth Burgoon, Bronson Conrado, Samantha Baugher, Jeffrey Howlett, Rocquell Arrington, William Donaldson, Jaborius Ball, Brianna Vanleer, David Wolf, Alper Mercan, Nicole Xu, Trevis Harrold, Jovan Kennard, Kaitlyn Hill, Kristen Floyd, and Debra Ennis are, and were at all times relevant to this Complaint, members of Student Government (hereinafter collectively, "Student Government Defendants").

52. The Student Government proposed, debated, and adopted legislation and bylaws that govern students at EMU, including the legislation, bylaws, and/or funding denial discussed and challenged herein, and their application to Students for Life in denying student fee funding—all with final authority of the EMU Defendants.

53. The Student Government has the authority to change and enforce the student fee funding bylaws, policies, and procedures challenged herein, as do EMU Defendants.

54. The Student Government is responsible for deciding which student organizations may receive funding and how much each group may receive—as are the EMU Defendants.

55. The Student Government Defendants named herein are sued in both their official and individual capacities.

### **FACTUAL BACKGROUND**

56. EMU is a public university organized and existing under the laws of the State of Michigan, and receives funding from the State of Michigan in order to operate.

57. A Board of Regents, comprised of the Regent Defendants, governs EMU.

58. The Regent Defendants derive their authority from Article 8, § 6 of the Constitution of the State of Michigan and state law.

59. The Regent Defendants publish a Board Policy Manual containing policies and procedures of EMU.

60. Each of the Regent Defendants is responsible for Board of Regents' policies.

61. The Regent Defendants have general supervision of EMU.

62. The Regent Defendants control and direct all expenditures at EMU.

63. The Regent Defendants determine the amount of tuition and student fees payable by enrolled students.

64. The Regent Defendants impose a mandatory student fee on all EMU students.

65. During the 2012–2013 academic year, each EMU student pays \$40.95 per credit hour in student fees. A copy of the EMU website detailing these fees is attached as Exhibit 1 to this Complaint.

66. The General Fee is part of the total student fee.

67. The General Fee is allocated to Student Government by the Regent Defendants for student organization speech, and is \$25.40 per credit hour during the 2012–2013 academic year. *See* Ex. 1.

68. Defendants Martin, Glenna Frank Miller, Student Government, and the Student Government Defendants are responsible for making a yearly budget to use the funds from the General Fee.

69. The Regent Defendants must approve any proposed modifications in tuition and student fees.

70. It is the policy of the Regent Defendants and EMU to mandate that every student pay student fees.

71. It is the policy of the Regent Defendants and EMU to allocate a portion of the collected student fees to Student Government and the Student Government Defendants for distribution to recognized student organizations' events and activities.

72. For example, this year, the Regent Defendants allocated \$250,800 from the General Fee to the Student Government's 2013 Fiscal Year Budget. A copy of Student Government's 2013 Fiscal Year Budget is attached as Exhibit 2 to this Complaint.

73. Student Government budgeted \$60,000 to allocate to student organizations. *See* Ex. 2 at 00006.

74. The budget notes that last year, the "Club Sports allocation was increased \$20,000 one time only per [Defendant] Susan Martin." *See* Ex. 2 at 00006.

75. Defendants Martin and Glenna Frank Miller have the authority to instruct Student Government to change allocations within the yearly budget.

76. The Regent Defendants have ultimate control over the allocation of mandatory student fees to recognized student organizations.

77. The Regent Defendants' Board Policy § 1.8 states: "The constitutional and statutory provisions constitute the Board of Regents as the ultimate managing authority of the University."

#### **Defendants' Unconstitutional Student Fee Policy**

78. Pursuant to the Regent Defendants' Board Policy § 8.5.1, EMU students have the right to establish and maintain a Student Body governed by a constitution that sets forth the structure and procedures of student government. A copy of the Regent Defendants' Board Policy Manual § 8.5.1 is attached as Exhibit 3 to this Complaint.

79. The Regent Defendants have the authority to remove or disband the Student Body government at any time.

80. The EMU Student Body has enacted a constitution for itself. A copy of the EMU Student Body Constitution is attached as Exhibit 4 to this Complaint.

81. The students are not limited in their power to approve or implement changes to their constitution, except to the degree that such changes violate EMU policy established by the Regent Defendants and Defendants Martin and Glenna Frank Miller.

82. Pursuant to the Regent Defendants' Board Policy § 8.5.1, Student Government may create, amend, or repeal its own bylaws through the actions of the Student Government Defendants. A copy of the Student Government Bylaws is attached as Exhibit 5 to this Complaint.

83. Each of the Student Government Defendants named herein is responsible for creation, amendment, and repeal of Student Government bylaws.

84. Pursuant to the Regent Defendants' Board Policy § 8.5.1, Student Government bears the legal responsibility for its actions and for its oversight of the Student Body Constitution and Student Government Bylaws. *See* Ex. 3.

85. Student Government can sue and be sued in its own right.

86. The Regent Defendants and Defendants Martin and Glenna Frank Miller, however, have the legal power and authority to order Student Government to change a constitutional provision or bylaw that conflicts with EMU policy or state or federal law.

87. The Regent Defendants and Defendants Martin and Glenna Frank Miller are aware of and approve the provisions contained in Student Government's constitution and bylaws.

88. The Regent Defendants vest the Student Government with the authority to act under color of state law with respect to the students, student fee allocations, and student functions at EMU.

89. EMU operates a forum of recognized student organizations.

90. The Regent Defendants invite students to form student organizations on campus and apply for official EMU recognition. A copy of the Regent Defendants' Board Policy § 8.4.1 is attached as Exhibit 6 to this Complaint.

91. The Regent Defendants delegate Defendant Glenna Frank Miller responsibility for the implementation, administration, and interpretation of Board Policy § 8.4.1. *See* Ex. 6.

92. Pursuant to the Regent Defendants' policies, Defendants Martin and Glenna Frank Miller are responsible for policy-making for the EMU Campus Life office.

93. To become a recognized student organization, a group must comply with several requirements, outlined in EMU's *Student Organization Handbook*. A copy of the *EMU Student Organization Handbook* is attached as Exhibit 7 to this Complaint.

94. On information and belief, Defendants Martin and Glenna Frank Miller and the Campus Life office wrote the policies contained in EMU's *Student Organization Handbook*.

95. The *Student Organization Handbook* is official policy at EMU.

96. Defendants Martin and Glenna Frank Miller, as the EMU administrators in charge of Campus Life, have the legal power and authority to enact, change, or repeal the *Student Organization Handbook's* policies.

97. Student organizations granted recognized status receive several privileges on campus, with one of those being access to student fee funding.

98. EMU's *Student Organization Handbook* sets forth the benefits of becoming a recognized student organization:

Recognized organizations have the following privileges:

- **May apply for student activity funding through Student Government and Campus Life.**
- May use University meeting rooms, auditoriums and other designated campus meeting space.
- May use authorized event boards and student bulletin boards for publicizing for organization activities.
- Inclusion in publications and directories such as the EMU Student Organization Web Portal and the Guide to Student Involvement.
- May participate in campus recruiting fairs and events.
- May access an on-campus mailbox.
- May apply for office space in the Center for Student Involvement, located in the Student Center.
- May reserve the conference room, and use resource materials in the Center for Student Involvement.
- May establish and maintain an organization fund account with the University Accounting Office.
- May use resources developed for student organizations, including access to student organization web pages, workshops, kiosk, and other directory boards.

- May apply for student organization program funding through Campus Life.

*See Ex. 7 at 00052 (emphasis added).*

99. EMU operates two mechanisms through which student organizations may apply for student fee funding: Student Government and Campus Life.

100. The Regent Defendants and Defendants Martin and Glenna Frank Miller authorize the Student Government to allocate up to \$1,000 per year, per student organization from the Student Government Business and Finance Committee. *See Ex. 5 at ch. 5, § II(4)(D) (Student Government Bylaws); Ex. 7 at 00077 (Student Organization Handbook).*

101. A student organization may request funding in excess of the \$1,000 limit by seeking approval from the full Student Government Senate. *See Ex. 5 at ch. 5, § II(4)(D) (Student Government Bylaws); Ex. 7 at 00077 (Student Organization Handbook).*

102. Typically, the allocation of mandatory student fees to student organizations is conducted by university administrators.

103. The Regent Defendants and Defendants Martin and Glenna Frank Miller have delegated a portion of that process to the Student Government and Student Government Defendants.

104. Campus Life may allocate up to \$1,000 per year, per student organization for student leadership conference fees. *See Ex. 7 at 00077 & 80.*

105. The funds dispensed to recognized student organizations through the Student Government and Campus Life come from EMU's mandatory student fees, which are assessed by the Regent Defendants.

106. EMU's Student Government and Campus Life funding policies create speech forums for recognized student organizations.

107. The *Student Organization Handbook* and the Student Government Bylaws contain a list of events that Student Government and Campus Life will not fund.

108. The *Student Organization Handbook's* policy on "Monetary Allocation Guidelines for Student Organizations" and Student Government Bylaw ch. 5, § 2(4)(B)(14) state:

“14. Any **political or ideological activities, events, speech (including publications), or advocacy.**” See Ex. 5 at ch. 5, § II(4)(B)(14) (Student Government Bylaws); Ex. 7 at 00084 (*Student Organization Handbook*) (emphasis added).

109. It is the policy of EMU, including the Regent Defendants, to prohibit student fee funding for “political or ideological” activities of student organizations.

110. According to bylaws obtained from the Student Government archive, the prohibition on funding “political and ideological” activities was “added as a result of *Southworth v. Grebe*, 97-3510 [151 F.3d 717] (7th Cir. 1998).” A copy of the Student Government Bylaws containing this language is attached as Exhibit 8 to this Complaint.

111. Defendants interpreted that case to hold that “the Regents cannot use the allocable portion of objecting students’ mandatory student activity fees to fund organizations which engage in political or ideological activities, advocacy, or speech.” See Ex. 8 at 00113 n.1.

112. In *Board of Regents of the University of Wisconsin System v. Southworth*, 529 U.S. 217 (2000), the United States Supreme Court reversed the judgment of the Seventh Circuit in *Southworth v. Grebe*, 151 F.3d 717.

113. *Board of Regents of the University of Wisconsin System v. Southworth*, 529 U.S. 217, 233–34 (2000), says: “Viewpoint neutrality is the justification for requiring the student to pay the fee in the first instance and for ensuring the integrity of the program’s operation once the funds have been collected. We conclude that the University of Wisconsin may sustain the extracurricular dimensions of its programs by using mandatory student fees **with viewpoint neutrality as the operational principle.**” (Emphasis added).

114. Student Government and each of the named Student Government Defendants herein have the power to propose new legislation to repeal Student Government Bylaw ch. 5, § 2(4)(B)(14) prohibiting student fee funding for “political or ideological” activities—as do the EMU Defendants.

115. In the thirteen years since the Supreme Court's decision, no Defendant has proposed legislation to change or repeal Student Government Bylaw ch. 5, § 2(4)(B)(14) prohibiting student fee funding for "political or ideological" activities.

116. The Regent Defendants and Defendants Martin and Glenna Frank Miller are aware of the prohibitions on funding "political" or "ideological" activities of student organizations.

117. The Regent Defendants and Defendants Martin and Glenna Frank Miller have the legal power and authority to change the prohibition on allocating student fee funding for "political or ideological" activities in Student Government Bylaw ch. 5, § 2(4)(B)(14) and the *Student Organization Handbook's* policy on "Monetary Allocation Guidelines for Student Organizations."

118. In the thirteen years since the Supreme Court's decision, neither the Regent Defendants, nor Defendants Martin and Glenna Frank Miller has proposed legislation to change or repeal Student Government Bylaw ch. 5, § 2(4)(B)(14) or the *Student Organization Handbook's* policy on "Monetary Allocation Guidelines for Student Organizations."

119. The Regent Defendants and Defendants Martin and Glenna Frank Miller have the power to require Student Government and the Student Government Defendants to change or repeal the bylaws that conflict with EMU policy, specifically the bylaw prohibiting student fee funding for "political or ideological" activities.

120. In the thirteen years since the Supreme Court's decision, neither the Regent Defendants, nor Defendants Martin and Glenna Frank Miller has instructed Student Government to change or repeal Student Government Bylaw ch. 5, § 2(4)(B)(14).

121. By failing to take any action to remove the prohibition on "political or ideological" activities, the Regent Defendants and Defendants Martin and Glenna Frank Miller have authorized, approved, and knowingly acquiesced in the conduct of Student Government and the Student Government Defendants.

122. By failing to change the prohibition on “political or ideological” activities, the Regent Defendants and Defendants Martin and Glenna Frank Miller have adopted that prohibition as official EMU policy.

123. A student organization applies for student fee funding from Student Government by submitting an application on the Student Government website.

124. A paper application is then emailed to the student organization’s primary contacts or may be retrieved from the Student Government office.

125. The student organization then fills out the application, submits it to the Student Government, and schedules a meeting with the Student Government Director of Organizational Relations, Defendant Whitted, for a mandatory application review.

126. Following submission of a complete application, a student organization representative will be asked to present the application to the Student Government Business and Finance Committee, where the request may be approved up to \$1,000.

127. Defendants Walla, Whitted, Mercan, Donaldson, Vanleer, Ventura, and Arrington are, and were at all times relevant to this Complaint, members of the Student Government Business and Finance Committee.

128. The Business and Finance Committee may ask the representative any question about the event and application.

129. The Business and Finance Committee may approve, adjust, or deny the application for funding.

130. Other than the list of items Student Government will not fund as stated in Student Government Bylaw ch. 5, § 4(B), the Business and Finance Committee and Student Government at-large do not use any written criteria, factors, or standards when deciding whether an application should be approved, adjusted, or denied.

131. Neither the Student Government Bylaws, nor the Business and Finance Committee Funding Criteria, nor the *Student Organization Handbook*, nor the Regent Defendants Board Policy Manual contain written criteria, factors, or standards that the Student

Government must use when deciding whether an application for funding should be approved, adjusted, or denied.

132. On information and belief, EMU does not possess any official policies that set forth criteria, factors, or standards the Student Government must apply when deciding whether to approve, adjust, or deny a student organization's request for student fee funding.

133. If the requested amount exceeds \$1,000, the Business and Finance Committee asks the student organization representative to present the application at a Student Government Senate meeting the following week.

134. Other than the list of prohibited items stated in Student Government Bylaw ch. 5 § 4(B), the Senate does not have any written criteria to follow when deciding whether an application should be approved, adjusted, or denied.

135. Once the Business and Finance Committee or the Senate approves an allocation, the request is submitted to the Student Government Office of the Director of Business and Finance, Defendant Walla. The Director of Business and Finance processes the allocation and transfers the funds into the student organization's account.

136. Neither the Student Government Bylaws, nor the Business and Finance Committee Funding Criteria, nor the *Student Organization Handbook*, nor the Regent Defendants Board Policy Manual set forth any appeal process that student organizations may utilize if they are denied student fee funding.

137. On information and belief, EMU does not offer any appeal process for student organizations denied student fee funding.

138. Neither the Student Government Bylaws, nor the Business and Finance Committee Funding Criteria, nor the *Student Organization Handbook*, nor the Regent Defendants Board Policy Manual indicate that the Business and Finance Committee must hold public meetings, provide advance notice of their meetings, or record their meetings.

139. On information and belief, the Business and Finance Committee does not hold public meetings, provide advance notice of its meetings, or record its meetings.

140. Neither the Student Government Bylaws, nor the Business and Finance Committee Funding Criteria, nor the *Student Organization Handbook*, nor the Regent Defendants Board Policy Manual indicate that the Business and Finance Committee and Senate provide for the removal of members who violate the constitutional norm of viewpoint neutrality when making a funding decision.

141. On information and belief, the Business and Finance Committee and Senate do not remove members who violate the constitutional norm of viewpoint neutrality when making a funding decision.

### **Background on Students for Life at EMU**

142. Students for Life is committed to save lives threatened by induced abortion, euthanasia, and destruction of human embryos for research. In furtherance of these goals, Students for Life seeks to promote respect for life at EMU and in the surrounding community, to educate on life issues, to help those in need so that life is a promising choice, and to work with others who share common goals.

143. Students for Life expresses its pro-life message on EMU's campus through a variety of means including flyers, signs, peaceful demonstrations, hosting tables with information, inviting speakers to campus, and talking with fellow students about pro-life ideas, just to name a few.

144. When engaging in these expressive activities, Students for Life discusses political, religious, social, cultural, and moral issues, events, and ideas.

145. Students for Life has extensive experience hosting successful speakers and events on and off campus.

146. On March 23, 2012, Students for Life participated in a nationwide Rally for Religious Freedom outside the federal building in Ann Arbor, Michigan to stop the U.S. Department of Health and Human Services from requiring employers to provide insurance coverage for abortions and contraceptives.

147. On September 15, 2012, Students for Life participated in a discussion on how to vote pro-life in the upcoming election.

148. On October 17, 2012, Students for Life hosted EMU alumna and candidate for U.S. Congress, Cynthia Kallgren, at the EMU Student Center. Ms. Kallgren spoke about pro-life political issues.

149. On October 20, 2012, Students for Life participated in a Rally for Religious Freedom to stop the U.S. Department of Health and Human Services from requiring employers to provide insurance coverage for abortions and contraceptives.

150. On October 27, 2012, Students for Life co-sponsored a telephone bank to encourage people to vote for pro-life leaders in the upcoming election.

151. On November 28, 2012, Students for Life promoted a talk by reality TV stars Catelynn and Tyler of MTV reality shows, which discussed the stars' personal encounter with unplanned pregnancy and choice of adoption.

152. On December 3, 2012, Students for Life met in the EMU Student Center and showed the film, "180," which advocated for people to change their minds on abortion, believe in the saving grace of Jesus Christ, and work to elect political leaders who respect life.

153. On February 18, 2013, Students for Life hosted Diane Brookins in EMU's Halle Library Auditorium to discuss the consequences of abortion in the Black community.

154. On March 9, 2013, Students for Life assisted with a Young Adult Pro-Life Conference in Ann Arbor, Michigan, which discussed: "Using Calm, Cool Logic to Dismantle Pro-Choice Views."

155. Students for Life intends to engage in these types of expressive activities during the 2012-2013 academic year and subsequent years thereafter.

156. On April 10-12, 2013, Students for Life will host the Genocide Awareness Project (GAP) on campus.

157. GAP is a traveling photo-mural exhibit that compares the contemporary genocide of abortion to historically recognized forms of genocide. GAP partners with student

organizations on university campuses around the country to show as many students as possible what abortion actually does to unborn children and get them to think about abortion in a broader historical context.

158. Students for Life has been denied access to funding for this event by Defendants' policies and their application.

**Defendants' Unconstitutional Denial of Students for Life's Request for Student Fee Funding for the Genocide Awareness Project**

159. On February 4, 2013, Students for Life's President, Gregory Champion, submitted a timely application to Student Government to receive student fee funding for the GAP event. A copy of Students for Life's original application is attached as Exhibit 9 to this Complaint.

160. Students for Life sought \$4,954.81 in student fees to cover the costs of bringing GAP to campus, food for volunteers producing the event, and advertising.

161. Students for Life's original application requested \$5,705.20 in student fee funding. *See* Ex. 9.

162. Students for Life later reduced the total funding request to \$4,954.81 and submitted an amended budget description.

163. Students for Life expects over 1,000 EMU students to attend or witness the GAP display.

164. On February 5, 2013, Students for Life met with the Student Government Business and Finance Committee to discuss its application for student fee funding for the GAP event.

165. Students for Life brought examples and pictures of what the GAP display looks like.

166. On February 7, 2013, Mr. Champion received an email from Defendant Whitted denying Students for Life's request for student fee funding. A copy of Defendant Whitted's February 7, 2013 email to Mr. Champion is attached as Exhibit 10 to this Complaint.

167. On information and belief, Defendant Jannell Whitted married recently. She used to be known by the last name, “Thomas.”

168. Mr. Champion responded to Defendant Whitted that same day and asked for an explanation of why Student Government, specifically Defendants Walla, Whitted, Mercan, Donaldson, Vanleer, Ventura, and Arrington denied the request. *See* Ex. 10.

169. Defendant Whitted responded on February 8, 2013, and said:

The Senators felt that it was best not to fund you [sic] allocation because **the images you want to display are very controversial** and may compromise the intergrity [sic] Student Governments. Also, they felt that **the images you wanted to display are a little biased** and would **prefer to fund something that brings awareness to both sides of the issue**. Overall, the Senators felt that sponsoring your project will put Student Government in a difficult place and the [sic] would rather stay on the neutral side of things.

*See* Ex. 10 (emphasis added).

170. On February 12, 2013, Mr. Champion and Students for Life officers Delia Bryan and Angela Little met with Defendant Whitted regarding the GAP funding denial.

171. Defendant Whitted told Mr. Champion that the Student Government senators felt the GAP display was too controversial and one-sided.

172. Defendant Whitted did not know of any funding denial appeal process that Students for Life could use.

173. Defendant Whitted recommended that Students for Life speak with Defendant Desmond Miller, who is Student Body Vice President.

174. Students for Life shared with Defendant Whitted information about two United States Supreme Court cases, *Rosenberger v. Rector & Visitors of the University of Virginia*, 515 U.S. 819 (1995), and *Board of Regents of the University of Wisconsin System v. Southworth*, 529 U.S. 217 (2000), relating to mandatory student fee funding.

175. On February 15, 2013, Mr. Champion sent Defendants Desmond Miller and Glenna Frank Miller a letter via email explaining why the denial of student fee funding was

unconstitutional. A copy of Mr. Champion's letter to Defendants Desmond Miller and Glenna Frank Miller is attached as Exhibit 11 to this Complaint.

176. Defendants Elmgren and Desmond Miller discussed with Defendant Glenna Frank Miller the content of Mr. Champion's letter and Student Government's denial of student fee funding to Students for Life.

177. Defendant Glenna Frank Miller knows about the letter from Mr. Champion protesting the funding denial and policy prohibiting funding for "political or ideological" activities, but took no action to correct or override the actions of Student Government or Defendants Walla, Whitted, Mercan, Donaldson, Vanleer, Ventura, and Arrington.

178. On information and belief, Defendant Martin knows about the letter from Mr. Champion protesting the funding denial and policy prohibiting funding for "political or ideological" activities, but took no action to correct or override the actions of Defendant Glenna Frank Miller, Student Government, or Defendants Walla, Whitted, Mercan, Donaldson, Vanleer, Ventura, and Arrington

179. On February 20, 2013, Mr. Champion met with Defendant Desmond Miller and Defendant Elmgren to ask Student Government to reconsider its funding denial.

180. Defendant Elmgren told Mr. Champion that the photos of aborted babies were problematic because of the message that Students for Life was presenting through the GAP display.

181. Defendant Desmond Miller told Mr. Champion that Students for Life's funding request for the GAP event violated Student Government Bylaws, specifically Bylaw ch. 5, § 2(4)(B)(14), which prohibits funding of "political" and "ideological" events.

182. Defendant Desmond Miller told Mr. Champion that there is no appeal mechanism Students for Life could use to appeal the decision of the Business and Finance Committee members.

183. Defendant Desmond Miller also told Mr. Champion that Students for Life could submit a proposal to Student Government to change its bylaws, but such an effort would require the support of a Student Government senator.

184. The student senators who serve on the Business and Finance Committee, including Defendants Walla, Whitted, Mercan, Donaldson, Vanleer, Ventura, and Arrington, denied Students for Life's request for funding pursuant to Student Government Bylaw ch. 5, § 2(4)(B)(14), the *Student Organization Handbook* policy, and because they did not want to fund the viewpoint Students for Life seeks to express.

185. The student senators who serve on the Business and Finance Committee, including Defendants Walla, Whitted, Mercan, Donaldson, Vanleer, Ventura, and Arrington, denied Students for Life's request for funding thereby discriminating against the political and ideological content and viewpoint intended to be expressed by Students for Life and its invited speaker.

186. Students for Life received \$285 in student fee funding from Student Government in 2012. It received this money through a Student Government contest for student organizations to raise funds for charities. Under the contest terms, the top student organization fund-raisers received student fee funding equal to the amount they raised, up to a certain amount. Students for Life raised \$285 and received a matching allocation from Student Government. Students for Life donated all the money to a local crisis pregnancy center.

187. Students for Life wants to apply for student fee funding immediately when classes begin in fall 2013 for additional pro-life events on campus.

#### **EMU's Funding of Other Student Organization Expression**

188. The Student Government Senate and Business and Finance Committee have provided student fee funding to other EMU recognized student organizations for activities and events that involved political and ideological issues. A copy of various Student Government student fee funding allocation records is attached as Exhibit 12 to this Complaint.

189. The Student Government allocated student fee funding to University Christian Fellowship, a recognized student organization at EMU, in 2007, 2009, 2010, 2012, and 2013. *See Ex. 12.*

190. In 2007, the Student Government allocated \$3,500 in student fees to University Christian Fellowship for a Christian leadership conference called, "Student Activist Leadership Training." A copy of an article in the *Eastern Echo* student newspaper describing this allocation is attached as Exhibit 13 to this Complaint.

191. On November 13, 2012, the Business and Finance Committee allocated \$1,000 to University Christian Fellowship to attend a conference where students will meet missionaries from around the world. The Business and Finance Committee further recommended that the Student Government Senate approve a total allocation of \$2,650 to University Christian Fellowship for this activity. A copy of the Business and Finance Committee Meeting Minutes from November 13, 2012 is attached as Exhibit 14 to this Complaint.

192. The Student Government allocated student fee funding to the Muslim Student Association in 2010, 2011, and 2012. *See Ex. 12.*

193. On information and belief, the Muslim Student Organization is a recognized student organization at EMU and aims to empower the on-campus Muslim community, as well as promote a well-balanced and comprehensive understanding of Islam as a complete, peaceful, and just way of life.

194. The Student Government allocated student fee funding to the United Nations Student Alliance in 2010, 2011, 2012, and 2013. *See Ex. 12.*

195. On information and belief, the United Nations Student Alliance is a recognized student organization at EMU and seeks to promote awareness and understanding of the United Nations and the global community.

196. The Student Government allocated \$750 in student fees to help fund the World AIDS Day events sponsored by the Residence Hall Association, the Women's Center, LGBTRC, and the Gay-Straight Alliance, among other groups. *See Ex. 13.*

197. The Student Government allocated student fee funding to the NAACP in 2007, 2010, 2011, and 2012. *See* Ex. 12.

198. On information and belief, the NAACP is a recognized student organization at EMU that is engaged in proactive political and community activism.

199. The Student Government also allocated \$800 for Welfare Rights; \$1,000 for Women of Proverbs 31; \$1,000 for Relay for Life; \$800 for a Women's History Month event; \$800 for a Day of Silence event; \$2,610 for a MLK Unity Dinner; \$2,616.37 for a Unity Ball; \$75 for Freezing for a Cause; and \$1,500 for a Genocide lecture. *See* Ex. 12.

200. On information and belief, Relay for Life is an event to raise funds and awareness to save lives from cancer.

201. On information and belief Women's History Month pays tribute to women through speakers, films, panel discussions, workshops, and art exhibits, and serves to empower women.

202. On information and belief, the Black Student Union hosts the annual Unity Ball, which hosts a speaker who discusses what people can do to unify and come together.

203. The Student Government has allocated student fee funding to a poetry society, various club sports, the Native American student organization, Hillel, InterVarsity Christian Fellowship, and Athletes in Action, just to name a few. *See* Ex. 12, 13, & 14.

204. On information and belief, the Student Government Senate and Business and Finance Committee have provided student fee funding to other recognized student organizations that conducted events with social, political, or religious content and viewpoints.

205. On information and belief, other EMU recognized student organizations would apply for student fee funding but for the restrictions on funding "political" and "ideological" expression.

### ALLEGATIONS OF LAW

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

207. Student Government acts under color of state law when carrying out its duties and functions with respect to allocating student activity fee money.

208. Student Government, as a non-profit student organization, is not a subdivision, agency, department, office, or arm of the State of Michigan.

209. Plaintiff is suffering irreparable harm from the conduct of Defendants.

210. Plaintiff has no adequate or speedy remedy at law to correct or redress the deprivation of her rights by Defendants.

211. Unless the conduct of Defendants is enjoined, Plaintiff will continue to suffer irreparable injury.

### FIRST CAUSE OF ACTION

#### **Violation of Plaintiff's First Amendment Right to Freedom of Speech** **(42 U.S.C. § 1983)**

212. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–163 of this Complaint.

213. The First Amendment's Freedom of Speech Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits content and viewpoint discrimination in a public university's allocation of mandatory student fee funding.

214. When a public university allows registered student organizations to apply for student fee funding it creates a public forum for student speech and expression.

215. The government is not speaking when it allows registered student organizations to apply for student fee funding. Instead, it creates a public forum for student speech and expression.

216. The funds that a public university collects through a mandatory student fee and uses to fund student organizations do not constitute government funds.

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

218. The use of student fee funding by student organizations is a form of protected speech.

219. A public university may not condition student organization access to mandatory student fee funding support on content-based or viewpoint-based standards.

220. A restriction on funding political or ideological activities, events, speech, or advocacy in a student fee funding forum is content- and viewpoint-discriminatory.

221. Defendants' restrictions on speech in the mandatory student fee forum are not content- or viewpoint-neutral.

222. Defendants' prohibition on funding political or ideological activities, events, speech, or advocacy in the mandatory student fee forum fails to satisfy strict scrutiny because it is not narrowly tailored to promote a compelling government interest.

223. Defendants' prohibition on funding political or ideological activities, events, speech, or advocacy in the mandatory student fee forum unconstitutionally restricts speech based on viewpoint and is not reasonable.

224. Defendants student fee funding restrictions are a prior restraint on speech.

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

226. Defendants' policies governing the allocation of mandatory student fees confer unbridled discretion on Defendants or other government officials charged with allocating those funds.

227. Defendants engaged in content- and viewpoint-based discrimination by funding similar expressive activities of other student organizations at EMU, but not Plaintiff.

228. Defendants applied the mandatory student fee funding policy, procedures, practices, and customs to Plaintiff in a discriminatory manner, allowing other student organizations to receive funding to speak on the same or similar topics that Defendants do not permit Plaintiff to receive funding to speak on.

229. The First Amendment's Freedom of Speech Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits a public university from allocating mandatory student fee funding based on overbroad regulations on speech.

230. A policy is facially overbroad when a substantial number of its applications are unconstitutional, judged in relation to the policy's plainly legitimate sweep.

231. A facially overbroad policy chills constitutionally protected expression.

232. The First Amendment protects the ability of students to engage in political and ideological activities, events, speech, or advocacy in a mandatory student fee forum.

233. Defendants' refusal to fund political and ideological speech in the mandatory student fee forum restricts a substantial amount of protected expression.

234. The overbreadth of Defendants' policies led Plaintiff and other third parties not before the court to not apply for student fee funding in the past.

235. Defendants have no legitimate interest to support by prohibiting political and ideological student activities, events, speech, or advocacy in the student fee funding forum.

236. Accordingly, Defendants' mandatory student fee funding policy and their enforcement of that policy against Plaintiff and other third parties, violates Plaintiff's and other third parties' rights to freedom of speech guaranteed by the First Amendment.

237. Because of Defendants' actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. It is entitled to an award of monetary damages and equitable relief.

238. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated its First Amendment right to freedom of speech and an injunction against

Defendants' policy and actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including its reasonable attorneys' fees.

**SECOND CAUSE OF ACTION**

**Violation of Plaintiff's First Amendment Right to Freedom of Speech**  
**Compelled Speech**  
**(42 U.S.C. § 1983)**

239. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–163 of this Complaint.

240. 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.

241. The First Amendment's Freedom of Speech Clause prohibits public universities from collecting a mandatory student fee that is used to fund student organization speech, if that mandatory student fee is not allocated in a viewpoint neutral manner.

242. Defendants compel Plaintiff's student members and all EMU students to pay a mandatory student fee that is used in part to fund student organization speech on campus.

243. Defendants prohibit the use of those mandatory student fees for political and ideological student expression

244. Defendants' mandatory student fee policy compels Plaintiff and its student members to fund and support speech and viewpoints they disagree with.

245. Accordingly, Defendants' mandatory student fee funding policy and their enforcement of that policy against Plaintiff, violates Plaintiff's right to freedom of speech guaranteed by the First Amendment.

246. Because of Defendants' actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. It is entitled to an award of monetary damages and equitable relief.

247. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated its First Amendment right to freedom of speech and an injunction against

Defendants' policy and actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including its reasonable attorneys' fees.

**THIRD CAUSE OF ACTION**

**Violation of Plaintiff's Fourteenth Amendment Right to Due Process of Law**  
**(42 U.S.C. § 1983)**

248. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1-163 of this Complaint.

249. The Fourteenth Amendment to the United States Constitution guarantees Plaintiff the right to due process of law and prohibits Defendants from promulgating and employing vague standards that allow for viewpoint discrimination in Defendants' handling of Plaintiff's application for student fee funding support.

250. The government may not regulate speech based on policies that permit arbitrary, discriminatory, and overzealous enforcement.

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

252. The government may not regulate speech based on policies that do not provide persons of common intelligence fair warning as to what speech is permitted and what speech is prohibited.

253. The lack of objective criteria, factors, or standards in Defendants' mandatory student fee funding policy, procedures, practices, and customs renders these policies and practices unconstitutionally vague and in violation of Plaintiff's right to due process of law under the Fourteenth Amendment.

254. Defendants' mandatory student fee funding policy, procedures, practices, and customs contain no criteria to guide administrators, the Business and Finance Committee members, the Student Government Senate members, or the Regent Defendants when deciding whether to allocate money to a student organization.

255. Defendants' mandatory student fee funding policy, procedures, practices, and customs contain no definition of "political" or "ideological" or criteria for determining what constitutes "political" or "ideological."

256. Defendants' mandatory student fee funding policy, procedures, practices, and customs are impermissibly vague and ambiguous and are thus incapable of providing meaningful guidance to Defendants.

257. The lack of objective criteria, factors, or standards in Defendants' mandatory student fee funding policy, procedures, practices, and customs gives government officials unbridled discretion to exclude or prohibit speech based on its content or viewpoint in violation of Plaintiff's right to due process of law under the Fourteenth Amendment.

258. The lack of a process to remove officials who violate viewpoint neutrality when deciding student fee funding requests indicates that the government has unbridled discretion to govern the speech forum.

259. The lack of advanced notice for meetings, public meetings, and recording meetings of government officials charged with allocating student fee funding indicates that the government has unbridled discretion to govern the speech forum.

260. The lack of an appeal process in a student fee funding forum indicates that the government has unbridled discretion to govern the speech forum.

261. Defendants' mandatory student fee funding policy, procedures, practices, and customs give unbridled discretion to Defendants to suppress and/or discriminate against disfavored speech content or viewpoints.

262. Defendants' mandatory student fee funding policy, procedures, practices, and customs do not provide a process through which Defendants or other government officials may remove a Business and Finance Committee or Student Government Senate member for violating the constitutional prohibition against viewpoint discrimination.

263. Defendants' mandatory student fee funding policy, procedures, practices, and customs do not provide student organizations with the ability to appeal student fee funding

decisions by the Business and Finance Committee, Student Government Senate, Regent Defendants, or other government official.

264. Defendants applied the mandatory student fee funding policy, procedures, practices, and customs to Plaintiff in *ad hoc*, discriminatory ways based on the content and viewpoint of its speech, in violation of its right of due process of law under the Fourteenth Amendment.

265. Because of Defendants' actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. It is entitled to an award of monetary damages and equitable relief.

266. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated its Fourteenth Amendment right to due process of law and an injunction against Defendants' policy and actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including its reasonable attorneys' fees.

#### **FOURTH CAUSE OF ACTION**

##### **Violation of Plaintiff's Fourteenth Amendment Right to Equal Protection of the Law (42 U.S.C. § 1983)**

267. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–163 of this Complaint.

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

269. 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.

270. Plaintiff is similarly situated to other recognized student organizations at EMU.

271. Defendants granted mandatory student fee funding to other similar student organizations, but denied the same to Plaintiff.

272. Defendants granted mandatory student fee funding to the University Christian Fellowship, Women's Center, Gay-Straight Alliance, and NAACP, just to name a few, for events focusing on political, ideological, and social issues, but denied the same funding to Students for Life for its GAP event, which focuses on political, ideological, and social issues.

273. Defendants treated Plaintiff disparately when compared to similarly situated student organizations by denying Plaintiff student fee funding.

274. Defendants' mandatory student fee funding policy and practices violate various fundamental rights of Plaintiff, such as its freedom of speech and due process of law.

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

276. Defendants' mandatory student fee funding policy and practices have also been applied to discriminate intentionally against Plaintiff's rights to freedom of speech and due process of law.

277. Defendants lack a rational or compelling state interest for such disparate treatment of Plaintiff.

278. Defendants' mandatory student fee funding policy and practices are not narrowly tailored as applied to Plaintiff because Plaintiff's speech does not implicate any of the interests Defendants' might have.

279. Defendants have applied the mandatory student fee funding policy, procedures, practices, and customs to Plaintiff in a discriminatory and unequal manner, allowing other student organizations to receive funding to speak on topics that Defendants say Plaintiff cannot receive funding to speak on, in violation of Plaintiff's right to equal protection of the laws under the Fourteenth Amendment.

280. Because of Defendants' actions, Plaintiff has suffered, and continues to suffer, economic injury and irreparable harm. It is entitled to an award of monetary damages and equitable relief.

281. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated its Fourteenth Amendment right to equal protection of law and an injunction against Defendants' policy and actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including its reasonable attorneys' fees.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendants and provide Plaintiff with the following relief:

- (A) A declaratory judgment that the Defendants' student fee funding policies, facially and as-applied, violate Plaintiff's rights under the First Amendment;
- (B) A declaratory judgment that the Defendants' student fee funding policies, facially and as-applied, violate Plaintiff's rights under the Fourteenth Amendment;
- (C) A declaratory judgment that the Defendants' denial of student fee funding to Plaintiff violated Plaintiff's rights under the First and Fourteenth Amendments;
- (D) A preliminary and permanent injunction prohibiting the Defendants, their agents, officials, servants, employees, and any other persons acting in their behalf from enforcing the student fee funding policies challenged in this complaint;
- (E) Actual damages in the amount of \$4,954.81 for infringing Plaintiff's exercise of its First and Fourteenth Amendment rights;
- (F) Actual damages in the amount of mandatory student fees paid by Plaintiff's student members during the 2012-2013 academic year that was collected pursuant to a content- and viewpoint-based policy that infringed Plaintiff's First Amendment rights;

- (G) Nominal damages for the violation of Plaintiff's First and Fourteenth Amendment rights;
- (H) Plaintiff's reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and
- (I) All other further relief to which Plaintiff may be entitled.

Respectfully submitted this 19th day of March, 2013,

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\*Application for admission submitted.

ATTORNEYS FOR PLAINTIFF

**DECLARATION UNDER PENALTY OF PERJURY**

I, GREGORY CHAMPION, a citizen of the United States and a resident of the State of Michigan, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 14<sup>th</sup> day of March, 2013, at Ypsilanti, Michigan.



GREGORY CHAMPION, PRESIDENT  
STUDENTS FOR LIFE AT EASTERN MICHIGAN  
UNIVERSITY