

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

**YOUNG AMERICANS FOR LIBERTY AT
THE UNIVERSITY OF MICHIGAN**, a
recognized student organization at the
University of Michigan,

Plaintiff,

v.

MARY SUE COLEMAN, in her official
capacity as President of the University of
Michigan; **E. ROYSTER HARPER**, in her
official capacity as Vice President for Student
Life at the University of Michigan; **SUSAN
PILE**, individually and in her official capacity
as Director of the Michigan Union and Center
for Campus Involvement at the University of
Michigan; **ALEX ABDUN-NABI**,
VICTORIA MARGOLIN, **LAUREL
RUZA**, **KEVIN ZIEGLER**, and **SKYLAR
PURSELL**, all individually and all in their
official capacities as members of the Student
Organization Funding Commission of the
Michigan Student Assembly; **MICHIGAN
STUDENT ASSEMBLY OF THE
UNIVERSITY OF MICHIGAN**, a non-profit
corporation located in the State of Michigan;
MARK J. BERNSTEIN, **JULIA
DONOVAN DARLOW**, **LAURENCE B.
DEITCH**, **SHAUNA RYDER DIGGS**,
DENISE ILITCH, **ANDREA FISCHER
NEWMAN**, **ANDREW C. RICHNER**, and
KATHERINE E. WHITE, all individually
and all in their official capacities as members
of the University of Michigan Board of
Regents,

Defendants.

Case No. _____

VERIFIED COMPLAINT

Plaintiff Young Americans for Liberty at the University of Michigan, by and through
counsel, and for its Complaint against the Defendants, hereby states as follows:

INTRODUCTION

1. This case concerns the denial of equal access to mandatory student fees for student organizations at the University of Michigan (“University”). When a public university collects mandatory student fees and then allocates a portion of those fees to student organizations for their expressive activities, the First Amendment requires that the university provide access to the fees on a viewpoint neutral basis.

2. In direct violation of these principles the University requires each student to pay a mandatory student fee, which is used, in part, to fund student organization speech. This creates a forum for student speech. But the University prohibits the allocation of these mandatory student fees to any student organization activity deemed political or religious. As a result, the University compels all students to fund the speech of their peers, even speech that they may disagree with, but prohibits some students from speaking at all in the forum. The University enforces these prohibitions using content- and viewpoint-based standards.

3. The University requires student organizations that wish to engage in political or religious speech to abandon their right to free speech as a condition of access to the University’s mandatory student fee forum and does not impose this same requirement on non-political and non-religious student viewpoints.

4. When Plaintiff Young Americans for Liberty at the University of Michigan applied for student fee funding to reimburse the costs of an affirmative action lecture by Jennifer Gratz, the University’s Central Student Government denied the request because it deemed Young Americans for Liberty’s event to be “political.” University officials, however, have allocated student fees to other events involving political and religious viewpoints that discussed Immigrants rights, affirmative action, and Islam, just to name a few.

5. Defendants violated Young Americans for Liberty’s constitutional rights and caused it irreparable injury by treating it differently than other student organizations simply because of the content and viewpoint of its message; by denying it student fee funding for its

activity; and by forcing its members to pay mandatory student fees that funds speech they disagree with without the ability to respond in kind.

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 Young Americans for Liberty at the University of Michigan is an unincorporated expressive student organization comprised of University of Michigan students.

12. Young Americans for Liberty was founded and recognized as an official student organization at the University in January 2013. Young Americans for Liberty is student-led and non-partisan.

13. Student members of Young Americans for Liberty pay mandatory student fees at the University.

14. Young Americans for Liberty is entitled to viewpoint neutral access to student fees allocated by the University.

15. Part of Young Americans for Liberty's mission is to be an expressive student organization at the University.

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

17. Young Americans for Liberty 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 denied access to the University's organizational funding mechanism because of the content and viewpoint of their speech activities.

DEFENDANTS

18. Defendant Mary Sue Coleman is, and was at all times relevant to this Complaint, the President of the University of Michigan, a public university organized and existing under the laws of the State of Michigan.

19. Defendant Coleman is responsible for enactment and enforcement of University policies, including the policies and procedures challenged herein, and their application to Young Americans for Liberty in denying its application for student fee funding.

20. As president of the University, Defendant Coleman possesses the authority to change and enforce the student fee funding policies and procedures challenged herein, including those policies and actions of University officials and the Central Student Government.

21. Defendant Coleman has not instructed University officials, the other defendants, or the Central Student Government to change or alter the student fee funding policies and procedures to comply with constitutional mandates.

22. As president of the University, Defendant Coleman has the authority to review, approve, or reject the student fee funding decisions of University officials, the other defendants, and the Central Student Government.

23. Defendant Coleman has not overturned the denial of student fee funding to Young Americans for Liberty made by the Central Student Government and its officers.

24. Defendant Coleman has failed to stop University officials, including the Central Student Government, from applying the ban on funding political and religious activities of recognized student organizations, including Young Americans for Liberty.

25. Defendant Coleman recognizes Central Student Government as possessing state authority to allocate student fees.

26. Defendant Coleman is sued in her official capacity.

27. Defendant E. Royster Harper is, and was at all times relevant to this Complaint, Vice President for Student Life at the University of Michigan, a public university organized and existing under the laws of the State of Michigan.

28. Defendant Harper is responsible for administration and policymaking for the University, including the student fee funding policies and procedures challenged herein.

29. Defendant Harper is responsible for enactment and enforcement of University policies, including the policies and procedures challenged herein that were applied to Young Americans for Liberty in denying its application for student fee funding.

30. Defendant Harper is responsible for overseeing the University's Center for Campus Involvement office and creating, reviewing, changing, authorizing, and enforcing the policies of that office, including student fee funding policies.

31. Defendant Harper has failed to stop University officials, including the other defendants, the Center for Campus Involvement, and the Central Student Government, from

applying the ban on funding political and religious activities of recognized student organizations, including Young Americans for Liberty.

32. Defendant Harper possesses the authority to change and enforce the student fee funding policies and procedures challenged herein, including those of the Central Student Government.

33. Defendant Harper possesses the authority to instruct the Central Student Government to change the student fee funding policies and procedures challenged herein.

34. Defendant Harper recognizes Central Student Government as possessing state authority to allocate student fees.

35. Defendant Harper is sued in her official capacity.

36. Defendant Susan Pile is, and was at all times relevant to this Complaint, Director of the Michigan Union and Center for Campus Involvement at the University of Michigan, a public university organized and existing under the laws of the State of Michigan.

37. Defendant Pile is responsible for administration and policymaking for the University, including the student fee funding policies and procedures challenged herein.

38. Defendant Pile is responsible for enactment and enforcement of University policies, including the policies and procedures challenged herein that were applied to Young Americans for Liberty in denying its application for student fee funding.

39. Defendant Pile, under the direction of Defendants Coleman and Harper, instructs the Center for Campus Involvement when to create, review, change, authorize, and enforce student fee funding policies and procedures.

40. Defendant Pile has failed to stop University officials, including the other defendants, the Center for Campus Involvement, and the Central Student Government, from applying the ban on funding political and religious activities of recognized student organizations, including Young Americans for Liberty.

41. Defendant Pile possesses the authority to change and enforce the student fee funding policies and procedures challenged herein, including those of the Central Student Government.

42. Defendant Pile possesses the authority to instruct the Central Student Government to change the student fee funding policies and procedures challenged herein.

43. Defendant Pile is sued in both her individual and official capacities.

44. Defendants Alex Abdun-Nabi, Victoria Margolin, Laurel Ruza, Kevin Ziegler, and Skylar Pursell are, and were at all times relevant to this Complaint, members of Student Organization Funding Commission (hereinafter “SOFC Defendants”), a commission of the Central Student Government. Other students are also members of the SOFC and will be added as defendants once their names are discovered.¹

45. The SOFC Defendants have the authority to review student fee funding applications, hear appeals, and make funding decisions without approval by the Central Student Government.

46. The SOFC Defendants follow University policy created by Defendants Coleman, Harper, and Pile concerning the funding of student organization activities with mandatory student fees, including the policy banning the funding of political and religious activities of recognized student organizations.

47. The SOFC Defendants are responsible for deciding which student organizations may receive funding and how much each group may receive—as are the other University Defendants named herein.

48. The SOFC Defendants reviewed the application for student fee funding made by Young Americans for Liberty and denied the application based on University policy.

¹ Plaintiff is suing the student members of the SOFC because the University has decided to involve them as state officials in a function, allocating mandatory student activity fees, that is normally reserved to public university administrators. They are proper parties in this lawsuit. Ultimately, however, the Regent Defendants and Defendants Coleman, Harper, and Pile are responsible for the University policies and procedures governing the allocation of mandatory student fees. If the administrator defendants will stipulate that they are responsible for the student defendants actions and any order of the Court binding the administrator defendants will also bind the student government members, then Plaintiff would be willing to dismiss them pursuant to stipulation.

49. The SOFC Defendants named herein are sued in both their official and individual capacities.

50. Defendant Michigan Student Assembly of the University of Michigan (herein “Central Student Government”) is, and was at all times relevant to this Complaint, the official, university-recognized representative of the student body at University.

51. Defendant Michigan Student Assembly of the University of Michigan is a non-profit entity incorporated under the laws of the State of Michigan. A copy of the Michigan Student Assembly’s 2013 non-profit registration with the State of Michigan Department of Licensing and Regulatory Affairs is attached as Exhibit 1 to this Complaint.

52. The Constitution of Defendant Michigan Student Assembly says that the organization will be known as the Central Student Government (hereinafter Defendant Michigan Student Assembly will be referred to as the “Central Student Government”). A copy of the Central Student Government’s Constitution is attached as Exhibit 2 to this Complaint.

53. The Central Student Government is created pursuant to the authority vested in it by the University Board of Regents and Defendant Coleman.

54. The members of the University’s Board of Regents and Defendant Coleman enforce a policy that assigns Defendant Central Student Government and the SOFC Defendants the task of allocating mandatory student activity fees to recognized student organizations pursuant to Central Student Government’s bylaws and University policies.

55. Defendant Central Student Government proposes, debates, and adopts legislation and bylaws that govern students at the University, including a compiled code governing student organization funding through mandatory student fees—all under the final authority and review by Defendants Coleman, Harper, and Pile.

56. Defendant Central Student Government is considered a tax-exempt organization under 26 U.S.C. § 501(c)(3) of the United States Internal Revenue Code. A copy of the first page of Central Student Government’s fiscal year 2012 Internal Revenue Service Form 990 is attached as Exhibit 3 to this Complaint.

57. Defendant Central Student Government is not a political arm of the State of Michigan, but acts under color of state law and authority pursuant to policies and procedures enacted by the University Board of Regents and Defendants Coleman, Harper, and Pile.

58. Defendants Mark J. Bernstein, Julia Donovan Darlow, Laurence B. Deitch, Shauna Ryder Diggs, Denise Ilitch, Andrea Fischer Newman, Andrew C. Richner, and Katherine E. White are, and were at all times relevant to this Complaint, members of the University of Michigan Board of Regents (herein collectively, “Regent Defendants”), a public university organized and existing under the laws of Michigan.

59. The Regent Defendants are responsible for, among other things, the adoption and authorization of policies that govern students at the University, including the policies and procedures challenged herein, and their application to Young Americans for Liberty.

60. 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 the University.

61. The Regent Defendants acquiesce in, sanction, and support the actions of all Defendants, including the enforcement of policies and procedures regarding allocation of mandatory student fees to recognized student organizations and the prohibition on funding political and religious activities of student organizations.

62. The Regent Defendants participate in the allocation of student fees by setting the amount of mandatory fees that the University will collect each year and allocating a portion of those mandatory fees to the Central Student Government for distribution to student organizations.

63. The Regent Defendants also ensure that University and Central Student Government policies and procedures governing distribution comply with the Regent Defendants’ policies, and by correcting illegal University and Central Student Government distributions.

64. The Regent Defendants have a policy that prohibits the allocation of mandatory student fees to political and religious activities of student organizations.

65. The Regent Defendants have not instructed the University, Defendants Coleman, Harper, or Pile, the Central Student Government, or the SOFC Defendants to change or alter the current student fee funding policies and procedures to comply with constitutional mandates.

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

FACTUAL BACKGROUND

67. The University of Michigan 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.

68. The Regent Defendants govern the University through bylaws, policies, procedures, and ordinances.

69. The Regent Defendants derive their authority from Article 8, § 5 of the Constitution of the State of Michigan and state law.

Defendants' Unconstitutional Student Fee Policy

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

71. Payment of the student fees by students is mandatory.

72. For example, during the 2013–2014 academic year, each full-time student pays \$97.19 per term in mandatory student fees. The Central Student Government Fee is a portion of the total student fee, and for the 2013-2014 academic year is \$7.19 for each full-time student per term. A copy of the Regent Defendants' Student Fees and Fees Regulations document detailing these fees is attached as Exhibit 4 to this Complaint.

73. It is the policy of the Regent Defendants and the University to charge the Central Student Government and SOFC with the responsibility to distribute, pursuant to University policy, student fees to recognized student organizations.

74. The SOFC is a commission of the Central Student Government and is charged with allocating the student fees to eligible student organizations.

75. The SOFC allocates approximately \$300,000 every year to student organizations.

76. The allocation of these mandatory student fees to student organization activities enables student speech and creates a speech forum.

77. Defendants Coleman, Harper, and Pile have the authority to set official University policy concerning the allocation of student fees and to instruct the Central Student Government and the SOFC Defendants to follow that policy.

78. Defendants Coleman, Harper, and Pile have ultimate control over the specific allocation of mandatory student fees to recognized student organizations at the University's flagship Ann Arbor campus.

79. The University operates a forum of recognized student organizations.

80. The University invites students to form student organizations on campus and apply for official University recognition.

81. The University recognizes three types of student organizations.

82. Sponsored Student Organizations (SSO) are student organizations that have a substantial relationship with a sponsoring University unit. SSOs must be sponsored by an executive officer, dean, or director of a major academic or operational unit and must have a mission that is consistent with the missions of the University and sponsoring unit. The unit must provide an advisor for the SSO. SSOs agree to be held to the same standards of responsibility as both Voluntary Student Organizations and University Units.

83. Voluntary Student Organizations (VSO) are student organizations that are not sponsored by the University but seek access to certain University-controlled benefits and resources and are accountable to the university for legal compliance, fiscal responsibility and adherence to established community standards. VSOs are recommended to seek out a faculty/staff advisor although an advisor is not required for VSOs.

84. Non-affiliated Student Organizations (NSO) are not eligible for benefits or coverage from the University, apart from listing on Maize Pages.

85. Recognized Student Organizations (RSO) is a category that refers to both sponsored and voluntary student organizations. RSOs agree to abide by the Standards of Conduct for Recognized Student Organizations.

86. SSOs and VSOs receive several privileges on campus, with one of those being access to student fee funding.

87. Young Americans for Liberty is a Voluntary Student Organization and Recognized Student Organization at the University.

88. The *Guidebook for Student Organizations* is official University policy. A copy of the relevant portions of the *Guidebook for Student Organizations* is attached as Exhibit 5 to this Complaint.

89. According to the *Guidebook for Student Organizations*, VSOs are eligible for University student fee funding, an on-campus mailing address, use or rental of University equipment and vehicles, a student organization bank account, and reservation of University space and facilities.

90. On information and belief, Defendants Coleman, Harper, and Pile wrote or approved of the policies contained in the *Guidebook for Student Organizations*.

91. Questions concerning the *Guidebook for Student Organizations* and the funding prohibitions are to be directed to the Center for Campus Involvement, of which Defendant Pile is the director, and over which Defendants Coleman and Harper have direct supervision.

92. Defendants Coleman, Harper, and Pile, as the University administrators in charge of student organization funding, have the legal power and authority to enact, change, or repeal the University policies contained in the *Guidebook for Student Organizations*.

93. Student fee funding is provided on a reimbursement basis.

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

95. The Regent Defendants and Defendants Coleman, Harper, and Pile have delegated a portion of that process to the Defendant Central Student Government and the SOFC Defendants.

96. Defendant Central Student Government and the SOFC Defendants allocate mandatory student fees to RSOs based on authority vested in them by the Regent Defendants and Defendants Coleman, Harper, and Pile and pursuant to policies and procedures established by the Regent Defendants and Defendants Coleman, Harper, and Pile.

97. RSOs may apply for funding by submitting an application to the SOFC.

98. The SOFC may approve, adjust, or deny the application for funding.

99. According to the Compiled Code of the Central Student Government, the SOFC considers the following criteria when evaluating a student organization funding application: “financial need, quantity of students affected; the degree of effect on students; the effect on the Ann Arbor, University of Michigan, and general Michigan community; effort to receive funding from other sources; completeness of funding application[;] unique nature of the event; prior use of SOFC funding allocations; and any other considerations deemed appropriate by SOFC.” A copy of the relevant portions of the Central Student Government Compiled Code with these criteria is attached as Exhibit 6 to this Complaint.

100. The Central Student Government Compiled Code also requires the SOFC to allocate funds on a viewpoint neutral basis, and the SOFC may not consider the membership, composition, political, or religious view of any organization. *See Ex. 6.*

101. University policy, however, prohibits the use of mandatory student fees for “political campaigning” and “religious activities,” which requires SOFC to consider the viewpoints of student organization activities. *See Ex. 5.*

102. The University defines “political campaigning” as “[t]o advocate for or against a candidate for elective office; or to advocate for or against the adoption of legislation on a federal, state, or local level. To advocate for or against the qualification or adoption of a ballot initiative.” *See Ex. 5.*

103. Defendants and the University interpret “political campaigning” more generally to mean any “political activities” of recognized student organizations.

104. The University defines “religious activities” to be “religious activities, worship or proselytizing.” *See* Ex. 5.

105. No University policy or document defines “religious activities,” “worship,” or “proselytizing.”

106. Defendants Coleman, Harper, and Pile are aware of and approve of the University policy prohibiting the use of mandatory student fees for political and religious activities.

107. It is the policy of the University, including the Defendants Coleman, Harper, Pile, the SOFC Defendants, and the Central Student Government, to prohibit student fee funding for political or religious activities of student organizations.

108. Defendants Coleman, Harper, and Pile are responsible for creating and enforcing the University policy prohibiting the use of mandatory student fees for political and religious activities.

109. The SOFC Defendants and Defendant Central Student Government also are responsible for enforcing the University policy prohibiting the use of mandatory student fees for political and religious activities.

110. Defendants Coleman, Harper, and Pile have the legal power and authority to change the prohibition on allocating student fee funding for political or religious activities.

111. By failing to take any action to remove the prohibition on funding political or religious activities, Defendants Coleman, Harper, and Pile have authorized, approved, and knowingly acquiesced in the conduct of Defendant Central Student Government and the SOFC Defendants in denying funding requests from many RSOs.

112. By failing to change the prohibition on funding political or religious activities, Defendants Coleman, Harper, and Pile have adopted that prohibition as official University policy.

113. In addition to the list of criteria the SOFC considers when reviewing a funding application, it may evaluate “any other considerations [about the funding application] deemed appropriate.” *See* Ex. 6.

114. Defendant Central Student Government’s Compiled Code does not define what additional considerations are appropriate when the SOFC reviews a funding application.

115. There are no policies of the Central Student Government, the SOFC, or Defendants Coleman, Harper, and Pile that define what additional considerations are appropriate when the SOFC reviews a funding application.

116. Each RSO may appeal the SOFC Defendants’ decision on their funding application.

Background on Young Americans for Liberty

117. Young Americans for Liberty is a non-partisan organization with a libertarian philosophical viewpoint that promotes freedom in society and the economy at the University. Young Americans for Liberty promotes the intellectual development of students who share an interest in liberty through activism and academics.

118. Young Americans for Liberty expresses its message on the University’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 libertarian ideas, among other things.

119. When engaging in these expressive activities, Young Americans for Liberty discusses political, religious, social, cultural, and moral issues and ideas.

120. Young Americans for Liberty has extensive experience hosting successful speakers and events on campus.

121. On March 28, 2013, Young Americans for Liberty hosted a speech by former Michigan State Representative Leon Drolet entitled, “Why Politicians Barely Matter.”

122. On April 10, 2013, Young Americans for Liberty hosted a speech by John Lott entitled, “More Guns, Less Crime.”

123. On August 22, 2013, Young Americans for Liberty hosted an event to discuss the Founding Fathers' potential views on Obamacare.

124. On September 17, 2013, Constitution Day, Young Americans for Liberty distributed free copies of the Constitution on campus.

125. On September 19, 2013, Young Americans for Liberty hosted Matt Welch, the editor of *Reason* magazine, to discuss libertarianism's effect on the two party political system.

126. Young Americans for Liberty intends to engage in these types of expressive activities during the 2013-2014 academic year and subsequent years thereafter.

Defendants' Unconstitutional Denial of Young Americans for Liberty's Request for Student Fee Funding

127. On October 22, 2013, Young Americans for Liberty hosted Jennifer Gratz to discuss affirmative action policies and her experiences in challenging those policies at the University. The title of Ms. Gratz's talk was "Diversity in Race v. Diversity in Ideas: The Michigan Affirmative Action Debate." The lecture occurred shortly after the United States Supreme Court heard oral arguments in a case involving affirmative action and a Michigan ballot initiative named the Michigan Civil Rights Initiative (i.e., Proposal 2). *See Schuette v. Coalition to Defend Affirmative Action* (S. Ct. No. 12-682) (argued Oct. 15, 2013).

128. Ms. Gratz was the plaintiff in *Gratz v. Bollinger*, 539 U.S. 244 (2003), a case challenging the University's admission policies.

129. Pursuant to the University student fee funding policies, which allocate funds on a reimbursement basis, Young Americans for Liberty raised the funding necessary for this event in advance from private sources.

130. On November 14, 2013, Young Americans for Liberty submitted a timely application to the SOFC to receive student fee funding for Ms. Gratz's speech. A copy of Young Americans for Liberty's application is attached as Exhibit 7 to this Complaint.

131. Young Americans for Liberty's application requested \$1,000.00 in student fee funding. *See Ex. 7.*

132. The SOFC Defendants—acting pursuant to University policy created and enforced by Defendants Coleman, Harper, and Pile—denied Young Americans for Liberty’s request for funding for Ms. Gratz’s speech.

133. On November 20, 2013, Cody Chipman, co-president of Young Americans for Liberty, received an email from Defendant Abdun-Nabi denying Young Americans for Liberty’s request for student fee funding. A copy of Defendant Abdun-Nabi’s November 20, 2013 email to Mr. Chipman is attached as Exhibit 8 to this Complaint.

134. According to Defendant Abdun-Nabi’s email “SOFC cannot fund events that are political in nature.” *See* Ex. 8.

135. Young Americans for Liberty submitted a timely appeal of the funding denial and later met with the SOFC Defendants concerning this appeal.

136. On December 3, 2013, Defendant Abdun-Nabi sent Mr. Chipman an email concerning Young Americans for Liberty’s appeal of the funding denial. The SOFC denied the appeal because “SOFC cannot fund events that are political in nature.” A copy of Defendant Abdun-Nabi’s email to Mr. Chipman is attached as Exhibit 9 to this Complaint.

137. When the SOFC Defendants denied Young Americans for Liberty student fee funding for Ms. Gratz’s speech they were following University policy created and enforced by the Regent Defendants, Defendants Coleman, Harper, and Pile, and Defendant Central Student Government.

138. The SOFC Defendants, including Defendants Abdun-Nabi, Margolin, Ruza, Ziegler, and Pursell, denied Young Americans for Liberty’s request for funding pursuant to the *Guidebook for Student Organizations* and because they did not want to fund the viewpoint Young Americans for Liberty seeks to express.

139. The SOFC Defendants denied Young Americans for Liberty’s request for funding thereby discriminating against the political content and viewpoint intended to be expressed by Young Americans for Liberty and its invited speaker.

140. Young Americans for Liberty wants to apply for student fee funding immediately for additional political and religious events on campus.

141. Young Americans for Liberty is currently planning to bring several speakers to campus in the spring of 2014 and wants to apply for student fee funding for those events.

142. For example, on January 13, 2014, Young Americans for Liberty will host Steve Horowitz, who will discuss the Great Recession: A Failure of Government Not Markets. The talk includes a critique of stimulus spending and other activist proposals to speed recovery.

The University's Funding of Other Student Organization Expression

143. Despite the University's policy against funding political and religious activities of student organizations, the SOFC Defendants have provided funding, with the approval of the Regent Defendants and Defendants Coleman, Harper, and Pile, to other University RSOs for political and religious activities. A copy of the most recent publicly available Central Student Government documents summarizing its student fee funding allocations in 2010 is attached as Exhibit 10 to this Complaint.

144. For example, the SOFC has funded the following political RSOs: Amnesty International, Migrant and Immigrant Rights Advocacy, National Association for the Advancement of Colored People ("NAACP"), ONE Campaign, Students Allied for Freedom and Equality, Students for Life, and Students for Sensible Drug Policy, just to name a few.

145. On information and belief, Amnesty International advocates political viewpoints on issues including prisoners', women's, and minority rights, and abolition of the death penalty.

146. On information and belief, Migrant and Immigrant Rights Advocacy promotes political viewpoints concerning immigration policy and works to change the immigration system through petitions and direct contact with elected officials.

147. On information and belief, the NAACP is engaged in political and community activism, and campaigns for equal opportunity and voter mobilization.

148. On information and belief, ONE Campaign advocates political viewpoints concerning poverty and preventable diseases. It works with local politicians to discuss important legislation pertaining to these issues.

149. On information and belief, Students Allied for Freedom and Equality advocates political viewpoints including promotion of the right of the Palestinian people to self-determination.

150. On information and belief, Students for Life advocates a political viewpoint to end abortion.

151. On information and belief, Students for Sensible Drug Policy advocates a political viewpoint that promotes the end of the war on drugs through new political policies.

152. The SOFC has funded the following religious RSOs: Christian Business Initiative, Good News Christian A Cappella, Hindu Student Council, Muslim Medical Students Association, Muslim Students Association, and University of Michigan Hillel, just to name a few.

153. Defendants funding of some political and religious activities, despite University policy banning funding for these activities, demonstrates that Defendants regularly favor some RSOs over others, based on the content and viewpoint of the speech those RSOs express.

154. Just a week before Young Americans for Liberty hosted Ms. Gratz's speech, an RSO named Coalition to Defend Affirmative Action, Integration & Immigrant Rights, and Fight for Equality By Any Means Necessary ("BAMN") traveled to Washington, DC to advocate its pro-affirmative action political message on the steps of the United States Supreme Court during the oral arguments in *Schuette v. Coalition to Defend Affirmative Action* (S. Ct. No. 12-682).

155. The SOFC Defendants and Defendant Central Student Government provided student fee funding to BAMN for the expenses related to its trip to Washington, DC.

156. Moreover, earlier in October Defendant Coleman addressed a University alumni homecoming tailgate and expressed her support for the University's affirmative action policies.

157. On information and belief, the SOFC has provided student fee funding to other RSOs that conducted events with social, political, or religious content and viewpoints.

158. On information and belief, other University RSOs would apply for student fee funding but for the restrictions on funding political and religious expressive activities.

ALLEGATIONS OF LAW

159. 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.

160. The Central Student Government acts under color of state law when carrying out its duties and functions delegated to it by the Regent Defendants and Defendants Coleman, Harper, and Pile with respect to allocating student activity fee money.

161. The Central Student Government, as a non-profit corporation, is not a subdivision, agency, department, office, or arm of the State of Michigan.

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

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

164. 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)

165. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–164 of this Complaint.

166. 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.

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

168. 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.

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

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

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

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

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

174. Defendants' restrictions on speech in the mandatory student fee forum are not content- or viewpoint-neutral on their face and as applied to Plaintiff.

175. Defendants' prohibition on funding political and religious 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.

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

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

178. 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.

179. Defendants' policies governing the allocation of mandatory student fees confer unbridled discretion on Defendants or other government officials charged with allocating those funds on their face and as applied to Plaintiff.

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

181. 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.

182. Defendants granted mandatory student fee funding to Amnesty International, the NAACP, and Students Allied for Freedom and Equality, just to name a few, for events focusing on political, ideological, and social issues, but denied the same funding to Plaintiff for its speech by Ms. Gratz, which focused on political and social issues.

183. 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.

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

185. A facially overbroad policy chills constitutionally protected expression.

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

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

188. 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.

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

190. 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.

191. 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.

192. 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)

193. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–192 of this Complaint.

194. 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.

195. 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.

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

197. All defendants prohibit the use of those mandatory student fees for political and religious student expression, but they still force students to support other student organization speech through the mandatory student fee.

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

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

200. 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.

201. 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)**

202. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1-201 of this Complaint.

203. 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.

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

205. 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.

206. 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.

207. 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.

208. Defendants' mandatory student fee funding policy, procedures, practices, and customs on their face contain open-ended criteria for the Central Student Government and the SOFC to use when deciding whether to allocate money to a student organization.

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

210. 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.

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

212. Defendants granted mandatory student fee funding to Amnesty International, the NAACP, and Students Allied for Freedom and Equality, just to name a few, for events focusing on political, ideological, and social issues, but denied the same funding to Plaintiff for its speech by Ms. Gratz, which focused on political and social issues.

213. 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.

214. 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.

215. 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)

216. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–215 of this Complaint.

217. 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.

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. Plaintiff is similarly situated to other recognized student organizations at the University.

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

221. Defendants granted mandatory student fee funding to Amnesty International, the NAACP, and Students Allied for Freedom and Equality, just to name a few, for events focusing on political, ideological, and social issues, but denied the same funding to Plaintiff for its speech by Ms. Gratz, which focused on political and social issues.

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

223. 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.

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

225. 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.

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

227. 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.

228. 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.

229. 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.

230. 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 on their behalf from enforcing the student fee funding policies challenged in this complaint;
- (E) Actual compensatory damages in the amount of \$1,000.00 for infringing Plaintiff's exercise of its First and Fourteenth Amendment rights;
- (F) Actual compensatory damages in the amount of mandatory student fees paid by each of Plaintiff's student members that was collected pursuant to a content- and viewpoint-based policy that infringed Plaintiff's First and Fourteenth Amendment rights;
- (G) Nominal damages for the violation of Plaintiff's First and Fourteenth Amendment rights;
- (H) Punitive damages for the violation of Plaintiff's First and Fourteenth Amendment rights;

- (I) Plaintiff's reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and
- (J) All other further relief to which Plaintiff may be entitled.

Respectfully submitted this 20th day of December, 2013,

By: /s/David J. Hacker

STEVEN M. JENTZEN
Michigan Bar No. P29391
**LAW OFFICES OF STEVEN M. JENTZEN,
P.C.**
106 S. Washington
Ypsilanti, Michigan 48197
(734) 482-5466
(734) 482-2440 Fax
smj@jentzenlaw.com

TRAVIS C. BARHAM
Georgia Bar No. 753251
ALLIANCE DEFENDING FREEDOM
1000 Hurricane Shoals Road NE
Suite D-1100
Lawrenceville, Georgia 30043
(770) 339-0774
(770) 339-6744 Fax
tbarham@alliancedefendingfreedom.org

KEVIN H. THERIOT
Kansas Bar No. 21565
ALLIANCE DEFENDING FREEDOM
15192 Rosewood
Leawood, Kansas 66224
(913) 685-8000
(913) 685-8001 Fax
ktheriot@alliancedefendingfreedom.org

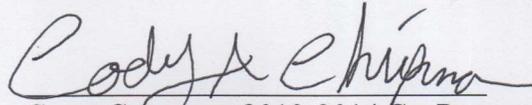
DAVID J. HACKER
California Bar No. 249272
Illinois Bar No. 6283022
ALLIANCE DEFENDING FREEDOM
101 Parkshore Drive, Suite 100
Folsom, California 95630
(916) 932-2850
(916) 932-2851 Fax
dhacker@alliancedefendingfreedom.org

ATTORNEYS FOR PLAINTIFF

DECLARATION UNDER PENALTY OF PERJURY

I, CODY CHIPMAN, 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 19th day of December, 2013, at Ann Arbor, Michigan.



CODY CHIPMAN, 2013-2014 Co-PRESIDENT
YOUNG AMERICANS FOR LIBERTY AT THE
UNIVERSITY OF MICHIGAN

DECLARATION UNDER PENALTY OF PERJURY

I, DEREK MAGILL, 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 20th day of December, 2013, at Ann Arbor, Michigan.



DEREK MAGILL, 2013-2014 CO-PRESIDENT
YOUNG AMERICANS FOR LIBERTY AT THE
UNIVERSITY OF MICHIGAN