

Supreme Court decision on religion upends campus religious groups

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c. 2012 Religion News Service (RNS) When the Supreme Court ruled that a Christian student group could only be recognized at a small public law school if it accepted non-Christians and gays as potential leaders, some lawyers and campus advocates grew nervous.

While the 5-4 decision in *Christian Legal Society v. Martinez* was primarily aimed at public colleges and universities, some conservatives say the decision has upended university religious life, with both public and private schools reconsidering nondiscrimination rules.

Now, nearly two years after the decision involving the University of California's Hastings College of the Law, the case is causing strife across U.S. college campuses:

-- InterVarsity Christian Fellowship says 41 of its campus chapters have faced challenges since the Supreme Court decision. Many have been resolved, but the IVCF chapter at the State University of New York at Buffalo plans to appeal its loss of official recognition for asking a gay student leader to resign when he would not accept its belief statement.

-- In one of the most visible debates, private Vanderbilt University in Nashville, Tenn., has said some religious groups won't be officially recognized if they require certain beliefs or do not allow all members to compete for leadership roles. On the website about its nondiscrimination policy, the school cited the 2010 Supreme Court ruling in defending the constitutionality of the rules.

-- Lawmakers in Ohio and Arizona passed bills to ensure that public colleges and universities didn't go down the same road as Hastings. Tennessee Gov. Bill Haslam, a Republican, said he would veto similar legislation only because it also included

private universities that receive more than \$24 million in state funds -- namely, Vanderbilt.

David French, senior counsel with the American Center for Law and Justice, said there's been an uptick in challenges to religious campus activity since the 2010 case, but he expects Vanderbilt to be the exception rather than rule. He argues the so-called "all-comers policies" for religious groups, such as Vanderbilt's, are unfair as long as sororities or all-male glee clubs can discriminate based on gender.

"Very few universities have tried to implement all-comers policies in the aftermath of *CLS v. Martinez*," said French, who has defended student religious groups for more than a decade. "They recognize the fundamental absurdity of an all-comers policy."

More than a dozen religious groups have determined they cannot or will not comply with Vanderbilt's stance, which prompted members of the Congressional Prayer Caucus to complain to school officials that religious student groups are being targeted. They cited a now-unrecognized campus group that was told it must remove a requirement that its leaders have a personal commitment to Jesus.

"Belief-based or status-based requirements are inconsistent with our nondiscrimination policy," said Vanderbilt spokeswoman Beth Fortune when asked about that group. She also said the policy "does not target specific student groups."

Jim Lundgren, InterVarsity Christian Fellowship's senior vice president, said his organization is currently helping several chapters beyond Vanderbilt and Buffalo that are facing questions about their policies. IVCF officials argue that allowing chapters to determine how to pick their leaders helps maintain their values.

"We just want to have a place on college campuses and allow our perspective to be there in the kind of mix of ideas and beliefs," said Lundgren. "We think that's part of what a great college education is about."

Robert Shibley, senior vice president of the Foundation for Individual Rights in Education (FIRE), said the Vanderbilt controversy confirms what his organization cautioned against after the Hastings case when it wrote 271 schools to say the decision did not require a policy change on their campuses.

"This is along the lines of what I feared, that Vanderbilt is effectively establishing that some religions are acceptable on its campus," he said, "and others are now

beyond the pale at Vanderbilt."

Although there have not been wholesale changes across academia, there has been substantial debate over potential or actual policy changes on some campuses.

Jeremy Tedesco, senior counsel for the Alliance Defense Fund, sees the Martinez decision "lurking in the background" of other cases. He filed suit in February on behalf of the Christian anti-abortion group Make Up Your Own Mind at the University of North Carolina-Greensboro. The school, which does not have an all-comers policy like Hastings, was not going to formally recognize the group because officials deemed it nonreligious.

"We don't want the government determining whether a group is or is not religious," he said.

The school has since officially recognized Make Up Your Own Mind; Tedesco said the ADF is working on a settlement.

The University of North Carolina at Chapel Hill, which last fall permitted the Christian singing group Psalm 100 to retain its recognition after a dispute over its exclusion of a gay member, is now reviewing its nondiscrimination policy.

The Christian Legal Society chapter at the center of the Supreme Court case became so small when it lost recognition that it no longer exists, said Kim Colby, senior counsel with the CLS' Center for Law and Religious Freedom. Other chapters have been questioned without losing their status.

"If you can give a broad exemption to the fraternities and sororities, you can give a narrow exemption to the religious groups," she said.