



## Foundation for Individual Rights in Education

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March 13, 2013

President James F. Jones, Jr.  
Trinity College  
Office of the President  
300 Summit Street  
Hartford, Connecticut 06106

*Sent Via U.S. Mail and Facsimile (860-297-5359)*

Dear President Jones:

The Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, legal equality, academic freedom, due process, freedom of speech, and freedom of conscience on America's college campuses. Our website, [thefire.org](http://thefire.org), will give you a greater sense of our identity and activities.

FIRE is deeply concerned by the threat to freedom of association presented by the new Trinity College Social Code that takes particular aim at fraternities and sororities. The Social Code dramatically reduces the freedom of association of such organizations, threatens the rights of all Trinity students, and is wholly inconsistent with Trinity's stated policies and promises.

The following is our understanding of the facts. Please inform us if you believe we are in error. In October 2012, the Board of Trustees of Trinity College unanimously approved the recommendations presented in a report by the Charter Committee for Building Social Community at Trinity College. The report makes wide-ranging recommendations for the purpose of "build[ing] community and promot[ing] the intellectual life of the College." Among the recommendations is the enactment and enforcement of the new Social Code aimed at "social organizations with a facility, selective membership comprised predominantly of Trinity students, and/or an initiation process." Listed among the "key outcomes" to be enforced by the College are requirements that

All Trinity students will have equal access to membership in social organizations. **Membership will be determined on the basis of student interest alone.** Hazing or blackballing will be prohibited and grounds for judicial proceedings.

[...]

Social organizations whose members are Trinity students **shall not be affiliated with national organizations that do not adhere to a coeducational philosophy.** Exceptions include academic organizations (e.g., professional and scientific organizations) and athletic and musical organizations.

[Emphases added.]

The report states that “as of fall 2012, no new single-sex fraternities or sororities may be formed,” and mandates that existing fraternities and sororities must annually increase thresholds of “minority gender” participation, ultimately achieving a minimum of 45% minority gender membership and a minimum of 40% minority gender leadership by October 1, 2016. Fraternities and sororities are additionally required to provide Trinity with a “complete and up-to-date membership list at the beginning of each semester” to demonstrate compliance.

Additionally, Trinity plans to eliminate the classification of some groups as “unrecognized” social organizations, which previously were able to associate at Trinity without official recognition. Social organizations in the future will either be classified as “approved” or “prohibited,” and all current social organizations wishing to remain recognized at Trinity must receive approved status.

Social organizations failing to meet Trinity’s new requirements—including organizations that make good-faith efforts but fall short of compliance with the required thresholds—may become prohibited organizations at Trinity. If an organization owning a facility becomes prohibited, the College plans to “establish a fair sale price for these assets with alumni owners and reassign them to another organization for the betterment of the College.”

Finally, the report states that “[s]tudents who participate in prohibited organizations will be subject to separation from the College.”

Trinity’s new Social Code gravely violates its students’ right to freedom of association—a right Trinity explicitly guarantees in its policies. The Trinity College Student Integrity Contract states that

According to the mission statement of Trinity College, excellence in liberal arts education relies on critical thinking, freeing the mind from parochialism and prejudice, and encouraging students to lead examined lives. Free inquiry and free expression are essential for the attainment of these goals. Therefore, we deem it necessary to establish the basic rights and freedoms of the students of Trinity College. Fair grading, protection against improper disclosure, **and protection of freedom of association are guaranteed under this contract.** [Emphasis added.]

Trinity’s new Social Code violates this promise—explicitly referred to as a “contract”—in fundamental and chilling ways. Under the code’s mandates, fraternities and sororities will be forced to choose between abandoning their founding principles and the long-established

organizational structure under which they had chosen to gather or disbanding entirely under pain of expulsion for members and the forced sale of organizational assets for alumni. Under the new Social Code, social organizations that do not wish to be officially recognized at Trinity do not even have the option of operating, however peacefully, outside the university system. Thus, despite its own promises of freedom of association, Trinity has entirely banned certain kinds of private associations among students.

Further, for those organizations that remain, it is not enough simply to be open to co-educational membership or to be affiliated with organizations espousing a co-educational philosophy: their composition must meet gender quotas as well. The resulting mandatory thresholds of “minority gender” membership and leadership, combined with the requirement that “[m]embership will be determined on the basis of student interest alone,” erode a most basic protection of freedom of association: the ability of groups to self-select their membership based on those who best fulfill the common objectives and interests of the group. Under Trinity’s new Social Code, social organizations are forced to sacrifice their autonomy and their discretion to decide who best fits their group to avoid being sanctioned.

These problems are especially apparent in the matter of electing leadership, when it is of particular importance for organizations to ensure that they select officers who best exemplify the principles of the organization and enjoy the broadest support from the organization’s members. Under Trinity’s new Social Code, a sorority or otherwise predominantly female social organization, for example, must allocate a minimum number of its leadership positions to male students, regardless of their qualifications for leadership. Again, social organizations are forced to cast their own judgments aside to comply with Trinity’s demands, as evaluating potential officers solely on the basis of their perceived merits puts a group at risk of official sanction.

Fraternities and sororities are specifically targeted by the new Social Code, while certain other types of organizations—including academic, professional, athletic, and musical organizations—are not required to comply with Trinity’s onerous and intrusive requirements. As a result, social organizations are significantly discriminated against in the freedom of association they enjoy at Trinity.

FIRE works toward preserving freedom of association for all students and student groups on college campuses nationwide because we understand that freedom of association is a crucial complement to freedom of speech. Underrepresented groups, for example, have relied on the protections of freedom of association in forging their identities and agendas for the advancement of their causes. The Supreme Court of the United States has repeatedly recognized the importance of groups being able to self-select their members and leaders, as well as the ability of groups to control their own messages. See *Pacific Gas & Electric Co. v. Public Utilities Comm’n of Cal.*, 475 U.S. 1, 11 (1986) (plurality opinion) (“Since *all* speech inherently involves choices of what to say and what to leave unsaid, one important manifestation of the principle of free speech is that one who chooses to speak may also decide ‘what not to say.’”); *Roberts v. U.S. Jaycees*, 468 U.S. 609, 623 (1984) (“[F]reedom of association plainly presupposes a freedom not to associate.”). The protections of freedom of association enshrined in First Amendment jurisprudence make clear that, in addition to violating its explicit promises of freedom of association in its Student Integrity Contract, Trinity’s new Social Code also violates the

College's charter, which directs that Trinity's policies shall not be "inconsistent with the Constitution and Laws of the State, or with the Constitution and Laws of the United States."

In abridging this fundamental right for fraternities, sororities, and other social organizations, Trinity evidently believes it has solved a substantial social problem. In reality, its assault on the associational rights of social organizations is so dramatic as to be a threat to *all* student groups at Trinity, particularly belief-based organizations such as religious and political groups. While Trinity claims in its own policies to value and promise full rights of freedom of association to its students, its new Social Code makes clear that Trinity is willing to negate such promises for the purpose of curing perceived social ills. Whatever the issues Trinity seeks to remedy with its new Social Code, however, Trinity faces costlier long-term consequences to its reputation by establishing itself as an institution willing to impose its own judgment for that of its students and to disregard basic rights in doing so.

FIRE asks that Trinity College and its Board of Trustees reconsider and revise its Social Code to fully protect the right of freedom of association it promises to all Trinity students and is morally bound to provide. We request a response to this letter by April 3, 2013.

Sincerely,



Peter Bonilla

Associate Director, Individual Rights Defense Program

cc:

Paul E. Raether, Chairman, Board of Trustees

Philip S. Khoury, Vice Chairman, Board of Trustees

Frederick Alford, Dean of Students

Amy DeBaun, Director of Campus Life

Mary Jo Keating, Secretary of the College and Vice President for College Relations