



November 16, 2020

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Dr. Charles Pollard  
President, John Brown University  
2000 W. University St.  
Siloam Springs, AR 72761

VIA EMAIL TO [cpollard@jbu.edu](mailto:cpollard@jbu.edu) AND REGULAR MAIL

Dear Dr. Pollard,

I write on behalf of Young America's Foundation and its student chapters, Young Americans for Freedom (YAF). Recently, YAF's student chapter at John Brown University (JBU) was denied permission to put up posters created by YAF to celebrate the 31<sup>st</sup> anniversary of the fall of the Berlin Wall and the dangers of communist ideology. The JBU employees, Becky Wakefield, Administrative Assistant of Student Activities, and Caitlin Bennett, Director of Student Engagement, asserted that the denial was because YAF's posters are "political advertising".

After YAF posted an article calling attention to JBU's decision, Professor of Politics Daniel Bennett doubled down on Twitter that YAF's posters were "political." Julie Gumm, Director of University Marketing & Communications, contacted YAF to "clarify" but also insisted on the posters were "political" after "examining the message of the posters on its own merits". YAF understands that JBU is a private university entitled to set its own requirements on content posted on its property, however, the justification for denying these posters set forth by your employees is so far above the legal standard around political advertising that it certainly implies that JBU is actively stifling the free exchange of ideas on its campus.

YAF is a non-profit organization recognized as a 501(c)(3) organization by the Internal Revenue Service, and has maintained that tax exempt status without issue since its inception in 1969. YAF annually celebrates the fall of the Berlin Wall and advocates against harmful ideologies like communism as part of that tax exempt mission. As a 501(c)(3) organization, YAF is expressly prohibited from political intervention, defined under the legal standard of "influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state or local public office".

The Internal Revenue Service sets out guidelines on the legal test applied to determine what is and is not considered political intervention. The test is not, as Ms. Wakefield wrote to our students, "avoiding the appearance of advocacy for a specific political party or candidate". The test is also not opposing a political ideology, as Ms. Bennet wrote, "in support of a political opinion". The actual IRS test for evaluating whether an advertisement is political looks at whether the content endorses a candidate or political party or makes a statement in support or opposition to a candidate. The IRS may also consider an advertisement political if it meets certain factors, including whether the advertisement names a candidate, discusses voting, approves or disapproves of a **candidate's** (emphasis added) position, and the timing of the advertising.

YAF's three posters are all very clearly compliant with its tax-exempt status and outside the Internal Revenue Service's definition of political intervention. None of the three posters identify or name any candidate, advocate for or against the election of any candidate, discuss voting, or even mention a political party. The posters are intended to



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celebrate YAF's annual Freedom Week, focused around November 9, 2020, which takes place after Election Day, and to share educational information about the harmful impact of communist ideology in foreign countries. No individual knowledgeable in free speech law would consider YAF's content political, and discussions of ideas and ideologies are very much within the bounds of appropriate speech for a non-profit organization.

If JBU employees view YAF's advertisements as political, it is solely because those employees are inserting their own subjective opinions onto the content of YAF's posters. It is surprising to see faculty and employees of a university like JBU believing that it is improper to criticize atheistic communism, perhaps the single greatest scourge of human history directly responsible for the murder and deliberate deaths of more than 100 million souls.

To make matters worse, JBU's professed standard on political advertising, aside from going above the legal requirement, appears to be applied inconsistently. For example, JBU did not have an issue putting up an advertisement for a JBU event discussing the "Black Lives Matter" movement. Applying Ms. Bennett's standard, "Black Lives Matter" is a political ideology and JBU is providing a forum to discuss a political opinion. "Black Lives Matter" is also generally associated with one political party over another, which would implicate Ms. Wakefield's version of the standard. If the IRS's standards resembled what JBU is applying to YAF's students, JBU's own tax-exempt status under 501(c)(3) would be in danger from that advertising and discussion.

Again, as a private university, JBU is entitled to set its own standards for speech, however, I strongly urge you to consider revisiting JBU's policy on political advertising and how it is being implemented on your campus. The free exchange of ideas, both popular and unpopular with its faculty, is essential to the growth of well-rounded students. If JBU's stance on political advertising remains as it appears, YAF will need to continue using our extensive communications apparatus to continue inviting national attention to the JBU administration's actions in opposition to free speech. The apparent support of communist ideas stands in stark contrast to your stated mission of providing a "Christ-centered education that prepares people to honor God and serve others by developing their intellectual, spiritual and professional lives."

I would be happy to discuss free speech and tax-exempt organization law with you or your General Counsel further if that would be helpful. I can be reached at 800-USA-1776. I am also sending a copy of this letter to the U.S. Department of Education since they may be interested in JBU's apparent hypocritical stance on free speech for its students.

Sincerely,

Steven M. Mairella  
Deputy General Counsel  
Young America's Foundation

Cc: Julie Gumm, Director of Marketing & Communications, JBU  
William Kirk, Deputy General Counsel, U.S. Department of Education