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# United States Senate

WASHINGTON, DC 20510-2509

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April 9, 2019

Betsy DeVos  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Secretary DeVos:

Yale Law School recently announced a policy targeting religious students for special disfavor. That policy, as first described, blocks students who work for certain faith-based organizations from accessing resources available to all other students. Specifically, the policy prohibits students from receiving school resources if they work for an organization that takes religion into account when hiring. And unlike federal law, the policy fails to include an exception for religious organizations even though federal law recognizes that religious organizations often cannot fulfill their unique missions without considering religion while hiring.

Last Thursday, after receiving negative media attention for targeting religious students, Yale changed its tune and now says that it will craft a new policy that includes an exemption for “religious organizations.”\* But the circumstances surrounding Yale’s announcement suggest that whatever exception Yale does create may be inadequate. When Yale first announced its policy, it did not do so in a void; it did so in response to student protesters. Those protesters demanded that Yale strip funding from students who work for Alliance Defending Freedom, a religious organization. When announcing its policy, Yale praised those protesters for their “leadership” in raising the issue. And in response to questions about the policy, Yale both declined to include a religious exemption and specifically identified students who work for Alliance Defending Freedom as students the policy targets.

Given this background, there is a real risk that whatever definition of “religious organization” Yale promulgates will be unreasonably narrow, giving the false impression that Yale is protecting religious students while it is in reality capitulating to the demands of student protesters who want to target certain religious classmates for special disfavor.

The policy Yale first announced, if adopted by any public university, would be blatantly unconstitutional because the policy “target[s] the religious for ‘special disabilities’ based on their

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\* *Statement from Yale Law School on Nondiscrimination* (April 4, 2019), <https://law.yale.edu/yls-today/news/statement-yale-law-school-nondiscrimination>.

‘religious status.’” *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2019 (2017). Even though Yale is not a state institution, it is still subject to statutory restrictions because it receives federal funds. And as a law school, Yale is obligated to foster respect for the law. That includes fostering respect for students, their constitutional rights, and their deeply held religious beliefs.

I request that your Department protect the rights of these students by monitoring closely the changes Yale is making to its policy and by taking all appropriate legal action to strip Yale of federal funding should it—as an institution that is supposed to be neutral about religion—target religious students for special disfavor.

Thank you for your attention to this matter.

Sincerely,



Josh Hawley  
U.S. Senator