



September 18, 2024

Maura Grace Hamilton  
Speaker of the Student Senate  
University of South Carolina  
Russell House 227  
Leadership and Service Center  
Columbia, South Carolina 29208

**URGENT**

*Sent via U.S. Mail and Electronic Mail (mauragh@email.sc.edu)*

Dear Ms. Hamilton:

FIRE, a nonpartisan nonprofit dedicated to defending freedom of speech,<sup>1</sup> is concerned by the University of South Carolina Student Senate's vote to deny student group Uncensored America's legitimate funding request based on the viewpoint of the organization and its invited speakers. FIRE appreciates that USC is one of the few institutions in the country whose policies earn a "green light" rating from FIRE, but the Senate's rejection of Uncensored America's funding request constitutes impermissible viewpoint discrimination in violation of the First Amendment. The Student Senate must reverse its decision and commit to upholding both USC policy and the First Amendment in the future by distributing funds in a viewpoint neutral manner.

USC's Student Senate allocates funding to student organizations.<sup>2</sup> The Senate Finance Committee first reviews all funding requests for compliance with the applicable policies before sending the Committee-approved requests to the full Senate for final approval.<sup>3</sup> USC policy and Student Senate Codes require the Senate to allocate funding to student organizations in a viewpoint-neutral manner.<sup>4</sup>

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<sup>1</sup> For more than 20 years, the Foundation for Individual Rights and Expression has defended freedom of expression, conscience, and religion, and other individual rights on America's university campuses. You can learn more about our mission and activities at [thefire.org](https://thefire.org).

<sup>2</sup> Student Government Codes, Art. V, § 3-5-10(A) (May 19, 2024), <https://drive.google.com/drive/folders/1Y7F-LtOh32f6JELMbk2R7bcB2das6cpi>.

<sup>3</sup> *Id.* at Art. IV, §§ 3-4-10(B), (B)(1).

<sup>4</sup> *Id.* at Art. IV, § 3-5-10 (C) ("Student organizations shall neither be discriminated against nor given preferential treatment based on their viewpoint, in compliance with university policy and federal, state, and

Student organization Uncensored America requested \$3,576.99 from the Senate Finance Committee for its September 18 event, “The Roast of Cumala Harris with Milo and Gavin,” featuring Milo Yiannopoulos and Gavin McInnes.<sup>5</sup> The Finance Committee reviewed and approved the funding request, and the full Senate considered the request on September 11.<sup>6</sup>

During the debate, you, Finance Committee Chairman William Wenzel, and Senator Camden Kaye each noted that Uncensored America’s funding request complied with all relevant rules and stressed the Senate’s obligation to comply with policies prohibiting viewpoint-based discrimination when voting on the request.

Others argued against approving the funding request. Senator Isabell Miller contended that Uncensored America had in fact violated various rules, including an alleged USC policy prohibiting on-campus advertising that contains sexual connotations.<sup>7</sup> She also claimed the group’s promotion of the event on its public Instagram page violated state law prohibiting exposing minors to sexual content.<sup>8</sup>

Citing *Citizens United v. FEC*,<sup>9</sup> Finance Committee Chairwoman Mia LaPinta argued that supporting a political candidate or political event with monetary contributions is protected speech, and therefore “if Student Government provides funding for this event, we are inherently taking a political stance,” contrary to the student government’s obligation to remain “apolitical.”<sup>10</sup> But choosing not to fund the event is a “neutral position,” she said, “where neither the student body nor the Senate is endorsing or opposing the organization’s beliefs or events.”<sup>11</sup>

The Senate ultimately voted against the funding request, 27-10.

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local law.”); STAF 3.10 Student Organizations, § (F)(2), at 6, UNIV. OF S.C. (rev. Aug. 9, 2023), <https://www.sc.edu/policies/ppm/staf310.pdf> (“Student organizations will not be denied funding nor given preferential treatment in funding based upon the viewpoint of the student organization requesting the funds as outlined in University policy and federal, state or local law.”).

<sup>5</sup> Carrigan Woodson, *Student senate denies funding for Uncensored America, passes bill to increase security at event*, THE DAILY GAMECOCK (Sept. 12, 2024, 1:22 AM), <https://www.dailygamecock.com/article/2024/09/student-senate-denies-funding-for-uncensored-america-passes-bill-to-increase-security-at-event-news-woodson>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* No such policy barring promotional materials that contain sexual connotations exists. The alleged sexual connotations in promotional materials for the event are based on the event title, “The Roast of Cumala Harris with Milo and Gavin.” Uncensored America (@uncensoredamerica), INSTAGRAM (Aug. 20, 2024), <https://www.instagram.com/p/C-5ml49x8UD/>.

<sup>8</sup> Woodson, *supra* note 5; *see also* Uncensored America (@uncensoredamerica), INSTAGRAM (Aug. 20, 2024), <https://www.instagram.com/p/C-5ml49x8UD/>.

<sup>9</sup> 558 U.S. 310 (2010).

<sup>10</sup> Woodson, *supra* note 5.

<sup>11</sup> *Id.*

As an agency of a public university, the actions of USC’s student government—including its decisions about funding of student organizations—must comply with the First Amendment,<sup>12</sup> which forbids USC from imposing content- or viewpoint-based restrictions on the distribution of student activity fee funds to student groups.<sup>13</sup> USC’s authority to impose mandatory student fees that support student groups carries with it the burden to ensure the viewpoint-neutral distribution of such funds.<sup>14</sup>

Contrary to the assertions made during the September 11 Senate debate, *Citizens United* does not change this analysis. *Citizens United* invalidated a federal law barring independent expenditures from corporations and unions for “electioneering communications” and speech expressly advocating the election or defeat of a candidate, holding that the government may not ban political speech based on the speaker’s corporate identity.<sup>15</sup> It did not alter the authority or obligation of USC or the Student Senate to allocate funds to student organizations, nor did it imply that the act of distributing funds to a particular organization communicated the university’s or senate’s approval of the organization’s message. In fact, *Citizens United* is irrelevant here.

Nor did Uncensored America violate university policy or state law by promoting an event whose title includes a sexual reference. First, USC’s posting policy does not limit or regulate posting promotional materials based on sexual content.<sup>16</sup> Second, state law does not forbid exposing minors to sexual content.<sup>17</sup> Any such law or university policy that would prohibit advertising merely for including the title, “The Roast of Cumala Harris with Milo and Gavin,” would certainly be unconstitutionally overbroad.

By denying an otherwise rules-compliant and legitimate funding request from a student organization to avoid communicating support for the views of the organization or its invited

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<sup>12</sup> *Bd. of Regents of the Univ. of Wis. Sys. v. Southworth*, 529 U.S. 217, 221 (2000); *Koala v. Khosla*, 931 F.3d 887, 894 n.1 (9th Cir. 2019) (action by student government regarding student newspaper funding was state action because it was an “exercise of authorities concerning student affairs by delegations” of power from the university); *Ala. Student Party v. Student Gov’t Ass’n of Univ. of Ala.*, 867 F.2d 1344, 1349 (11th Cir. 1989) (holding University of Alabama student government was a state actor when analyzing First Amendment challenge to student government campaign finance regulations); *Gay & Lesbian Students Ass’n v. Gohn*, 850 F.2d 361, 365–66 (8th Cir. 1988) (holding that state university student government was a state actor for purposes of allocating funding to student groups).

<sup>13</sup> *Southworth*, 529 U.S. at 233 (“When a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others.”); *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 836 (1995) (“For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital centers for the Nation’s intellectual life, its college and university campuses.”).

<sup>14</sup> *Id.*

<sup>15</sup> 558 U.S. at 365–66.

<sup>16</sup> *UIV 6.00 Freedom of Expression and Access to Campus*, §§ (B)(3), (C)(2), at 5–6, UNIV. OF S.C. (rev. Nov. 8, 2023), <https://www.sc.edu/policies/ppm/univ600.pdf>.

<sup>17</sup> State law does prohibit the dissemination to minors of sexually *explicit* material harmful to minors, but the law is expressly limited to material that meets the standard for obscenity for minors, which the event title would not reach. See S.C. Code § 16-15-305.

speakers, the Senate has in fact restricted funding based on the organization's views and expression—in violation of the First Amendment. While the Student Senate and individual student leaders may advocate for their own viewpoints on contested political issues, they may not condition campus group funding on adherence to those viewpoints.

Given the urgent nature of this matter, we request a substantive response to this letter no later than the close of business on Wednesday, September 25, confirming that the Student Senate will reverse its decision to reject Uncensored America's funding request and, in the future, approve student groups' funding requests based only on the viewpoint-neutral rules contained in USC policy and Senate Codes.

Sincerely,



Jessie Appleby  
Program Officer, Campus Rights Advocacy

Cc: Michael D. Amiridis, President  
Walter "Terry" Parham, General Counsel  
J. Rex Tolliver, Vice President for Student Affairs and Academic Support