

United States Senate

April 11, 2019

Ms. Heather Gerken, J.D.
Dean and Sol & Lillian Goldman Professor of Law
Yale Law School
127 Wall Street, Room 104
New Haven, CT 06511

Dear Dean Gerken:

Last week, my colleague, Senator Ted Cruz wrote to you regarding Yale Law School's new "anti-discrimination" policy. In your response to Senator Cruz's letter, published on the law school's website on April 10, 2019, you paint a confusing picture for current and prospective students at Yale who may wish to work at a religiously affiliated organization or institution.

Your statement asserted that Yale Law School will not financially support an employment position for a Yale Law School student if the employer refuses to hire students because they are Christian. For the purpose of clarity, does this mean that Yale will not support a Christian student who wishes to work on behalf of a Christian organization or society that, as a term and condition of employment, must adhere to the Christian faith? Does this mean that Yale will not support a Muslim student who wishes to work on behalf of a Muslim organization or society that, as a term and condition of employment, must adhere to the Muslim faith? Does this mean that Yale will not support a Jewish student who wishes to work on behalf of a Jewish organization or society that, as a term and condition of employment, must adhere to the Jewish faith?

Additionally, understanding Yale Law School's new policy, does this extend to religious organizations that, as a term and condition of employment, must adhere to specific religious tenants, creeds, or other fundamentally core beliefs of their faith? Your statement, published on April 4, 2019, states that "[the new policy] will also include an accommodation for religious organizations and a ministerial exception, consistent with antidiscrimination principles." This statement is incoherent and misleading, because a ministerial exception explicitly allows for certain forms of exclusion as a means to protect the core principles and beliefs of the faith. What specific antidiscrimination principles does Yale Law School wish to apply on Yale Law School students who wish to work for a faith-based organization?

I have to imagine the questions I raise are questions your student body and the prospective students of Yale Law School would like answered. There are many organizations in our great, religiously free and diverse country that aim to serve, preserve, and strengthen specific religious missions, beliefs, and engagement, and require, as a prerequisite for the terms and conditions of employment, an affirmation of the core beliefs of the official religion of the organization. The

practice of religious organizations hiring based on religious affiliation is protected under the First Amendment of the U.S. Constitution, as well as by Congress in Title VII of the 1964 Civil Rights Act (42 U.S.C. §§ 2000e-1(a) & 2000e-2(e)(2)). Justice Anthony Kennedy affirmed this when, quoting the Court's opinion in *Obergefell v. Hodges*, he wrote for the Supreme Court in *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, that “[t]he First Amendment ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths.”

While I understand the intense pressure that some on the far Left have put on Yale Law School and other prestigious law schools to shame and deny benefits to students with strongly held religious beliefs, **let me be clear: it is discriminatory for Yale Law School to deny benefits to students who wish to work at a religious organization that requires religious affirmation and adherence to core religious principles as a prerequisite of employment. By striving to be anti-discriminatory, Yale Law School is engaging in clear religious discrimination by infringing on the religious liberty of Yale Law School students who wish to work at a religious organization of their choosing.** It is the epitome of political correctness run amuck and only serves to hurt Yale Law School students, instead of the religious organizations detested by the far Left.

As the Dean of one of America's most distinguished institutions of higher learning, I urge you to further clarify Yale Law School's position on this matter so that current and prospective students can have clarity about the places in which they can work, while enjoying the same benefits afforded to the rest of Yale Law School's student body. Additionally, with regards to the specific programs Yale Law School students are allowed to participate in as a way to receive an institution-based subsidy, I ask that you provide my office with the funding sources for these programs that allow Yale Law School to offer student-based subsidies.

Finally, I leave you with this question: is Yale Law School going to be a place that subjugates students to the far Left's interpretations of social justice, punishing students of faith along the way? Or, is Yale Law School going to be a place where students are empowered to use their law degree to fight for justice at the organizations that most closely align with their core beliefs and conscience? I hope you pick the latter.

Thank you for reviewing my letter. I look forward to hearing from you soon and please do not hesitate to let me or my staff know if you have any questions.

Sincerely,


Bill Cassidy, M.D.
United States Senator