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Cardozo Law Pushes Back Against Yeshiva University for Its SCOTUS Appeal Against LGBTQ+ Club

David Rudenstine, Sheldon H. Solow professor of law at Cardozo School of Law—dean from 2001 to 2009—who signed the letter to Yeshiva University President Rabbi Ari Berman, told Law.com, “I think the university owes it to the students to treat them with the same dignity and respect it treats other students.”

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Legal Education

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The Benjamin N. Cardozo School of Law has pushed back against its parent university, Yeshiva University, regarding the university’s fight against formation of an undergraduate LGBTQ+ club.

Additionally, faculty from the Ferkauf Graduate School of Psychology at Yeshiva University wrote a letter to the university’s president expressing their “outrage” over the university’s actions.

Yeshiva University and its president, Rabbi Ari Berman, filed an emergency application for stay pending appellate review to U.S. Supreme Court Justice Sonia Sotomayor, circuit justice for the Second Circuit, on Aug. 29.

The university and Berman “seek an emergency stay pending appeal of a permanent injunction ordering them to ‘immediately’ approve an official Yeshiva ‘Pride Alliance’ student club,” according to court documents, based on Yeshiva University being a “deeply religious Jewish” institution.

A decision from the U.S. Supreme Court is expected any day.

The club application process opened on Aug. 26 and runs through Sept. 12, according to court documents.

On Aug. 31, more than 50 Cardozo Law professors sent a letter to Berman expressing “our profound disappointment that Yeshiva University continues to enforce a discriminatory policy that harms its LGBTQ+ undergraduate students and, has gone so far as to seek the intervention of the United States Supreme Court in this matter,” according to the letter.

Further, the letter says that a group of Cardozo faculty members met with Berman before the initiation of the Supreme Court litigation to communicate their views that “YU was acting in a way that was both improper and illegal.”

“You expressed your profound respect for all YU students,” the letter says. “You promised that principle would guide the University’s future actions.”

The law professors said that Cardozo Law has “consistently supported and respected our LGBTQ+ students without hesitation,” adding that undergraduate students deserve the same.

The professors requested Berman to “accept the New York State court’s ruling, to withdraw the request to the Supreme Court, and to treat the YU Pride Alliance with the same respect and dignity Yeshiva shows other student organizations,” according to the letter.

Cardozo Law has an LGBTQ+ group called OUTlaw, which has been in existence since approximately the 1990s, John DeNatale, associate dean of communications and public affairs of Cardozo Law, told Law.com on Friday.

“The university has never had a problem with the Law School’s LGBTQ organizations, which have been active participants in the Cardozo community for decades,” DeNatale said. “OUTlaw supports major events at the law school during Pride Week and throughout the year.”

Melanie Leslie, who has been Cardozo Law’s dean since July 1, 2015—and the first woman and Cardozo graduate to fill that role—took to LinkedIn earlier this week, offering assurances that “whatever the outcome, the Supreme Court’s decision will have no impact on Cardozo Law School’s policies.”

“I wish to emphasize once again that Cardozo Law School is committed to supporting our OUTlaw student and alumni groups, and to treating all individuals, including our LGBTQ+ faculty, staff, and students, with respect, equality, and dignity so that they may work and learn in a safe, unbiased, supportive environment,” Leslie wrote on LinkedIn.

David Rudenstine, Sheldon H. Solow professor of law at Cardozo School of Law—dean from 2001 to 2009—told Law.com on Friday why he chose to sign the letter.

“I think the university owes it to the students to treat them with the same dignity and respect it treats other students,” Rudenstine said, adding that he doesn’t believe that the LGBTQ+ community wanting to form a club violates any belief or tenet.

He said his major concern is that Yeshiva University is discriminating against the club based on the individuals’ character and identity, not based on anything they want to do.

Further, Rudenstine said, “This kind of discrimination will undermine the reputation of the university and affect the law school and other divisions.”

While the lawsuit only involves the undergraduate school, the university’s actions are “not in the best interest of Cardozo.”

Rudenstine said he has been on the faculty of Cardozo Law since 1979 and “while I was never part of undergraduate environment, I have a strong sense of the history of the university and its role in American life, and part of what the university stands for is ‘tolerance, open mindedness and acceptance.’”

On Sept. 2, 30 faculty members from the Ferkauf Graduate School of Psychology at Yeshiva University sent a letter to Berman, saying, “As mental health professionals, we are well aware of the detrimental effects that a non-inclusive and discriminatory environment can have on the mental health of LGBTQIA+ individuals and particularly young adults,” citing numerous studies in their letter.

Like Cardozo Law faculty, the Ferkauf Graduate professors said, “although these actions are directed toward undergraduate policies, we as a graduate school under the auspices of Yeshiva University are affected by association in multiple ways.”

“As Yeshiva University employees and representatives, we cannot stand by and watch this unconscionable step take place without expressing our deep condemnation of the actions,” the psychology professors wrote.

Additionally, an email was sent to Cardozo Law students on Thursday from the “deansofficecardozo” announcing a new “Pop Up” class, “Understanding the LGBTQ+ Civil Rights Movement and Why It Matters,” which will begin Sept. 21.

Guest lecturers will include professors Deborah Pearlstein, Kate Shaw and Edward Stein of Cardozo School of Law; assistant professors of clinical psychology Kailey Roberts and Jennifer Cooper, Ferkauf Graduate School of Psychology; and civil rights leader Rachel B. Tiven, former head of Lambda Legal, according to the email.

In response to request for comment, Yeshiva University forwarded a copy of the press release the university sent out on Aug. 29 about the SCOTUS appeal but did not provide comment regarding the letters that were sent on and after Aug. 29.

Yeshiva University has been fighting in New York state courts for over a year to defend its right to conduct its internal affairs in accordance with its religious beliefs, according to the release. “Yeshiva is now asking the court to protect its religious mission from government interference.”

In *YU Pride Alliance v. Yeshiva University*, a group of students are demanding that the university officially recognize an LGBTQ Pride Alliance club on campus. The lower court rulings would force Yeshiva to put its stamp of approval on a club and activities that are inconsistent with the school’s Torah values and the religious environment it seeks to maintain on its undergraduate campuses, according to the release.

“The Torah guides everything that we do at Yeshiva—from how we educate students to how we run our dining halls to how we organize our campus,” Berman said in the press release. “We care deeply for and welcome all of our students, including our LGBTQ students, and continue to be engaged in a productive dialogue with our Rabbis, faculty and students on how we apply our Torah values to create an inclusive campus environment. We only ask the government to allow us the freedom to apply the Torah in accordance with our values.”

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