

FAIR v. RUMSFELD: THE PLAINTIFF'S CLAIMS

Plaintiffs turn to this Court to vindicate the right of law schools and law professors to choose for themselves, free from government interference, how best to advance their educational missions; what messages to articulate to their communities; and how to communicate those messages. Only this Court can restore the open environment of equality, mutual respect, and dignity that law professors and law students have grown to cherish and expect.

-Plaintiff's Complaint, Preliminary Statement

- The Defendants have misread and misapplied the plain terms of the Solomon Amendment and the regulations promulgated thereunder: (A) by demanding that law schools do more than permit “entry to campuses, or access to students ... on campuses, for the purposes of military recruiting;” (B) by incorrectly interpreting the statute and the regulations to require that a law school offer military recruiters every service and accommodation given to employers who satisfy the law school’s non-discrimination policy; and (C) by interpreting the Solomon Amendment to permit a university-wide funding freeze just because of a law school’s purported non-compliance.
- The Solomon Amendment and regulations promulgated thereunder violate the rights of Plaintiffs under the First Amendment to the Constitution of the United States, by imposing an unconstitutional condition on the receipt of federal funding, thereby impinging on Plaintiffs' academic freedom, freedom of speech, and freedom to associate with one another in pursuit of common objectives.
- The Solomon Amendment, as written and implemented, constitutes impermissible viewpoint discrimination in violation of the First Amendment to the Constitution of the United States in that its funding restrictions apply only to law schools and other institutions that ban or restrict military recruiters in protest.
- The Solomon Amendment impermissibly prohibits the Plaintiffs from expressing dissent by cutting off critical federal funding to law schools that express their protest of and objection to the military’s discriminatory hiring and personnel policies and by exposing allegedly non-compliant schools to public censure by identifying them in the Federal Register.
- The Solomon Amendment is unconstitutionally vague and/or overbroad and thus void under the First Amendment and the Due Process Clause of the Fifth Amendment of the Constitution of the United States, in that it restricts a wide range of speech and associational activities protected under the First Amendment, lacks sufficient definitions or guidance regarding its application, grants unfettered discretion to DOD and low-level military officers to decide what constitutes compliance, and impermissibly chills the speech of Plaintiffs.
- The DOD’s elimination of the subelement limitation from the regulations governing its own funds without notice or comment period violated the provisions of the Administrative Procedure Act. 5 U.S.C. § 551, *et seq.*
- The DOD’s failure to provide law schools with reasoned and supported explanations of how the law schools allegedly had failed to comply with the Solomon Amendment violated the Administrative Procedure Act. 5 U.S.C. § 551, *et seq.*

