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KAPPA KAPPA GAMMA PREVAILS, AGAIN

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The litigation over Kappa Kappa Gamma's (Kappa) decision to admit a transgender student identifying as female into its University of Wyoming chapter, is still not over. Kappa has prevailed for the second time in the U.S. District Court for Wyoming,[1] but another appeal has already been filed.

The legal controversy has a complicated procedural history. The Wyoming District Court first dismissed the case in 2023. Plaintiffs appealed that decision to the Tenth Circuit Court of Appeals, which also dismissed the case upon finding that the lower court's order was not final, thereby returning it to the District Court. In the meantime, another lawsuit raising substantially similar claims was filed in the U.S. District Court in Columbus, Ohio, Kappa's state of incorporation. That case was ultimately consolidated back to the Wyoming District Court. There, Plaintiffs filed a Second Amended Complaint, to which the Kappa defendants responded with a renewed Motion to Dismiss. That is where things stood when, on August 22, 2025, the District Court issued a new dismissal—this time with prejudice.

As the judge explained in the most recent decision, the first time around:

[1] *Holtmeier v. Kappa Kappa Gamma Fraternity*, No. 23-CV-51, 2025 WL 2684859 (D. Wyom. Aug. 22, 2025).

> We dismissed that complaint without prejudice on the grounds that the sorority was free, as a private organization, to define the word "woman" in its bylaws however it wanted, and therefore the sorority was not contractually obligated to reject transwomen members.
>
> […]
>
> Having considered the issues presented (again), we find that the majority of the claims must be dismissed on the grounds that this Court still may not interfere with Kappa's contractually valid interpretation of its own Bylaws.[2]

Later, the Court noted:

> When we ruled on this issue two years ago, we held that we could not impinge on Kappa's First Amendment right of expressive association to include transgender women…The law of the case doctrine dictates we apply the same holding here, but even if that were not the case, we reach the same conclusion, independently, on the grounds that Ohio contract law allows Kappa to define "women" to include individuals who identify as women.[3]

Plaintiffs attempted to rely on President Trump's Executive Order 14168, which declared that "women…shall mean adult…human females" and "female…means a person belonging, at conception, to the sex that produces the large reproductive cell." The Court declined to give much weight to that effort, remarking:

> We are not entirely sure what this definition means, not having a degree in biology. But even assuming this definition aligned with Plaintiffs', it only applies to the Executive Branch's interpretation of federal laws and administration policy. It is not relevant in the world of private contracts, which is where we currently find ourselves.[4]

Approaching the end of its 35-page decision, the Court emphasized that "Kappa has interpreted this term (woman) in accordance with its own governing documents." Again applying Ohio law, the Court noted that Ohio precedent makes courts "unwilling to interfere with the

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[2] *Id.* at *2.
[3] *Id.* at *9. Note that the Court applied Ohio law because Kappa is an Ohio corporation.
[4] *Id.*

management and internal affairs of a voluntary association." As a result, "the matter is not one open to judicial discretion."[5]

Finally, the Court observed that Plaintiffs, in spite of their complaints, do in fact have a potential remedy, but not through the courts:

> The reality is that Plaintiffs do have a remedy here—they are simply choosing not to use it. Plaintiffs could advocate for a new amendment to the Bylaws, defining the word "woman" as they wish, which would restrain Kappa from choosing between various reasonable definitions of the term.[6]

In other words, the Court pointed Plaintiffs to Kappa's Biennial Convention as the forum in which to pursue their proposed definition.

On September 17, 2025, Plaintiffs filed their notice of appeal to the Tenth Circuit Court of Appeals. The case will now return to the same appellate court that previously declined to hear it, and the Tenth Circuit will be asked once again to decide whether the District Court's ruling should stand.

Update: Cox Litigation to Challenge Alpha Epsilon Phi's "Sober Sister" Policy as an Assumption of Duty

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The tragic case arising from Sarah Cox's catastrophic fall at an Alpha Epsilon Phi (AEPhi) event continues to move forward in Suffolk County Superior Court, Massachusetts.[7] The litigation

[5] *Id.* at *12.
[6] *Id.* at *13.
[7] Grace Moseley, *Family Sues Sorority and Property Owner Over Tragic Fall at Party*, 187 Fraternal L. 1, 14 (Sept. 2024).

now centers on a novel legal question: whether a sorority's internal "sober sister" policy can create a legally enforceable duty to protect members from alcohol-related harm.

Sarah Cox suffered permanent injuries after falling through a window during a "pre-formal" gathering at an off-campus apartment rented by chapter members. Her parents filed suit against the national sorority ("AEPhi"), the local Phi Omega Chapter ("Chapter"), the Chapter's then-serving president, and the apartment's property owners ("Property Owner Defendants") (collectively, "Defendants"). Plaintiffs originally alleged that underage drinking and unsafe conditions at the event caused Sarah's fall.

Most of those claims have since been dismissed. The Court ruled that Property Owners and individual members[8] could not be held liable where the apartment's windows complied with building code, and that Massachusetts law does not impose a general duty on social hosts to protect adult guests—even those under twenty-one—from voluntary intoxication. [9]

What remains is a focused dispute over AEPhi's bylaws and risk management policies. Plaintiffs argue that by adopting rules requiring "sober sisters" and adherence to FIPG safety protocols, the sorority voluntarily assumed a duty to protect members like Sarah from foreseeable risks at social events. They claim the failure to assign sober sisters on the night of the accident directly contributed to her injuries.

AEPhi counters that risk management policies are aspirational guidelines, not enforceable duties, and that courts should not expand organizational liability by treating bylaws as contracts or safety guarantees.[10]

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[8] Following extensive motion practice to amend the Complaint, additional defendants, including some other sorority members, were added.
[9] Decision and Order on Mots. to Dismiss, Cox v. Ramos, No. 2484CV00684 (Suffolk Cnty. Super. Ct., Sept. 3, 2025).
[10] Answer to Am. Compl., Cox v. Ramos, No. 2484CV00684 (Suffolk Cnty. Super. Ct., Sept. 15, 2025).

On September 2, 2025, the Court allowed only this narrow theory to proceed: that the sorority's "sober sister" policy might amount to an assumed duty.[11] Discovery will now be limited to the purpose, enforcement, and operation of that policy, and whether not deploying sober sisters at the April 2023 event increased the risk of harm.

The Court's ruling signals a cautious openness to expanding organizational liability where self-imposed policies arguably create expectations of safety. This case may prove instructive nationally as fraternities and sororities continue to balance the safety of their members, the risk management protocols demanded by insurers, and the legal exposure such policies may create in tragic circumstances.

Navigating New Financial Pressures: The One Big Beautiful Bill Act's Endowment Tax Reform and Its Impact on Higher Education

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The One Big Beautiful Bill Act (Pub. L. No. 119-21, 119th Congress, 2025)), a sweeping budget reconciliation measure, imposes significant changes to higher education financing through Section 70415, which amends Internal Revenue Code section 4968 to impose a tiered excise tax on private colleges' net investment income.[2] This provision, effective for tax years after 2025, could reshape university budgets, impacting academic programs, student services, and

[11] *Order*, *supra* note 3.
[1] Logan is a second-year law student at Northern Illinois University College of Law who interned with Manley Burke this past summer.
[2] Pub. L. No. 119-2 (2025).

organizations like fraternities and sororities.[3] This article explores the reforms' implications and offers guidance for navigating its effects.

The revised tax structure replaces the flat 1.4% excise tax on endowments exceeding $500,000 per student with escalating rates: 1.4% for $500,000 to $749,999 per students, 4% for $750,000 to $1,999,999, and 8% for $2,000,000 or more.[4] It expands the tax base to include student loan interest and certain royalty income.[5] Affected institutions, including approximately twenty-one (21) private colleges with large endowments, face reduced investment returns, which may further strain budgets.[6]

For higher education, this tax could lead to tuition hikes, cuts to academic programs, or reduced funding for student services, such as mental health resources or diversity initiatives.[7] A 2025 analysis by the American Council on Education estimates that top-tiered institutions could lose millions annually, prompting cost-saving measures.[8] For student organizations, including fraternity and sorority life, this may translate to increased scrutiny from financially strained universities.[9] Institutions may impose higher facility fees, reduce support for chapter housing, or tighten compliance requirements under laws like the Stop Campus Hazing Act, as resources for oversight dwindle.[10] Fraternities and sororities, like all student organizations, could face new costs to maintain operations, particularly at private colleges like those targeted by the tax.[11]

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[3] *Id.*
[4] *Id.* § 70415 (amending 26 U.S.C. § 4968 (a)-(b)). Institutions with fewer than 3,000 tuition-paying students are exempt from the tax.
[5] Higher Education Act of 1965, 20 U.S.C. § 108711 (2018); One Big Beautiful Bill Act, H.R. 1, 119th Cong. § 70415 (2025).
[6] *Details and Analysis of the One Big Beautiful Bill Act*, Tax Found. (2025).
[7] *Tax Reform and Higher Education in* 2025, Am. Council On Educ. (2025).
[8] *Id.*
[9] *Id.*
[10] Stop Campus Hazing Act, Pub. L. No. 118-173 (2024).
[11] *See* Tax Found., *supra* note 6.

To adapt, university administrators should advocate for endowment tax relief through higher education coalitions, while organization leaders can collaborate with student affairs offices to understand budget shifts.[12] Organizations should review their financial plans to anticipate potential cost increases and strengthen compliance to avoid potential penalties during heightened oversight.

In conclusion, the endowment tax reform under the One Big Beautiful Bill Act signals new financial realities for private colleges, with ripple effects for student organizations. Proactive engagement with administrators and robust financial management can help these student organizations navigate these changes.[13] Be sure to consult with legal and financial advisors to prepare for evolving campus dynamics.

Harvard Suspends Orchestra Following Hazing Investigation

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The *Harvard Crimson*, in an article updated September 26, 2025, reported that Harvard College has suspended the Harvard-Radcliffe Orchestra (HRO) for the remainder of the fall semester due to an ongoing hazing investigation.[1]

According to the *Crimson*, the investigation stems from events at HRO's annual retreat, held off campus on September 6, 2025. It is alleged that new members were lined up and quizzed on the

[12] *See* Am. Council on Educ., *supra* note 7.
[13] *See* id.
[1] Elyse C. Goncalves & Cam N. Srivastava, *College Suspends Harvard-Radcliffe Orchestra After Hazing Investigation*, HARVARD CRIMSON (Sept. 26, 2025, 6:00 AM).

names of upperclassmen, then blindfolded and led outdoors, where they were told to tap an upperclass member once to request water or twice to request a vodka shot.

In a statement obtained by the *Crimson*, Associate Dean for Student Engagement Jason R. Meier wrote, "we can't share details about individual student matters, but the College is committed to following the Federal Stop Campus Hazing Act, Massachusetts state laws, and the Harvard University Hazing Policy."[2]

While suspended, the HRO's student board is barred from meeting for club activities, holding social events, and hosting outreach programming, per the *Crimson's* reporting. However, the orchestra's conductor, Federico Cortese, asserts that rehearsals and concerts will continue, since HRO also functions as an academic activity under Harvard's course "Music 110."[3]

Stanford's Sigma Chi Alumni Sue University for $50 Million Over Chapter House

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For eighty-five years, Stanford Sigma Chi alumni, through the Alpha Omega Housing Corporation ("AOHC") founded in 1937, managed the Alpha Omega chapter house by leasing land from Stanford University. On August 21, 2023, the lease period expired, and Stanford declined to renew the lease. Now, the AOHC is suing the Stanford University Board of Trustee for damages

[2] *Id*.
[3] *Id.*

toppling over $50 million dollars, alleging that the University unlawfully reclaimed property and breached both a long-standing ground lease and the University's own founding documents.[1]

As previously reported in *Fraternal Law*, Sigma Chi's charter was revoked in 2018 and Stanford subsequently declined to renew AOHC's ground lease. That resulted in the parties engaging in litigation that ended with a 2021 settlement.[2] The new 65-page lawsuit, filed in Santa Clara County Superior Court on August 28, 2025, revives that very dispute over the same house.

Specifically, the parties had reached the 2021 settlement that was intended to, in part, end Sigma Chi's suspension and allow for the Chapter to be reinstated. With the lawsuit settled, and the suspension lifted, in 2022, Sigma Chi reinstated the Chapter, with plans to renew its lease for the land at 550 Lausen Mall. However, in light of the recently settled litigation, the AOHC took no chances, and began efforts to preserve the chapter house by designating it as a historical landmark, reflecting the Chapter's involvement in the civil rights movement. So, when Stanford declined to extend the ground lease in 2023 despite the settlement and reinstatement, the stage was set for the present lawsuit.

AOHC's points to language added during the 1976 lease renewal in which Stanford expressed its "intention" to permit indefinite renewals so long as both the house and the fraternity remained active. AOHC argues this created a binding expectation that Stanford was obligated to honor.[3]

To prevail on this claim, AOHC will have to convince the court that this "binding expectation" precludes a provision from the 2021 settlement, which states "nothing in this Settlement Agreement

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[1] Complaint, Alpha Omega House Corp. v. Bd. of Trs. of Leland Stanford Jr. Univ., No. 25CV473890 (Santa Clara Cnty. Super. Ct., Aug. 28, 2025).

[2] *See* Hanna Puthoff, *Inactivity Results in Eviction by Stanford University, Leaving $32 Million Dollar Chapter Home Standing Empty Despite Its History*, 183 Fraternal L. 1, 7 (Oct. 2023).

[3] Complaint, *supra* note 1, at ¶¶ 48–51.

shall obligate [Stanford] to agree to any request for an extension, renewal, [or] new lease."[4] This language could be interpreted to mean that AOHC knowingly waived its right to contest nonrenewal and agreed to vacate, absent a written extension. It will then have to demonstrate that both the house and the fraternity remained active at Stanford, despite its three-year suspension and Sigma Chi International's decision to revoke the Chapter's charter.

AOHC also claims that Stanford's actions run afoul of the University's 1885 Founding Grant and subsequent amendments by Jane Stanford, which it argues contemplated ongoing ground leases for student associations.[4]AOHC argues that any departure from that structure required court approval.[5] This issue will likely turn on whether the University's trustees have discretion under charitable-trust principles to deviate from the amendments and whether the AOHC even has standing to enforce donor intent.

Further, AOHC alleges that Stanford breached the covenant of good faith and fair dealing by refusing to use "best efforts" to rehouse the chapter if the lease ever ended, as required by the lease.[6] According to counsel for AOHC, Stanford has instead rebuffed its repeated attempts to initiate good faith negotiations with the University. Counsel alleges that Stanford never intended to honor its obligations to the AOHC, but instead engaged in a decades-long plan to seize control of the property.[7] Again, this argument may also turn on whether such claims are barred by the 2021 settlement's waiver language.

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[4] *Id*. at ¶ 227.

[4] *Id*. at ¶¶ 48–51.
[5] *Id*. at ¶¶ 49–52.
[6] *Id* at ¶ 9.
[7] *See, e.g.,* Dylan Rem*, Sigma Chi Coalition Sues Stanford Trustees for $50 Million*, STANFORD REV. (Sept. 22, 2025, 6:49 PM).

Aside from the contractual issues, the lawsuit raises broader questions with far-reaching implications for student housing. If AOHC prevails, alumni corporations across the country may gain leverage to enforce decades-old housing agreements against universities seeking to reallocate property. If Stanford succeeds, it would reaffirm trustees' authority to reshape campus housing policies, including reclaiming historically significant properties.

The goal of *Fraternal Law* is to provide a discussion of fraternity law, but its contents are not intended to provide legal advice for individual problems of Greek organizations. The latter should be obtained from your attorney.

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