tion may, however, impose a requirement "that a group seeking offical recognition affirm in advance its willingness to adhere to reasonable campus law."[826]

Although a public college may not be required to open its facilities generally for use by student groups, once it has done so it must justify any discrimination and exclusions under applicable constitutional norms, such as those developed under the public forum doctrine. Thus, it was constitutionally impermissible for a college to close off its facilities, otherwise open, to students wishing to engage in religious speech.[827]

While it is unclear whether this holding would extend beyond the college level to students in high school or below who are more "impressionable" and perhaps less able to appreciate that equal access does not compromise a school's neutrality toward religion,[828] Congress has done so by statute.[829] On the other hand, a public university that imposed an "accept-all-comers" policy on student groups as a condition of receiving the financial and other benefits of official school recognition did not impair a student religious group's right to expressive association, because the school's policy was reasonable and viewpoint neutral.[830]

---

[826] Healy v. James, 408 U.S. at 193. Because a First Amendment right was in issue, the burden was on the college to justify its rejection of a request for recognition rather than upon the requesters to justify affirmatively their right to be recognized. Id. at 184. Justice Rehnquist concurred in the result, because in his view a school administration could impose upon students reasonable regulations that would be impermissible if imposed by the government upon all citizens; consequently, he did not think that cases the Court cited that had arisen in the latter situation were controlling. Id. at 201. *See also* Grayned v. City of Rockford, 408 U.S. 104 (1972), in which the Court upheld an anti-noise ordinance that forbade persons on grounds adjacent to a school to willfully make noise or to create any other diversion during school hours that "disturbs or tends to disturb" normal school activities.

[827] Widmar v. Vincent, 454 U.S. 263 (1981). To permit access by religious groups does not violate the Establishment Clause, and, even if the Missouri Constitution "has gone further than the Federal Constitution in proscribing indirect state support for religion, . . . the state interest asserted here—in achieving greater separation of church and State than is already ensured under the Establishment Clause of the Federal Constitution—is limited by the Free Exercise Clause and in this case by the Free Speech Clause as well." Id. at 275–276.

[828] 454 U.S. at 274 n.14; *see* Brandon v. Board of Education, 635 F.2d 971 (2d Cir. 1980), *cert. denied*, 454 U.S. 1123 (1981).

[829] By enactment of the Equal Access Act in 1984, Pub. L. 98–377, title VIII, 98 Stat. 1302, 20 U.S.C. §§ 4071–74, Congress applied the same "limited open [public] forum" principles to public high schools, and the Court upheld the Act against First Amendment challenge. Westside Community Bd. of Educ. v. Mergens, 496 U.S. 226 (1990).

[830] Christian Legal Society v. Martinez, 561 U.S. ___, No. 08–1371, slip op. (2010). The Court did not address the more difficult question raised by the school's written policy, which forbade discrimination, among other things, based on religion or sexual orientation, because the parties stipulated that in practice student groups were required to accept all students who complied with neutral membership requirements