

Response to New York Times August 1, 2005 Article

The August 1 *New York Times* story opens with a quotation from a Federalist Society member who is trying to respond to questions about the policy/legal positions of the Federalist Society. He tries to explain that the Federalist Society doesn't take positions. The story then identifies a series of activities in which individual members of the Federalist Society have engaged in their personal capacity, such as assisting in the *Bush v. Gore* litigation. It then suggests that the Federalist Society and its members are engaged in an elaborate pretense that the Society does not stand for anything, presumably in order to conceal its involvement in activities of this sort.

This suggestion is false and the explanation is much simpler.

First, there is nothing mysterious about what the Federalist Society stands for. It is set out in plain view on our [web page](#) and in our published materials.

Started by a group of law students in 1982 to respond to the liberal orthodoxy that at the time went virtually unchallenged at the law schools and in the legal profession, “[t]he Federalist Society is a group of conservatives and libertarians interested in the current state of the legal order. It is founded on the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. The Society seeks both to promote an awareness of these principles and to further their application through its activities.”

Likewise, there is nothing mysterious about the Federalist Society's activities. They too are announced on our web page [[Lawyers Division Calendar](#), [Student Division Calendar](#)]. As that page shows, as an organization, the Society does not lobby, litigate, or otherwise take specific positions on legal issues. Rather, it hosts conferences, debates, and speeches, which are generally open to the public for payment of a fee.

We do not refrain from taking positions in order to be secretive. We do so because within the broad spectrum of conservative and libertarian ideas, people disagree. For example, while the article reports that many Federalist Society members were involved on behalf of the Bush campaign in the *Bush v. Gore* litigation, it fails to note that several Federalist Society members published op-eds and law review pieces critical of the litigation and the Court's handling of it. Likewise, Federalist Society members can be found on different sides of many other issues, including the death penalty, drug legalization, and reauthorization of the PATRIOT Act.

That said, there is no doubt that the Society's existence makes it easier for like-minded conservative and libertarian lawyers and law students to meet, which in turn makes it easier for them to get together on legal projects that do involve taking specific positions. We are pleased that this happens and have said that this is one of the Society's objectives. That, however, does not make the projects themselves Federalist Society activities.

Finally, unlike most organizations, the Society invites speakers who do not share even the Society's very general principles to participate as speakers in our events. We do this because it makes the events more interesting, allows ideas we want discussed to get a broader hearing, and helps sharpen arguments.

In short, the Federalist Society does have core principles as stated above. It doesn't take positions. Our members do, not uncommonly in disagreement with each other. And we are quite open about it all.