CHRISTIAN LEGAL SOCIETY

Seeking Justice with the Love of God

March 11, 2018

The Honorable Walt Rogers
Chairman, House Education Committee
The Honorable Megan Jones
Member, House Education Committee
Iowa House of Representatives
The Iowa Capitol Building
1007 East Grand Avenue
Des Moines, IA 50319

Via email: walt.rogers@legis.iowa.gov; megan.jones@legis.iowa.gov

Re: Support for SF 2344: Overview of Other States' Laws Protecting Religious Student Organizations on Public University Campuses

Dear Chairman Rogers, Representative Jones, and Members of the Committee:

The Christian Legal Society ("CLS") is a national association of Christian attorneys, law students, and law professors with student chapters at law schools nationwide. CLS law student chapters typically are small groups of students who meet for prayer, Bible study, and worship at a time and place convenient to the students. All students are welcome at CLS meetings and activities. As Christian churches have done for nearly two millennia, CLS requires its leaders to agree with a statement of faith, signifying agreement with the traditional Christian beliefs that define CLS.

CLS has long believed that pluralism, essential to a free society, prospers only when the First Amendment rights of all Americans are protected regardless of the current popularity of their speech or religious beliefs. For that reason, CLS was instrumental in the passage of the federal Equal Access Act of 1984, 20 U.S.C. §§ 4071-4074, that protects the right of all students, including religious groups and LGBT groups, to meet for "religious, political, philosophical or other" speech on public secondary school campuses.[1]

Through its religious liberty advocacy arm, the Center for Law and Religious Freedom, CLS has worked for over thirty years to secure equal access for religious student groups in the public education context, including higher education. CLS staff has testified several times before congressional committees on the issue of protecting religious student organizations on college campuses.[2]

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[1] *See, e.g.,* Cong. Rec. 11784-85 (1982) (Sen. Hatfield statement). *See, e.g., Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (requiring access for religious student group); *Straights and Gays for Equality v. Osseo Area Sch. No. 279*, 540 F.3d 911 (8th Cir. 2008) (requiring access for LGBT student group).

[2] Hearing Before the Subcomm. on the Constitution and Civil Justice of the Comm. on the Judiciary, House of Representatives: *First Amendment Protections on Public College and University Campuses*, Rep. No. 114-31 (June 2, 2015) at 39-48 (statement of Kimberlee Wood Colby); Hearing Before the Subcomm. on

I. Religious Student Organizations Need Legislation to Protect Their Access to Public University Campuses.

A. In its landmark decision in *Widmar v. Vincent,* the Supreme Court held that the University of Missouri—Kansas City could not condition campus access on religious groups' promise not to engage in religious speech.

In the late 1970s, some university administrators began to claim that the Establishment Clause would be violated if religious student groups were allowed to meet in empty classrooms to discuss their religious beliefs on the same basis as other student groups were allowed to meet to discuss their political, social, or philosophical beliefs. The administrators claimed that merely providing heat and light in these unused classrooms gave impermissible financial support to the students' religious beliefs, even though free heat and light were provided to all student groups. The administrators also claimed that college students were "impressionable" and would believe that the university endorsed religious student groups' beliefs, despite the fact that hundreds of student groups with diverse and contradictory ideological beliefs were allowed to meet.[3]

The Supreme Court rejected these arguments when made by the University of Missouri – Kansas City in the landmark case of *Widmar v. Vincent.*[4] In an 8-1 ruling, the Court held that UMKC violated the religious student associations' speech and association rights by "discriminat[ing] against student groups and speakers based on their desire to use a generally open forum to engage in religious worship and discussion. These are forms of speech and association protected by the First Amendment."[5] In other words, religious student groups have a First Amendment right to meet on public university campuses for religious speech and association.

The Court then held that the federal and state establishment clauses were not violated by allowing religious student associations access to public college campuses.[6] The Court ruled that college students understand that simply *allowing* a student group to meet on campus does not mean that the University *endorses or promotes* the students' religious speech, teaching, worship, or beliefs. As the Court observed in a subsequent equal access case that protected high school students' religious meetings, "the proposition that schools do not endorse everything they fail to censor is not complicated."[7]

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the Constitution and Civil Justice of the Comm. on the Judiciary, House of Representatives: *State of Religious Liberty in the United States*, Rep. No. 113-75 (June 10, 2014) at 49-76 (statement of Kimberlee Wood Colby).

[3] For example, the University of Missouri currently has over 600 recognized student organizations. *See* https://getinvolved.missouri .edu/ (last visited Mar. 5, 2017).

[4] 454 U.S. 263 (1981).

[5] *Id.* at 269.

[6] *Id.* at 270-76.

[7] *Board of Education v. Mergens*, 496 U.S. 226, 250 (1990) (holding that the federal Equal Access Act protects high school students' right to meet for religious speech in public secondary schools).

The Court has reaffirmed *Widmar*'s reasoning in numerous cases.[8] In each case, the Court ruled that an educational institution did not endorse a religious association's beliefs simply because it provided the religious association with meeting space. Access does not equal endorsement.

B. Discrimination against religious student groups continues.

After the Supreme Court made clear that the Establishment Clause could not justify exclusion of religious student groups, some university administrators began to assert that university nondiscrimination policies were violated if the religious student groups required their leaders to agree with their religious beliefs. These administrators began to threaten religious student groups with exclusion from campus if they required their leaders to agree with the groups' religious beliefs.[9]

It is common sense and basic religious freedom – not discrimination – for religious groups to expect their leaders to share the groups' religious beliefs. Nondiscrimination policies serve valuable and important purposes. Indeed, one of the most important purposes of a college's nondiscrimination policy is to protect *religious* students on campus. Something has gone wrong when college administrators use nondiscrimination policies to punish religious student groups *for being religious.* Exclusion of religious student groups actually undermines the purpose of a nondiscrimination policy and the good it serves.

Such misuse of nondiscrimination policies is unnecessary. Nondiscrimination policies and students' religious freedom are eminently compatible, as shown by the many universities with nondiscrimination policies that explicitly recognize the right of religious groups to require that their leaders share the groups' religious beliefs.[10]

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[8] *Rosenberger v. Rectors and Visitors of the University of Virginia*, 515 U.S. 819 (1995) (University of Virginia violated a religious student association's rights of free speech and association when it denied a religious student publication the same funding available to sixteen other nonreligious student publications); *Board of Education v. Mergens*, 496 U.S. 226 (1990) (applying *Widmar* analysis to public secondary schools); *Lamb's Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993) (requiring school district to allow a religious community group access to a school auditorium in the evening); *Good News Club v. Milford Central School*, 533 U.S. 98 (2001) (requiring school district to allow a religious community group access to elementary school after school). In 1984, Congress applied *Widmar*'s reasoning to public secondary schools when it enacted the Equal Access Act, 20 U.S.C. §§ 4071-4074.

[9] *See* Michael Stokes Paulsen, *A Funny Thing Happened on the Way to the Limited Public Forum: Unconstitutional Conditions on "Equal Access" for Religious Speakers and Groups*, 29 U.C. Davis L. Rev. 653, 668-72 (1996) (detailing University of Minnesota's threat to derecognize CLS chapter); Stephen M. Bainbridge, *Student Religious Organizations and University Policies Against Discrimination on the Basis of Sexual Orientation: Implications of the Religious Freedom Restoration Act*, 21 J.C. & U.L. 369 (1994) (detailing University of Illinois' threat to derecognize CLS chapter).

[10] For example, the University of Florida has an excellent policy that embeds protection for religious student groups in its nondiscrimination policy: "A student organization whose primary purpose is religious will not be denied registration as a Registered Student Organization on the ground that it limits membership or leadership positions to students who share the religious beliefs of the organization. The University has determined that this accommodation of religious belief does not violate its nondiscrimination policy." Similarly, the University of Texas provides: "[A]n organization created primarily for religious purposes may restrict the right to vote or hold office to persons who subscribe to the organization's statement of

Unfortunately, other universities have chosen to misuse their nondiscrimination policies to exclude religious student associations from campus. Alternatively, some universities have excluded religious student associations by claiming to have what they call "all-comers" policies, which purport to prohibit all student associations form requiring their leaders to agree with the associations' political, philosophical, religious, or other beliefs. However, a true "all-comers" policy rarely, if ever, actually exists.

By way of recent example, in the 2015-2016 academic year, Indiana University announced that it intended to change its policy and religious student groups would no longer be allowed to choose their leaders according to their religious beliefs. The university specifically stated that a religious student group "would not be permitted to forbid someone of a different religion, or someone non-religious, from running for a leadership position within the [religious group]."[11] Only after months of criticism from alumni and political leaders, as well as the threat of litigation, did Indiana University revert to its prior policy of allowing religious student groups to choose their leaders according to their religious beliefs.

Also in the 2015-2016 academic year, a religious student organization at Southeast Missouri State University had its recognition revoked by the student government because it refused to put a newly required nondiscrimination statement in its constitution. The group tried to persuade the student government to allow religious groups to have religious leadership requirements. But on April 25, 2016, the student government voted *against* adding language to its bylaws to protect religious groups' right to have religious leadership requirements.[12] After this vote, additional religious groups communicated to the administration that they would not remove their religious leadership requirements from their constitutions. After several months, the administration sent the religious organizations letters, dated October 20, 2016, that stated that the student government had voted to "abandon their non-discrimination statement and to replace it with the University's non-discrimination statement." However, university policies still lack written protection for the right of religious groups to have religious leadership requirements.

C. Several states have addressed this problem through legislation.

As of March 2018, nine states have adopted legislation to protect religious student groups' access to campus: Arizona, Ohio, Tennessee, Idaho, Oklahoma, North Carolina, Virginia, Kentucky, and Kansas. State legislation allows public universities and colleges to have whatever policies they wish. State legislation simply requires that, whatever its

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faith." The University of Houston likewise provides: "Religious student organizations may limit officers to those members who subscribe to the religious tenets of the organization where the organization's activities center on a set of core beliefs." The University of Minnesota provides: "Religious student groups may require their voting members and officers to adhere to the organization's statement of faith and its rules of conduct." These policies are in **Attachment A**.

[11] Indiana University's statement is **Attachment B**.

[12] The student government voted not to add this language to its bylaws: "A student organization which has been formed to further or affirm the religious beliefs of its members may consider affirmation of those beliefs to be a part of the criteria for the selection of the organization's leadership."

policy, a college must respect religious student groups' right to choose their leaders according to their religious beliefs. State legislation thereby protects public colleges, and the taxpayers that fund them, from costly litigation. Equally importantly, state legislation protects religious students from discrimination on public campuses and secures their basic freedom of speech and religion.

1. California State University excluded religious student associations with religious leadership requirements from its 23 campuses, including religious groups that had met on its campuses for forty years.

The California State University comprises 23 campuses with 437,000 students. In 2014, Cal State denied recognition to several religious student associations, including Chi Alpha, InterVarsity, and Cru (formerly Campus Crusade for Christ). For example, the student president of a religious student association that had met on the Cal State Northridge campus for forty years received a letter that read:

> This Correspondence is to inform you that effective immediately, your student organization, Rejoyce in Jesus Campus Fellowship, will no longer be recognized by California State University, Northridge.[13]

The letter then listed seven basic benefits that the religious student association had lost because it required its student leaders to agree with its religious beliefs, including: 1) free access to a room on campus for its meetings; 2) the ability to recruit new student members through club fairs; and 3) access to a university-issued email account or website. As the letter explained, "[g]roups of students not recognized by the university . . . will be charged the off-campus rate and will not be eligible to receive two free meetings per week in USU rooms." As a result, some religious student groups faced paying thousands of dollars for room reservations and insurance coverage that were free to other student groups.

Cal State had re-interpreted its nondiscrimination policy to prohibit religious student groups form having religious leadership requirements. But it explicitly allowed fraternities and sororities to continue to engage in sex discrimination in selecting their leaders and members. That is, Cal State denied religious organizations the right to select their leaders according to their religious beliefs, but it allowed fraternities and sororities to select their leaders and members on the basis of sex.

2. The Tennessee General Assembly passed legislation after Vanderbilt University excluded fourteen Catholic and evangelical Christian organizations from campus, including a

[13] The letter is **Attachment C**. Ms. Bianca Travis, the student president of the Chi Alpha chapter at California State University Stanislaus campus, described the harm done that group by Cal State's derecognition of religious groups on a national news program, at http://www. Becketfund.org/Bianca-travis-chi-alpha-fox-friends/.

Christian group because it required its leaders to have a "personal commitment to Jesus Christ."

In 2011. Vanderbilt University administrators informed the Christian Legal Society student chapter at Vanderbilt Law School that the *mere expectation* that its leaders would lead its Bible studies, prayer, and worship was "religious discrimination." CLS's requirement that its leaders agree with its core religious beliefs was also "religious discrimination."[14]

Vanderbilt told another Christian student group that it could remain a recognized student organization only if it deleted five words from its constitution: "personal commitment to Jesus Christ." The students left campus rather than recant their commitment to Jesus Christ."[15]

Catholic and evangelical Christian students patiently explained that nondiscrimination policies should protect, not exclude, religious organizations form campus. But in April 2012, Vanderbilt denied recognition to fourteen Christian organizations.[16] While religious organizations could not keep their religious leadership requirements, Vanderbilt permitted fraternities and sororities to engage in sex discrimination in selecting leaders and members.

After Vanderbilt adopted its new policy, the University of Tennessee reportedly claimed to have a similar policy. In response, the Tennessee General Assembly enacted T.C.A. § 49-7-156 to protect the right of a religious student association on a public college campus to "require[] that only persons professing the faith of the group and comporting themselves in conformity with it qualify to serve as members or leaders."[17]

3. The Kansas Legislature passed legislation in order to protect religious student associations at Kansas public universities.

In 2016, the Kansas Legislature enacted K.S.A. §§ 60-5311 – 60-5313 in order to ensure that Kansas taxpayers' money would not be spent on unnecessary litigation resulting from its public universities misinterpreting existing policies – or adopting future policies – to exclude religious groups from campus because they had religious leadership requirements. In 2004, the CLS student chapter at Washburn School of Law had allowed an individual student to lead a Bible study. But it became clear that the student did not hold CLS's traditional Christian beliefs. CLS told the student he was welcome to attend future CLS Bible studies, but that he would not be allowed to lead them. Even though the student admitted that he disagreed with CLS's religious beliefs, he filed a "religious

[14] Vanderbilt's email to CLS is **Attachment D.**
[15] Vanderbilt's email is **Attachment E.**
[16] The excluded groups are: Asian-American Christian Fellowship; Baptist Campus Ministry; Beta Upsilon Chi; Bridges International; Campus Crusade for Christ (Cru); Christian Legal Society; Fellowship of Christian Athletes; Graduate Christian Fellowship; Lutheran Student Fellowship; Medical Christian Fellowship; Midnight worship; The Navigators; St. Thomas More Society; and Vanderbilt Catholic.
[17] T.C.A. § 49-7-156 is **Attachment F.**

discrimination" complaint with the Washburn Student Bar Association, which threatened to penalize CLS for its refusal to allow a student who disagreed with its religious beliefs to lead its Bible study. Only after CLS filed a federal lawsuit did the Student Bar Association reverse course.

4. The Oklahoma Legislature passed legislation in order to protect religious student associations at Oklahoma public universities.

In 2011, the University of Oklahoma Student Association sent a memorandum to all registered student organizations that would prohibit religious student associations' religious leadership and membership criteria.[18] After unwelcome publicity, the university disowned the attempt. In 2014, the Oklahoma Legislature enacted legislation. The "Exercise of Religion by Higher Education Students Act," 70 Okl. St. Ann. § 2119, protects students' religious expression at Oklahoma universities and colleges. It protects religious student organizations from exclusion from state college campuses because of their religious expression or because they require their leaders to agree with the organizations' core religious beliefs.[19]

5. The Idaho Legislature passed legislation after Boise State University threatened to exclude religious student associations that required their leaders to share the associations' religious beliefs.

In 2008, the Boise State University student government threatened to exclude several religious organizations form campus, claiming that their religious leadership requirements were discriminatory. The BSU student government informed one religious group that its requirement that its leaders "be in good moral standing, exhibiting a lifestyle that is worthy of a Christian as outlined in the Bible" violated the student government's policy. The student government also found that the group's citation in its constitution to Matthew 18:15-17, which quotes Jesus, also violated the policy. The student government informed a religious group that "not allowing members to serve as officers due to their religious beliefs" conflicted with BSU's policy.[20] In response to a threatened lawsuit, BSY reversed course and agreed to allow religious organizations to maintain religious criteria for leaders.

In 2012, however, BSU informed the religious organizations that it intended to adopt a new policy, which would exclude religious organizations with religious leadership requirements from campus. In response, the Idaho Legislature enacted Idaho Code § 33-107D to prohibit public colleges from "tak[ing] any action or enforc[ing] any policy that would deny a religious student group any benefit available to any other

[18] The memorandum is **Attachment G.**
[19] 70 Okl. St. § 2119 is **Attachment H.**
[20] The letters are **Attachment I.**

student group based on the religious student group's requirement that its leaders adhere to its sincerely held religious beliefs or standards of conduct."[21]

6. The Ohio Legislature passed legislation after The Ohio State University threatened to exclude religious student associations if they required their leaders to share the associations' religious beliefs.

From October 2003 through November 2004, the CLS student chapter at the OSU College of Law was threatened with exclusion because of its religious beliefs. After months of trying to reason with OSU administrators, a lawsuit was filed, which was dismissed after OSU revised its policy "to allow student organizations formed to foster or affirm sincerely held religious beliefs to adopt a nondiscrimination statement consistent with those beliefs in lieu of adopting the University's nondiscrimination policy." Religious groups then met without problem from 2005-2010. In 2010, however, OSU asked the student government whether it should change its policy to no longer allow religious groups to have religious leadership and membership requirements. The undergraduate and graduate student governments voted to remove protection for religious student groups.[22]

In response, in 2011, the Ohio Legislature prohibited public universities from "tak[ing] any action or enforc[ing] any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct." Ohio Rev. Code § 3345.023.[23]

7. The Arizona Legislature passed legislation to protect religious student associations and students' religious expression.

In 2011, Arizona enacted A.R.S. § 15-1863, which protects religious student associations' choice of their leaders and members.[24] In 2004, Arizona State University College of Law had threatened to deny recognition to a CLS student chapter because it limited leadership and voting membership to students who shared its religious beliefs. A lawsuit was dismissed when the University agreed to allow religious student groups to have religious leadership and membership requirements.[25]

8. The Virginia General Assembly, North Carolina General Assembly, and Kentucky General Assembly passed legislation to protect religious student associations' religious freedom.

After years of harassment of religious student groups on various North Carolina campuses, the North Carolina General Assembly enacted N.C.G.S.A. §§ 115D-20.1 &

[21] Idaho Code § 33-107D is **Attachment J**.
[22] The student government resolutions are **Attachment K**.
[23] Ohio Rev. Code § 3345.023 is **Attachment L.**
[24] A.R.S. §§ 15-1862-64 is **Attachment M.**
[25] *Christian Legal Society Chapter at Arizona State University v. Crow*, No. 04-2572 (D. Ariz. Nov. 17, 2004).

116-40.12. The law prohibits colleges from denying recognition to a student organization because, among other things, it "determine[] that only persons professing the faith or mission of the group, and comporting themselves in conformity with, are qualified to serve as leaders of the organization." N.C.G.S.A. § 116040.12. Virginia passed a similar law in 20131. Va. Code Ann. § 23-9.2:12. Kentucky passed a similar law requiring school boards to protect religious and political student groups' leadership and membership selection. K.R.S. § 158.183 (3)(c).

D. State legislation aligns with federal and state nondiscrimination laws that typically protect religious organizations' ability to choose their leadership on the basis of religious belief.

No federal or state law, regulation, or court ruling requires a college to adopt a policy that prohibits religious groups from having religious criteria for their leaders and members. To the contrary, federal and state nondiscrimination laws typically *protect* religious organizations' ability to choose their leaders on the basis of their religious beliefs.

The leading example, of course, is the federal Title VII, which explicitly provides that religious associations' use of religious criteria in their employment decisions does not violate the Civil Rights Act of 1964 and its prohibition on religious discrimination in employment. In three separate provisions, Title VII exempts religious associations from its general prohibition on religious discrimination in employment. 42 U.S.C. § 2000e-1(a) (does not apply to religious associations "with respect to the employment of individuals of a particular religion to perform work connected with the carrying on" of the associations' activities); 42 U..S.C. § 2000e-2(e)(2) (educational institution may "employ employees of a particular religion" if it is controlled by a religious association or if its curriculum "is directed toward the propagation of a particular religion); 42 U.S.C. § 2000e-2(e)(1) (any employer may hire on the basis of religion "in those certain instances where religion . . . is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.").

In 1987, the Supreme Court upheld the constitutionality of Title VII's exemption against an Establishment Clause challenge.[26] Concurring in the opinion, Justice Brennan insisted that "religious organizations have an interest in autonomy in ordering their internal affairs, so that they be free to select their own leaders, define their own doctrines, resolve their own disputes, and run their own institutions."[27]

In 2012, in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC,*[28] the Supreme Court unanimously rejected the federal government's argument that federal nondiscrimination laws could be used to override religious associations' leadership decisions. The Court acknowledged that nondiscrimination laws are "undoubtedly important. But so too is the interest of religious groups in choosing who will preach their

[26] *Corporation of the Presiding Bishop v. Amos*, 483 U.S. 327 (1987).
[27] *Id.* at 342-43 (Brennan, J., concurring).
[28] 132 S. Ct. 694 (2012).

beliefs, teach their faith, and carry out their mission."[29] In their concurrence, Justice Alito and Justice Kagan stressed that "[r]eligious groups are the archetype of associations formed for expressive purposes, and their fundamental rights surely include the freedom to choose who is qualified to serve as a voice for their faith."[30]

E. State legislation conserves taxpayers' dollars by preempting costly lawsuits.

State legislation to protect religious student groups' access to campus helps public colleges avoid costly litigation for which the taxpayers and students foot the bill.[31] These laws protect colleges from adopting policies that are highly problematic. Such policies expose colleges – and state taxpayers – to costly lawsuits. Sometimes the impetus for policies that harm religious groups comes from student government rather than university administrators. State laws provide administrators with a substantive reason for correcting student governments' potential harassment of, and discrimination against, religious student associations. State laws steer college administrators in the right direction and help insulate them from pressure that special interest groups may sometimes exert to penalize student groups that do not share their views.

Judge Ripple of the Seventh Circuit Court of Appeals explained why misinterpretation of nondiscrimination policies places a particular burden on religious groups, when he wrote:

> For many groups, the intrusive burden established by this requirement can be assuaged partially by defining the group or membership to include those who, although they do not share the dominant, immutable characteristic, otherwise sympathize with the groups' views. Most groups dedicated to forwarding the rights of a "protected" group are able to couch their membership requirements in terms of shared beliefs, as opposed to shared status . . . .
>
> *Religious students, however, do not have this luxury – their shared beliefs coincide with their shared status.* They cannot otherwise define themselves and not run afoul of the nondiscrimination policy . . . . The Catholic Newman Center cannot restrict its leadership – those who organize and lead weekly worship services – to members in good standing of the Catholic Church without violating the policy. Groups whose main purpose is to engage in the exercise of religious freedoms do not possess the same means of accommodating the heavy hand of the State.

[29] *Id.* at 710.
[30] *Id.* at 713 (Alito, J., concurring).
[31] Prof. John D. Inazu, "*The Perverse Effects of the 'All Comers' Requirement,*" Sept. 15, 2014, Library of Law and Liberty Blog, at http://www.libertylawsite.org/2014/09/15/the-perverse-effects -of-the-all-comers-requirement/.

> *The net result of this selective policy is therefore to marginalize in the life of the institution those activities, practices and discourses that are religiously based.* While those who espouse other causes may control their membership and come together for mutual support, others, including those exercising one of our most fundamental liberties – the right to free exercise of one's religion – cannot, at least on equal terms.[32]

Conclusion

Religious freedom is America's most distinctive contribution to humankind. The genius of American religious freedom is that we protect every American's religious beliefs and practices, no matter how unpopular or unfashionable those beliefs and practices may be at any given time.

But religious freedom is fragile, too easily taken for granted and too often neglected. A leading religious freedom scholar, Professor Douglas Laycock, recently warned: "For the first time in nearly 300 years, important forces in American society are questioning the free exercise of religion in principle – suggesting that free exercise of religion may be a bad idea, or at least a right to be minimized."[33]

Respectfully submitted,

/s/ Kimberlee Wood Colby
Kimberlee Wood Colby
Director, Center for Law & Religious Freedom
Christian Legal Society

[32] *Alpha Delta Chi v. Reed*, 648 F.3d 790,, 805-806 (9th Cir. 2011) (Ripple, J., concurring) (emphasis added).
[33] Douglas Laycock, *Sex, Atheism, and the Free Exercise of Religion*, 88 U. Det. Mercy L. Rev. 407, 407 (2011).