



*Seeking Justice with
the Love of God*

February 22, 2023

The Honorable Brenda Shields, Chair
House Committee on Higher Education
201 West Capitol Avenue
Jefferson City, Missouri 65101

By email: Brenda.Shields@house.mo.gov

Re: Hearing on HB 136 to protect religious student associations at Missouri's public institutions of higher education

Dear Chair Shields:

Christian Legal Society supports HB 136, which will provide much needed protection for the ability of religious students to meet on college/university campuses. By passing HB 136, the Legislature will conserve taxpayer dollars by preventing costly litigation that has resulted in other states when public universities adopted policies to exclude religious student groups because the groups require their leaders to share their core religious beliefs. This problem has arisen on many college campuses nationwide and, in 2016, at a public university in Missouri.

Attached to this statement are actual letters from university officials or student government representatives to religious groups threatening to exclude religious groups from campus because of the religious groups' requirement that their leaders agree with the groups' religious beliefs. (Attachments B, C, D, E, G, I, and K). These letters exemplify the problem that HB 136 will prevent in Missouri. **I respectfully request that this letter and its attachments be included in the record for the hearing on HB 136 before the House Committee on Higher Education scheduled for February 22, 2023.** As this letter will explain:

- HB 136 is a commonsense measure to protect religious students who wish to meet on Missouri college campuses.
- HB 136 allows Missouri public universities to maintain whatever policies they choose so long as their policies permit religious student organizations to choose their leaders according to their religious beliefs.
- HB 136 conserves scarce tax dollars by preventing costly litigation against colleges that adopt policies that exclude religious groups.
- HB 136 would add Missouri to the expanding list of 16 states – Alabama, Arizona, Arkansas, Idaho, Iowa, Kansas, Kentucky, Louisiana, Montana, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, and Virginia – that have enacted

similar protections for religious or belief-based student groups.¹ (Attachment AA lists the key provisions of these states' laws.)

I. For Four Decades, Christian Legal Society Has Defended Religious Student Organizations' Access to College Campuses.

Christian Legal Society ("CLS") is a national association of Christian attorneys, law students, and law professors. CLS has attorney chapters located in cities throughout the U.S., including St. Louis and Kansas City. CLS has student chapters at law schools nationwide, including at the University of Missouri - Kansas City, University of Missouri - Columbia, and Washington University. CLS law student chapters typically are small groups of students who meet for weekly prayer, Bible study, and worship at a time and place convenient to the students. All students are welcome at CLS meetings. 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 *et seq.*, that protects the right of all students, including religious student groups and LGBT student groups, to meet for "religious, political, philosophical or other" speech on public secondary school campuses.²

Christian Legal Society's religious liberty advocacy arm, the Center for Law & Religious Freedom, has worked for over forty years to secure equal access for religious student groups in the public education context, including higher education. Its staff has testified twice before the Subcommittee on the Constitution and Civil Justice of the Judiciary Committee of the United States House of Representatives on the issue of protecting religious student organizations on college campuses.³

¹ Ala. Code 1975 § 1-68-3(a)(8) (all student groups); Ariz. Rev. Stat. § 15-1863 (religious and political student groups); Ark. Code Ann. § 6-60-1006 (all student groups); Idaho Code § 33-107D (religious student groups); Iowa Code § 261H.3(3) (all student groups); Kan. Stat. Ann. §§ 60-5311-5313 (religious student groups); Ky. Rev. Stat. Ann. § 164.348(2)(h) (religious and political student groups); La. Stat. Ann.-Rev. Stat. § 17.:3399.33 (belief-based student groups); Mont. Code Ann. § 20-25-518 (religious, political, or ideological); N.C. Gen. Stat. Ann. § 116-40.12 (religious and political student groups); N.D. § 15-10.4-02(h) (student organizations' beliefs); Ohio Rev. Code § 3345.023 (religious student groups); Okla. St. Ann. § 70-2119.1 (religious student groups); S.D. Ch. § 13-53-52 (ideological, political, and religious student groups); Tenn. Code Ann. § 49-7-156 (religious student groups); Va. Code Ann. § 23.1-400 (religious and political student groups).

² See, e.g., 128 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 School No. 279*, 540 F.3d 911 (8th Cir. 2008) (requiring access for LGBT student group).

³ 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 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).

II. Religious Student Associations Need the Protection that HB 136 Will Provide.

HB 136 is a commonsense measure intended to protect religious student associations' meetings on college campuses by prohibiting public college administrators from denying them meeting space because a religious student association requires its leaders or members to:

- adhere to the association's sincerely held religious beliefs;
- comply with the association's sincere religious practice requirements;
- comply with the association's sincere religious standards of conduct; or
- be committed to furthering the association's religious mission.

Of course, it is common sense – and basic religious freedom – for a religious association to expect its leaders to agree with the association's religious beliefs, practices, standards of conduct, and mission. It should be common ground that *government officials*, including college administrators, should not interfere with religious associations' religious beliefs, practices, standards of conduct, or mission.

Unfortunately, this is a recurrent problem on many college campuses across the country, from California to Idaho, from Oklahoma to Ohio. HB 136 would prevent such problems from recurring in Missouri by protecting Missouri students' basic religious freedom. In so doing, Missouri would join a growing list of states that have adopted similar protections for religious student associations.

A. In its landmark decision in *Widmar v. Vincent*, the U.S. 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.⁴

In the landmark case of *Widmar v. Vincent*, the Supreme Court rejected these arguments by the University of Missouri - Kansas City.⁵ 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

⁴ For example, in 2019, the University of Missouri currently had over 600 recognized student organizations. See <https://getinvolved.missouri.edu/find-an-org/> (last visited Mar. 3, 2019).

⁵ 454 U.S. 263 (1981).

religious worship and discussion. These are forms of speech and association protected by the First Amendment.”⁶ 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.⁷ 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.”⁸

The Supreme Court has reaffirmed *Widmar*’s reasoning in numerous cases.⁹ 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 claim 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.¹⁰

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. Ironically, one of the most important purposes of a college’s

⁶ *Id.* at 269.

⁷ *Id.* at 270-76.

⁸ *Bd. of Educ. 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 and extensively citing *Widmar*).

⁹ *Rosenberger v. Rectors and Visitors of the University of Virginia*, 515 U.S. 819 (1995) (University of Virginia violated the free speech and association rights of a religious student group when it denied a religious student publication the same funding available to sixteen other nonreligious student publications); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (applying *Widmar* analysis to public secondary schools); *Lamb’s Chapel v. Center Moriches Union Free School 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. §§ 4071-74.

¹⁰ 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 because of its religious requirements); 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’s threat to derecognize CLS chapter).

nondiscrimination policy is to protect *religious* students on campus. Something has gone seriously 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.¹¹

Unfortunately, some 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 from 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. Under the new policy, 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]."¹² 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 insert a newly required nondiscrimination statement into its constitution. The group tried to persuade the student government to allow religious groups to have religious leadership requirements; however, the student government voted *against* adding language to its bylaws to protect religious groups' right to have religious leadership requirements.¹³ After this vote, additional religious groups communicated to the administration that they would not remove their religious leadership

¹¹ 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 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.

¹² Indiana University's statement is Attachment B.

¹³ The student government voted not to add the following 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."

requirements from their constitutions. After several months, the administration sent the religious organizations letters stating 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.

In 2021, student governments at the University of Idaho and the University of Virginia similarly tried to penalize religious student groups because they required their leaders to agree with their religious beliefs. Because the Idaho and Virginia legislatures had the foresight to pass laws to protect religious student groups on public university campuses, the university administrators expeditiously reversed the student governments’ discriminatory actions against the religious student organizations in both instances. The universities not only avoided needless litigation, but also sent religious students (and their parents) the reassuring message that they were welcome on their campuses.

HB 136 allows Missouri’s public universities and colleges to have whatever policies they wish. HB 136 only requires that whatever policy a college chooses to have must respect religious student groups’ right to choose their leaders according to their religious beliefs. HB 136 thereby protects Missouri public colleges/universities, and the taxpayers that fund them, from costly litigation. Equally importantly, HB 136 protects religious students from discrimination on Missouri campuses and secures their basic freedoms of speech and religion.

C. HB 136 would avoid the problems that other states have experienced and that some states have addressed through similar legislation.

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 over 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. 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.¹⁴

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

¹⁴ The letter is Attachment C.

eligible to receive two free meetings per week in [university] rooms.” As a result, some religious student groups faced paying thousands of dollars for room reservations and insurance coverage that were otherwise free to other student groups.

The problem arose because Cal State re-interpreted its nondiscrimination policy to prohibit religious student groups from having religious leadership requirements. But in announcing that religious student groups could not have religious leadership requirements, Cal State explicitly and unfairly allowed fraternities and sororities to continue to engage in sex discrimination in selecting their leaders and members.

2. The Tennessee General Assembly passed legislation similar to HB 136 after Vanderbilt University excluded fourteen Catholic and evangelical Christian organizations from campus, including a Christian group because it required its leaders to have a “personal commitment to Jesus Christ.”

In 2011, Vanderbilt University administrators informed the CLS 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 deemed to be “religious discrimination.”¹⁵

Vanderbilt told another Christian student group that it could remain a recognized student organization only if it deleted five words from its constitution: that its leaders have a “personal commitment to Jesus Christ.” The students left campus rather than recant their commitment to Jesus Christ.¹⁶

Catholic and evangelical Christian students patiently explained to the Vanderbilt administration that nondiscrimination policies should protect, not exclude, religious organizations from campus. But in April 2012, Vanderbilt denied recognition to fourteen Christian organizations.¹⁷ 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.”¹⁸

¹⁵ Vanderbilt’s email to CLS is Attachment D.

¹⁶ Vanderbilt’s email is Attachment E.

¹⁷ The excluded groups are as follows: 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.

¹⁸ T.C.A. § 49-7-156 is Attachment F.

3. The Kansas Legislature passed legislation similar to HB 136 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 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 similar to HB 136 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.¹⁹ After unwelcome publicity, the university disavowed the student government’s memorandum. In 2014, the Oklahoma Legislature enacted language similar to HB 136. 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.²⁰

5. The Idaho Legislature passed legislation similar to HB 136 after Boise State University threatened religious student associations with exclusion.

In 2008, the Boise State University student government threatened to exclude several religious organizations from 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 of Matthew 18:15-17 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.²¹ In response to a threatened lawsuit, BSU agreed to allow religious organizations to maintain religious leadership criteria.

¹⁹ The memorandum is Attachment G.

²⁰ 70 Okl. St. § 2119 is Attachment H.

²¹ The letters are Attachment I.

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. In response, the Idaho Legislature enacted Idaho Code § 33-107D to prohibit colleges 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 adhere to its sincerely held religious beliefs or standards of conduct.”²²

In 2021, the University of Idaho College of Law student government delayed recognizing the CLS student organization because of its religious leadership requirements. After CLS’s counsel wrote a letter to the University administration noting the Idaho law, the University administration granted recognition to the CLS students as an official student organization.

6. The Ohio Legislature passed legislation like HB 136 after The Ohio State University threatened to exclude religious student associations if they required their leaders to share the associations’ religious beliefs.

In 2003-2004, 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.²³

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 § 3345.023.²⁴

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.²⁵ 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

²² Idaho Code § 33-107D is Attachment J.

²³ The student government resolutions are Attachment K.

²⁴ Ohio Rev. Code § 3345.023 is Attachment L.

²⁵ A.R.S. §§ 15-1862-64 is Attachment M.

University agreed to allow religious student groups to have religious leadership and membership requirements.²⁶

8. The Virginia General Assembly, North Carolina General Assembly, Kentucky Legislature, Louisiana State Legislature, and Arkansas General Assembly also have passed legislation to protect religious student associations' religious freedom.

To protect religious student organizations that had sometimes been threatened with exclusion from various University of North Carolina campuses, the North Carolina General Assembly enacted N.C.G.S.A. §§ 115D-20.1 & 116-40.12. The law prohibits colleges from denying recognition to a student organization because it “determine[s] 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. § 116-40.12. The Virginia General Assembly passed a similar law in 2013 (Va. Code Ann. § 23-9.2:12), as did the Kentucky Legislature in 2017 (Ky. Rev. Stat. Ann. § 164.348 (4)), the Louisiana State Legislature in 2018 (LSA-R.S. 17:3399.33), and the Arkansas General Assembly in February 2019 (A.C.A. § 6-60-1006).

D. HB 136 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.²⁷ Concurring in the opinion with Justice Marshall, Justice Brennan insisted that “religious organizations have an interest in autonomy in ordering their

²⁶ *Christian Legal Society Chapter at Arizona State University v. Crow*, No. 04-2572 (D. Ariz. Nov. 17, 2004).

²⁷ *Corp. of the Presiding Bishop v. Amos*, 483 U.S. 327 (1987).

internal affairs, so that they may be free to ... select their own leaders, define their own doctrines, resolve their own disputes, and run their own institutions.”²⁸

In 2012, in *Hosanna-Tabor Evangelical Lutheran Church and Sch. v. EEOC*,²⁹ the Supreme Court *unanimously* rejected the federal government’s argument that federal nondiscrimination laws could be used to trump 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 beliefs, teach their faith, and carry out their mission.”³⁰ 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.”³¹

E. HB 136 will conserve taxpayers’ dollars by preempting costly lawsuits.

HB 136 will help Missouri’s colleges avoid costly litigation for which the taxpayers and students foot the bill.³² HB 136 protects colleges from adopting policies that are highly problematic. Such policies expose colleges – and state taxpayers – to costly lawsuits. As seen in Section C, sometimes the impetus for policies that harm religious groups comes from student government rather than university administrators. HB 136 provides administrators with a substantive reason for resisting student government’s potential harassment of, and discrimination against, religious student associations.

Judge Kenneth Ripple of the Federal Court of Appeals for the Seventh Circuit has explained why misinterpretation of nondiscrimination policies places a particular burden on religious groups:

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 group's 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

²⁸ *Id.* at 342-43 (Brennan, J., concurring).

²⁹ 132 S. Ct. 694 (2012).

³⁰ *Id.* at 710.

³¹ *Id.* at 713 (Alito, J., concurring).

³² Prof. John D. Inazu, “*The Perverse Effects of the ‘All Comers’ Requirement*,” Sept. 15, 2014, Library of Law and Liberty Blog, available at <http://www.libertylawsite.org/2014/09/15/the-perverse-effects-of-the-all-comers-requirement/>.

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.

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.³³

Conclusion

HB 136 is needed to ensure that religious students continue to be welcome and respected on Missouri campuses. If university students are taught that the government can dictate to religious groups what religious beliefs their leaders may or may not hold, religious freedom will be diminished not just for the religious students on campus, but eventually for all Missourians whose religious freedom will be at risk if their fellow citizens hold such an impoverished understanding of this most basic human right.

Yours truly,

/s/ Laura Nammo

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³³ *Alpha Delta Chi v. Reed*, 648 F.3d 790, 805-806 (9th Cir. 2011) (Ripple, J., concurring) (emphasis added).

ATTACHMENT AA

State Laws Protecting Religious Student Groups on Public College Campuses
(last updated September 22, 2021)

Note: This compilation does not replicate the entire statute but only the relevant provision. The entire statute can be found at the citation given.

Ohio—Ohio Rev. Code § 3345.023 – Denial of benefits to religious student group prohibited

No state institution of higher education shall take any action or enforce 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.

<http://codes.ohio.gov/orc/3345.023>

Tennessee—T.C.A. § 49-7-156 – No discrimination or denial or recognition to student organization on basis of religious content of organization’s speech – Restricting membership to persons professing the faith of the group is allowed.

(a) No state higher education institution that grants recognition to any student organization shall discriminate against or deny a recognition to a student organization, or deny to a student organization access to programs, funding, or facilities otherwise available to another student organization, on the basis of: (1) The religious content of the organization’s speech including, but not limited to, worship; or (2) The organization’s exercise of its rights pursuant to subsection (b). (b) A religious student organization may determine that the organization’s religious mission requires that only persons professing the faith of the group and comporting themselves in conformity with it qualify to serve as members or leaders. (c) As used in this section, “state higher education institution” means any higher education institution governed by chapter 8 or 9 of this title.

<http://search.mleesmith.com/tca/49-07-0156.html>

Idaho—Idaho Code § 33-107D – Campus Access for Religious Students

No state postsecondary educational institution shall take any action or enforce 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 adhere to its sincerely held religious beliefs or standards of conduct.

<https://legislature.idaho.gov/statutesrules/idstat/title33/t33ch1/sect33-107d/>

Arizona—A.R.S. § 15-1863 – Student organizations; recognition; rights

A. A university or community college that grants recognition to any student organization or group may not discriminate against or deny recognition, equal access or a fair opportunity to any student organization or group on the basis of the religious, political, philosophical or other content of the organization’s or group’s speech including worship. B. A religious or political student organization may determine that order the organization’s internal affairs, selecting the organization’s leaders and members, defining the organization’s doctrines and resolving the

organization's disputes are in furtherance of the organization's religious or political mission and that only persons committed to that mission should conduct such activities. C. A university or community college may not deny recognition or any privilege or benefit to a student organization or group that exercises its rights pursuant to subsection B.

<http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/15/01863.htm>

Virginia—Va. Code. Ann. § 23-9.2:12 – Student organizations; rights and recognitions.

To the extent allowed by state and federal law: 1. A religious or political student organization may determine that ordering the organization's internal affairs, selecting the organization's leaders and members, defining the organization's doctrines, and resolving the organization's disputes are in furtherance of the organization's religious or political mission and that only persons committed to that mission should conduct such activities. 2. No public institution of higher education that has granted recognition of and access to any student organization or group shall discriminate against any such student organization or group that exercises its rights pursuant to subdivision 1.

<http://law.lis.virginia.gov/vacode/title23/chapter1/section23-9.2:12/>

Kansas—K.S.A. § 60-5311 – Exercise of religion by religious student associations; definitions

(a) "Benefit" means the following: (1) Recognition; (2) registration; (3) the use of facilities of the postsecondary educational institution for meetings or speaking purposes; (4) the use of channels of communication of the postsecondary education institution; and (5) funding sources that are otherwise available to other student associations in the postsecondary educational institution; (b) "Postsecondary education institution" shall have the same meaning as that term is defined in K.S.A. 74-3201b. and amendments thereto. (c) "Student" means any person who is enrolled on a full-time or part-time basis in a postsecondary educational institution. (d) "Religious student association" means an association of students organized around shared religious beliefs.

http://www.ksrevisor.org/statutes/chapters/ch60/060_053_0011.html

K.S.A. § 60-5312 – Same; prohibition on certain actions by postsecondary educational institutions.

No postsecondary educational institution may take any action or enforce any policy that would deny a religious student association any benefit available to any other student association, or discriminate against a religious student association with respect to such benefit, based on such association's requirement that the leaders or members of such association: (a) Adhere to the association's sincerely held religious beliefs; (b) comply with the association's sincerely held religious beliefs; (c) comply with the association's sincere religious standards of conduct; or (d) be committed to furthering the association's religious missions, as such religious beliefs, observance requirements, standards of conduct or missions are defined by the religious student association, or the religion on which the association is based.

http://www.ksrevisor.org/statutes/chapters/ch60/060_053_0012.html

K.S.A. § 60-5313 – Same; cause of action

Any student or religious student association aggrieved by a violation of K.S.A. 2016 Supp. 60-5312. and amendments thereto, may bring a cause of action against the postsecondary educational institution for such violation and seek appropriate relief, including but not limited to, monetary damages. Any student or religious student association aggrieved by a violation of K.S.A. 2016 Supp. 60-5312. and amendments thereto, also may assert such violation as a defense or counterclaim in any civil or administrative proceedings brought against such student or religious student association.

http://www.ksrevisor.org/statutes/chapters/ch60/060_053_0013.html

Oklahoma—Okla. St. Ann. § 70-2119.1 – Protection for Religious student associations.

(A) No public institution of higher education may take any action or enforce any policy that would deny a religious student association any benefit available to any other student association, or discriminate against a religious student association with respect to such benefit, based on that association's requirement that its leaders or members: (1) Adhere to the association's sincerely held religious beliefs; (2) Comply with the association's sincere religious observance requirements; (3) Comply with the association's sincere religious standards of conduct; or (4) Be committed to furthering the association's religious missions, as such religious beliefs, observance requirements, standards of conduct or missions are defined by the religious student association, or the religion upon which the assertion is based. (B) The legal standard provided in subsection B of Section 3 of this act shall not apply to this section.

<http://law.justia.com/codes/oklahoma/2014/title-70/section-70-2119.1/>

North Carolina—N.C.G.S.A. § 115D-20.2 – Student organizations; rights and recognition

(a) No community college that grants recognition to any student organization shall deny recognition to a student organization or deny to a student organization access to programs, funding, facilities, or other privileges associated with official recognition otherwise available to another student organization, on the basis of the organization's exercise of its rights pursuant to subsection (b) of this section. (b) To the extent allowed by State and federal law, a religious or political student organization may, in conformity with organization's established written doctrines expressing the organization's faith or mission, (i) 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 that organization; (ii) order its internal affairs according to the established written doctrines, and (iii) resolve the organization's disputes according to the established written doctrines.

http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_115D/GS_115D-20.2.pdf

N.C.G.S.A. § 116-40.12 – Student organizations; rights and recognition.

(a) No constituent institution that grants recognition to any student organization shall deny recognition to a student organization or deny to a student organization access to programs, funding, facilities, or other privileges associated with official recognition otherwise available to another student organization, on the basis of the organization's exercise of its rights pursuant to subsection (b) of this section. (b) To the extent allowed by State and federal law, a religious or

political student organization may, in conformity with organization's established written doctrines expressing the organization's faith or mission, (i) 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 that organization; (ii) order its internal affairs according to the established written doctrines, and (iii) resolve the organization's disputes according to the established written doctrines.

http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_116/GS_116-40.12.pdf

Kentucky—Ky. Rev. Stat. Ann. § 164.348 (2)(h)

No recognized religious or political student organization is hindered or discriminated against in the ordering of its internal affairs, selection of leaders and members, defining of doctrines and principles, and resolving of organizational disputes in the furtherance of its mission, or in its determination that only persons committed to its mission should conduct such activities.

<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=49294>

Louisiana—LSA-R.S. § 17:3399.33

No public postsecondary education institution shall deny a belief-based student organization any benefit or privilege available to any other student organization, or otherwise discriminate against a belief-based organization, based on the expression of the organization, including any requirement that the leaders or members of the organization: 1) Affirm and adhere to the organization's sincerely held beliefs; 2) Comply with the organization's standards of conduct; and 3) Further the organization's mission or purpose, as defined by the organization.

<https://legis.la.gov/Legis/Law.aspx?d=1108429>

Arkansas—A.C.A. § 6-60-1006. Freedom of association – Nondiscrimination against students and student organizations.

A state-supported institution of higher education shall not deny a student organization any benefit or privilege available to any other student organization or otherwise discriminate against an organization based on the expression of the organization, including any requirement that the leaders or members of an organization: (1) Affirm and adhere to the organization's sincerely held beliefs or statement of principles; (2) Comply with the organization's standards of conduct; and (3) Further the organization's mission or purpose, as defined by the student organization.

Iowa—Iowa Code § 261H.3(3)

A public institution of higher education shall not deny benefits or privileges available to student organizations based on the viewpoint of a student organization or the expression of the viewpoint of a student organization by the student organization or its members protected by the first amendment to the Constitution of the United States. In addition, a public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission.

<https://www.legis.iowa.gov/docs/code/2020/261H.pdf>

South Dakota—South Dakota § 13-53-52

A public institution of higher education, its faculty, administrators, and other employees, may not discriminate against any student or student organization based on the content or viewpoint of their expressive activity. Funds allocated to student organizations shall be distributed in a nondiscriminatory manner in accordance with applicable state and federal authority. Access to, and use of, facilities at a public institution of higher education shall be equally available to all student organizations, regardless of the ideological, political, or religious beliefs of the organization. An institution may not prohibit an ideological, political, or religious student organization from requiring that its leaders or members of the organization affirm and adhere to the organization's sincerely held beliefs, comply with the organization's standards of conduct, or further the organization's mission or purpose, as defined by the organization.

https://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=13-53-52

Alabama— § 16-68-3(a)(8) (signed into law June 7, 2019)

§ 3(a)(8): That the public institution of higher education shall support free association and shall not deny a student organization any benefit or privilege available to any other student organization or otherwise discriminate against an organization based on the expression of the organization, including any requirement of the organization that the leaders or members of the organization affirm and adhere to an organization's sincerely held beliefs or statement of principles, comply with the organization's standard of conduct, or further the organization's mission or purpose, as defined by the student organization.

<http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2019RS/PrintFiles/HB498-enr.pdf>

Montana—HB 349 (signed into law April 15, 2021; eventually Montana Code Title 20, Chapter 25, Part 5)

Section 1. Discrimination against student organizations prohibited.

(1) A public postsecondary institution may not deny a religious, political, or ideological student organization a benefit or privilege available to other student organizations or otherwise discriminate against a student organization based on the student organization's expressive activity, including any requirement of the student organization that a leader or member:

- (a) affirm and adhere to the student organization's sincerely held beliefs;
- (b) comply with the student organization's standards of conduct; or
- (c) further the student organization's mission or purpose, as defined by the student organization.

(2) As used in [section 2] and this section, the following definitions apply:

- (a) “Benefit or privilege” means any type of advantage, including but not limited to:
 - (i) recognition;
 - (ii) registration;
 - (iii) the use of facilities of the public postsecondary institution for meetings or speaking purposes;
 - (iv) the use of channels of communication; and

(v) funding sources that are otherwise available to other student organizations at the public postsecondary institution.

(b) “Public postsecondary institution” means:

(i) a unit of the Montana university system as defined in 20–25–201; or

(ii) a Montana community college, defined and organized as provided in 20–15–101.

(c) “Student organization” means an officially recognized group or a group seeking official recognition at a public postsecondary institution that is comprised of students who receive or are seeking to receive a benefit through the public postsecondary institution.

<https://leg.mt.gov/bills/2021/billpdf/HB0349.pdf>

North Dakota—N.D. Code § 15-10.4-02(h) (signed into law April 19, 2021)

(h) An institution may not discriminate against a student organization with respect to a benefit available to any other student organization based on a requirement of the organization that leaders or voting members of the organization: (1) Adhere to the organization's viewpoints or sincerely held beliefs; or (2) Be committed to furthering the organization's beliefs or religious missions.

<https://www.legis.nd.gov/assembly/67-2021/documents/21-0929-04000.pdf>

ATTACHMENT A



New Student Organization Registration Application

Submit completed forms to Student Activities, along with required \$10 non-refundable fee.

A student organization that wishes to use university facilities must be registered with Student Activities. A group of three (3) or more enrolled students is eligible under the university's *Institutional Rules*, Section 6-202, if:

- 1) its membership is limited to enrolled students, staff and faculty of The University of Texas at Austin;
- 2) it does not deny membership on the basis of race, color, religion, national origin, gender, age, disability, citizenship, veteran status, sexual orientation, gender identity or gender expression, except that a) an 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 faith; and b) an organization may restrict membership based on the provisions of Title IX of the Education Amendments of 1972;
- 3) it is not under disciplinary penalty prohibiting registration; and
- 4) it conducts its affairs in accordance with the Regents' *Rules and Regulations*, university regulations and administrative rules.

Please Note: If the registered student organization is approved, the following information (1–6) will be posted on the Student Activities Web site.

1. Name of proposed registered student organization _____

2. Type of organization: Political Educational/Departmental Honorary
 (Check one only) Student Governance Professional Social
 Recreational Religious Service
 International/Cultural Special Interest

3. State the registered student organization's official purpose _____

4. Indicate any membership requirements* beyond those stated in the *Institutional Rules* above _____

* Does your registered student organization intend to limit membership to a single gender? Yes No

For Office Use Only

Receipt Number _____

Staff Signature _____ Date _____

ORGANIZATIONS POLICY

1. General Statement of Purpose

The University recognizes:

1. the importance of organized student activities as an integral part of the total educational program of the University;
2. that college learning experiences are enriched by student organizational activity; and
3. that organizations provide a framework for students within which they may develop their own special talents and interests.

Inherent in the relationship between the University and organized student groups is the understanding that the purposes and activities of such groups should be consistent with the main objectives of the University.

All student organizations must register annually with the Department of Campus Activities and must then comply with the procedures and policies regarding registration as set forth.

The Dean of Students Office recognizes the role of Greek Coordinating Councils in establishing and upholding policies for member groups. However, membership in said councils does not exempt fraternities and sororities from judicial referrals to the Dean of Students Office for violations of Student Life Policies, including Organizations Policies.

The University Hearing Board, with the approval of the Dean of Students, delegates to Greek coordinating councils general supervision over those chapters of social sororities and fraternities which choose to be members of these councils.

The term "general supervision" shall include all the duties, powers and responsibilities exercised by the Greek coordinating council prior to the adoption of this policy, with the provision that membership in the Greek coordinating councils is optional with the local chapter.

It is understood that the Greek coordinating councils and their member groups will operate under the provisions of the Student Life Policies, including the Organizations Policy.

2. Procedure for Registration of New Organizations

2.1 Permanent Organizations

- a. The group will file its name, statement of purpose, constitution or statement regarding its method of operation, faculty/staff advisor (if applicable), and the names of its officers or contact persons with the Department of Campus Activities.
- b. In cases where a potential faculty/staff advisor is unknown to the group, the Campus Activities staff will assist in identifying a university faculty or staff member who may wish to serve as an advisor. Organizations are encouraged to have a faculty/staff advisor.
- c. Should the group not have elected its officers or completed other work connected with its formation at the time they initially see the Campus Activities staff, the Campus Activities staff shall make arrangements for them to use university facilities for organizational purposes on a meeting-to-meeting basis until the organizational process is completed and the required information can be filed.
- d. At the time of filing, three officers or contact persons for the organization will sign a statement indicating that they are familiar with and will abide by the aforementioned responsibilities of student organizations. They will also sign the standard hazing and discrimination

disclaimer required of all student organizations.

- e. Having ascertained that the group's purpose is law-ful and within university regulations and that the group has filed the required forms and disclaimers, the Director of Campus Activities, or designate, will sign the application. Appropriate university personnel are notified by Campus Activities that the group is then eligible for all of the rights of student organizations.
- f. Should the staff feel that the organization does not meet the requirements for registration, a written copy of the decision and reasons will be furnished to the applying organization. The group may appeal the decision to the Dean of Students.
- g. The Campus Activities staff shall make arrangements for the group to use university facilities on a meeting-to-meeting basis until the appeals process is completed.
- h. Decisions of the University Hearing Board may be appealed to the Dean of Students.

2.2 Registration for a Limited Purpose: Temporary Status In some cases, groups will organize with some short-term (one which can be accomplished in less than one academic year) goal in mind such as the passage of some particular piece of legislation or the holding of some particular event. The organization's structure will expire on the date indicated on the registration form. Requests for extension of Temporary Status may be made to the Director of Campus Activities.

2.3 Membership Regulations

- a. Registered student organizations have freedom of choice in the selection of members, provided that there is no discrimination on the basis of race, color, religion, national origin, sex, age, disability, veteran status, or sexual orientation.
- b. Membership in registered student organizations is restricted to currently enrolled University of Houston students, faculty, staff and alumni.
- c. Hazing-type activities of any kind are prohibited.

2.4 Officers Regulations

- a. Student organizations are free to set qualifications and procedures for election and holding office, with the following provisions:
 1. All officers must be regular members of the organization.
 2. There is no discrimination on the basis of race, color, religion, national origin, sex, age, disability, veteran status, or sexual orientation except where such discrimination is allowed by law.
 3. 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.
- b. Persons not currently enrolled at the University of Houston may not hold office or direct organizational activities.

2.5 Records

All registered student organizations must maintain the following records in the Campus Activities Office:

- a. An organizational information form listing the current officers and faculty/staff advisor (if applicable) is due at the beginning of each school year. Any changes during the year, other than membership, are to be recorded within 10 days with the Department of Campus Activities.

University of Florida's Policy (<https://www.union.ufl.edu/involvement/index.asp>)

Student Organization Registration Policy Update

The University of Florida has modified its policies relating to the registration of religious student groups as Registered Student Organizations (RSOs). The modification was made to accommodate any student group whose religious mission requires its membership to share the organization's religious beliefs, while at the same time continuing to protect the University's nondiscriminatory educational program.

More than 760 student organizations covering a wide variety of interests are registered at the University. UF has always welcomed registration of religious organizations. More than 60 religious student organizations, of which about 48 are Christian, are registered as RSOs at UF.

The University considers participation in registered student organizations to be an important educational opportunity for all of our students. The University applies its nondiscrimination in membership policy to registered student organizations to ensure that these important learning opportunities are not denied to any student due to discrimination based on race, sex, religion or certain other prohibited bases.

A small number of religious student groups have expressed a religious need to ensure that all of their members share the religious beliefs of the organization.

To the greatest extent possible-while fulfilling our nondiscriminatory educational mission and complying with the law-the University wants to be sure that a full range of religious student organizations feel just as free to register as any other type of student organization. This ensures that all of our students will find meaningful educational opportunities to participate in registered student organizations.

As we are committed to serving all of our students well, the University has carefully considered how to address the concerns expressed by some religious student groups and individuals without compromising our educational program. After doing so, the University has made the decision to modify its nondiscrimination policy as follows:

"Student organizations that wish to register with the Center for Student Activities and Involvement (CSAI) must agree that they will not discriminate on the basis of race, creed, color, religion, age, disability, sex, sexual orientation, marital status, national origin, political opinions or affiliations, or veteran status as protected under the Vietnam Era Veterans' Readjustment Assistance Act.

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."

This modification of the University's registration policy recognizes a meaningful distinction between sincerely held current religious beliefs (which may be considered in selecting members or leaders of religious RSOs)-and religious or other status (e.g., religion of birth or historical affiliation). The modification takes effect immediately and is now reflected in the CSAI's Handbook of Student Activities as well as its registration and constitution guidelines and Web site. A letter has been sent to each religious student group that has recently sought and not received registration to ensure that it is aware of the modification and to invite its registration.

University of Minnesota's "Constitution and By-Laws Instructions" in *Student Groups Official Handbook*, available at <http://sua.umn.edu/groups/handbook/constitution.php> (last visited December 7, 2012)

3. University of Minnesota Policy: Student groups must comply with all University policies and procedures, as well as local, state, and federal laws and regulations. This includes, but is not limited to, the Board of Regents Policy on Diversity, Equal Opportunity and Affirmative Action as they relate to group membership and access to programs. Religious student groups may require their voting membership and officers to adhere to the group's statement of faith and its rules of conduct. Your constitution needs to include a statement about your group's responsibility to operate in accordance with these policies.

ATTACHMENT B

Frequently Asked Questions about SGSOs and Indiana University's Non-Discrimination Policy:

[prepared by Indiana University administration, August 2015, available at <http://policies.iu.edu/docs/academic-policy-docs/student-orgs-faqs.pdf>]

1. What are the benefits of registering with the University as a Self-Governed Student Organization (SGSO)?

The benefits of registering an organization as an SGSO include:

- being able to reserve space on campus and often for free;
- applying for a Student Organization Account;
- applying for funding;
- applying for office space in the IMU;
- using the “SGSO at IU” trademark;
- reserving a table for the Student Involvement Fair.

2. Can student groups who elect not to register as SGSOs still meet on campus?

Yes, but they will not receive the benefits of being an SGSO. Non-registered groups of students are welcome to assemble and associate in areas of the campus that are open to them as students of Indiana University. Furthermore, they are welcome to reserve campus space for their events under the same terms and conditions as other third-party groups.

3. What non-discrimination requirements does the University have in place for SGSOs?

The University requires all SGSOs to accept “all comers.” SGSOs cannot reject students seeking to participate in, become members of, or serve as leaders of the organization because of their age, color, disability, ethnicity, gender, marital status, national origin, race, religion, sexual orientation, or veteran status. The University requires each SGSO to include the University’s non-discrimination statement in its SGSO constitution.

4. May an SGSO establish eligibility requirements for membership or leadership positions that are not tied to an individual being a member of a protected class?

Yes. SGSOs may impose eligibility requirements for membership and service in leadership positions as long as the requirements are not based on a student belonging to any of the protected classes listed above. Examples of acceptable requirements include:

- requiring members to pay dues;
- requiring members to attend group meetings consistently;
- establishing that leadership positions within the group are open only to those members who have been in good standing with the group for a certain period of time;
- honor societies establishing a minimum GPA threshold.

5. Are single-sex fraternities and sororities allowed under the University’s non-discrimination statement?

Yes. The University abides by Title IX of the Education Amendments Act of 1972, which recognizes that differentiated treatment based on sex for purposes of membership in a social fraternity or sorority is not unlawful. An organization in this category may remove “gender” from the non-discrimination statement in its SGSO constitution.

6. May SGSOs require students seeking to serve in leadership positions to be members of a particular religion?

No. As mentioned above, eligibility for leadership in the SGSO cannot be based on any categories that are included in the University’s non-discrimination statement. The requirement is that all students be eligible to join the SGSO and seek leadership positions within it. However, the SGSO is not required to elect or appoint any particular leadership candidate and may establish a process for electing or appointing leaders that does not exclude candidates based on their membership in a protected class. **For example, a chapter of a religious student alliance would not be permitted to forbid someone of a different religion, or someone non-religious, from running for a leadership position within the SGSO.**

7. What are the consequences of an SGSO failing to comply with the University’s non-discrimination statement?

If, after registering, an SGSO fails to comply with the statement by excluding a student due to his or her membership in one of the protected classes listed above, a complaint may be made under the IU Student Code of Rights, Responsibilities and Conduct and the campus judicial process for student organizations. If sanctions result from that process, they may include the SGSO losing SGSO status.

ATTACHMENT C

January 20, 2015

Cinnamon McCellen
Rejoyce in Jesus Campus Fellowship

Cc: Vicki Allen, Advisor

Dear Cinnamon:

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.

Withdrawing or withholding of official recognition can occur when an organization has failed to meet the standards required for official recognition in a given year. The Rejoyce in Jesus Campus Fellowship organization will no longer be recognized given failure to submit an organizational constitution that is in compliance with non-discrimination and open membership requirements as outlined in California State University Executive Order 1068.

In withdrawing University recognition, your organization is no longer afforded the privileges of University recognition Clubs and Organizations. Those include:

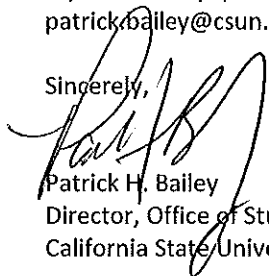
- Recruiting California State University, Northridge students through official campus recruitment programs (such as Meet the Clubs, Matafest, AS Fair, etc.).
- Utilizing the university name as a designation for your organization.
- Have a university issued email account and or website. If your club or organization has a current email or website, a request to suspend your email and website will be sent to the University's IT department and will be deactivated within a week.
- Eligibility for Associated Students, Inc. (A.S.) funding and utilization of AS financial and marketing resources and services.
- Eligibility for University Student Union (USU) facility use at a discounted rate. Only University recognized clubs or organizations are eligible for the discounted rates and fee waivers on room reservations in the USU. Groups of students not recognized by the university who reserve rooms through USU Reservations and Events Services will be charged the off-campus rate and will not be eligible to receive two free meetings per week in USU rooms. Rate information can be found at the following website: www.csun.edu/usu.
- Eligibility for USU co-sponsorship support. Any organization applying for co-sponsorship must be a University recognized club or organization, auxiliary or university department. Therefore, any group of students not officially recognized by the University would not be eligible to receive any USU Co-Sponsorship funding including, but not limited to, funding for costs of room reservations, event production costs, performer fees, food, or Performance Hall usage.
- Ability to have a mailbox and receive mail at the University. If you currently have a mailbox at the MIC it will be closed (all current contents, if any, will be kept for you by the Club and Organization Advisor).

This loss of University recognition is effective immediately and notification has been sent to both the Associated Students and the University Student Union.

If your organization determines that it would again like to be officially recognized by the University, please contact the Matador Involvement Center (MIC) located on the first floor of the USU to discuss how your organization can come into compliance with non-discrimination and open membership guidelines as outlined in EO1068. Assistant Director Vicki Allen or Activities Coordinator Jennifer Villarreal are both available to assist you and can be reached at 818-677-5111 or via email at micleadership@csun.edu.

If you have any questions or additional concerns please contact me at 818.677.2393 or via email at patrick.bailey@csun.edu

Sincerely,



Patrick H. Bailey

Director, Office of Student Involvement and Development
California State University, Northridge

CC: Associated Students
University Student Union
Matador Involvement Center
University Advisor for Rejoyce in Jesus Campus Fellowship

ATTACHMENT D

----- Forwarded message -----

From: [redacted]

Date: Tue, Aug 9, 2011 at 10:40 PM

Subject: RE: Christian Legal Society status

To: [redacted]

Cc: [redacted]

Dear [redacted],

Thank you for submitting your new Constitution for the Christian Legal Society. In reviewing it, there are some parts of it that are in violation of Vanderbilt University's policies regarding student organizations; they will need to be addressed before the Office of Religious Life can endorse CLS's approval.

Article III states that, "All officers of this Chapter must subscribe to the Christian Legal Society Statement of Faith." Vanderbilt's policies do not allow any student organization to preclude someone from a leadership position based on religious belief. Only performance-based criteria may be used. This section will need to be rewritten reflecting this policy.

The last paragraph of Section 5.2 states that "Each officer is expected to lead Bible studies, prayer and worship at Chapter meetings as tasked by the President." This would seem to indicate that officers are expected to hold certain beliefs. Again, Vanderbilt policies do not allow this expectation/qualification for officers.

Section 9.1 regarding Amendments to the Constitution should include language stating that any amendment must also be in keeping with Vanderbilt University's policies on student organizations and must be approved by the University before taking effect.

Please make these few changes and submit a copy of the amended Constitution to me so we can proceed with the approval process.

Also, we do not have in hand a copy of the revised Officer and Advisor Affirmation Form, as requested in the initial deferral. Specifically, we need a clean document without the handwritten text that seems to be an exclusionary clause advocating for partial exemption from the University's non-discrimination policy. Please forward us a copy of this as well.

Thank you. Please let me know of any questions you may have.

Best,

[redacted]

[redacted]

ATTACHMENT E

----- Forwarded message -----

From: vanderbiltcollegiatelink

<noreply@collegiatelink.net<mailto:noreply@collegiatelink.net><mailto:noreply@collegiatelink.net<mailto:noreply@collegiatelink.net>>>

Date: Tue, Apr 17, 2012 at 11:53 AM

Subject: Registration Status Update: [redacted name of Christian student group]

To: [redacted name of student]

The registration application that you submitted on behalf of [redacted name of Christian student group] <[https://vanderbilt.collegiatelink.net/organization/\[redacted\]](https://vanderbilt.collegiatelink.net/organization/[redacted])> has not been approved and may require further action on your part. Please see the reviewer's comments below or access your submission now <[https://vanderbilt.collegiatelink.net/organization/\[redacted\]/register/Review/650475](https://vanderbilt.collegiatelink.net/organization/[redacted]/register/Review/650475)>.

Thank you for submitting your registration application. Vanderbilt appreciates the value of its student organizations. Your submission was incomplete or requires changes, thus we are not able to approve your application at this time. Please re-submit your application including the following items or changes: - Please change the following statement in your constitution:

"Article IV. OFFICERS

Officers will be Vanderbilt students selected from among active participants in [redacted name of Christian student group]. Criteria for officer selection will include level and quality of past involvement, **personal commitment to Jesus Christ**, commitment to the organization, and demonstrated leadership ability."

CHANGE TO:

Officers will be Vanderbilt students selected from among active participants in [redacted name of Christian student group]. Criteria for officer selection will include level and quality of past involvement, commitment to the organization, and demonstrated leadership ability.

We are committed to a timely review of every complete application received and to letting you know the status of your application as soon as possible.

ATTACHMENT F

West's Tennessee Code Annotated
Title 49. Education
Chapter 7. Postsecondary and Higher Education Generally
Part 1. Miscellaneous Provisions

T. C. A. § 49-7-156

§ 49-7-156. Religious student organizations; discrimination

Effective: July 1, 2013

[Currentness](#)

(a) No state higher education institution that grants recognition to any student organization shall discriminate against or deny recognition to a student organization, or deny to a student organization access to programs, funding, or facilities otherwise available to another student organization, on the basis of:

(1) The religious content of the organization's speech including, but not limited to, worship; or

(2) The organization's exercise of its rights pursuant to subsection (b).

(b) A religious student organization may determine that the organization's religious mission requires that only persons professing the faith of the group and comporting themselves in conformity with it qualify to serve as members or leaders.

(c) As used in this section, "state higher education institution" means any higher education institution governed by chapter 8 or 9 of this title.

Credits

[2013 Pub.Acts, c. 283, § 1, eff. July 1, 2013.](#)

T. C. A. § 49-7-156, TN ST § 49-7-156

Current with laws from the 2014 Second Reg. Sess., eff. through Feb. 28, 2014

ATTACHMENT G



August 22, 2011

Registered Student Organization:

Recent court decisions have clarified the law regarding the application of anti-discrimination policies to Registered Student Organizations (“RSOs”) at institutions of higher education. To ensure compliance with the clarified law and University policy, our office is verifying that each RSO constitution contains the following anti-discrimination policy:

“Membership in, association with, and benefits emanating from this student organizations and its related activities shall be based upon such considerations as performance, educational achievement, and other criteria related to the goals of this organization and purposes of its activities. Judgments in this regard based solely on an individual’s race, color, religion, national origin, age, gender, sexual orientation, disability, veteran status, marital status, or political belief are not judgments based on such considerations. Further, the purpose of this organization shall be consistent with public policy as established by prevailing University Community standards.”

In addition to including the exact language above in your RSO’s constitution, no provisions of your constitution and none of your organization’s practices may contradict or create exceptions to this policy. You should carefully review your constitution and practices to ensure your organization adheres to the letter and spirit of the University’s anti-discrimination policy.

In order to remain eligible for use of University facilities and funding, your organization must electronically submit a constitution that complies with the University’s anti-discrimination policy as soon as possible, but no later than September 16, 2011. Please send your constitution to gc@ou.edu. If your constitution is in compliance, your organization will NOT have to re-submit its constitution for review next fall.

If you have any questions regarding this letter do not hesitate to contact my office, either by email at gc@ou.edu, or by phone at 325-5474.

Sincerely,
Matt Zellner, General Counsel
University of Oklahoma Student Association
[p] (405) 325-5474
[f] (405) 325-6529
[e] gc@ou.edu
www.ou.edu/uosagc

ATTACHMENT H

Oklahoma Statutes Annotated

Title 70. Schools (Refs & Annos)

Division IV. Universities, Colleges, and Schools of Special Character

Chapter 45. General and Miscellaneous Provisions

Exercise of Religion by Higher Education Students

70 Okl.St. Ann. § 2119

§ 2119. Definitions

Currentness

As used in Sections 1 through 5 of this act: ¹

1. “Benefit” includes, without limitation:

- a. recognition,
- b. registration,
- c. the use of facilities of the public institution of higher education for meetings or speaking purposes,
- d. the use of channels of communication of the public institution of higher education, and
- e. funding sources that are otherwise available to other student associations in the public institution of higher education;

2. “Exercise of religion” includes without limitation the practice or observance of religion as interpreted under state law or the First Amendment of the United States Constitution, whichever interpretation is broader;

3. “Public institution of higher education” includes any institution that is a member of The Oklahoma State System of Higher Education or of a technology center school district;

4. “Substantially burdens” includes without limitation an action by a public institution of higher education which directly or indirectly:

- a. constrains or inhibits conduct or expression that reflects a student's sincerely held religious beliefs,
- b. denies a student an opportunity to engage in religious activities, or

c. pressures a student either:

(1) to not engage in conduct or expression motivated by a sincerely held religious belief, or

(2) to engage in conduct or expression contrary to a sincerely held religious belief;

5. “Student” means a person who is enrolled full-time or part-time in a public institution of higher education; and

6. “Religious student association” means an association of students organized around shared religious beliefs.

Credits

Laws 2014, c. 350, § 1, eff. Nov. 1, 2014.

Footnotes

¹ Title 70, §§ 2119 to 2119.4.

70 Okl. St. Ann. § 2119, OK ST T. 70 § 2119

Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

Oklahoma Statutes Annotated

Title 70. Schools (Refs & Annos)

Division IV. Universities, Colleges, and Schools of Special Character

Chapter 45. General and Miscellaneous Provisions

Exercise of Religion by Higher Education Students

70 Okl.St. Ann. § 2119.1

§ 2119.1. Protection for religious student organizations

Currentness

A. No public institution of higher education may take any action or enforce any policy that would deny a religious student association any benefit available to any other student association, or discriminate against a religious student association with respect to such benefit, based on that association's requirement that its leaders or members:

1. Adhere to the association's sincerely held religious beliefs;
2. Comply with the association's sincere religious observance requirements;
3. Comply with the association's sincere religious standards of conduct; or
4. Be committed to furthering the association's religious missions,

as such religious beliefs, observance requirements, standards of conduct or missions are defined by the religious student association, or the religion upon which the association is based.

B. The legal standard provided in subsection B of Section 3 of this act¹ shall not apply to this section.

Credits

Laws 2014, c. 350, § 2, eff. Nov. 1, 2014.

Footnotes

¹ Title 70, § 2119.2.

70 Okl. St. Ann. § 2119.1, OK ST T. 70 § 2119.1

Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

Oklahoma Statutes Annotated

Title 70. Schools (Refs & Annos)

Division IV. Universities, Colleges, and Schools of Special Character

Chapter 45. General and Miscellaneous Provisions

Exercise of Religion by Higher Education Students

70 Okl.St. Ann. § 2119.2

§ 2119.2. Protections for students' exercise of religion

Currentness

A. In addition to the protections provided in Section 2 of this act, no public institution of higher education may substantially burden a student's exercise of religion, even if the burden results from a rule of general applicability, except as provided in subsection B of this section.

B. A public institution of higher education may substantially burden a student's exercise of religion only if that institution demonstrates that application of the burden to the student:

1. Is in furtherance of a compelling interest of the public institution of higher education;
2. Actually furthers that interest; and
3. Is the least restrictive means of furthering that interest.

Credits

Laws 2014, c. 350, § 3, eff. Nov. 1, 2014.

70 Okl. St. Ann. § 2119.2, OK ST T. 70 § 2119.2

Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

Oklahoma Statutes Annotated

Title 70. Schools (Refs & Annos)

Division IV. Universities, Colleges, and Schools of Special Character

Chapter 45. General and Miscellaneous Provisions

Exercise of Religion by Higher Education Students

70 Okl.St. Ann. § 2119.3

§ 2119.3. Claims and defenses

Currentness

A student or religious student association aggrieved by a violation of Section 2 or 3 of this act¹ may assert that violation as a claim or defense in a judicial or administrative proceeding against the public institution of higher education and obtain appropriate relief, including damages, against that institution from a court or administrative body.

Credits

Laws 2014, c. 350, § 4, eff. Nov. 1, 2014.

Footnotes

¹ Title 70, §§ 2119.1, 2119.2.

70 Okl. St. Ann. § 2119.3, OK ST T. 70 § 2119.3

Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

Oklahoma Statutes Annotated

Title 70. Schools (Refs & Annos)

Division IV. Universities, Colleges, and Schools of Special Character

Chapter 45. General and Miscellaneous Provisions

Exercise of Religion by Higher Education Students

70 Okl.St. Ann. § 2119.4

§ 2119.4. Construction

Currentness

These provisions shall be construed in favor of a broad protection of religious freedom, to the maximum extent permitted by their terms and by the Constitutions of this state and the United States of America.

Credits

Laws 2014, c. 350, § 5, eff. Nov. 1, 2014.

70 Okl. St. Ann. § 2119.4, OK ST T. 70 § 2119.4

Current through Chapter 430 (End) of the Second Session of the 54th Legislature (2014)

End of Document

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ATTACHMENT I



March 30, 2008

Cornerstone Ministry Officers:

In accordance with the requirements outlined in The Source #1, ASBSU Judiciary is officially requesting that you update your clubs constitution in order to comply with the ASBSU nondiscrimination clause. ASBSU Judiciary found the following sections of your constitution to be in conflict with the nondiscrimination clause.

Article V, Section 2, subsection 3:

"Be in good moral standing, exhibiting a lifestyle that is worthy of a Christian"

This phrase was found to be in conflict with the nondiscrimination clause. Both "good moral standing" and "lifestyle that is worthy of a Christian" are vague and can be discriminatory against people based on things listed in the nondiscrimination clause.

Article V, Section 2, subsection 4:

"Have passed the Cornerstone Ministry Equipping Course (or equivalent)."

Judiciary would like to know if anything in this course in any way conflicts with the nondiscrimination clause.

Article V, Section 3, subsection 3:

"Be in good moral standing, exhibiting a lifestyle that is worthy of a Christian as outlined in the Bible"

This phrase was found to be in conflict with the nondiscrimination clause. Both "good moral standing" and "lifestyle that is worthy of a Christian" are vague and can be discriminatory against people based on things listed in the nondiscrimination clause.

Article V, Section 3, subsection 4:

"Have passed the Cornerstone Ministry Equipping Course"

Judiciary would like to know if anything in this course in any way conflicts with the nondiscrimination clause.

Article V, Section 5, subsection 1:

"A Biblically compatible lifestyle"

Judiciary found this phrase to conflict with the nondiscrimination clause

Article VI, Section 2:

Specifically referencing Matthew 18:15-17. The final line of this passage is: "and if he refuses to listen even to the church, treat him as you would a pagan or a tax collector."

Judiciary found this in conflict with the nondiscrimination clause.



Article X, Section 2, subsection C.1:

"Abide by a Biblically compatible lifestyle"

Judiciary found this phrase to conflict with the nondiscrimination clause

Article X, Section 2, subsection C.4:

"Have passed the Cornerstone Ministry Equipping Course"

Judiciary would like to know if anything in this course in any way conflicts with the nondiscrimination clause.

Article XI, Section 2:

Specifically referencing Matthew 18:15-17. The final line of this passage is: "and if he refuses to listen even to the church, treat him as you would a pagan or a tax collector."

Judiciary found this in conflict with the nondiscrimination clause.

As this is the official notification of a request to update your constitution, your club has 2 months to update your constitution and submit it for judicial review. However, seeing as ASBSU Judiciary does not conduct business during the summer months, your club will have until September 2, 2008 to submit your constitution for review. If you have any further questions or concerns, you may direct them to Kara Fink, Student Activities Program Coordinator, at 426-5951.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell O'Leary".

Russell O'Leary
Chief Justice
ASBSU Judiciary



February 27, 2009

BSUCRU Officers:

In accordance with the requirements outlined in The Source #1, ASBSU Judiciary is officially requesting that you update your club's constitution in order to comply with the ASBSU nondiscrimination clause. ASBSU Judiciary found the following sections of your constitution to be in conflict with the nondiscrimination clause.

Article IX Section 1

"All officers must exemplify the application of Scriptural life principles, in accordance with the national standards of Campus Crusade for Christ." Judiciary is concerned that the passage "Scriptural life principles may be in conflict with the ASBSU Non-discrimination policy. Please further define "Scriptural life principles" and the process used to determine whether an officer is exemplifying those principles.

Article X Section 4

"The qualifications for executive council (servant team) shall include, but are not limited to: a personal relationship with Jesus; a Spirit-filled servant attitude; agreement with BSUCRU goals of reaching students for Christ through personal and group evangelism using tools like the Four Spiritual Laws and the Holy Spirit booklet etc.; to go through our basic follow up materials; willingness to be in a small discipleship/Bible study group and to be trained (in time) to lead one; to come to BSUCRU events like prayer and the weekly meeting, retreats, fun times, etc; to share Christ intentionally (goal: once weekly); to prepare a 2 minute testimony and share it with a staff person; to take on a ministry of service in one of the four committees of inward, upward, outward, and stewardship; To be part of a Bible-based, Jesus-centered church; commit to at least 8-9 hours of active involvement." Not allowing members to serve as officers due to their religious beliefs is in conflict with the ASBSU Non-discrimination policy.

In addition to the above request ASBSU Judiciary is requesting you submit a copy of the constitution of the national organization Campus Crusade for Christ. In your constitution you claim affiliation with the above mentioned organization and it is ASBSU policy that we have a copy of the national organization's constitution in our files.

As this is the official notification of a request to update your constitution, your club has 2 months to update your constitution and submit it for judicial review. If you have any further questions or concerns, you may direct them to Kara Fink, Student Activities Programs Coordinator, at 426-3951.

Sincerely,

Russell O'Leary
Chief Justice
ASBSU Judiciary

ATTACHMENT J

West's Idaho Code Annotated
Title 33. Education
Chapter 1. State Board of Education

I.C. § 33-107D

§ 33-107D. Campus access for religious students

Currentness

(1) No state postsecondary educational institution shall take any action or enforce 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 adhere to its sincerely held religious beliefs or standards of conduct.

(2) As used in this section:

(a) "Benefits" include without limitation:

(i) Recognition;

(ii) Registration;

(iii) The use of facilities at the state postsecondary educational institution for meetings or speaking purposes;

(iv) The use of channels of communication of the state postsecondary educational institution; and

(v) Funding sources that are otherwise available to any other student group through the state postsecondary educational institution.

(b) "State postsecondary educational institution" means a public postsecondary organization governed or supervised by the state board, the board of regents of the university of Idaho, a board of trustees of a community college established pursuant to the provisions of chapter 21, title 33, Idaho Code, or the state board for professional-technical education.

Credits

Added by S.L. 2013, ch. 190, § 1, eff. July 1, 2013.

I.C. § 33-107D, ID ST § 33-107D

Current through (2013) Chs. 1-354 (End)

ATTACHMENT K

Resolution 1011-AU-006

Supporting the Repeal of the Registered Student Organization Exemption

Author: Jonathan Nutt(.19), President

Sponsor: The Executive Committee

Introduced: November 12, 2010

WHEREAS, new legal precedence set by the U.S. Supreme Court case *Christian Legal Society Chapter of the University of California, Hastings College of Law v. Martinez Et al.* brings reason to review the current Registered Student Organization exemption that enables “a student organization formed to foster or affirm the sincerely held religious beliefs of its members may adopt a nondiscrimination statement that is consistent with those beliefs;” and

WHEREAS, the President of the United States of America recently committed to a nationwide effort ending discrimination in all its forms in schools and communities; and

WHEREAS, the University has fostered a culture of inclusion for over 40-years and the exemption is in direct conflict with the vision and goals of the University set forth in the Academic Plan, Diversity Action Plan and motto *disciplina in civitatem* (education for citizenship); and

WHEREAS, the exemption is counterintuitive to the Philosophies and Guiding Principles outlined in the Registration Guidelines for Student Organizations at Ohio State and without intelligible principle and therefore difficult to interpret, enforce, and adjudicate; and

WHEREAS, the Council of Graduate Students has previously taken positions affirming mutual respect and fair treatment of all individuals at The Ohio State University to support an environment of diversity that enriches the community and enhances the educational process; and

THEREFORE LET IT BE RESOLVED, that the Council of Graduate Students urges The Ohio State University to repeal the exemption outlined in the Registration Guidelines for Student Organizations at Ohio State that states “A student organization formed to foster or affirm the sincerely held religious beliefs of its members may adopt a nondiscrimination statement that is consistent with those beliefs;” and

LET IT BE FURTHER RESOLVED, that the Council of Graduate Students charges its Graduate Student Representatives in University committees to vote in accordance with this resolutions; and

Council of Graduate Students | The Ohio State University

LET IT BE FURTHER RESOLVED, that the Council of Graduate Students charges its President to communicate to the Ohio State University President, the Executive Vice President and Provost, the Vice Provost and Chief Diversity Officer, the Vice President of Student Life, the Dean of the Graduate School, the Undergraduate Student Government, the Inter-Professional Council and all other appropriate groups the Council's position as established by this resolution.

Date Approved: NOVEMBER 12, 2010
UNANIMOUSLY



President | Council of Graduate Students

Council on Student Affairs Recommendation
Religious Student Organization Carve-Out

January 18th, 2011

Submitted by Bryan Ashton
On behalf of The Council on Student Affairs

CHARGE:

Recommend a course of action in regards to the religious student organization carve-out to the non discrimination clause in the Student Organization Registration guidelines at The Ohio State University.

RESEARCH:

The Council began the process of reviewing the carve-out in the beginning of November through an Ad-Hoc committee. This committee finished their work at the end of November and produced a recommendation in favor of a blanket removal of the carve-out (attached). On November 30th, CSA hosted an open forum, in which we heard opinions from student organization leaders and university community members about the issue. During the quarter both Undergraduate Student Government and the Council of Graduate Students passed resolutions in favor of the removal of the Carve Out (attached). Voting CSA members were also provided with numerous reading materials and encouraged to engage in constituency outreach.

FINDINGS:

The Council voted (12-1) in favor of accepting the Ad-Hoc committee's recommendation of a blanket removal of the carve-out. The Council recommends that this change be placed into effect for the next student organization registration year and that appropriate University resources be allocated to help organizations transition and maintain their compliance and registration status.

The Council, in accepting this recommendation, endorses the position that every student, regardless of religious belief, should have the opportunity to participate in student organizations as well as have the opportunity to apply or run for a leadership position within those organizations. The Council believes that the Office of Student Life in conjunction with the Office of Legal Affairs should address acceptable officer selection procedures with groups who request such assistance.

Attached to this recommendation is the report of the Ad-Hoc committee as well as the Student Government resolutions that were introduced. Much debate and strong feelings were drawn from these resolutions and reports, so they are included in the recommendation.

Council on Student Affairs Recommendation
Religious Student Organization Carve-Out

November 29, 2010

Submitted by Bryan Ashton
On behalf of Student Organization Carve Out Ad-Hoc

CHARGE: Recommendation a course of action in regards to the religious student organization carve-out to the non discrimination clause in the Student Organization Registration guidelines.

MAKE UP: The Ad-Hoc Committee consisted of representatives from Residence Life, the Law School, IPC, USG, CGS, Muslim Student Association, Staff, and Faculty. Ex-Officio members included representatives from Legal Affairs and Student Activities.

RESEARCH:

The group heard from Michael Layish of Legal Affairs, as well as Kerry Hodak from Student Activities in regards to their experiences with the carve-out and the history of its implementation. The group also discussed the implications of the removal of the carve-out or continuing with the carve-out in place for religious student organizations. Each student government was asked to do constituency outreach and in the process CGS passed a resolution regarding the issue. The committee then spent three meetings debating the merit of the removal of the carve-out, upholding the carve-out, and the examination of a leadership exemption.

FINDINGS:

The Ad-Hoc Committee voted unanimously (8-0) in favor of recommending that the carve-out, in relation to its application to general members, be removed. There was discussion and dissent to the idea of a blanket removal, with three members of the committee voting in favor of adopting a carve-out, similar to current carve-out, however applied only to leadership positions in the organization. The recommendation of the Ad-Hoc Committee was (5-3) in favor of a blanket removal of the current carve-out. Below are opinions in favor of a blanket carve-out (Brandon Edwards) and opinions in favor of a leadership position carve-out (Maria Ahmad).

OPINIONS:

Blanket Removal

Put simply, the debate placed before the Council on Student Affairs regarding carve out language for religious-based Student Organizations requires a choice of the lesser of two evils. By removing the carve-out for religious-based Student Organizations, Ohio State runs the risk of diminishing the voice of student organizations built upon a sincerely held religious belief. By denying these organizations the privileges associated with registration, we threaten discrimination against those groups that are organized around a certain interpretation of religious doctrine. However, by keeping the religious Student Organization exemption currently in place,

Council on Student Affairs Recommendation
Religious Student Organization Carve-Out

Ohio State's Office of Student Activities leaves open the option of groups discriminating against members of the student body interested in membership. Keeping the carve out institutionalizes the ability of Student Organization members to openly discriminate against students with opinions and behaviors different than their own. The question is: should we potentially discriminate against Student Organizations or should we allow those Student Organizations to discriminate against individual students. It is my opinion, and the unanimous opinion of the CSA Student Organization Guideline Review Ad-Hoc Committee, that the former is a preferred action in lieu of the potential ramifications of the latter. We must protect the rights of students to join the organizations of their choosing instead of tolerating the discriminatory tendencies of individual Student Organizations.

As a public University entrusted with the stewardship of taxpayers dollars, we must not allow Student Organizations to discriminate against federally mandated protected classes. Additionally, we must consider where the funding comes from for the benefits bestowed to Registered Student Organizations. Each student pays a \$25 Student Activity Fee, and this money allows Registered Student Organizations access to a number of benefits. It is irresponsible to require this fund of every student but not allow individual students the right to join any Student Organization of their choosing due to discriminatory rules put in place by those groups.

It is the opinion of some that carve out language still be included in governing the selection of Student Organization Officers. In response to that, I advocate that we allow democracy to run its course. It is entirely rational to impose voting membership requirements relating to attendance at meetings and fulfillment of other membership characteristics. By restricting membership to those dedicated to its mission through demonstrated participation, each Student Organization has the ability to create an electorate as devoted to the organization as possible. It is in that spirit that we should allow voting members to install the leadership of their choosing, free from institutionalized guidelines precluding certain members the privilege of seeking officer status. We must trust the capacity of each Student Organization member to vote for the candidate most in line with his or her values and goals for the organization. Democracy should decide that someone is unfit for officership rather than guidelines that allow precautionary discrimination.

Justice Anthony Kennedy summed up the spirit of the need for carveout removal in his concurring opinion on *CLS v. Martinez*: "a vibrant dialogue is not possible if students wall themselves off from opposing points of view."

--Brandon N. Edwards, November 28, 2010

Leadership Position Carve Out

Student Life is made up of students for students. Student groups are run by students. Any student is able to create a new group on campus with any mission or purpose that they desire. But once the group is started, it is crucial for the group to have some rights that will keep them stable and active. Religious student groups are created for two main purposes. The first purpose is to foster the beliefs and maintain the identity of those who follow that faith on campus. The second purpose is to let others on campus know about the faith through various means. Seeing the second purpose, it is obvious that groups that want to affiliate their self as an official OSU group, will plan events that would be open to all students and fulfilling their purpose, and using the student's activity fee.

Council on Student Affairs Recommendation
Religious Student Organization Carve-Out

However the first purpose cannot be fulfilled without having a leader who shares the basic beliefs and concepts of the religious thought that the group was founded upon. One cannot help instill faith in another unless the former also believes. To have a leader who does not believe in the basics of that faith become the face of the group, and that religion, is deceitful and unfair to those who join. This partiality can be more readily applied to religious groups over others such as ethnic ones because religion is something one can choose to follow, not something one is born with. We do not even have to look at the degrees of religiosity but to have someone who claims and seems to be believing in and following the group's mission is not only ideal but necessary.

It may be true that groups should use their own wisdom in choosing their leaders through having a criteria and elections. However, student groups come in all sizes and to do this may be difficult for smaller and new groups. These student groups should have some rights as to who can and cannot be the representative of their group. If a group sees it necessary to not let that individual become the leader, the latter has the ability to start his or her own group which is simple to do at this University. This will also foster more diversity and give scope to larger group of students who may not have wanted to be part of another group's mission. Having a carve out for leadership does not have to be used by those who do not want to, but it should be there for those groups who want it. If about 23 of 900 student groups are using the carve out presently, and need to, then they should be able to.

-Maria Ahmad

ATTACHMENT L

Baldwin's Ohio Revised Code Annotated
Title XXXIII. Education--Libraries
Chapter 3345. State Universities--General Powers (Refs & Annos)
Students and General Provisions

R.C. § 3345.023

3345.023 Religious student group benefits

Effective: September 29, 2011

[Currentness](#)

(A) No state institution of higher education shall take any action or enforce 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.

(B) As used in this section:

(1) "Benefits" include, without limitation:

(a) Recognition;

(b) Registration;

(c) The use of facilities of the state institution of higher education for meetings or speaking purposes, subject to [section 3345.021 of the Revised Code](#);

(d) The use of channels of communication of the state institution of higher education;

(e) Funding sources that are otherwise available to any other student group in the state institution of higher education.

(2) "State institution of higher education" has the same meaning as in [section 3345.011 of the Revised Code](#).

Credits

(2011 H 153, eff. 9-29-11)

R.C. § 3345.023, OH ST § 3345.023

Current through 2013 File 11 of the 130th GA (2013-2014).

ATTACHMENT M

Arizona Revised Statutes Annotated

Title 15. Education (Refs & Annos)

Chapter 14. Provisions Relating to Community Colleges, Universities and Private Postsecondary Institutions
(Refs & Annos)

Article 6. Students' Rights (Refs & Annos)

A.R.S. § 15-1861

§ 15-1861. Definitions

Currentness

In this article, unless the context otherwise requires,

1. "Community college" has the same meaning prescribed in [§ 15-1401](#).
2. "Public forum" includes any open, outdoor area on the campus of a university or community college and any facilities, buildings or parts of buildings that the university or community college has opened to students or student organizations for expression.
3. "University" means a university under the jurisdiction of the Arizona board of regents.

Credits

Added by [Laws 2011, Ch. 337, § 1](#).

Current through the First Regular Session and Third Special Session of the Fiftieth Legislature (2011)

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[Arizona Revised Statutes Annotated](#)

[Title 15. Education \(Refs & Annos\)](#)

[Chapter 14. Provisions Relating to Community Colleges, Universities and Private Postsecondary Institutions \(Refs & Annos\)](#)

[Article 6. Students' Rights \(Refs & Annos\)](#)

A.R.S. § 15-1862

§ 15-1862. Rights of students at universities and community colleges

[Currentness](#)

A. A university or community college shall not discriminate against a student on the basis of the student's religious viewpoint, expression or belief.

B. A university or community college shall not adopt any policy that penalizes or punishes a student based on the student's religious viewpoint, expression or beliefs.

C. If an assignment or classroom discussion requests a student's viewpoint in coursework, artwork or other written or oral assignments, a university or community college shall not penalize or reward a student on the basis of religious content or a religious viewpoint. In such an assignment, a student's academic work that expresses a religious viewpoint shall be evaluated based on ordinary academic standards such as grammar, style, analysis and adherence to the instructions for the assignment.

D. A university or community college shall not withhold any certificate or degree on the basis of a student's religious viewpoint or religious expression.

E. A university or community college shall not discipline or discriminate against a student in a counseling, social work or psychology program because the student refuses to counsel a client about goals that conflict with the student's sincerely held religious belief if the student consults with the supervising instructor or professor to determine the proper course of action to avoid harm to the client.

Credits

Added by [Laws 2011, Ch. 337, § 1.](#)

Current through the First Regular Session and Third Special Session of the Fiftieth Legislature (2011)

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[Arizona Revised Statutes Annotated](#)

[Title 15. Education \(Refs & Annos\)](#)

[Chapter 14. Provisions Relating to Community Colleges, Universities and Private Postsecondary Institutions \(Refs & Annos\)](#)

[Article 6. Students' Rights \(Refs & Annos\)](#)

A.R.S. § 15-1863

§ 15-1863. Student organizations; recognition; rights

[Currentness](#)

A. A university or community college that grants recognition to any student organization or group may not discriminate against or deny recognition, equal access or a fair opportunity to any student organization or group on the basis of the religious, political, philosophical or other content of the organization's or group's speech including worship.

B. A religious or political student organization may determine that ordering the organization's internal affairs, selecting the organization's leaders and members, defining the organization's doctrines and resolving the organization's disputes are in furtherance of the organization's religious or political mission and that only persons committed to that mission should conduct such activities.

C. A university or community college may not deny recognition or any privilege or benefit to a student organization or group that exercises its rights pursuant to subsection B.

Credits

Added by [Laws 2011, Ch. 337, § 1.](#)

Current through the First Regular Session and Third Special Session of the Fiftieth Legislature (2011)

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[Arizona Revised Statutes Annotated](#)

[Title 15. Education \(Refs & Annos\)](#)

[Chapter 14. Provisions Relating to Community Colleges, Universities and Private Postsecondary Institutions \(Refs & Annos\)](#)

[Article 6. Students' Rights \(Refs & Annos\)](#)

A.R.S. § 15-1864

§ 15-1864. Students' right to speak in a public forum

[Currentness](#)

A. A university or community college shall not restrict a student's right to speak, including verbal speech, holding a sign or distributing fliers or other materials, in a public forum.

B. A university or community college may restrict a student's speech in a public forum only if it demonstrates that application of the burden to the student is both:

1. In furtherance of a compelling governmental interest.
2. The least restrictive means of furthering that compelling governmental interest.

Credits

Added by [Laws 2011, Ch. 337, § 1.](#)

Current through the First Regular Session and Third Special Session of the Fiftieth Legislature (2011)

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