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March 30, 2015

Representative Steve Brunk
Chairman
Committee on Federal and State Affairs
Kansas Senate
Topeka, KS 66612

Re: SB 175

Chairman Brunk and Members of the Committee:

Thank you for holding a hearing on SB 175. The Kansas Catholic Conference strongly supports this bill. We were pleased to see that it passed the Kansas Senate by a vote of 30-8.

The term “common sense legislation” is often heard in these halls, however it is a particularly apropos description of SB 175. Religious groups should be free to require that their members and leaders share in that group’s faith. That is the entire point of having such a group. If the Catholic Student Union or Jewish Student Union is forbidden from requiring that its members adhere to the Catholic or Jewish faith, then what is the point of having such a group?

SB 175 would prevent public universities in Kansas from imposing “all-comers” policies on religious student groups. Under such a policy, religious student groups must allow anyone and everyone to be members and to serve as leaders. Thus the Evangelical Student Association is required by the university to allow someone who does not believe in God to be the group’s president. This is an absurdity.

If a university imposes such a policy, religious student groups must comply or lose their official recognition and the use of campus facilities that comes with it. Universities that institute such policies do so under the guise of nondiscrimination, but in fact use them to target specific religious student groups whose beliefs are not in favor with academic elites. The simple truth is that universities use these policies to punish religious students whose beliefs they do not like. This, at institutions supposedly devoted to freedom of inquiry.

Presently, student groups in Kansas have the ability to use their religious principles as a

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qualification for membership and leadership. However, the proliferation of all-comers policies has resulted in the ejection of dozens of religious student groups from campuses across the nation. We want to make sure that such a policy is never brought to public universities in Kansas. In our state, this bill is an agent of the status quo.

Similar legislation has been approved in seven other states. Oklahoma passed this very language unanimously in the spring of 2014.

Under the US Supreme Court's 8-1 decision in *Widmar v. Vincent*, religious student groups are constitutionally protected organizations. In the 1995 *Rosenberger v. Rector and Visitors of University of Virginia* case, the US Supreme Court built on the *Windmar* decision by ruling that "student religious groups at state universities were entitled to equal access to student-activities funding by the university."¹

Under the very problematic *Christian Legal Society v. Martinez* decision (2010), universities are allowed -- not required -- to impose all-comers policies on religious student groups, but only if the policy applies to all student groups. However, institutions that impose these policies selectively target religious student groups they do not approve of. These schools are not interested in forcing the college Republicans to accept Democrats as leaders. They are not interested in requiring sororities to accept men. They are, however, interested in kicking Christian student groups off campus.

Most membership organizations have rules governing their membership and leadership -- look no further than the Republican and Senate Caucuses in the Kansas Legislature. Few would express concern if a chess club required its president to know how to play chess. Is it somehow controversial then if the Baptist Student Union restricts its membership and leadership to Baptists? No, it is common sense.

Religious groups are particularly vulnerable to so called "all-comers" policies because their purpose is entirely bound up with the beliefs of its members in a way that is not true of other groups. SB 175 is needed so that public universities in Kansas do not impose policies fundamentally hostile to religious belief on campus.

Thank you for your consideration.

Michael Schuttloffel
Executive Director

¹ <http://www.thepublicdiscourse.com/2011/12/4413/>