



Americans United for Separation of Church and State GREAT PLAINS CHAPTER

Testimony of
Vickie Sandell Stangl
Americans United for Separation of Church and State
regarding SB 175
before the
Senate Committee on Judiciary
March 9, 2015

I am offering this testimony on behalf of the Kansas members and the Great Plains Chapter of Americans United for Separation of Church and State in opposition to SB 175. This bill would prohibit all public universities and colleges in Kansas from denying recognition, and access to programs, funding, facilities or other privileges, to student groups that discriminate in their membership and leadership. This bill mischaracterizes this issue as one of religious freedom, and in so doing, would provide religious student groups with an unprecedented exemption at all public institutions of higher education and would sanction discrimination. SB 175, therefore, should be rejected.

This bill would undermine “accept-all-comers” policies, which were upheld constitutional by the Supreme Court in a case called *Christian Legal Society v. Martinez*.¹ These non-discrimination policies withhold funding² and official recognition from public university student groups that are not open to all students.

Under an “accept-all-comers” policy, religious groups *can* discriminate within the school’s forum, but *cannot* receive funding if they do so. In other words, religious groups still have unburdened free exercise and speech rights. They also have the same access rights as all other student groups. They, like all other groups, however, do not have the right to force their public university to subsidize their discriminatory policies. Such a policy does not target the religious nature of any group—organizations of any political, religious, or ideological stripe can become recognized groups provided they adhere to the nondiscrimination policy.

This bill contradicts an “accept-all-comers” policy and, instead, would sanction discrimination. Public universities in Kansas have non-discrimination policies. Both the University of Kansas and Kansas State University have policies that prohibit discrimination on the basis of race, religion, ethnicity, sex, sexual orientation, gender identity and gender expression. SB 175 would upend these policies by granting religious student groups the right to discriminate against student members on the basis of any of these characteristics if that discrimination is religiously based. Instead of treating all groups equally, this bill is designed

¹ See *Christian Legal Society v. Martinez*, 130 S. Ct. 2971 (2010).

² The revenue stream for such funding, which is common at universities throughout the country, is created by a mandatory student activity fee imposed on students.



to treat religious groups specially, and to force schools to support discriminatory speech and conduct. Any efforts by legislators to tout this bill as a protection of students' religious rights, therefore, are misguided.

All student groups are allowed to control their organizational structure and management based on their beliefs or any other reason. All public institutions of higher education should have the right to safeguard that the mandatory student activity fees paid by all students only support those groups that are open to all students. Even just the authorized use of a college or university's name—in the public's eye—ties a group to the school. At a minimum, schools have a legitimate interest in avoiding the appearance of facilitating discrimination.

In closing, the Kansas legislature should not support divisive legislation that fosters discrimination in our state's public education institutions. Therefore, I urge you to oppose SB 175. Thank you for your consideration on this important matter.