April 1, 2019

The Honorable Dean Dohrman
Chair
Higher Education Committee
Missouri House of Representatives
201 West Capitol Avenue
Jefferson City, MO 65101

The Honorable Elaine Gannon
Vice-Chair
Higher Education Committee
Missouri House of Representatives
201 West Capitol Avenue
Jefferson City, MO 65101

Re: Oppose HB 837 – Don’t Permit Discrimination in Public Institutions of Higher Education

Dear Chair Dohrman and Vice-Chair Gannon:

On behalf of the Missouri chapter, members, and supporters of Americans United for Separation of Church and State, I write to urge you to oppose HB 837. This bill would require public universities and colleges to recognize and register student groups that discriminate in their membership and leadership. The bill should be rejected.

HB 837 is an attempt to nullify “accept-all-comers” policies. These nondiscrimination policies generally withhold official recognition from any public university student group that is not open to all students. They prevent discrimination on campus, promote equality and fairness, and foster inclusionary practices for on-campus student organizations.

These policies do 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. And if a religious club decides it wants to discriminate anyway, it will not be silenced or driven off campus; instead, it, like any other club, simply cannot receive official recognition. In fact, the Supreme Court upheld an “accept-all-comers” policy in Christian Legal Society v. Martinez\(^1\) against claims that it violated the religious freedom of Christian student groups. The Court explained that the policies do not violate the First Amendment because the denial of benefits is based on the group’s conduct, not their views.\(^2\)

HB 837 would actually sanction discrimination rather than bar it. Instead of treating all groups equally, HB 837 would treat religious groups specially and force schools to support discrimination. But schools have a legitimate interest in preventing discrimination on campus and fostering inclusionary practices for student organizations. All public

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\(^2\) Id. at 696-7.
institutions of higher education should have the right to safeguard that official recognition is given only to those groups that are open to all students.

The Missouri legislature must not support divisive legislation that fosters discrimination in the state’s public institutions of higher education. Thank you for your consideration on this important matter.

Sincerely,

Nikolas Nartowicz
State Policy Counsel

cc: Members of the House Higher Education Committee