



May 8, 2019

Representative Matt Hall
Chairman, Standing Committee
House of Representatives
P.O. Box 30014
Lansing, MI 48909-7514

Re: Hearing on HB 4436, the "college campus intellectual and expressive freedom act."

Dear Chairman Hall and Members of the Committee:

Cru (previously named Campus Crusade for Christ) is an interdenominational Christian ministry with over 2500 chapters across the United States. As an associate legal counsel for Cru, I write today to offer Cru's perspective as an organization with many student chapters in Michigan. Cru's chapters across the nation regularly face challenges as they seek to preserve their religious speech and seek to organize around shared religious beliefs. Over the years, several Michigan schools have adopted policies that are, at best, ambiguous about whether a religious group could have religious leadership qualifications for its student leaders. On these same campuses, however, non-religious student groups may expect and require their leaders to agree with their mission and teachings. Our student chapters have also experienced stifled speech. One group at the University of Michigan was denied a room request by a building administrator and informed that they could not "have discussions about spiritual themes" in that building, despite student organizations often using the space. The administrator did not point to a specific policy that his refusal was based upon.

Cru has had student chapters on college campuses since the 1950s, and has long respected and enjoyed the campus environment as a place where students can have robust discussion and are able to hear and dialogue about diverse opinions and perspectives on life and learning. The free exchange of ideas on such campuses must include topics such as religion, a crucial element for many (both individually and corporately) in their identity formation and motivation to serve society. As a religious community, Cru contributes a particular religious perspective into that campus dialogue, and, motivated by its religious identity, seeks to serve and care for the campuses where it has chapters.

Religious groups contribute to campus life at universities in important ways. They help meet students' spiritual needs, provide needed emotional support, and regularly participate in service activities on campus and in the community. In order to authentically pursue their purposes, however, religious groups must be allowed to be religious. Cru firmly supports

nondiscrimination policies and welcomes any student to participate in and become a member of its chapters. Yet religious groups can better meet the diverse spiritual needs of students if their leadership authentically teaches and lives out the faith that they represent.

It is reasonable for student organizations to seek leaders who are qualified to lead their particular group. All student groups want leaders who embody a combination of knowledge, skill, values and beliefs that match up with those of the group or organization that they represent. Under a nondiscrimination clause that applies to both membership and leadership, most groups can require that their leaders believe in the group's vision without violating the nondiscrimination clause. For a religious group like Cru (with a religious vision and beliefs), however, its logical expectation that its leaders believe in its religious beliefs is suddenly labeled a discriminatory religious qualification for student leaders. A religious group, therefore, will have equal treatment only if it is able to consider belief-based qualifications during its leadership selection process. It is common sense, not discrimination, to allow it to do so.

No group should be forced to choose between following its faith and losing student organization status *or* compromising the integrity of its religious identity in order to remain on campus. That choice is harmful to all parties involved: to the religious groups, to the students looking for an authentic faith community to plug into, and to the university itself, which desires to support and uphold a diverse student body.

Accordingly, college administrators at public colleges and universities should not prevent religious associations from forming around common beliefs or from expecting that their leaders will uphold the group's religious teachings in word and deed in order to prevent hypocrisy. Religious associations should be encouraged to be authentic representations of the faiths and beliefs that they are formed around.

Diversity is beautiful and essential on the college campus, including ideological and religious diversity. HB 4436 will help to preserve diversity on Michigan campuses by allowing religious groups to be religious, thereby contributing to dialogue, tolerance, and understanding of perspectives different from one's own.

These principles are also consistent with Supreme Court precedent. The Court has made clear that access privileges made available to any student clubs must be made available equally to all clubs. *Widmar v. Vincent*, 454 U.S. 263 (1981). On public universities, this concept is based upon the principle of limited open forums, where a university opens space for private speech. *Id.* This means that the group's private speech is not considered the speech of the university. *E.g.*, *Board of Regents of the University of Wisconsin System v. Southworth*, 529 U.S. 217 (2000). In addition, the religious nature of such a club does not change its rights to association and to speech in such a forum; there is no excessive entanglement. In fact, it creates more entanglement when a university dictates how a religious group may or may not select its leaders than when it allows religious groups to function as religious and preserve their own doctrine. *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 132 S. Ct. 694 (2012). In *Hosanna-Tabor*, the Supreme Court in fact specifically affirmed the logic that a religious

organization has a strong interest in ensuring that those teaching and representing its beliefs also subscribe to them. *Id.*

In addition, these principles were not changed in *Christian Legal Society v. Martinez*, 130 S. Ct. 1971 (2010). In that case, the Supreme Court narrowly addressed a unique policy that they called an all comers policy, distinct from a regular nondiscrimination policy that details protected classes. *See id.* at 2995 (Stevens, J., concurring). The all comers policy was to apply “equally to all groups and views,” not just those involving protected classes. *See id.* at 2999 (Kennedy, J., concurring). In addition, the *Martinez* court did not require any such policy, but merely indicated that a true all comers policy was permissible. *See id.* at 2992.

State legislation upholding student speech and association rights will help to ensure that universities uphold these strong Supreme Court precedents. Unfortunately, many universities across the country continue to question—and in some cases go so far as to belittle—this desire of religious groups to preserve their identity through holding religious qualifications for leaders. Such universities strip student organization status from religious organizations, simply because the organizations seek to uphold their purpose and creed by requiring their leaders to believe in them.

Please act to protect religious students in Michigan, preserving their ability to find authentic faith-based communities where they can belong, live out their various faiths, and contribute to the rich diversity of viewpoints on the college campus.

Sincerely,

/s/ Lori D. Kepner

Ms. Lori D. Kepner

Staff Attorney

Cru—General Counsel’s Office

Lori.Kepner@cru.org

cc: Dennis Kasper, of Lewis, Brisbois, Bisgaard& Smith, LLP, General Counsel to Cru

