MIKE HUNTER
ATTORNEY GENERAL

July 5, 2017

Mark Stansberry, Chair
Regional University System of Oklahoma
3555 NW 58th Street, Suite 320
Oklahoma City, Oklahoma 73112

Re: East Central University Kathryn P. Boswell Memorial Chapel

Dear Regent Stansberry:

My office recently became aware that East Central University ("ECU') received a demand letter from a special interest group based in Washington, D.C., called Americans United for Separation of Church and State. The group's letter demanded that the university remove architectural features that have adorned its chapel since its construction—simply because those features are connected to religious expression. I am writing to make clear that the United States Constitution does not require Oklahoma's public universities to efface building features or remove other items simply because they are connected to religious expression or heritage.

The Supreme Court has made it clear that the Establishment Clause does not require government institutions to adopt an attitude of hostility to religion, religious symbols, or religious people. *See Van Orden v. Perry*, 545 U.S. 677, 683–84 (2005) (plurality opinion) (noting responsibility to not "evince a hostility to religion by disabling the government from in some ways recognizing our religious heritage"); *id.* at 699 (Breyer, J., concurring) ("[T]he Establishment Clause does not compel the government to purge from the public sphere all that in any way partakes of the religious."). Such an attitude would itself violate the very religious freedom of Americans the law is designed to protect.

My office stands ready to defend the religious freedom of Oklahomans from misleading tactics such as the ones employed by Americans United for Separation of Church and State. For example, the special interest group's letter selectively quotes numerous cases, nearly all of which do not even come from legal jurisdictions covering Oklahoma. *See, e.g.*, *ACLU v. City of St. Charles*, 794 F.2d 265, 271 (7th Cir. 1986) (noting that "the establishment clause is not so strictly interpreted as to forbid conventional nonsectarian public invocations of the deity" and limiting decision to the "record compiled" before it). The letter also omits any mention of cases from courts with jurisdiction covering Oklahoma that have allowed crosses to remain in public displays. *See, e.g.*, *Weinbaum v. City of Las Cruces, N.M.*, 541 F.3d 1017, 1039 (10th Cir. 2008). The group's demand letter rests on scare tactics, not a fair application of legal precedents. I will not allow guile and intimidation to dictate how Oklahoma's public universities meet their legal obligations.

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It has also come to my office's attention that ECU has taken steps to create a committee to review the chapel's features. While it is laudable for a public university to maintain awareness of public opinion, ECU has received a demand letter from lawyers implicitly threatening legal action. In view of the fact that this committee's decision has profound import beyond the campus of ECU for the State of Oklahoma and similarly situated entities, I am formally requesting that this matter be referred to the office of the Attorney General. This will necessarily obviate the proposed review and decision by the committee contemplated by the President of ECU. As the State's chief legal officer, I am committed to providing all resources necessary to represent and vigorously defend ECU and the State of Oklahoma in the event a lawsuit is filed. The highest priority must be placed on ensuring the defense of Oklahomans' religious freedom under the law.

Sincerely,

Mike Hunter
Attorney General

MH/mlw
cc: Katricia G. Pierson