AMERICANS UNITED
FOR SEPARATION OF CHURCH AND STATE

(202) 466-3234
(202) 466-3353 (fax)
www.au.org

1310 L Street NW
Suite 200
Washington, DC 20005

June 20, 2017

By U.S. Mail & Email
Katricia G. Pierson, President
East Central University
Danley Hall, Room 204
1100 East 14th Street
Ada, OK 74280
kpierson@ecok.edu

Re: *Religious iconography in chapel*

Dear Dr. Pierson:

We have received a complaint that East Central University's Kathryn P. Boswell Memorial Chapel has permanent religious iconography on display. These displays include Latin crosses on the top of and inside the building, Bibles, and a Christian altar. While it is legal for a public university to have a space that can be used by students for religious worship so long as that space is not dedicated solely to that purpose, it is a violation of the Establishment Clause of the First Amendment to the U.S. Constitution to display religious iconography on government property. Please remove or cover the religious displays and items.

The display of a Latin cross on government property violates basic Establishment Clause rules. Governmental entities are prohibited from taking any action that communicates "endorsement of religion." *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 305 (2000), and must maintain "governmental neutrality . . . between religion and nonreligion." *McCreary Cty. v. Am. Civil Liberties Union,* 545 U.S. 844, 860 (2005) (quotation marks omitted).

The Latin cross is "the principal symbol of Christianity as practiced in this country today." *ACLU v. City of St. Charles*, 794 F.2d 265, 271 (7th Cir. 1986). As a result, courts have repeatedly prohibited governmental bodies from displaying Latin crosses on public land. *See, e.g.*, *Gonzales v. North Township*, 4 F.3d 1412, 1416 (7th Cir. 1993) (display of cross in public park violated Establishment Clause); *St. Charles*, 794 F.2d at 272 (placement of lighted cross atop City fire department "unmistakably signifies Christianity"); *Trunk v. City of San Diego*, 629 F.3d 1099, 1125 (9th Cir. 2011) (display of cross as part of veterans' memorial "primarily conveys a message of government endorsement of religion that violates the

Establishment Clause"); *Am. Atheists, Inc. v. Davenport*, 637 F.3d 1095, 1121 (10th Cir. 2010) (display of crosses by Highway Patrol to honor fallen officers "convey[s] to a reasonable observer that the state . . . is endorsing Christianity"); *Separation of Church & State Comm. v. City of Eugene*, 93 F.3d 617, 619 (9th Cir. 1996) (solitary cross in public park "clearly represents governmental endorsement of Christianity").

Additionally, governmental bodies and public employees must not communicate religious endorsement to members of the public by displaying religious items or messages. *See, e.g.*, *Cooper v. U.S. Postal Serv.*, 577 F.3d 479, 493 (2d Cir. 2009) (Establishment Clause prohibited religious displays in post-office space); *Berry v. Dep't of Soc. Servs.*, 447 F.3d 642, 657 (9th Cir. 2006) (public employer's interest in avoiding Establishment Clause violation justified prohibiting employee who had regular, in-person contact with the public from displaying religious items in plain view in his cubicle); *ACLU of Ohio Found., Inc. v. Ashbrook*, 375 F.3d 484, 490–92 (6th Cir. 2004) (display of Ten Commandments poster in courtroom violated Establishment Clause); *Knight v. Conn. Dep't of Pub. Health*, 275 F.3d 156, 164–66 (2d Cir. 2001) (Establishment Clause concerns justified reprimand of sign-language interpreter and home-healthcare worker who promoted religious messages to clients receiving state services); *Asselin v. Santa Clara Cty.*, No. 98-15356, 1999 WL 390984, at *1 (9th Cir. May 25, 1999) (firing probation officer who incorporated religious messages into his work with minors was justified because his conduct would have violated Establishment Clause); *N.C. Civil Liberties Union v. Constangy*, 947 F.2d 1145, 1151–53 (4th Cir. 1991) (judge violated Establishment Clause by opening court sessions with prayer); *Harris v. City of Zion*, 927 F.2d 1401, 1412 (7th Cir. 1991) (religious symbol on city seal violated Establishment Clause); *Roberts v. Madigan*, 921 F.2d 1047, 1057 (10th Cir. 1990) (public-school teacher violated Establishment Clause by displaying religious poster and keeping Bible on his desk where it would be visible to students); *Friedman v. Bd. of Cty. Comm'rs*, 781 F.2d 777, 782 (10th Cir. 1985) (en banc) (religious symbol and message on county seal violated Establishment Clause); *Hall v. Bradshaw*, 630 F.2d 1018, 1019–22 (4th Cir. 1980) (state violated Establishment Clause by issuing maps with "Motorist's Prayer").

The cross displays and the various other religious displays in the chapel plainly violate the law. Please remove them. We would appreciate a response to this letter within thirty days that advises us how you plan to proceed. If you have any questions, you may contact Ian Smith at (202) 466-3234 or ismith@au.org.

Sincerely,

Richard B. Katskee, Legal Director
Alex J. Luchenitser, Associate Legal Director
Ian Smith, Staff Attorney