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February 28, 2007

Governor Jon Huntsman, Jr.
Utah State Capitol Complex
PO Box 142220
Salt Lake City, Utah 84114-2220

Re: House Bill 236 S7, "Student Clubs Amendments"

Dear Governor Huntsman,

The American Civil Liberties Union of Utah urges you to veto House Bill 236, Substitute 7 "Student Clubs Amendments."

Our primary concern with the legislation is that school administrators and faculty may interpret it to mean that Gay Straight Alliances (GSAs), or similar student clubs, may be prohibited. The federal Equal Access Act is clear in its requirement that high schools may not "deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting . . . on the basis of the religious, political, philosophical, or other content of the speech at such meetings." 20 U.S.C. §4071(a). HB 236 S7 is much more ambiguous in its requirement that student clubs "maintain the boundaries of socially appropriate behavior," and in its prohibition of clubs that "violate concepts of civility or propriety appropriate to a school setting." Schools may view this language as a mandate to unconstitutionally ban GSAs because they or members of their community find them to be controversial.

Causing additional confusion about the bill's impact is the significant public and media speculation, much of which we believe to be inaccurate. For example, yesterday's *Desert News* reported that the bill "would allow schools to ban gay-straight alliances." Yesterday's *Salt Lake Tribune* reported that Senator Butters hopes the legislation will "give administrators the ability to block . . . Gay Straight Alliance[s]." Based on reports like this, and the language noted above, our fear is that HB 237 S7 will be used inappropriately and unconstitutionally to prevent new GSAs from forming or even to disband existing GSAs. Such unequal treatment of clubs may give rise to litigation, and it will be difficult for school districts to defend themselves against claims that they have violated the Equal Access Act as well as students' First Amendment rights.

Finally, we are concerned that the proposed legislation unconstitutionally infringes on students' associational rights, also protected by the First Amendment, by requiring mandatory parental consent to participate in student clubs. No matter how creative their attempts, legislators cannot get around the requirements of the Equal Access Act and the First Amendment. We ask that you counter HB 236 S7's ambiguity with a clear statement in favor of students' constitutional rights by vetoing this unnecessary legislation. Thank you for your consideration.

Sincerely Yours,
/s

Karen McCreary
Executive Director

Margaret Plane
Legal Director