



BAYLOR UNIVERSITY

Abner V. McCall • President
Waco, Texas 76703

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2/4*

January 12, 1976

Director of the Office for Civil Rights
U. S. Department of Health, Education
and Welfare
Washington, D. C. 20201

Dear Sir:

Pursuant to Sec. 86.12(b) of "Title IX Regulation Implementing Education Amendments of 1972 Prohibiting Sex Discrimination in Education," this letter is to advise that Baylor University of Waco, Texas, is an educational institution which is controlled by the Baptist General Convention of Texas and that the following portions of the above mentioned regulations are not consistent with the religious tenets of such organization.

1. Premarital unchastity whether on the part of a man or woman is contrary to the tenets of the Southern Baptists. Insofar as these regulations require Baylor University to treat the pregnancy, childbirth, false pregnancy or termination of pregnancy of an unmarried woman as a mere temporary disability such regulations conflict with the tenets of Southern Baptists. Such regulations pertaining to unmarried women whether students or prospective students or employees or prospective employees are inconsistent with the policies of the university and Southern Baptists. These inconsistent regulations include Sec. 86.21(c), 86.39, 86.40, 86.51(b)(6), 86.57(a)(1), (b), (c), 86.60(a).

2. It is the tenet and practice of practically all Southern Baptist churches that only men should be licensed and ordained for the ministry. The Baptist General Convention of Texas awards a partial scholarship to every licensed ministerial student attending Baylor University. Baylor University matches this partial scholarship. Section 86.37(a)(b) of such regulations is inconsistent with this Southern Baptist tenet. Educational programs

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McCall*

Director of the Office for Civil Rights
January 12, 1976

designed for ministerial students and campus clubs and programs primarily for ministerial students will reflect this tenet. The following regulations may be inconsistent therewith: Sec. 86.6(c), 86.11, 86.31, 86.34, 86.36(c), 86.38(a)(1)(2).

Licensed and ordained Baptist ministers are given preference in employment in certain offices, e.g. chaplain and certain academic departments, e.g. Department of Religion. Since women are not licensed or ordained as ministers, such tenet is inconsistent with Sec. 86.51, 86.53, 86.55(a).

Sincerely,



Abner V. McCall
President

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

SEP 26 1985

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Dr. Herbert H. Reynolds
President
Baylor University
Waco, Texas 76798

Dear President Reynolds:

The Office for Civil Rights of the Department of Education (OCR/ED) is in the process of resolving a number of pending requests for religious exemption from Title IX of the Education Amendments of 1972. Our records indicate that Baylor University filed such a request, but there is no record that OCR adequately acknowledged this request.

We have recently reviewed the request filed by former President McCall (copy enclosed) in which he described several policies practiced at Baylor University as being consistent with the tenets of the religious organization that controls the institution. These policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. The former president supplied information in his request letter that establishes that Baylor University is controlled by a religious organization and that tenets followed by this organization conflict with specific sections of the Title IX regulation. Therefore, I am granting Baylor University an exemption to those sections of the Title IX regulation appropriate to the request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the institution. Baylor University is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.6(c), 106.21(c), 106.31, 106.34, 106.36(c), 106.37(a) and (b), 106.38(a); 106.39, 106.40, 106.51, 106.53, 106.55(a), 106.57 and 106.60(a). The basis for our decision to grant this exemption is discussed in further detail below.

The request letter indicates that Baylor University is controlled by the Baptist General Convention of Texas. This relationship between the Baptist General Convention and Baylor University adequately establishes that Baylor University is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

Page 2 - Dr. Herbert H. Reynolds

In the request letter, the former president indicates that premarital unchastity is contrary to the religious tenets of Southern Baptists. Additionally, treating pregnancy, childbirth, false pregnancy, or termination of pregnancy of an unmarried woman as a temporary disability is contrary to the tenets of Southern Baptists. Based on these principles, Baylor University has requested and is granted by this letter exemption to: § 106.21(c) (marital or parental status of applicants for admission), § 106.39 (health and insurance benefits and services), § 106.40 (marital or parental status of students), 106.51(b)(6) (leaves of absence for pregnancy and related conditions and child care), § 106.57 (marital or parental status of employees) and § 106.60(a) (pre-employment inquiries regarding marital status).

The request letter indicates that almost all Southern Baptist churches allow only men to be licensed and ordained for the ministry. The Baptist General Convention of Texas awards a partial scholarship to every licensed ministerial student attending Baylor University, and Baylor University matches this partial scholarship. Also, some educational programs and campus clubs are designed for ministerial students. Based on this principle, Baylor University has requested and is granted by this letter exemption to: § 106.6(c) (effect of rules or regulations of private organizations), § 106.31 (education programs and activities), § 106.34 (access to course offerings), § 106.36(c) (counseling - disproportion in classes), § 106.37(a) and (b) (financial assistance) and § 106.38(a) (employment assistance to students).

The former president's letter indicates that licensed and ordained ministers are given preference in employment in certain offices, and women are not licensed or ordained as ministers. Based on this principle, Baylor University has requested and is granted by this letter exemption to: § 106.51 (employment), § 106.53 (recruitment of employees) and § 106.55(a) (job classification and structure).

Baylor University also requested exemption to § 106.11 regarding the application of the Title IX regulation. The request letter did not demonstrate that the institution's practices conflict with all sections of the Title IX regulation. Therefore, no exemption has been granted for § 106.11.

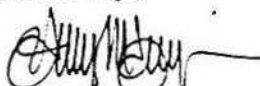
This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically mentioned. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption herein granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

Page 3 - Dr. Herbert H. Reynolds

I hope this letter responds fully to your request. I regret the inordinate delay in responding to your original request. If you have any questions, please do not hesitate to contact the Dallas Regional Office for Civil Rights. The address is:

Taylor D. August
Regional Civil Rights Director
Office for Civil Rights, Region VI
Department of Education
1200 Main Tower Building, Suite 400
Dallas, Texas 75202

Sincerely,



Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosures

cc: Taylor D. August, Regional Civil Rights Director, Region VI



BOB JONES UNIVERSITY

EST. 1927

April 1, 2016

Ms. Catherine Lhamon, Assistant Secretary
U.S. Department of Education, Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

Re: Request for Religious Exemption from Certain Applications of Title IX

Dear Ms. Lhamon:

I hereby request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights acknowledge that Bob Jones University is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the University's freedom to act in accordance with its religious convictions. As president of Bob Jones University, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

Bob Jones University (BJU) was founded in 1927 as a Christ-centered institution of higher education, emphasizing theology and the arts.¹ BJU is committed, "[w]ithin the cultural and academic soil of liberal arts higher education," to "grow[ing] Christlike character that is scripturally disciplined, others-serving, God-loving, Christ-proclaiming and focused above."²

BJU is completely controlled by a religious organization: its Board of Trustees.³ All board members are like-minded Christians who are required annually to read and indicate consent to the University Creed, which states as follows:

¹ See <http://www.bju.edu/about/history.php>.

² See <http://www.bju.edu/about/mission-statement.php>.

³ Bob Jones University Policy Manual, Vol. I, Bylaws, Article III, Section 1, p.8; Bob Jones University Policy Manual, Volume I, Section 1.5.2.1, p.35.

Ms. Catherine Lhamon

Page 2

April 1, 2016

The general nature and object of the corporation shall be to conduct an institution of learning for the general education of youth in the essentials of culture and in the arts and sciences, giving special emphasis to the Christian religion and the ethics revealed in the Holy Scriptures, combating all atheistic, agnostic, pagan, and so-called scientific adulterations of the Gospel, unqualifiedly affirming and teaching the inspiration of the Bible (both the Old and the New Testaments); the creation of man by the direct act of God; the incarnation and virgin birth of our Lord and Saviour, Jesus Christ; His identification as the Son of God; His vicarious atonement for the sins of mankind by the shedding of His blood on the cross; the resurrection of His body from the tomb; His power to save men from sin; the new birth through the regeneration by the Holy Spirit; and the gift of eternal life by the grace of God. This charter shall never be amended, modified, altered or changed as to the provisions hereinbefore set forth.⁴

Board members must also annually read and consent to the mission statement⁵, as well as the general objectives of the University as set forth in the bylaws and charter⁶, and the University's philosophy of education statement⁷ (copies of which are enclosed).⁸ Every member of the Board is required to indicate that they have read the Board Handbook and Bylaws and are in agreement with them.⁹ Board members who can no longer agree to these items disqualify themselves from membership.¹⁰

Additionally, BJU serves a particular constituency of independent, fundamental churches, and its mission is, in part, to develop individuals who are "engaged in service and leadership in a biblically faithful local church."

Not only does the University rely on and require all members of its governing board to affirm the University Creed, it also requires its faculty to do so as well, since the creed is foundational to all that it does, including what is taught in its classes¹¹.

The Board of Trustees and the University submit themselves to the Bible and to these expressions of its doctrine and seek to take positions that are in accord with those standards,

⁴ Bob Jones University Policy Manual, Vol. I, Preamble to Charter and Bylaws of Bob Jones University, p. 7.

⁵ See <http://www.bju.edu/about/mission-statement.php>.

⁶ Bob Jones University Policy Manual, Vol. I, Preamble to Charter and Bylaws of Bob Jones University, p. 7.

⁷ Bob Jones University Policy Manual, Vol. I, Section 1.2.3, p. 6.

⁸ Bob Jones University Policy Manual, Vol. I, Section 1.4.1.3(1), p.21.

⁹ Bob Jones University Policy Manual, Vol. I, Section 1.4.1.2(2), p. 21.

¹⁰ Bob Jones University Policy Manual, Vol. I, 1.4.1.3(2), p.21.

¹¹ Bob Jones University Policy Manual, Vol. I, Preamble to Charter and Bylaws of Bob Jones University, p. 7; Section, 1.4.1.3, p.21; Bob Jones University Policy Manual, Vol. IV, Section 4.5.2.1.1, p. 28.

Ms. Catherine Lhamon

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April 1, 2016

including with respect to how BJU's president is chosen and who is scripturally qualified to preach the Scripture. As articulated in its Presidential Profile (enclosed), BJU's Board of Trustees requires that its president possess certain personal traits because the president is not only chief executive of a large and complex educational institution, but also the spiritual leader of a religious community.

Although BJU does not expressly require that its president be male, a "candidate must be an ordained preacher who is an able, evangelistic, biblically qualified, inspirational and biblically sound preacher of the inerrant Word."¹² The same section of the policy manual refers to the passages of Holy Scripture that set forth the criteria for ordained preachers (and thus, indirectly, for the president of BJU).¹³ Those passages reveal that ordained preachers must be male.¹⁴ Because BJU's selection criteria for its president are drawn directly from the Bible, and thus are based upon BJU's religious tenets, BJU requests exemption from Title IX and its accompanying regulations to the extent that they are interpreted to reach BJU's selection of its president, and any other positions at BJU for which ordination is a qualification.

BJU does not have any written policies expressing the qualifications of speakers for its conferences or other events; the president selects speakers at his discretion. Regarding those who will preach the Bible at conferences or other events, the president customarily begins with ordained preachers with whom he is familiar, possessing knowledge of their ministries, their orthodoxy, and their degree of agreement with BJU's understanding of Christian doctrine. Speakers who will not preach the Bible need not be ordained. Both men and women have spoken at campus events and conferences. However, it is the University's sincerely held belief that only males may be ordained to the preaching and pastoral ministry.

Because its conference speaker selection criteria are based upon its religious tenets, BJU requests a religious exemption to the extent that Title IX or its accompanying regulations are interpreted to include selection of conference speakers or reach BJU's selection of Bible preachers in any other context.

Specifically, BJU requests, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights acknowledge that BJU is exempt from Title IX of the Education Amendments of 1972 and the following implementing regulations, to the extent that they are interpreted to curtail the University's freedom to fill positions requiring ordination and select Bible preachers in accordance with its theological commitments:

¹² Bob Jones University Policy Manual, Vol. I, Section 1.4.1.6, p. 24.

¹³ *Id.*

¹⁴ 1 Timothy 3; Titus 1.

Ms. Catherine Lhamon

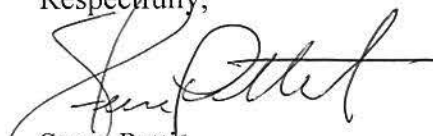
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April 1, 2016

- 34 C.F.R. § 106.21 (admission)
- 34 C.F.R. § 106.22 (preference in admission)
- 34 C.F.R. § 106.23 (recruitment)
- 34 C.F.R. § 106.31 (education programs or activities)
- 34 C.F.R. § 106.32 (housing)
- 34 C.F.R. § 106.33 (comparable facilities)
- 34 C.F.R. § 106.34 (access to classes and schools)
- 34 C.F.R. § 106.36 (counseling)
- 34 C.F.R. § 106.37 (financial assistance)
- 34 C.F.R. § 106.38 (employment assistance to students)
- 34 C.F.R. § 106.39 (health and insurance benefits and services)
- 34 C.F.R. § 106.40 (marital or parental status)
- 34 C.F.R. § 106.41 (athletics)
- 34 C.F.R. § 106.43 (standards for measuring skill or progress in physical education classes)
- 34 C.F.R. § 106.51-61 (relating to employment)

Thank you in advance for your consideration. I look forward to hearing from you soon. If you require anything further, please do not hesitate to contact me.

Respectfully,



Steve Pettit
President

SP:mam



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

June 17, 2016

Steve Pettit
President
Bob Jones University
1700 Wade Hampton Blvd.
Greenville, SC 29614

Dear President Pettit:

I write to respond to your April 1, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Bob Jones University (University) of Greenville, South Carolina, from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

Title IX and its implementing regulation at 34 C.F.R. § 106.12 provide that Title IX does not apply to an educational institution controlled by a religious organization to the extent that application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions are allowed to request an exemption from Title IX by identifying the provisions of Title IX that conflict with a specific tenet of the religious organization. The request must identify the religious organization that controls the educational institution and specify the tenets of that organization and the provisions of the law or regulation that conflict with those tenets.

Your request explains that members of the University's Board of Trustees, which "completely control[s]" the University, are "like-minded Christians who are required annually to read and indicate consent to the University Creed." According to your letter, the Creed states that the "general nature and object of" the University is to "conduct an institution of learning. . . , giving special emphasis to the Christian religion and the ethics revealed in the Holy Scriptures." Your letter goes on to state that "Board members must also annually read and consent to the mission statement, as well as the general objectives of the University as set forth in the bylaws and charter, and the University's philosophy of education statement." You explain that faculty are also required "to affirm the University Creed . . . since the creed is foundational to all that [the University] does, including what is taught in its classes."

You request an exemption to the extent that Title IX or its implementing regulations "are interpreted to reach [the University's] selection of its president, and any other positions at [the University] for which ordination is a qualification." In support of this request, you explain that the University's Presidential Profile requires that the University president be an ordained preacher. You explain that the Presidential Profile is based on biblical requirements that

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Steve Pettit – page 2

ordained preachers be male.

Your letter also requests a religious exemption from certain provisions of Title IX “to the extent that Title IX or its accompanying regulations are interpreted to include selection of conference speakers or reach [the University]’s selection of Bible preachers in any other context.” You explain that the University “president selects speakers at his discretion” for University conferences or other events and that both “men and women have spoken at campus events and conferences” because “[s]peakers who will not preach the Bible need not be ordained.” However, because “it is the University’s sincerely held belief that only males may be ordained to the preaching and pastoral ministry,” only men are selected as speakers who will “preach the Bible at conferences or other events.” Specifically, “the president customarily begins with ordained preachers with whom he is familiar, possessing knowledge of their ministries, their orthodoxy, and their degree of agreement with [the University’s] understanding of Christian doctrine.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent they “are interpreted to curtail the University’s freedom to fill positions requiring ordination and select Bible preachers in accordance with theological commitments:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 34 C.F.R. § 106.34 (governing access to classes and schools);
- 34 C.F.R. § 106.36 (governing counseling);
- 34 C.F.R. § 106.37 (governing financial assistance);
- 34 C.F.R. § 106.38 (governing employment assistance to students);
- 34 C.F.R. § 106.39 (governing health insurance benefits and services);
- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.43 (governing standards for measuring skill or progress in physical education classes); and
- 34 C.F.R. §§ 106.51-106.61 (governing employment).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of sex in the University’s decisions to fill positions requiring ordination and select Bible preachers for University conferences and events, and compliance would conflict with the controlling organization’s religious tenets.

Steve Pettit – page 3

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulation other than as stated above. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets identified in your request, OCR is obligated to identify a controlling organization to contact to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

I hope this letter responds fully to your request. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CEL', is positioned above the typed name.

Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education



BOB JONES UNIVERSITY

EST. 1927

September 22, 2016

Ms. Catherine Lhamon, Assistant Secretary
U.S. Department of Education, Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

Re: Supplemental Request for Religious Exemption from Certain Applications of Title IX

Dear Ms. Lhamon:

This letter supplements Bob Jones University's April 1, 2016, Request for Religious Exemption from Certain Applications of Title IX. The purpose of this supplemental request is to supplement, expand, and clarify the scope of that exemption request. Nothing herein should be construed as rescinding or withdrawing the specific provisions of that request.

I hereby request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights acknowledge that Bob Jones University is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the University's freedom to act in accordance with its religious convictions. As president of Bob Jones University, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

As stated in the April 1 request, and unchanged since that time, BJU is completely controlled by a religious organization: its Board of Trustees.¹ All board members are like-minded Christians who are required annually to read and indicate consent to the University Creed, which states as follows:

¹ Bob Jones University Policy Manual, Vol. I, Bylaws, Article III, Section 1, p.8; Bob Jones University Policy Manual, Volume I, Section 1.5.2.1, p.35.

Ms. Catherine Lhamon
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September 22, 2016

The general nature and object of the corporation shall be to conduct an institution of learning for the general education of youth in the essentials of culture and in the arts and sciences, giving special emphasis to the Christian religion and the ethics revealed in the Holy Scriptures, combating all atheistic, agnostic, pagan, and so-called scientific adulterations of the Gospel, unqualifiedly affirming and teaching the inspiration of the Bible (both the Old and the New Testaments); the creation of man by the direct act of God; the incarnation and virgin birth of our Lord and Saviour, Jesus Christ; His identification as the Son of God; His vicarious atonement for the sins of mankind by the shedding of His blood on the cross; the resurrection of His body from the tomb; His power to save men from sin; the new birth through the regeneration by the Holy Spirit; and the gift of eternal life by the grace of God. This charter shall never be amended, modified, altered or changed as to the provisions hereinbefore set forth.²

At each annual board meeting, all members are required³ to read and indicate consent to the general objectives of the University as set forth in the bylaws and charter,⁴ the University's philosophy of education statement,⁵ and the Creed (copies of which are enclosed). Every member of the Board is required to indicate that they have read the Board Handbook and Bylaws and are in agreement with them.⁶ Board members who can no longer agree to these items disqualify themselves from membership.⁷

Additionally, BJU serves a particular constituency of independent, fundamental churches, and its mission is, in part, to develop individuals who are "engaged in service and leadership in a biblically faithful local church."

Not only does the University rely on and require all members of its governing board to affirm the University Creed, it also requires its faculty to do so as well, since the creed is foundational to all that it does, including what is taught in its classes.⁸ The Board of Trustees and the University submit themselves to the Bible and to these expressions of its doctrine and seek to take positions that are in accord with those standards.

² Bob Jones University Policy Manual, Vol. I, Preamble to Charter and Bylaws of Bob Jones University, p. 7.

³ Bob Jones University Policy Manual, Vol. I, Section 1.4.1.3(1), p.21.

⁴ Bob Jones University Policy Manual, Vol. I, Preamble to Charter and Bylaws of Bob Jones University, p. 7.

⁵ Bob Jones University Policy Manual, Vol. I, Section 1.2.3, p. 6.

⁶ Bob Jones University Policy Manual, Vol. I, Section 1.4.1.2(2), p. 21.

⁷ Bob Jones University Policy Manual, Vol. I, 1.4.1.3(2), p.21.

⁸ Bob Jones University Policy Manual, Vol. I, Preamble to Charter and Bylaws of Bob Jones University, p. 7; Section, 1.4.1.3, p.21; Bob Jones University Policy Manual, Vol. IV, Section 4.5.2.1.1, p. 28.

Ms. Catherine Lhamon
Page 3
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The Bob Jones University policy manual cites the passages of Holy Scripture that set forth the criteria for ordained preachers and pastoral leadership.⁹ Those passages reveal that ordained preachers and pastoral leaders must be male.¹⁰ Therefore, it is the University's sincerely held religious belief that only males may be ordained to the preaching and pastoral leadership ministry.

Because the University believes that only males may be ordained to these ministries:

- 1) it admits only males to any program whose stated purpose is to prepare for a preaching or pastoral leadership ministry (such as, but not limited to, the Master of Ministry and Doctor of Ministry);
- 2) it admits only males to any course whose stated purpose is to prepare for a preaching or pastoral leadership ministry (such as, but not limited to, homiletics, church administration, and pastoral leadership);
- 3) only males may participate in those programs and courses, or any derivative or ancillary activities; and
- 4) it employs only males to instruct and train those in programs or courses the purpose of which is to prepare for a preaching or pastoral leadership ministry.

Because only males are admitted to preaching and pastoral leadership ministry programs and courses:

- 1) scholarships, if any, specifically designed to assist those in such preaching and pastoral leadership programs and courses are available only to males;
- 2) the University recruits only males to those programs and/or courses; and
- 3) the University does not provide employment or job placement services, career counseling, or networking services for females in any preaching or pastoral leadership ministries, nor does it directly or indirectly assist any person or organization to do so.

Based upon the University's sincerely held belief that only males may be ordained to the preaching and pastoral ministry, BJU requests, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights acknowledge that BJU is exempt from Title IX of the Education Amendments of 1972 and the following implementing

⁹ Bob Jones University Policy Manual, Vol. I, Section 1.4.1.6, p. 24.

¹⁰ 1 Timothy 3; Titus 1.

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regulations, to the extent that they are interpreted to curtail the University's freedom to apply and enforce its belief that only males may be ordained to the pastoral leadership or preaching ministry and to offer programs, courses, and ancillary services as set forth above to only males in accordance with its theological commitments:

- 34 C.F.R. § 106.21 (admission)
- 34 C.F.R. § 106.22 (preference in admission)
- 34 C.F.R. § 106.23 (recruitment)
- 34 C.F.R. § 106.31 (education programs or activities)
- 34 C.F.R. § 106.32 (housing)
- 34 C.F.R. § 106.33 (comparable facilities)
- 34 C.F.R. § 106.34 (access to classes and schools)
- 34 C.F.R. § 106.36 (counseling)
- 34 C.F.R. § 106.37 (financial assistance)
- 34 C.F.R. § 106.38 (employment assistance to students)
- 34 C.F.R. § 106.39 (health and insurance benefits and services)
- 34 C.F.R. § 106.40 (marital or parental status)
- 34 C.F.R. § 106.41 (athletics)
- 34 C.F.R. § 106.43 (standards for measuring skill or progress in physical education classes)
- 34 C.F.R. § 106.51-61 (relating to employment)

Thank you in advance for your consideration. I look forward to hearing from you soon. If you require anything further, please do not hesitate to contact me.

Respectfully,



Steve Pettit
President
Bob Jones University

Enclosures



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

November 17, 2016

Steve Pettit
President
Bob Jones University
1700 Wade Hampton Blvd.
Greenville, SC 29614

Dear President Pettit:

I write to respond to your September 22, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Bob Jones University (University) of Greenville, South Carolina, from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

Title IX and its implementing regulation at 34 C.F.R. § 106.12 provide that Title IX does not apply to an educational institution controlled by a religious organization to the extent that application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions are allowed to request an exemption from Title IX by identifying the provisions of Title IX that conflict with a specific tenet of the religious organization. The request must identify the religious organization that controls the educational institution and specify the tenets of that organization and the provisions of the law or regulation that conflict with those tenets.

Your September 22 letter notes that it supplements your April 1, 2016, request for a religious exemption, which OCR granted by letter dated June 17, 2016. Your request explains that members of the University's Board of Trustees, which "completely control[s]" the University, are "like-minded Christians who are required annually to read and indicate consent to the University Creed." According to your letter, the Creed states that the "general nature and object of" the University is to "conduct an institution of learning . . . , giving special emphasis to the Christian religion and the ethics revealed in the Holy Scriptures." Your letter goes on to state that Board members must also annually "read and indicate consent to the general objectives of the University as set forth in the bylaws and charter [and] the University's philosophy of education statement." You explain that faculty is also required "to affirm the University Creed . . . , since the creed is foundational to all that [the University] does, including what is taught in its classes."

You request an exemption to the extent that Title IX or its implementing regulations "are interpreted to curtail the University's freedom to apply and enforce its belief that only males may be ordained to the pastoral leadership or preaching ministry and to offer programs, courses, and

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ancillary services as set forth [in the September 22 letter] to only males in accordance with its theological commitments.” In support of this request, you explain that the University’s “policy manual cites the passages of Holy Scripture that set forth the criteria for ordained pastoral leaders,” including that “only males may be ordained to the preaching and pastoral leadership ministry.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent they “are interpreted to curtail the University’s freedom to apply and enforce its belief that only males may be ordained to the pastoral leadership or preaching ministry and to offer programs, courses, and ancillary services ... to only males in accordance with its theological commitments:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 34 C.F.R. § 106.34 (governing access to classes and schools);
- 34 C.F.R. § 106.36 (governing counseling);
- 34 C.F.R. § 106.37 (governing financial assistance);
- 34 C.F.R. § 106.38 (governing employment assistance to students);
- 34 C.F.R. § 106.39 (governing health insurance benefits and services);
- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.43 (governing standards for measuring skill or progress in physical education classes); and
- 34 C.F.R. §§ 106.51-106.61 (governing employment).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of sex in education programs and activities for individuals ordained to the pastoral leadership or preaching ministry, and that prepare individuals for the pastoral leadership or preaching ministry, including programs, courses, and ancillary services, and compliance would conflict with the controlling organization’s religious tenets.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulation other than as stated above. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets identified in your request, OCR is obligated to identify a controlling organization to contact to verify those

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tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

I hope this letter responds fully to your request. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'CEL', is positioned above the typed name.

Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

December 21, 2017

Steve Pettit
President
Bob Jones University
1700 Wade Hampton Blvd.
Greenville, SC 29614

Dear President Pettit:

I write in response to your April 5, 2017, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Bob Jones University (University) of Greenville, South Carolina, from Title IX of the Educational Amendments of 1972 (Title IX), 20 U.S.C. § 1681.

Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. Title IX and its implementing regulation at 34 C.F.R. § 106.12 provide that Title IX does not apply to an educational institution that is controlled by a religious organization to the extent that the application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions may request an exemption from Title IX by identifying the provisions of Title IX that conflict with a specific tenet of the religious organization. The request must identify the religious organization that controls the educational institution and specify the tenets of that organization and the provisions of the law or regulation that conflict with those tenets.

Your request letter states that the University is "completely controlled" by its Board of Trustees, the members of which are "like-minded Christians who are required annually to read and indicate consent to the University Creed." According to your letter, the Creed states that the "general nature and object of" the University is to "conduct an institution of learning . . . , giving special emphasis to the Christian religion and the ethics revealed in the Holy Scriptures." Your letter goes on to state that Board members must also annually "read and indicate consent to the general objectives of the University as set forth in the bylaws and charter [and] the University's philosophy of education statement." You explain that faculty members are also required "to affirm the University Creed . . . , since the creed is foundational to all that the University does, including what is taught in its classes."

Your letter requests exemption from certain provisions of Title IX and its implementing regulations to the extent they restrict the University's freedom to apply and enforce its position on the sanctity of human life, and to the extent they are interpreted to reach sexual orientation or gender identity. In support of this request, your letter cites the University's position statement on the sanctity of life, which explains that "followers of Jesus Christ who are governed by the

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authority of the Bible are ethically obligated to preserve, promote, and defend the sanctity of human life, and that the University therefore opposes “the practice of abortion on the grounds that it involves the intentional, purposeful, and direct ending of a human life that began at conception,” “suicide on the grounds that God owns human life,” and “all forms of euthanasia, since God reserves the right to determine life’s end.” Your letter further states that “God created man and woman in His image,” that “[m]arriage is a covenantal life-long relationship between a woman and a man who were physically created and assigned these genders by God” and that the Bible prohibits “any consensual sexual activity outside the boundaries of heterosexual marriage.” Finally, your letter cites the University’s position on gender identity, which provides that “individual gender is assigned by God and determined at conception” and “that to intentionally alter or change one’s physical gender or to live as a gender other than the one assigned at conception is to reject God’s right as Creator to assign gender to His creatures.”

Your letter states that, for the above reasons, the University is requesting an exemption from the following regulatory provisions to the extent they restrict the University’s freedom to apply and enforce its position on the sanctity of human life, and to the extent they are interpreted to reach sexual orientation or gender identity:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities);
- 34 C.F.R. § 106.34 (governing access to classes and schools);
- 34 C.F.R. § 106.36 (governing counseling);
- 34 C.F.R. § 106.37 (governing financial assistance);
- 34 C.F.R. § 106.38 (governing employment assistance to students);
- 34 C.F.R. § 106.39 (governing health and insurance benefits and services);
- 34 C.F.R. § 106.40 (governing marital or parental status);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.43 (governing standards for measuring skill or progress in physical education classes); and
- 34 C.F.R. §§ 106.51-61 (governing employment).

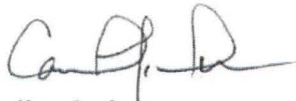
The University is exempt from these provisions to the extent that compliance would conflict with the controlling organization’s religious tenets.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulation other than as stated above. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here recognized.

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I hope this letter fully responds to your request. If you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Candice Jackson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Candice Jackson
Acting Assistant Secretary for Civil Rights



BOB JONES UNIVERSITY
EST. 1927

April 5, 2017

Sandra Battle, Acting Assistant Secretary
U.S. Department of Education, Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

Dear Ms. Battle: Religious Exemption from Certain Applications of Title IX

I hereby request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights (OCR) acknowledge that Bob Jones University is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the University's freedom to act in accordance with its religious convictions. As President of Bob Jones University, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

Bob Jones University ("BJU" or "the University") was founded in 1927 as a Christ-centered institution of higher education, emphasizing theology and the arts.¹ BJU is committed, "[w]ithin the cultural and academic soil of liberal arts higher education," to "grow[ing] Christlike character that is scripturally disciplined, others-serving, God-loving, Christ-proclaiming and focused above."²

BJU is completely controlled by a religious organization: its Board of Trustees.³ All board members are like-minded Christians who are required annually to read and indicate consent to the University Creed, which states as follows:

¹ See <http://www.bju.edu/about/history.php>.

² See <http://www.bju.edu/about/mission-statement.php>.

³ Bob Jones University Policy Manual, Vol. I, Bylaws, Article III, Section 1, p. 8; Bob Jones University Policy Manual, Volume I, Section 1.5.2.1, p. 35.

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The general nature and object of the corporation shall be to conduct an institution of learning for the general education of youth in the essentials of culture and in the arts and sciences, giving special emphasis to the Christian religion and the ethics revealed in the Holy Scriptures, combating all atheistic, agnostic, pagan, and so-called scientific adulterations of the Gospel, unqualifiedly affirming and teaching the inspiration of the Bible (both the Old and the New Testaments); the creation of man by the direct act of God; the incarnation and virgin birth of our Lord and Saviour, Jesus Christ; His identification as the Son of God; His vicarious atonement for the sins of mankind by the shedding of His blood on the cross; the resurrection of His body from the tomb; His power to save men from sin; the new birth through the regeneration by the Holy Spirit; and the gift of eternal life by the grace of God. This charter shall never be amended, modified, altered or changed as to the provisions hereinbefore set forth.⁴

At each annual board meeting, all members are required⁵ to read and indicate consent to the general objectives of the University as set forth in the bylaws and charter,⁶ the University's philosophy of education statement,⁷ and the Creed (copies of which are enclosed). Every member of the Board is required to indicate that they have read the Board Handbook and Bylaws and are in agreement with them.⁸ Board members who can no longer agree to these items disqualify themselves from membership.⁹

Additionally, BJU serves a particular constituency of independent, fundamental churches, and its mission is, in part, to develop individuals who are "engaged in service and leadership in a biblically faithful local church."¹⁰

Not only does the University rely on and require all members of its governing board to affirm the University Creed, it also requires its faculty to do so as well, since the Creed is foundational to all that the University does, including what is taught in its classes.¹¹ The Board of Trustees and the University submit themselves to the Bible and to these expressions of its doctrine and seek to take positions that are in accord with those standards.

⁴ Policy Manual, Vol. I, Preamble to Charter and Bylaws of Bob Jones University, p. 7.

⁵ Policy Manual, Vol. I, Section 1.4.1.3(1), p. 21.

⁶ Policy Manual, Vol. I, Preamble to Charter and Bylaws of Bob Jones University, p. 7.

⁷ Policy Manual, Vol. I, Section 1.2.3, p. 6.

⁸ Policy Manual, Vol. I, Section 1.4.1.2(1), p. 21.

⁹ Bob Jones University Policy Manual, Vol. I, 1.4.1.3(2), p. 21.

¹⁰ See <http://www.bju.edu/about/creed-mission.php>.

¹¹ Policy Manual, Vol. I, Preamble to Charter and Bylaws of Bob Jones University, p. 7; Section, 1.4.1.3, p. 21; Policy Manual, Vol. IV, Section 4.5.2.1.1, p. 28.

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Therefore, consistent with a biblical interpretation of the value of life, BJU has developed a position statement on the sanctity of life, which states in relevant part:

We believe that followers of Jesus Christ who are governed by the authority of the Bible are ethically obligated to preserve, promote, and defend the sanctity of human life.

We believe that when dealing with areas of uncertainty and ethical dilemmas we should take the safest possible course and promote life. Jesus teaches this principle of carefulness in the Sermon on the Mount when He instructs His followers not only to avoid killing, but to cease from any activity or passion that increases one's proclivity toward murder (Matt. 5:21-22).

We believe that the Bible consistently depicts fetal life as both personal and human. And we believe that our thinking about issues related to contraception, the harvesting of embryonic stem cells, and aborticides should be governed accordingly.

Therefore, we oppose the practice of abortion on the grounds that it involves the intentional, purposeful, and direct ending of a human life that began at conception. We oppose the causation of the death of an unborn human child even if there is a conflict between the survival of the mother and the survival of the unborn child.

In very rare cases when it is medically determined that continuing a pregnancy would jeopardize the physical life of the mother, we would support treatment to preserve the life of the mother short of abortion.

We oppose suicide on the grounds that God owns human life. (The Bible nowhere depicts suicide as a commendable personal choice [1 Sam. 31:4; 2 Sam. 17:23; 1 Kings 16:18-20; Matt. 27:5; Acts 1:18].)

We oppose all forms of euthanasia, since God reserves the right to determine life's end (1 Cor. 6:19-20; Job 14:5).

We recognize that scientific advances have raised significant ethical questions concerning the indefinite prolongation of life through medical support systems. These questions have to be handled individually by the family of those suffering. But in general, we believe that although Christians should sustain life wherever possible, we are not obligated to prolong the process of dying.

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We reserve the right to make institutional decisions consistent with these positions for employment, hiring, retention, student admissions, discipline and all other matters.¹²

For that reason, I request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that OCR acknowledge that BJU is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail BJU's freedom to apply and enforce its position on the sanctity of human life in accordance with its theologically-grounded convictions.

Additionally, consistent with historic understanding of the Holy Scriptures and our doctrinal standards, BJU affirms the following regarding sexual conduct:

The Scriptures teach that God created man and woman in His image (Gen. 1:27-28), brought them together in the life-long covenant relationship of marriage and blessed this union (Gen. 1:28). Furthermore, the Scriptures make plain that this first marriage was intended to be an authoritative pattern for all future human marriages as evidenced by the teachings of Moses (Gen. 2:18-24), the Wisdom books (Prov. 12:4; 18:22; 31:10; Eccles. 9:9), the Prophets (Mal. 2:13-16), the Apostles (1 Cor. 7:1-16; Eph. 5:21-33; Col. 3:14-19; Heb. 13:4; 1 Pet. 3:1-7), and Jesus Himself (Matt. 19:4-6; Mark 10:1-9).

Marriage is a covenantal life-long relationship between a woman and a man who were physically created and assigned these genders by God (Gen. 1:27; Ps. 139:13-16; Matt. 19:4; Mark 10:6). We believe God intended heterosexual marriage for the propagation of the human race and the loving expression of healthy relational and sexual intimacy, and to picture the covenant relationship He has with all believers (Eph. 5:22-33).

Human sexuality is part of God's divine design for human beings (Gen. 1:28). However, the Bible restricts all forms of consensual sexual activity to within the boundaries of the marriage relationship (1 Cor. 7:1-5; Heb. 13:4). The Bible clearly prohibits not only non-consensual sexual misconduct (Deut. 22:25-27) but also any consensual sexual activity outside the boundaries of heterosexual marriage (1 Thess. 4:1-8). Furthermore the Bible specifically names as sinful and prohibits any form of sexual activity between persons of the same sex (Rom. 1:26-27; 1 Cor. 6:9-10; 1 Tim. 1:10), polygamy (Matt. 19:4-6; 1 Cor. 7:11), incest (Lev. 18:6-18; 1 Cor. 5:1), bestiality (Exod. 22:19; Lev. 18:23; 20:15-16; Deut. 27:21; Gal. 5:19; Eph. 5:3; Col. 3:5), adultery (Exod. 20:14; Mark 10:19; Luke 18:20; James 2:11), and

¹² See <http://www.bju.edu/about/positions.php>.

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fornication of any sort including pornography (1 Cor. 6:9-10; 1 Thess. 4:3-8; Lev. 18:20).¹³

BJU, in service to the Church, understands that some with Christian faith may struggle with same-sex attraction. But, BJU, consistent with Scriptural teaching, affirms that sexual activities with members of the same sex cannot be condoned as acceptable expressions of one's sexuality. As you are aware, the EEOC has begun declaring that the ban on sex discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of sexual orientation.¹⁴

It is conceivable that OCR could interpret Title IX of the Education Amendments of 1972 the same way. To the extent these suppositions are correct, it appears as though compliance with Title IX, if interpreted by ED OCR to reach sexual orientation discrimination, would also be inconsistent with the theological commitment of BJU. BJU, therefore, also claims exemption on this basis out of an abundance of caution.

Finally, consistent with these theological standards, the University has developed a position statement addressing gender identity (enclosed). That statement provides in pertinent part as follows:

God created man and woman in His image as two distinct but equal genders which He intends to use for His glory (Gen. 1:26-27). Furthermore, individual gender is assigned by God and determined at conception (Ps. 139:13-16). Therefore we believe that to intentionally alter or change one's physical gender or to live as a gender other than the one assigned at conception is to reject God's right as Creator to assign gender to His creatures and is a personal rejection of His plan to glorify Himself through the original gender He assigned that individual (1 Cor. 10:31).

Because the positions set forth in this statement are grounded in the biblical, moral and ethical commands clearly taught and demanded by Scripture, BJU expects all employees and students enrolled at BJU to agree with and abide by this statement on marriage, human sexuality, and gender identity.

As you know, OCR has issued a "Dear Colleague" letter jointly with the Department of Justice, which states that Title IX's prohibition on sex discrimination "encompasses discrimination based on a student's gender identity, including discrimination based on a student's transgender

¹³ See <http://www.bju.edu/about/positions.php>.

¹⁴ See <http://www.eeoc.gov/decisions/0120133080.pdf>.

Letter to Sandra Battle

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status.”¹⁵ That is, a school “must not treat a transgender student differently from the way it treats other students of the same gender identity.”¹⁶

OCR’s letter indicated that a school must use pronouns and names that reflect a transgender student’s gender identity, and permit the student full access, based upon gender identity, to sex-segregated activities and facilities, including locker rooms, restrooms, showers, housing (including overnight accommodations), and athletic teams.¹⁷ And as you also know, OCR previously issued guidance on sexual violence prevention which incorporates discrimination based on “gender identity” as part of “sex discrimination” under the statute.¹⁸

Moreover, the resolution agreement¹⁹ between the Arcadia Unified School District and OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.²⁰ It is thus reasonable to suppose that OCR believes that Title IX requires such responses.

It is also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by OCR to reach transgender discrimination, would be inconsistent with the religious tenets of the University.

For that reason, I request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that OCR acknowledge that BJU is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail BJU’s freedom to respond to transgender individuals in accordance with its theologically-grounded convictions.

All of us are sinners. We live in a world broken by sin and are called to live out our biblical beliefs among those who may disagree with us. We desire to do so in ways that honor God and point them to Him (1 Pet. 1:11-12). We believe every person must be treated with respect and

¹⁵ U.S. Department of Justice and U.S. Department of Education, Dear Colleague Letter on Transgender Students, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>.

¹⁶ *Id.* at p. 2.

¹⁷ *Id.*

¹⁸ U.S. Department of Education, Questions and Answers on Title IX and Sexual Violence, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> at 5 (“Title IX’s sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation.”)

¹⁹ Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, available at <http://www.justice.gov/sites/default/files/crt/legacy/2013/07/26/arcadiaagree.pdf>.

²⁰ *Id.*

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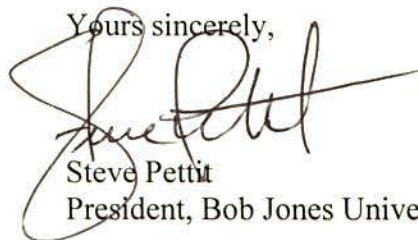
compassion and are committed to living out our commitments to these biblical standards with grace and humility. We also believe that we are called to speak God's truth in love (Eph. 4:15) as we call all men to recognize that all human sinfulness is an offense to God (Rom. 3:10-11; Rom. 6:23a), that God has displayed immense grace and mercy toward all sinners (Eph. 2:1-10), and that He offers a full and free forgiveness through Jesus Christ to all who repent and forsake their sin and turn in faith to Him (Acts 3:19-21; Rom. 6:23; 10:9-10; 1 Cor. 6:9-11; 1 John 1:8-9).²¹

BJU accordingly requests that your office acknowledge that the BJU is exempt from Title IX and the following implementing regulations (to the extent they restrict BJU's freedom to apply and enforce its position on the sanctity of human life, and to the extent they are interpreted to reach sexual orientation or gender identity):

- 34 C.F.R. § 106.21 (admission)
- 34 C.F.R. § 106.22 (preference in admission)
- 34 C.F.R. § 106.23 (recruitment)
- 34 C.F.R. § 106.31 (education programs or activities)
- 34 C.F.R. § 106.32 (housing)
- 34 C.F.R. § 106.33 (comparable facilities)
- 34 C.F.R. § 106.34 (access to classes and schools)
- 34 C.F.R. § 106.36 (counseling)
- 34 C.F.R. § 106.37 (financial assistance)
- 34 C.F.R. § 106.38 (employment assistance to students)
- 34 C.F.R. § 106.39 (health and insurance benefits and services)
- 34 C.F.R. § 106.40 (marital or parental status)
- 34 C.F.R. § 106.41 (athletics)
- 34 C.F.R. § 106.43 (standards for measuring skill or progress in physical education classes)
- 34 C.F.R. § 106.51-61 (relating to employment)

Thank you in advance for your consideration. I look forward to hearing from you soon. If you require anything further, please do not hesitate to contact me.

Yours sincerely,



Steve Pettit
President, Bob Jones University

²¹ See <http://www.bju.edu/about/positions.php>.

Charter and Bylaws of Bob Jones University

Preamble

The basic principles of all bylaws or rules and regulations of Bob Jones University shall be the fundamental truths embodied in the University Creed as perpetuated in the charter of the institution as follows:

The general nature and object of the corporation shall be to conduct an institution of learning for the general education of youth in the essentials of culture and in the arts and sciences, giving special emphasis to the Christian religion and the ethics revealed in the Holy Scriptures, combating all atheistic, agnostic, pagan, and so-called scientific adulterations of the Gospel, unqualifiedly affirming and teaching the inspiration of the Bible (both the Old and the New Testaments); the creation of man by the direct act of God; the incarnation and virgin birth of our Lord and Saviour, Jesus Christ; His identification as the Son of God; His vicarious atonement for the sins of mankind by the shedding of His blood on the cross; the resurrection of His body from the tomb; His power to save men from sin; the new birth through the regeneration by the Holy Spirit; and the gift of eternal life by the grace of God. This charter shall never be amended, modified, altered or changed as to the provisions hereinbefore set forth.

All resolutions, motions and actions of the Board of Trustees of the University and the Executive Committee shall be construed and interpreted in the light of this creed. All resolutions, motions or actions by the Board of Trustees, the Executive Committee, the faculty, or any officer or agent of the University which are contrary to the fundamental principles set forth in the creed are hereby declared to be null and void. It shall be the duty of the Executive Committee hereinafter provided for to keep a strict supervision over the affairs of the University and at all times to protect, uphold and defend the creed and all other bylaws and rules and regulations of the University lawfully adopted.

1.2.3 Christian Philosophy of Education

Christian education at BJU is a spiritual ministry that has as its purpose to further the process of spiritual development in the image of God. BJU endeavors to teach students to know God and to imitate Him in His character and in His works. This commitment embraces all that is done in and out of the classroom. Knowledge of the written Word of God, the Bible, remains at the center. The academic studies radiate from this center as studies of God's works. Biblical truth is not confined to the required Bible courses but is diffused throughout the curriculum.

Yet to know God implies more than just knowledge about God. The knowledge of God that is unique to Christian education is a personal knowledge that begins with repentance of sin and faith in Jesus Christ as Savior and develops through obedience to and communion with God. To know God is to be born into the family of God and to live in fellowship with Him. With this knowledge as the starting point, student attention is directed outward to the full range of natural facts and human experience and to formulations of that experience in history and philosophy, literature and art—all as reflective of the work of God intersecting with the work of man. The student develops a worldview coherent with the work of God in his life.

The work of God in a student's life is a process of his imitating God in his character and service. Accordingly, BJU faculty and Administration urge students onward in this process and provide an environment structured toward this purpose. As in secular education, the environment of Christian education is artificially selective, including elements favorable to its purpose and suppressing those unfavorable to it. BJU does not apologize for the prescriptiveness of the educational experience here. Its character goals require it.

BJU also provides students with ministry opportunities so it becomes natural to them to live out their beliefs in service to God and to others. Students are requested to have weekend ministries of various sorts both in the immediate area and in surrounding states as well. The University keeps before all its students their responsibility to share the Gospel and minister to others.

Bob Jones University Creed

I believe in the inspiration of the Bible (both the Old and the New Testaments); the creation of man by the direct act of God; the incarnation and virgin birth of our Lord and Saviour, Jesus Christ; His identification as the Son of God; His vicarious atonement for the sins of mankind by the shedding of His blood on the cross; the resurrection of His body from the tomb; His power to save men from sin; the new birth through the regeneration by the Holy Spirit; and the gift of eternal life by the grace of God.

Statement about Gender Identity

God created man and woman in His image as two distinct but equal genders which He intends to use for His glory (Gen. 1:26-27). Furthermore, individual gender is assigned by God and determined at conception (Ps. 139:13-16). Therefore we believe that to intentionally alter or change one's physical gender or to live as a gender other than the one assigned at conception is to reject God's right as Creator to assign gender to His creatures and is a personal rejection of His plan to glorify Himself through the original gender He assigned that individual (1 Cor. 10:31).



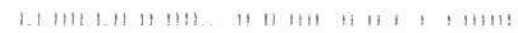
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BOB JONES UNIVERSITY

1500 W. Highway 104 Greenville, SC 29614

Sandra Battle, Acting Assistant Secretary
U.S. Department of Education, Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100



November 17, 1988

Mr. LeGreec Daniels
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Avenue S.W.
Washington, D. C. 20202

Re: Notification of Brigham Young University Exemption from Certain Title IX Regulations

Dear Assistant Secretary Daniels:

The purpose of this correspondence is to provide the United States Department of Education with official notification that Brigham Young University located in Provo, Utah (hereinafter referred to as "BYU") considers itself exempt from the application of 34 CFR Sections 106.31, 106.32, 106.36, 106.39 and 106.40(b)(4), to the extent described in this correspondence, which regulations are published pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681 *et seq.*, a federal statute prohibiting sex discrimination in educational programs. BYU expressly requests the Department to formally recognize that BYU is exempt from the applications of these sections because the provisions of each section are in conflict with religious teachings and tenets of the Church of Jesus Christ of Latter-day Saints (hereinafter occasionally referred to as "the Church"), a religious organization which sponsors and controls BYU.

As noted, BYU is owned, operated and controlled by the Church of Jesus Christ of Latter-day Saints and is eligible for exemption from the regulations pursuant to 34 CFR Section 106.12. The Church's headquarters are located in Salt Lake City, Utah. The Church originally created BYU in 1875 and has since been continuously and ultimately responsible for its operation. The BYU Board of Trustees consists of persons appointed by the governing board of the LDS Church and over two-thirds of the BYU operating budget is derived directly from appropriations from the Church. While non-members of the Church are welcome to apply for admission as students and for employment, all students and employees are expected to live according to a behavioral standard that is rooted in the religious teachings of the Church.

In general terms, this standard requires one to abide by the standards of general Christian living taught by the Church; to be honest in all behavior; to respect the

November 17, 1988
Page 2

personal and property rights of others; to obey the law of the land; to disavow the use of alcoholic beverages, tobacco, tea, coffee and illegal drugs; to observe prescribed, modest standards of dress and grooming; to abstain from sexual relations outside marriage; and to observe high standards of taste and decency. A copy of the BYU Code of Honor which identifies the code of conduct expected of the BYU institutional family is attached as Exhibit "A" and by reference incorporated into this Notice of Exemption. Members and non-members of the Church who refuse to accept and adopt these standards as their own are not eligible for admission as students or for employment at the University. Both historically and at present, over 90% of the BYU students and employees are members of the Church.

The controlling organization of BYU, the Church of Jesus Christ of Latter-day Saints, is a major international Christian religion having a fully developed theology, a well known history spanning two centuries and a world-wide membership presently numbering over six million. Its members believe the Church and its doctrine contain the fullness of the Gospel of Jesus Christ, restored by direct revelation from God to Joseph Smith, who was called as a prophet in the biblical sense in 1820. The governing board of the Church consists of a First Presidency of three, along with a Council of Twelve Apostles, all of whom are regarded by the Church membership as apostles and prophets in the biblical sense. While accepting the Bible as holy scripture, the Church also regards the Book of Mormon as another testament of Christ and as holy scripture. In addition, the Church also accepts prophetic writings as scripture and regards the teachings of current Church leaders as religious doctrine. Central to the Church's theology is the view that, through the Atonement of Christ, all mankind may be saved by obedience to the laws and ordinances taught by Christ.

Within this general framework, the Church teaches not only the doctrine of individual eternal life, but also the doctrine that marriages performed by proper authority and subject to certain conditions are eternal in duration. Thus, the family unit is viewed as having high theological significance, and Church teachings about such matters as marriage, chastity, abortion, and the roles of husbands, wives and children are fundamental religious doctrines. The Church also teaches that certain distinctions based on gender, particularly as they relate to matters of family life, are both natural and religiously significant. At the same time, the Church has a remarkable record of encouraging all of its members, male and female, to obtain as much education as possible and to participate fully in the economic, political and social life of the communities in which they live.

The mission and purpose of Brigham Young University has been officially articulated in its Mission Statement of November 4, 1981, a copy of which is attached as Exhibit "B" to this correspondence and specifically incorporated by reference. The mission of BYU is essentially spiritual and educational. The University would not exist if it were not for the opportunity to fully and freely blend the teachings and influence of the Church within both the curriculum and the extra-curricular environment on the campus.

Below described are the Title IX regulatory provisions for which BYU has identified a recognized exemption together with an explanation of the religious tenets upon which the exemption is based. For purposes of making these requests, BYU is proceeding on the basis (1) that these requests for religious exemption do not limit

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Page 3

BYU's rights subsequently to claim additional religious exemptions as these come to light and subsequently to claim a broader free exercise right before a judicial body; (2) that "religious tenets" in Title IX's religious exemption includes practical and specific religious teachings by duly constituted authority; (3) that BYU's good faith claims about the existence and meaning of religious doctrine are entitled to a presumption of validity; and (4) that governmental agencies should not assume the role of determining the nature and meaning of religious doctrines. (See generally United States Department of Education Memorandum dated February 19, 1985 regarding "Policy Guidance for Resolving Religious Exemption Requests," to Regional Civil Rights Directors by Harry M. Singleton, Assistant Secretary for Civil Rights, Department of Education, and United States v. Ballard, 322 U.S. 78 (1944)).

1. Section 106.31 - BYU claims exemption from this section to the extent that it interferes with the operation of extra-curricular student activities in organizations sponsored by the Church. Specifically, there exist on campus numerous student congregations (called "Wards" according to Church nomenclature) organized and maintained through the ecclesiastical channels of the sponsoring Church. Whether these organizations choose to have activities or sub-organizations exclusively for men or for women is clearly a matter of Church organization and should therefore be exempt.

2. Section 106.32 - BYU claims exemption from this regulation to the extent it interferes with the University's policy of requiring sex-segregated housing by off-campus landlords as a condition of being given approval to house BYU students. The regulation allows sex-segregated housing when provided by the recipient, but it appears to prohibit such segregation in off-campus housing. The teachings of the sponsoring Church regarding sexual morality and marriage are inconsistent with housing arrangements in which single students share the same facilities. For this same reason, the University claims the right under its religious exemption to separate students in BYU-approved housing on the basis of sex and to regulate this separation by designating separate buildings or wings of buildings (and not merely separate apartments), as exclusive to one sex, both on and off campus.

3. Section 106.36 - BYU claims exemption from this regulation to the extent it may inhibit its teachers or counselors from discussing and advising students concerning the ways in which marriage may be compared to career choices or with respect to other questions arising concerning the planning by students of their educational or career plans. The sponsoring Church teaches that marriage and childbearing are significant religious obligations and that mothers naturally have greater involvement, especially in the rearing of younger children. These teachings indicate the need to allow room for some differences between counseling for men and counseling for women.

4. 34 CFR Section 106.39 and Section 106.40(b)(4) - The Office for Civil Rights (OCR), U.S. Department of Education has interpreted these regulations to require the University to offer, if offered at all, student health insurance policies which treat pregnancy the same as any other temporary disability in order to be in compliance with the regulations. By requiring the University to treat pregnancy as any other temporary disability with respect to single students would compel BYU's direct and/or indirect approval and support of premarital sex and abortion. The Church teaches as fundamental doctrine that righteous individuals must abstain from sexual relations

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outside of marriage and, except in rare cases, must not participate in nor obtain an abortion.

With respect to pregnancy related conditions of married women, the application of the regulation as to BYU is not abortion neutral, but rather has the practical impact on application to encourage abortion and to financially discriminate against those institutions, such as BYU, which promote the religious belief that in most cases full-term delivery is the only morally acceptable resolution of pregnancy. For example, insurance premiums paid by other colleges and universities not sharing the LDS beliefs on abortion will probably not increase substantially upon the extension of disability coverage to pregnancy because students at these universities may elect to terminate the pregnancy through an abortion (costing several hundred dollars) while students at BYU will be required, according to LDS religious tenets, to deliver the baby full term costing several thousand dollars. As a result, the impact of the law is not abortion neutral because the Act provides a practical incentive to perform abortion and a concomitant financial penalty for those institutions promoting religious tenets which prohibit abortion. BYU is unwilling to accept abortion as a cheap, simple and facile mechanism to keep insurance costs within reasonable financial limits.

In addition, as the regulations now stand, married students who become pregnant in violation of the doctrine of chastity through extra-marital means would be afforded maternity benefits. This would also be in violation of the fundamental Church doctrine of chastity in marriage.

Brigham Young University is a church-related college with a serious religious commitment at the heart of its educational mission. With the enactment of the Civil Rights Restoration Act of 1988, the University began a careful and deliberative process to assess the possible adverse impact of the Act on the University. Because it is possible that there may be varying interpretations of Title IX and its regulations yet to be resolved, the University determined to protect its vital interests against the possibility of any future adverse determinations as to the meaning of these regulations with this Notice of Exemption. The University, however, fully supports the goal of equal opportunity and non-discrimination on the basis of gender while at the same time preserving its Constitutional Rights of free exercise of religion. Your prompt attention in evaluating this Notice would be greatly appreciated. If I can be of any assistance to you in completing this task or if you require additional information, please do not hesitate to contact me.


Sincerely,

Jeffrey R. Holland

JAN 12 1989

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

JAN 6 1989



Dr. Jeffrey R. Holland
President
Brigham Young University
D-346 ASB
Provo, Utah 84602

Dear Dr. Holland:

The Office for Civil Rights (OCR) of the Department of Education has completed its review of your letter, dated November 17, 1988, requesting a religious exemption from certain sections of the regulation implementing Title IX of the Education Amendments of 1972 (Title IX).

In your request letter, you provided information that establishes that Brigham Young University (BYU) is controlled by a religious organization and that tenets followed by this organization conflict with specific sections of the Title IX regulation (copy enclosed). You described in your request letter certain policies practiced at BYU as being consistent with the tenets of the religious organization that controls the institution. These policies would violate certain sections of the regulation implementing Title IX absent a religious exemption. Therefore, I am granting BYU an exemption to those sections of the Title IX regulation appropriate to your request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by BYU. Brigham Young University is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.31, 106.32, 106.35, 106.39, and 106.40. The basis for this decision to grant this exemption is discussed in further detail below.

Your request letter indicates that BYU is controlled by the Church of Jesus Christ of Latter-day Saints (Church) and that BYU practices the tenets of the Church and is owned and operated by the Church. This relationship between the Church and the University adequately establishes that the University is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In your request letter, you indicate that there exist on BYU campus "numerous student congregations (called 'Wards', according to Church nomenclature) organized and maintained through the ecclesiastical channels of the sponsoring Church." Your letter states that whether these organizations choose to have activities or suborganizations exclusively for men or for women is a matter of Church organization. Based on these principles, BYU has requested and is granted by this letter, exemption from 34 C.F.R. § 106.31, regarding education programs and activities, to the extent that § 106.31 conflicts with the operation of extracurricular student activities and policies of student religious organizations at BYU.

Page 2 - Dr. Jeffrey R. Holland

Your letter also indicates that "[t]he teachings of the sponsoring Church regarding sexual morality and marriage are inconsistent with housing arrangements in which single students share the same facilities." BYU claims exemption from 34 C.F.R. § 106.32 "to the extent that it interferes with the University's policy of requiring sex-segregated housing by off-campus landlords as a condition of being given approval to house BYU students." Based on these principles, BYU has requested and is granted by this letter, exemption from 34 C.F.R. § 106.32, which addresses housing.

Your letter states that "[t]he sponsoring Church teaches that marriage and childbearing are significant religious obligations and that mothers naturally have greater involvement, especially in the rearing of younger children. These teachings indicate the need to allow room for some differences between counseling for men and counseling for women." Based on these principles, BYU has requested and is granted by this letter, exemption from 34 C.F.R. § 106.36, which pertains to counseling of students and applicants for admission.

Your request letter states: "By requiring the University to treat pregnancy as any other temporary disability with respect to single students would compel BYU's direct and/or indirect approval and support of premarital sex and abortion. The Church teaches as fundamental doctrine that righteous individuals must abstain from sexual relations outside of marriage and, except in rare cases, must not participate in nor obtain an abortion." Further, your letter adds that provision of maternity benefits to married students who become pregnant through extramarital means would violate the fundamental Church doctrine of chastity in marriage. Based on these principles, BYU has requested and is granted by this letter, exemption to 34 C.F.R. §§ 106.39 and 106.40, regarding the provision of health and insurance benefits and services to single students and married students who become pregnant outside of marriage.

Your letter also states that, with respect to pregnancy-related conditions of married women, BYU promotes the religious belief that in most cases, full-term delivery, not abortion, is the only morally acceptable resolution of pregnancy. As you know, the Civil Rights Restoration Act of 1987 (Act) amends Title IX. One of the provisions of the Act states that under Title IX, provision of or payment for benefits or services related to abortion is neither required nor prohibited. Although OCR has not yet amended its regulations to conform to the Act, OCR interprets its regulations in accordance with the requirements of the Act. Therefore, under the Title IX regulation as interpreted by OCR, BYU is not required to provide or pay for benefits or services related to an abortion. As so interpreted, the Title IX regulation does not conflict with the religious tenets of BYU. Thus, the exemptions to §§ 106.39 and 106.40 are granted, subject to the limitations discussed in the preceding paragraph.

*Mark
Richard*

3 - Dr. Jeffrey R. Holland

This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically mentioned. In the event that OCR receives a complaint against BYU, we are obligated to determine initially whether the allegations fall within the exemption here granted. Also, in the unlikely event that a complainant alleges that the practices followed by BYU are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by BYU, or if the organization denies that it controls BYU, this exemption will be rescinded.

I hope this letter responds fully to your request. If you have any questions, please do not hesitate to contact the Denver Regional Office for Civil Rights. The address is:

Dr. Gilbert D. Roman
Regional Civil Rights Director
Office for Civil Rights, Region VIII
Department of Education
Federal Office Building
1961 Stout Street, 3rd Floor - 08-7010
Denver, Colorado 80294-3608.

Sincerely,



LeGree S. Daniels
Assistant Secretary
for Civil Rights

Enclosure

cc: Dr. Gilbert D. Roman, Regional Civil Rights Director, Region VIII

OFFICE OF THE GENERAL COUNSEL

EUGENE H. BRAMHALL
*Assistant to the President
of Counsel*

H. HAL VISICK
Associate General Counsel

MICHAEL R. ORME
Associate General Counsel

DAVID B. THOMAS
Assistant General Counsel



BRIGHAM YOUNG UNIVERSITY

A-357 ASB

PO BOX 21333

PROVO, UTAH 84602-1333

(801) 378-3089

FAX NO. (801) 378-7521

August 25, 1997

Ms. Norma Cantu
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202

RE: Request for Religious Exemption from
Title IX Regulation: 34 CFR § 106.60

Dear Secretary Cantu

The purpose of this letter is to provide the United States Department of Education with official notification that Brigham Young University, located in Provo, Utah (hereinafter referred to as "BYU" or "the University") considers itself exempt from the application of 34 CFR § 106.60, to the extent described in this correspondence, which regulations are also published pursuant to Title IX of the Education Amendments of 1972, 20 USC §1681 et. seq., a federal statute prohibiting sex discrimination in educational programs. BYU expressly requests the Department to recognize formally that BYU is exempt from the application of this Section because its provisions are in conflict with religious teachings, tenets, and practices of The Church of Jesus Christ of Latter-day Saints (hereinafter sometimes referred to as "the Church" or "the LDS Church"), a religious organization which sponsors and controls BYU.

In 1989, your office granted other BYU requests for exemption from other sections of 34 CFR. Specifically, the University was ". . . exempted from the requirements of the following sections of the Title IX regulation: 34 CFR §§ 106.31, 106.32, 106.36, 106.39, and 106.40". The basis for this exemption was ". . . that BYU is controlled by The Church of Jesus Christ of Latter-day Saints (Church) and that

Secretary Cantu

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August 25, 1997

BYU practices the tenets of the Church and is owned and operated by the Church. This relationship between the Church and the University adequately establishes that the University is controlled by a religious organization as is required for consideration for exemption under § 106.2 of the Title IX regulation.” (OCR letter, January 6, 1989 to President Jeffrey R. Holland)

In our application letter of November 17, 1988, we noted, in part, that Brigham Young, President of the LDS Church, founded BYU in 1875 and since that time the Church has been continuously and ultimately responsible for the University’s operation. The University’s Board of Trustees consists of persons appointed by the presiding officers of the LDS Church, and all of the Trustees are General Officers of the Church, as is the University’s President. The majority of the University’s operating budget is derived from appropriations from the Church. Finally, the Board of Trustees not only sets hiring policy for the University but General Officers of the Church are directly involved in the hiring process for every full-time permanent faculty at the University.

The Church of Jesus Christ of Latter-day Saints is a major international Christian religion, having a fully developed theology, a well-known history spanning nearly two centuries, and a worldwide membership presently numbering approximately ten million. Its members believe that the Church and its doctrine contain the fullness of the Gospel of Jesus Christ, restored by direct revelation from God to Joseph Smith, who was called as a prophet in the Biblical sense in 1820. The governing Board of the Church consists of a First Presidency of three, along with a Quorum of Twelve Apostles, all of whom are regarded by the Church Membership as Apostles and Prophets.¹ While accepting the King James Version of the Bible as holy scripture, the Church also regards the Book of Mormon as another testament of Christ and as holy scripture. In addition, the Church also accepts prophetic writings as scripture and regards the teachings of current Church leaders as religious doctrine.

Within this general framework, and with specific reference to this request for an exemption, the Church teaches that the family unit is of basic theological

¹The First Presidency, as well as members of the Quorum of the Twelve Apostles, among others, make up the University’s Board of Trustees.

Secretary Cantu

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August 25, 1997

significance and that the often independent roles of husbands and wives are fundamental elements of Church doctrine. Thus, the Church teaches that certain distinctions based on gender, particularly as they relate to matters of family life, are both natural and religiously significant. At the same time, the Church has a remarkable record of encouraging all of its members, male and female, to obtain as much education as possible and to participate fully in the communities in which they live.

Attached hereto as Exhibit "A" is a copy of an official pronouncement of the First Presidency and Quorum of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints dated September 23, 1995. This "Proclamation on the Family" makes the position of the Church with respect to the matters addressed in it abundantly clear and reaffirms certain family values and principles as Church doctrine, which is binding on the Church, its controlled organizations, like BYU, and the Church membership. Please note the significant emphasis on the importance of family and the differing roles of men and women in the family.

It is for this reason that the University may from time to time make a pre-employment inquiry as to the marital and family status of an applicant for a teaching position at the University. The Church teaches and we believe that such information about marital and family status is relevant, combined with other factors, in assessing the extent of an applicant's religious conviction and commitment to Church doctrine and practice as we attempt to identify those most qualified to teach at BYU. Naturally, questions about religious conviction will be wide-ranging and will include areas of inquiry about the support of Church leaders, morality, family life, and basic Church doctrine. The result of this broad inquiry will be that the University will have a better view as to whether the applicant has the necessary religious conviction and devotion to teach at BYU. We emphasize that answers to questions about family are not, by themselves, dispositive in the employment decision. Rather, they are considered, together with the answers to other religiously oriented questions, in measuring the religious strength and commitment of the applicant to Church doctrine and practice.

While this application deals with an exemption for faculty who teach, it is also true that the General Officer interview is required for all new permanent faculty, even

Secretary Cantu

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August 25, 1997

those without fixed teaching assignments. Accordingly, we request that an exemption be granted from § 106.60 of the Title IX regulation which extends to all new faculty hires at the University. Of course, at the heart of this analysis is the holding in Corporation of the Presiding Bishop vs. Amos, 483 U.S. 327 (1987), which held that the religious exemptions of Title VII to the Civil Rights Act do not violate the establishment clause of the first amendment. Simply stated, Amos allows an institution like BYU, one which is owned or controlled by a Church, to exercise a religious hiring preference. That principle, in turn, permits the University to employ Church members who meet certain minimum standards of faithfulness and wholehearted commitment to Church teachings.²

The University is a distinctive, religiously based institution with a serious commitment to the values, doctrines and mission of its sponsoring Church at the heart of its educational mission. Your prompt attention in evaluating this Notice will be greatly appreciated. If I, or any members of the University administration, can be of any assistance to you in completing your review, or if you require additional information, please contact me.

Sincerely,


Merrill J. Bateman
President

kk

Enc.

cc: Ginger Yee, OCR

²Lawson v. Kirkham, 499 F.Supp. 960, 965 (D. Utah 1980) establishes that the right of religiously affiliated institutions to prefer their own in hiring matters necessarily involves the right "to employ those who best promote [their] religious mission. . . ."



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

Dr. Merrill J. Bateman
President
Brigham Young University
A-357 ASB
P.O. Box 21333
Provo, Utah 84602-1333

OCT 14 1997

Dear Dr. Bateman:

The Office for Civil Rights (OCR) of the Department of Education has completed its review of your letter, dated August 25, 1997, requesting a religious exemption for Brigham Young University (the University), to the extent described in your letter, from 34 C.F.R. § 106.60, a provision of the Department's regulations implementing Title IX of the Education Amendments of 1972. Based on the information provided in your letter, which specifically referenced preemployment inquiries about marital status, but not about the sex of the applicant, we construed your request to extend to 34 C.F.R. § 106.60(a), but not § 106.60(b). For this reason, only § 106.60(a) is addressed in this response.

In your letter you provided information that establishes that the University is controlled by a religious organization and that tenets followed by this organization conflict with the requirements of § 106.60(a). You described in your request letter certain policies practiced at the University as being consistent with the tenets of the religious organization that controls the University. These policies would violate § 106.60(a) absent a religious exemption. Therefore, I am granting Brigham Young University an exemption to that provision of the Title IX regulation as specified in your request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the University. Brigham Young University is hereby exempted, to the extent requested in your letter, from the requirements of § 106.60(a) of the Title IX regulation. The basis for this decision to grant this exemption is discussed in further detail below.

Your letter indicated that Brigham Young University is controlled by the Church of Jesus Christ of Latter-day Saints (the Church) and that the University practices the tenets of the Church and is owned and operated by the Church. This relationship between the Church and the University adequately establishes that the University is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In your letter you indicated that all members of the University's Board of Trustees are selected by the presiding officers of the Church, that the Trustees are all General Officers of the Church, and that, as such, the Board of Trustees establishes the hiring policies for every full-time faculty position at the University. In addition, your letter indicated that General Officers of the Church are directly involved in the hiring process for every full-time faculty position at the University. Your letter further indicated that, in this regard,

Page 2 - Dr. Merrill J. Bateman

one of the criteria that the University evaluates in hiring individuals for teaching and other permanent faculty positions at the University is the degree of the candidate's "religious conviction and commitment to Church doctrine and practice." Your letter also indicated that Church doctrine establishes certain values with respect to family life and morality and that, in order to evaluate a faculty candidate's commitment to Church doctrine and practice, including Church doctrine and practice relative to family life and morality, the University conducts a wide-ranging inquiry, which may include a preemployment inquiry as to the candidate's marital status. The practice of making a preemployment inquiry as to marital status would violate § 106.60(a) absent a religious exemption. Based on these principles, Brigham Young University has requested, and is granted by this letter, exemption, in connection with the employment of all new permanent faculty, from 34 C.F.R. § 106.60(a), which addresses preemployment inquiries as to marital status, to the extent that § 106.60(a) conflicts with the religious tenets followed by the University.

This letter should not be construed to grant exemption from any provision of the Title IX regulation not specifically mentioned. In the event that OCR receives a complaint against the University, we are obligated to determine initially whether the allegations fall within the exemption here granted. Also, in the unlikely event that a complainant alleges that the practices followed by the University are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the University, or if the organization denies that it controls the University, this exemption will be rescinded.

I hope this letter responds fully to your request. If you have any questions, please do not hesitate to contact OCR's Denver office. The address and phone number are:

Ms. Lillian Gutierrez, Enforcement Director
U.S. Department of Education, Office for Civil Rights
Federal Building, Suite 310, 08-7010
1244 Speer Boulevard
Denver, CO 80204-3582
(303) 844-5695.

Sincerely,



Norma V. Cantú
Assistant Secretary
for Civil Rights

cc: Ms. Lillian Gutierrez, Enforcement Director, Denver Office



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

March 15, 2016

Dr. Clark G. Gilbert
President
Brigham Young University-Idaho
200 Kimball Building
Rexburg, ID 83460

Dear Dr. Gilbert:

I write to respond to your February 12, 2016, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you seek to confirm the scope of existing religious exemptions for Brigham Young University-Idaho (BYU-Idaho or the University) of Rexburg, Idaho, from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

The implementing regulation at 34 C.F.R. § 106.12 provides that Title IX does not apply to an educational institution controlled by a religious organization to the extent that application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions are allowed to request an exemption from Title IX by identifying the provisions of Title IX that conflict with a specific tenet of the religious organization. The request must identify the religious organization that controls the educational institution and specify the tenets of that organization and the provisions of the law or regulation that conflict with those tenets.

Your letter references religious exemptions OCR granted to Ricks College in letters dated June 24, 1985 and June 22, 1988. You explain that "[i]n 2001 Ricks College became a four-year undergraduate institution (as it had been many decades earlier) and was renamed Brigham Young University-Idaho." Your letter states that BYU-Idaho is "sponsored and controlled by" the Church of Jesus Christ of Latter-day Saints, as it was when the school was Ricks College. According to your letter, the "Church has always been ultimately responsible for BYU-Idaho's operation throughout its history. The governing board of the Church appoints the BYU-Idaho Board of Trustees, and the majority of the BYU-Idaho operating budget is derived directly from appropriations from the Church." Your letter asserts that the exemptions granted to Ricks College (now applicable to BYU-Idaho) encompass Title IX's coverage of discrimination on the basis of gender identity. Because that basis was not specifically addressed in the previous request letters, OCR will instead treat your letter as a new request for a religious exemption for

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-1100
www.ed.gov

Dr. Clark G. Gilbert – page 2

BYU-Idaho from Title IX to the extent that it prohibits discrimination on the basis of gender identity.

Your letter references the University's treatment of transgender individuals and its basis in the teachings of the Church of Jesus Christ of Latter-day Saints. Specifically, you cite to a Church publication entitled "The Family: a Proclamation to the World," which your letter explains says "ALL HUMAN BEINGS—male and female—are created in the image of God. Each is a beloved spirit son or daughter of heavenly parents, and, as such, each has a divine nature and destiny. Gender is an essential characteristic of individual premortal, mortal, and eternal identity and purpose." Thus, you explain, "as a religious tenet, gender is not simply socially determined but is an essential characteristic of each person's eternal identity. . . . [I]n keeping with the Church's teaching on gender, BYU-Idaho requires all students and employees to conduct their lives in harmony with the Church's teachings and the University Standards."

The University notes that OCR granted Ricks College exemptions from a number of provisions of the Title IX regulation, including 34 C.F.R. § 106.31 and 34 C.F.R. § 106.32. You state that the "Department of Education's recent guidance construing sex to mean, among other things, gender identity, does not affect BYU-Idaho's already existing exemptions." We interpret this as a request for an exemption from all provisions from which Ricks College was exempt (and BYU-Idaho is now exempt) to the extent that they prohibit discrimination on the basis of gender identity, including the following:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.31 (governing education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.36 (governing counseling and use of appraisal and counseling materials);
- 34 C.F.R. § 106.39 (governing health and insurance benefits and services);
- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
- 34 C.F.R. § 106.57 (governing different rules based on marital or parental status of employees).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of gender identity and compliance would conflict with the controlling organization's religious tenets.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulation other than as stated above. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the

Dr. Clark G. Gilbert – page 3

institution, this exemption will be rescinded.

I hope this letter responds fully to your request. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read 'CEL', is positioned above the typed name.

Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education



Office of the President

Brigham Young University–Idaho • 200 Kimball Building • Rexburg, ID • 83460-1650

February 12, 2016

Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100

Dear Ms. Lhamon:

RE: BRIGHAM YOUNG UNIVERSITY–IDAHO’S TITLE IX RELIGIOUS EXEMPTIONS

We are writing in response to the letter we received January 26, 2016, to affirm Brigham Young University–Idaho’s religious protections under Title IX of the Education Amendments of 1972 and the United States Constitution.¹

Title IX “is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance.”² One exception is that private institutions of undergraduate higher education are exempt from Title IX with respect to admissions and recruitment.³ Another important exception is that Title IX “shall not apply to an educational institution which is controlled by a religious organization if the application . . . would not be consistent with the religious tenets of such organization.”⁴

BYU–Idaho shares and supports the goal of the Office for Civil Rights to eliminate sex discrimination. As a religious institution of higher education, BYU–Idaho also has a responsibility to teach the doctrine of its sponsoring institution, The Church of Jesus Christ of Latter-day Saints (the Church). The formally stated mission of BYU–Idaho is to “develop disciples of Jesus Christ who are leaders in their homes, the Church, and their communities.”⁵ The university does this by, among other things, “[b]uilding testimonies of the restored gospel of Jesus Christ,” “encouraging living its principles,” and “[p]roviding a quality education for students of diverse interests and abilities.”⁶ BYU–Idaho strives to create an environment in

¹ Letter from Emily Hazen, Equal Opportunity Specialist at OCR, to Clark G. Gilbert, President of BYU–Idaho (Jan. 26, 2016).

² 34 C.F.R. § 106.1 (2016).

³ 20 U.S.C. § 1681(a)(1) (2016); 34 C.F.R. § 106.15(d).

⁴ 20 U.S.C. § 1681(a)(3).

⁵ BYU–Idaho Mission Statement, available at <http://byui.edu/about/our-mission>.

⁶ *Id.*

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which the restored gospel of Jesus Christ guides every aspect of the educational experience. In these ways, the mission of BYU–Idaho is inextricably both spiritual and educational.⁷ Religious higher education institutions like BYU–Idaho contribute to the “diversity of institutions and educational missions [that] is one of the key strengths of American higher education.”⁸

BYU–Idaho was originally established in 1888, and for much of its existence was known as Ricks College. In 2001 Ricks College became a four-year undergraduate institution (as it had been many decades earlier) and was renamed Brigham Young University–Idaho. BYU–Idaho is sponsored and controlled by the Church. The Church has always been ultimately responsible for BYU–Idaho’s operation throughout its history. The governing board of the Church appoints the BYU–Idaho Board of Trustees, and the majority of the BYU–Idaho operating budget is derived directly from appropriations from the Church.

The Church is a major international Christian religion, with a fully developed theology, a well-known history spanning nearly two centuries, and a worldwide membership presently numbering over fifteen million. Its members believe that the Church and its doctrine contain the fullness of the gospel of Jesus Christ, restored by direct revelation from God to Joseph Smith, who was called in 1820 as a prophet in the Biblical sense. The Church’s governing board comprises the First Presidency and the Quorum of the Twelve Apostles, all of whom are sustained by Church members as prophets, seers, and revelators. Members of the Church regard the Bible and the Book of Mormon (another testament of Jesus Christ) as holy scripture. The Church also accepts additional prophetic writings and the statements of current Church leaders as authoritative religious teaching. Central to the Church’s theology is the view that every human being is a son or daughter of God who may be saved through the Atonement of Jesus Christ by obedience to the laws and ordinances of His gospel.

BYU–Idaho affirms the dignity of all human beings. Consistent with the teachings of the Church, BYU–Idaho recognizes the inherent agency, or free will, of each person. All students who apply to and enroll at BYU–Idaho make a commitment to live the University Standards, including an Honor Code, that are based on doctrines and practices of the Church and reflect the “moral

⁷ As we have maintained for over forty years in our correspondence with the Department of Education and its predecessor, the Department of Health, Education, and Welfare, BYU–Idaho considers itself exempt from certain regulations and their related processes promulgated under Title IX by virtue of protections in the U.S. Constitution and federal statutes. *See Hall v. Lee Coll., Inc.*, 932 F. Supp. 1027, 1033 (E.D. Tenn. 1996) (“It may very well be that to claim the exemption found in the statute, an educational institution need do nothing more than just raise the exemption.”). However, in an effort to continue to cooperate with your office, I am sending this letter in my capacity as president of BYU–Idaho to you in your capacity as assistant secretary for Civil Rights at the Department of Education, as 34 C.F.R. § 106.12(b) anticipates.

⁸ 20 U.S.C. § 1011a(a)(2)(A).

February 12, 2016
Page 3 of 4

virtues encompassed in the gospel of Jesus Christ.”⁹ This commitment is acknowledged at the time of application and must be reaffirmed each year in order to continue enrollment. Students specifically agree to—among other things—live a chaste and virtuous life, respect others, and observe certain dress and grooming standards. BYU–Idaho has adopted dress and grooming standards that are different for men and women. The purpose of this distinction between genders is based on religious tenets about our divine nature as children of God, the eternal nature of our gender identity, and the purpose of our life on earth.

Members of the Church believe that “God created man in his own image, in the image of God created he him; male and female created he them.”¹⁰ Modern-day scripture reiterates the truth that God created all human beings in his own image and likeness, male and female.¹¹ In 1995, the Church’s First Presidency and Quorum of the Twelve Apostles issued “The Family: A Proclamation to the World,” which states: “ALL HUMAN BEINGS—male and female—are created in the image of God. Each is a beloved spirit son or daughter of heavenly parents, and, as such, each has a divine nature and destiny. Gender is an essential characteristic of individual premortal, mortal, and eternal identity and purpose.”¹² Therefore, as a religious tenet, gender is not simply socially determined but is an essential characteristic of each person’s eternal identity.

The Church has a history of encouraging all of its members, male and female, to obtain as much education as possible and to participate fully in the economic, political, and social life of their communities.¹³ BYU–Idaho strives to contribute to that effort by providing a broad undergraduate education and facilitating internship, employment, and service opportunities. However, in keeping with the Church’s teaching on gender, BYU–Idaho requires all students and employees to conduct their lives in harmony with the Church’s teachings and the University Standards.

The complaint against BYU–Idaho alleges discrimination on the basis of sex with respect to a transgender student.¹⁴ Although the letter we received does not specify which Title IX

⁹ BYU–Idaho University Standards 58 (2015-2016) (stating that “[s]tudents must be in good honor code standing to be admitted to, continue enrollment at, and graduate from BYU-Idaho”), *available at* <http://www.byui.edu/Documents/catalog/2015-2016/University%20Standards.pdf>.

¹⁰ Genesis 1:27; *see also* Matthew 19:4.

¹¹ Moses 2:27; Doctrine and Covenants 20:18.

¹² We sent a copy of The Family: A Proclamation to the World to your office in 1998. Letter from David A. Bednar, President of Ricks College, to Norma Cantú, Assistant Secretary for Civil Rights (Mar. 12, 1998).

¹³ This also reflects a religious tenet of the Church. *See* Doctrine and Covenants 88:77-80; 109:7.

¹⁴ The Department of Education’s position that Title IX’s definition of “sex” includes gender identity is not anywhere defined in statute or regulation. *Johnston v. Univ. of Pittsburgh of Commonwealth Sys. of Higher Educ.*, 97 F. Supp. 3d 657, 674 (W.D. Pa. 2015) (stating that “Title IX does not prohibit discrimination on the basis of transgender itself because transgender is not a protected characteristic under

February 12, 2016
Page 4 of 4

regulations may apply, it appears that all of the allegations relate to regulations regarding education programs or activities and housing. The Office for Civil Rights has already determined that BYU–Idaho is exempt from the application of 34 C.F.R. § 106.31 and § 106.32 to the extent they conflict with the Church’s religious tenets.¹⁵ The Department of Education’s recent guidance construing sex to mean, among other things, gender identity, does not affect BYU–Idaho’s already existing exemptions.

We appreciate your commitment to resolving complaints as promptly as possible. In a similar situation, the regional office closed a complaint for lack of jurisdiction.¹⁶ Based on the existing exemptions, and as required by the statutory text of Title IX, that same approach is appropriate here. If I or any members of BYU–Idaho’s administration can be of any assistance to you, or if you require additional information, please contact me.

Sincerely,

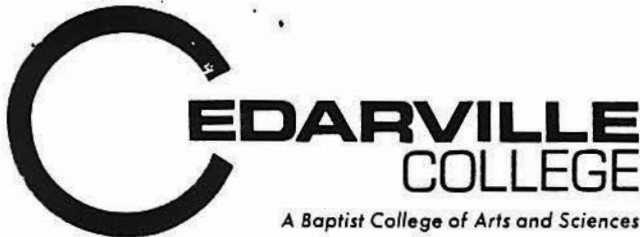


Dr. Clark G. Gilbert
President

the statute” and noting there is “no federal court case that has squarely decided this issue in the Title IX context”).

¹⁵ “Ricks College is hereby exempted from the requirements of the following sections of the Title IX regulation: . . . § 106.31, § 106.32.” Letter from Harry M. Singleton, Assistant Secretary for Civil Rights, to Dr. Bruce C. Hafen, President of Ricks College (June 24, 1985).

¹⁶ Letter from LeGree S. Daniels, Assistant Secretary for Civil Rights, to Dr. Joe J. Christensen, President of Ricks College (June 22, 1988) (recounting that the regional office had received a complaint and subsequently closed it for lack of jurisdiction).



CEDARVILLE, OHIO 45314

June 4, 1976

*MCK
7/2*

Martin H. Gerry
Acting Director
Office for Civil Rights
Department of Health, Education and Welfare
330 Independence Ave., S.W.
Washington, D.C. 20201

Re: 86.12 (a), (b) of Final Title IX Implementing Regulations

Dear Mr. Gerry:

On behalf of the Administration and Board of Trustees of Cedarville College, we respectfully submit the accompanying claim for exemptions as provided under Section 86.12 (a) and (b) of the Final Title IX Implementing Regulations.

We believe it would be beneficial to your understanding of our position if we were to give you some specific information about our college. Therefore, we present the following for your consideration;

I. A Description of Cedarville College -

Cedarville College is a Baptist college of arts and sciences presenting a balanced liberal arts program coupled with an evangelical, conservative theological position in regard to doctrine and patterns of conduct.

II. The Bible as our Basis for Faith and Practice -

Cedarville College was founded upon and continues to present a curriculum based upon a doctrinal position that the Bible is our sole basis for faith and practice.

6/17/76 mbu



PASSING THE TORCH

Martin H. Gerry
Page 2

III. Approval by the General Association of Regular Baptist Churches -

Cedarville College is subject to annual approval by the General Association of Regular Baptist Churches (GARBC) to assure the continuity of the educational program in conformity with the Scriptural position of the majority of the GARBC.

Cedarville College wholeheartedly supports the principle of cooperation with governmental authority as admonished by the Bible (Romans 13). However, we also firmly believe that we have the right to take exception to governmental actions which would interfere with faith and practice that is based on Biblical teaching.

We present the following claims for exemption from certain requirements of the Final Title IX Implementing Regulations:

86.21 (c) (1) (2) (4) Admissions -

These subparts (1) prevent a recipient institution from applying any rule concerning the actual or potential parental, family, or marital status of an applicant which treats persons differently on the basis of sex; (2) prohibit an institution from discriminating against or excluding any person on the basis of pregnancy, child-birth, termination of pregnancy, or recovery therefrom, and (3) prevents a recipient institution from making pre-admission inquiry as to the marital status of an applicant.

College Policy - Cedarville College does exclude from its program unmarried, pregnant women.

Rationale - In order to maintain the distinctive character of the College as a Christian institution with Biblical moral standards, Cedarville College must reserve the right to exclude from its programs, male or female applicants who violate the moral standards contained in the Bible.

Scripture References - ICor. 5; ICor. 6:15-20; IThess. 4:3-7.

86.31 (b) (5) Educational Programs and Activities - A recipient shall not, on the basis of sex, "discriminate against any person in the application of any rules of appearance."

College Policy - Cedarville College does maintain a policy limiting the length of men's hair.

Martin H. Gerry
Page 3

Rationale - The policy reflects a sensitivity to the relationship of Cedarville College to its constituency and the institution's responsibility to those whom we serve, together with the School's desire to maintain a testimony to our churches and to society.

Scripture Reference - I Cor. 10:32

It is the institution's intent and practice to maintain the Biblical identity of the sexes while upholding their equality of person.

Scripture References - I Cor. 11:14, 15.

86.40 (a) (b) (1) (4) (5) Marital or Parental Status -

These subparts (1) prevent a recipient institution from applying any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex; (2) prohibit an institution from discriminating against, or excluding any student from its education program or activity on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom; (3) require that a recipient institution treat pregnancy, termination of pregnancy and recovery therefrom as any other temporary disability; and (4) require that a recipient institution shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

College Policy - Cedarville College does exclude from its educational program and activities, unmarried women students experiencing pregnancy, childbirth, or termination of pregnancy.

Rationale - In order to maintain the distinctive character of the College as a Christian institution with Biblical moral standards, Cedarville College must reserve the right to suspend from its program and activities, male or female students who violate institutional standards that have as their basis the moral standards contained in the Bible.

Scripture References - I Cor. 5; I Cor. 6:15-20; I Thess. 4:3-7.

Martin H. Gerry
Page 4

86.57 (a) (1), (b), (c) Marital or Parental Status -

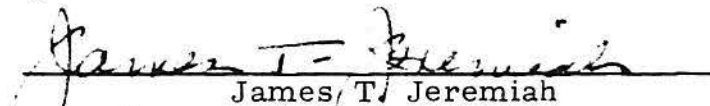
These subparts provide that a recipient institution shall not apply any policy or take any employment action concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex. A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, and the recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any other temporary disability resulting therefrom as any other temporary disability for all job related purposes.

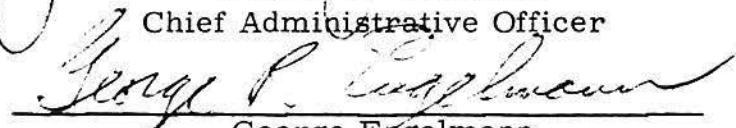
College Policy - Cedarville College does exclude unmarried pregnant women applying for employment and also excludes from employment male or female employees who violate the moral standards contained in the Bible.

Rationale - In order to maintain the distinctive character of the College as a Christian institution with Biblical moral standards, Cedarville College must reserve the right to exclude unmarried pregnant women applying for employment and to also exclude from employment male or female employees who violate the moral standards contained in the Bible.

Scripture References - I Cor. 5: I Cor. 6:15-20; I Thess. 4:3-7.

The above exemption statements have been reviewed and approved by the Cedarville College administration and the Board of Trustees. While it is the intent of Cedarville College to continue to provide equal opportunity to members of both sexes in compliance with the provisions of Title IX regulations, continuation of policies relating to the above exemption statements are considered essential to the purpose and programs of the institution.


James T. Jeremiah
Chief Administrative Officer


George Engelmann
Chairman, Board of Trustees



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

SEP 13 1985

Dr. Paul H. Dixon
President
Cedarville College
Box 601
Cedarville, Ohio 45314

Dear President Dixon:

The Office for Civil Rights of the Department of Education (OCR/ED) is in the process of resolving a number of pending requests for religious exemption from Title IX of the Education Amendments of 1972. Our records indicate that Cedarville College filed such a request, but there is no record that OCR adequately acknowledged this request.

We have recently reviewed the request filed by former President Jeremiah (copy enclosed) in which he described several policies practiced at Cedarville College as consistent with the tenets of the religious organization that controls the College. These policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. The former president supplied information in his request letter that establishes that Cedarville College is controlled by a religious organization and that tenets followed by this organization conflict with specific sections of the Title IX regulation. Therefore, I am granting Cedarville College an exemption to those sections of the Title IX regulation specified in the request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by Cedarville College. Cedarville College is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. § 106.21(c)(1), (2) and (4); § 106.40(a), (b)(1), (4) and (5); and § 106.57(a)(1), (b) and (c). The basis for our decision to grant this exemption is discussed in further detail below.

The request letter indicates that Cedarville College is a Baptist college that "was founded upon and continues to present a curriculum based upon a doctrinal position that the Bible is our sole basis for faith and practice Cedarville College is subject to annual approval by the General Association of Regular Baptist Churches (GARBC) to assure the continuity of the educational program in conformity with the Scriptural position of the majority of the GARBC." This relationship between the GARBC and Cedarville College adequately establishes that the College is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

Page 2 - Dr. Paul H. Dixon

The request letter indicates that students and employees at Cedarville College must adhere to tenets of the Baptist Church relative to a prohibition of pregnancy, childbirth or termination of pregnancy that occurs out of wedlock. Based on this principle, Cedarville College has requested, and is granted by this letter exemption to § 106.21(c)(1), (2) and (4) (marital or parental status of applicants for admission); § 106.40(a) and (b)(1), (4) and (5) (marital or parental status of students); and § 106.57(a)(1), (b), and (c) (marital or parental status of employees and applicants for employment).

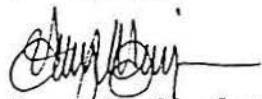
Cedarville College also requested exemption for § 106.31(b)(5) concerning rules of appearance. Section 106.31(b)(5) was formally revoked and deleted from the Title IX regulation. Therefore, an exemption for appearance codes is not necessary.

This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically mentioned. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption herein granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

I hope this letter responds fully to your request. I regret the inordinate delay in responding to your original request. If you have any questions, please do not hesitate to contact the Chicago Regional Office for Civil Rights. The address is:

Linda A. McGovern
Acting Regional Civil Rights Director
Office for Civil Rights, Region V
Department of Education
300 South Wacker Drive, 8th Floor
Chicago, Illinois 60606

Sincerely,



Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosures

cc: Linda A. McGovern, Acting Regional Civil Rights Director, Region V

CEDARVILLE COLLEGE

Chick
7/26
Prepared by AS Sign.
CJ: PES

June 26, 1989

Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

RE: Title IX Religious Exemption

Dear Sir:

The Cedarville College hereby claims an exemption from the requirements of Title IX of the Education Amendments of 1972 ("Title IX") as herein specified, pursuant to Sections 901(a)(3) and 908 of Title IX and 34 C.F.R. Section 106.12(b). The College believes that it may in the past have received, and may currently be receiving, indirect federal aid within its understanding of the Supreme Court decision in Grove City College v. Bell, 465 U.S. 555 (1984).

The Cedarville College is a regionally accredited liberal arts college, offering courses of instruction in the humanities, arts and sciences. The College is subject to annual approval by the General Association of Regular Baptist Churches (GARBC), 1300 N. Meacham Road, Schaumburg, Illinois 60195, a non-profit religious corporation which was incorporated under the laws of the State of Illinois under the control of a board of trustees (The Council of Eighteen), and is exempt from federal income taxation as a not-for-profit organization under Section 501(c)(3) of the Internal Revenue Code.

The Cedarville College was incorporated in the State of Ohio as a Christian institution of higher education under the control of a board of trustees and is also exempt from federal income taxation as a not-for-profit institution under Section (c)(3) of the Internal Revenue Code. The trustees of the College and the faculty, students and employees of the College are all required to espouse a personal belief in the religious tenets of the Christian faith. The Charter of the College and the catalogs and other official publications of the College contain explicit statements that the College is committed to the doctrines of the Christian religion. The College maintains its religious tradition, standards and beliefs in accordance with the requirements of the General Association of Regular Baptist Churches aforementioned.

The College educates in the broad range of liberal arts, in which it adheres to Biblical tenets for matters of faith and practice, following its religious tradition. It specifically utilizes a religious preference in employment practices to assure that faculty and staff adhere to a common religious understanding of the religious beliefs, values and

100 years in Christian higher education

Page 2 of 4
Assistant Secretary for Civil Rights
June 26, 1989

purposes that guide the educational mission of the college. Accordingly, the personnel of the college accept religious standards in matters of moral behavior, dispute and grievance resolution and disciplinary matters, as well as in the performance of any religious role or office in which gender distinctions may be required. The Bible sets forth the standards for Christian morality and practice in far too many places and forms to be identified comprehensively in this letter; however, see for example:

1. Romans 12:1 "...present your bodies a living and holy sacrifice, acceptable to God, which is your spiritual service of worship."
(NAS)
2. Romans 6:13 "And do not go on presenting the members of your body to sin as instruments of unrighteousness; but present yourselves to God as those alive from the dead, and your members as instruments of righteousness to God." (NAS)
3. Cedarville College Doctrinal Statement 11: "We believe in personal separation from all practices and influences of the world which hinder a spirit-filled life." Cedarville College Doctrinal Statement, page 174, Cedarville College Catalog 1987-1988.
4. The Cedarville College Student Handbook. "IV Community Discipline...[T]he College believes that redemptive discipline should be:
 - I. A meaningful learning experience and should encourage responsible behavior;
 - II. Based on a Scriptural balance of love and justice and educational principles;
 - III. Consistent with the best interest of both the individual and the total College community in mind." Cedarville College Student Handbook at p. 23.

The College seeks to maintain its religious freedom to make certain gender-based distinctions in matters of moral behavior, marriage and residential living environments and standards. It specifically holds religious standards for personnel and students in matters conducive to the fostering of proper moral behavior and the discouragement of inappropriate behavior as understood by the religious tradition and tenets accepted by the College. Such standards include matters relating to the expression of human sexuality, living environments, respect for the institution of marriage, language and modest attire.

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Assistant Secretary for Civil Rights
June 26, 1989

The College adjudicates matters of moral behavior, including the misuse of human sexuality, in accordance with Scriptural teaching about moral behavior. See, for example:

- I. I Corinthians 5.
- II. I Corinthians 6:15-20.
- III. I Thessalonians 4:3-7.

In its letter of June 4, 1976 to the Department of Education, the College claimed religious exemption from certain of the provisions of Title IX which have since been renumbered. In its letter of September 13, 1985 the Department granted such claim. However, in light of the passage of the Civil Rights Restoration Act of 1987 and the college's current understanding of the provisions of Title IX and the regulations thereunder that are applicable to the College, this exemption notice is being submitted at this time in order to clarify and extend the scope of the exemption previously received from the Department and presently claimed by the College.

Accordingly, the College hereby claims exemption from the application of the following provisions of the Title IX regulations, to the extent that they conflict with the College's religious tenets and traditions as described above: C.F.R. Sections 106.21(c), 106.40, 106.57 and 106.60 (treatment based on marital and parental status), together with any application of Sections 106.38 (employment assistance to students); Section 106.51 (employment opportunities for religious offices or positions such as chaplains limited by religious tenets to one gender); 106.53 (recruitment); 106.55 (job classification and structure) or 106.59 (advertising) that relates to such employment opportunities that are limited to one gender by the religious beliefs of the College.

The religious tenets relevant to marital and parental status are biblically derived. In order to live within commonly received Christian meanings of human relationships and provide a moral and biblical ethos for the college community, moral standards are maintained consistent with the precepts of the Bible and the religious custom and practice that interpret its moral standards. Where such willful conduct expressly violates biblical norms (e.g. cohabitation, promiscuous conduct outside of wedlock, homosexual behavior, or divorce, [see, e.g., I Cor. 6:12-20; Gal. 5:19-21; Romans 1:24-27; I Cor. 7:10,11]) the college reserves its right to exercise its discretion for the remedy appropriate to the circumstances consistent with its religious beliefs and practices.

There are a number of issues central to the religious beliefs and practices of the College that may not have been discussed in this letter because of our understanding that no specific exemption is required. For example, the College believes that Title IX, as amended by the Civil Rights Restoration Act of 1987, shall not be construed to require the College to provide or pay for any benefit or service, including the use of

Page 4 of 4

Assistant Secretary for Civil Rights
June 26, 1989

facilities, related to an abortion. Additionally, pursuant to 34 C.F.R. Section 106.15(d), the provisions of Sections 106.16 through 106.23, inclusive, do not apply to the College because it is a private institution of undergraduate higher education. Finally, the College understands that Sections 106.32 and 106.33 permit the College to provide separate, although substantially comparable, housing, bathroom, locker room and similar facilities for men and women.

The College generally opposes gender-based discrimination and affirms its intention to comply with the provisions of Title IX and the regulations thereunder except to the extent that such compliance would cause the College to violate its religious tenets and traditions. The College specifically claims its right to exercise a religious preference in its employment decisions, pursuant to Section 702 of Title VII of the Civil Rights Act of 1964 and the decision of the Supreme Court in Corporation of the Presiding Bishop v. Amos, 107 S. Ct. 2862 (1987). In seeking to provide equal employment opportunities for men and women, the College shall not under any circumstances waive or be deemed to have waived its primary requirement of hiring only persons whose religious beliefs and practice are consistent with the Christian tenets, principles and traditions accepted by the College and the Corporation.

In the event of future amendments to Title IX or the regulations thereunder, or changes in the application thereof or the facts surrounding the operation of the College and the burden of such statute and regulations on the College's ability to pursue its religious mission, the College reserves its right to claim an amendment to its exemption or an additional exemption in order to fully protect the religious tenets, practices and traditions of the College.

Thank you for your assistance and for your prompt consideration of this letter. If you have any questions or require any further information, please contact Donald W. Rickard, Vice-President of Cedarville College for Student Services at (513) 766-2211 extension 220.

Very truly yours,



Dr. Paul H. Dixon,
President



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

AUG 16 1989

Dr. Paul H. Dixon
President
Cedarville College
Box 601
Cedarville, Ohio 45314

Dear Dr. Dixon:

The Office for Civil Rights (OCR) of the Department of Education has completed its review of your letter, dated June 26, 1989, requesting a religious exemption from certain sections of the regulation implementing Title IX of the Education Amendments of 1972. By letter dated September 13, 1985, Cedarville College (College) was exempted from the following sections of the Title IX regulation: 34 C.F.R. §§ 106.21(c)(1), (2) and (4); 106.40(a), (b)(1), (4) and (5); and 106.57(a)(1), (b) and (c).

In your request letter of June 26, 1989, you provided information that establishes that the College is controlled by a religious organization and that tenets of this organization conflict with specific sections of the Title IX regulation (copy enclosed). You described in your request letter certain policies practiced at the College as being consistent with the tenets of the religious organization that controls the institution. These policies would violate certain sections of the regulation implementing Title IX absent a religious exemption. Therefore, I am granting the College an exemption to those sections of the Title IX regulation specified in your most recent request letter. Cedarville College is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.21(c), 106.38, 106.40, 106.51, 106.53, 106.55, 106.57, 106.59, and 106.60. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the College. The basis for this decision is discussed in further detail below.

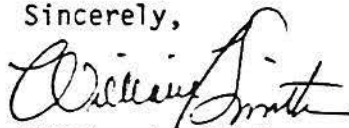
Your request letter indicates that the College is a Baptist College subject to annual approval by the General Association of Regular Baptist Churches (GARBC). The trustees of the College and the faculty, students and employees of the College are all required to espouse a personal belief in the religious tenets of the Christian faith. The Charter of the College and the catalogs and other official publications of the College contain explicit statements that the College is committed to the doctrines of the Christian religion. The College maintains its religious traditions, standards, and beliefs in accordance with the requirements of the GARBC. This relationship between the GARBC and the College adequately establishes that the College is controlled by a religious organization as is required for consideration for exemption under 34 C.F.R. § 106.12 of the Title IX regulation.

Page 3 - Dr. Paul H. Dixon

I hope this letter responds fully to your request. If you have any questions, please do not hesitate to contact the Chicago Regional Office for Civil Rights. The address is:

Mr. Kenneth A. Mines
Regional Civil Rights Director
Office for Civil Rights, Region V
U.S. Department of Education
401 South State Street, Room 700C, 05-4010
Chicago, Illinois 60605-1202.

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Smith". The signature is written in a cursive style with a large initial "W".

William L. Smith
Acting Assistant Secretary
for Civil Rights

Enclosure

cc: Kenneth A. Mines, Regional Civil Rights Director, Region V



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

June 11, 2018

Thomas White, Ph.D.
President
Cedarville University
251 North Main Street
Cedarville, Ohio 45314

Dear President White:

I write in response to your March 13, 2018, letter to the U.S. Department of Education's Office for Civil Rights (OCR). In your letter, you indicate that Cedarville University (University) of Cedarville, Ohio is entitled to a religious exemption from Title IX of the Educational Amendments of 1972 (Title IX), 20 U.S.C. § 1681.

Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. Title IX and its implementing regulation at 34 C.F.R. § 106.12 provide that Title IX does not apply to an educational institution that is controlled by a religious organization, to the extent that the application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions may request an exemption from Title IX by identifying the provisions of Title IX that conflict with a specific tenet of the religious organization. The request must identify the religious organization that controls the educational institution, specify the tenets of that organization, and state the provisions of the law or regulation that conflict with those tenets. An institution may be considered controlled by a religious organization if it is a school or department of divinity.

Your letter states that the University "was established in 1887 as an institute for Christian higher education," and that it was "[o]riginally affiliated with the Reformed Presbyterian Church," but subsequently "became a Baptist college of arts and sciences by mutual agreement of the Reformed Presbyterian Church and the Baptist Bible Institute of Cleveland, Ohio." You state that the University is "operating in accordance with Baptist doctrines of faith." For instance, it requires a "five-class Bible minor" for all undergraduate students, and "also offers graduate degrees, including ministry degrees (M.Min. and M.Div.), all of which require some demonstration of biblical proficiency." Further, "[i]n order to attend Cedarville, all students must make a written profession of faith in Jesus Christ . . . [and] attend worship services five days per week in which the Bible is taught and religious songs are sung together." The University is governed by a Board of Trustees, and "[e]ach member of the Board of Trustees must annually subscribe to the University's doctrinal statement and standards of conduct."

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-1100
www.ed.gov

Thomas White — page 2

Further, your letter states that the University “is committed to the biblical principle that all human beings are created in the image of God, a principle that promotes respect for the bodily integrity of all persons and the sacredness of human sexuality.” Your letter indicates, without expressly stating, a position that portions of Title IX and its accompanying regulations conflict with the University’s religious tenets. On that basis, your letter asserts an exemption from “any application of Title IX and or its regulations,” noting that this “includes but is not limited to 34 C.F.R. §§ 106.21-106.61.” OCR acknowledges that the University is exempt from Title IX to the extent that compliance would conflict with the controlling organization’s religious tenets.

In order to provide a more specific assurance to the University, OCR would need further information identifying the provisions of Title IX that conflict with specific tenets of the religious organization. An institution claiming an exemption may refer to a broad scope of relevant literature in this regard, including biblical scripture, doctrinal statements, catalogs, statements of faith, or other documents reflecting religious tenets. Note, however, that to avoid possible constitutional entanglements, OCR does not engage in an inquiry as to whether certain religious tenets actually conflict with Title IX. *If the University would like a more specific written assurance from OCR*, it may submit a statement of its tenets, or alternatively, submit a statement of its practices, as based on religious tenets, that conflict with the provisions of Title IX. Otherwise, we will consider the matter closed.

Note, however, that Title IX does not require that a recipient institution submit a written statement to OCR in advance of claiming a religious exemption. Religious institutions that have neither sought nor received prior written assurance from OCR may still invoke their exemption after OCR receives a Title IX complaint. Primarily, the written claim or “request” for exemption from an institution is a request for assurance from OCR of exemptions to certain sections of the regulation.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulation other than as stated above. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here recognized.

I hope this letter fully responds to your request. If you have any further questions, please do not hesitate to contact me.

Sincerely,



Candice Jackson

Acting Assistant Secretary for Civil Rights



March 13, 2018

Candice Jackson
Acting Assistant Secretary for Civil Rights
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Re: Cedarville University's Religious Exemption to Title IX

Dear Acting Assistant Secretary Jackson:

As the President and highest-ranking administrator of Cedarville University, I am writing to inform the Department of Education's Office of Civil Rights that Cedarville University hereby claims its religious exemption to Title IX of the Education Amendments of 1972 ("Title IX"). Cedarville University is a non-profit, faith-based university located in Cedarville, Ohio. Pursuant to the University's constitutional rights under the First Amendment and statutory rights under 20 U.S.C. § 1681(a)(3), the University is entitled to an exemption from all provisions of Title IX that are not consistent with its religious tenets.

Title IX provides that it "*shall not apply* to [a religious educational institution] if the application of this subsection would not be consistent with the religious tenets of such organization[.]" 20 U.S.C. § 1681(a)(3). The "shall not apply" language indicates that the exemption is automatic and Title IX cannot be enforced in a way that is inconsistent with a school's religious tenets.

On October 6, 2017, U.S. Attorney General Sessions issued a memorandum entitled "Federal Law Protections for Religious Liberty." Regarding the Title IX religious exemption process, the memorandum explained: "Although eligible institutions may 'claim the exemption' in advance by 'submitting in writing to the Assistant Secretary a statement by the highest ranking official of the institution, identifying the provisions . . . [that] conflict with a specific tenet of the religious organization,' 34 C.F.R. § 106.12(b), they are not required to do so to have the benefit of it, *see* 20 U.S.C. § 1681."

Cedarville University was established in 1887 as an institute for Christian higher education. Originally affiliated with the Reformed Presbyterian Church, the Cedarville College (subsequently known as "Cedarville University") became a Baptist college of arts and sciences by mutual agreement of the Reformed Presbyterian Church and the Baptist Bible Institute of Cleveland, Ohio. Cedarville University remains a non-profit educational institution operating in accordance with Baptist doctrines of faith.

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937-766-3200 • cedarville.edu/president

Candice Jackson
March 13, 2018
Page 2

Cedarville University is a Christ-centered learning community equipping students for lifelong leadership and service through an education marked by excellence and grounded in biblical truth. Cedarville University offers more than 130 programs of study, which cover most areas of the liberal arts, the sciences, professional programs, and theological studies. It also offers approximately 40 minors, including a five-class Bible minor, which is required for all undergraduate students. The University also offers graduate degrees, including ministry graduate degrees (M.Min. and M.Div.), all of which require some demonstration of biblical proficiency. The University achieves its mission by accomplishing the following objectives or “portrait statements” which reflect characteristics of a Cedarville University graduate:

Glorify God

The Cedarville graduate exemplifies devotion to the triune God, Christ-like character, and faithfulness to the teachings of the Scriptures.

Think Broadly and Deeply

The Cedarville graduate evaluates ideas, practices, and theories across disciplines within the framework of God’s revelation.

Communicate Effectively

The Cedarville graduate listens well, and produces and delivers clear, compelling, accurate, and truthful messages in a relevant, respectful manner.

Develop Academically and Professionally

The Cedarville graduate demonstrates competence and integrity in academic and professional endeavors.

Engage for Christ

The Cedarville graduate lives to further the mission of Christ in the world as an active influence in spiritual, moral, professional, and social spheres.

In order to attend Cedarville, all students must make a written profession of faith in Jesus Christ. Students are required to attend worship services five days per week in which the Bible is taught and religious songs are sung together. Students affirm their commitment to the Cedarville Covenant with the pledge “We will love God and others, live with integrity, and pursue excellence in all we do.” Similarly, all faculty and staff agree to the doctrinal statement and community covenants annually as a condition of employment.

Cedarville is governed by an independent, self-perpetuating Board of Trustees operating under the laws of the state of Ohio. Each member of the Board of Trustees must annually subscribe to the University’s doctrinal statement and standards of conduct. A minimum of 50% of the Board of Trustees must be considered pastors or in religious vocations. Cedarville University’s Bylaws outlines its doctrinal statement and standards of conduct, which are attached to this letter.

Candice Jackson
March 13, 2018
Page 3

For all these reasons, Cedarville University is an educational institution that is controlled by a religious organization. Therefore, under the plain language of 20 U.S.C. § 1681(a)(3), Cedarville University is exempt from any application of Title IX or the regulations issued thereunder that conflict with the University's religious tenets, which includes, but is not limited to, 34 C.F.R. §§ 106.21 - 106.61. Cedarville University believes that Section 1681 and the regulations thereunder, as interpreted by the government and some courts, is inconsistent with the University's religious tenets. It remains the prerogative of Cedarville University, not the government or the courts, to evaluate and decide when and to what extent Title IX conflicts with the University's religious tenets. *See Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2778 (2014) ("Repeatedly and in many different contexts, we have warned that courts must not presume to determine . . . the plausibility of a religious claim"); *Thomas v. Review Bd. of Ind. Emp't Sec. Div.*, 450 U.S. 707, 716 (1981) ("[I]t is not within the judicial function and judicial competence to inquire whether" someone who has religious qualms with a law has "correctly perceived the commands of [his] . . . faith.").

At the same time, I wish to emphasize that Cedarville University is committed to providing a safe environment for all students, ensuring that its programs and activities are free from sexual misconduct, sexual violence, sexual assault, illegal discrimination, bullying, and harassment. Cedarville University is committed to the biblical principle that all human beings are created in the image of God, a principle that promotes respect for the bodily integrity of all persons and the sacredness of human sexuality. Sexual misconduct is antithetical to the standards and ideals of our community and will not be tolerated. Cedarville recognizes the spiritual, moral, legal, physical, and psychological seriousness of all sexual misconduct. Cedarville aims to prevent sexual misconduct through education, training, clear policies, and serious consequences for violations of these policies. The University will take immediate action to address allegations of any form of sexual misconduct.

Thank you for your attention to this matter.

Respectfully,



Thomas White, Ph.D., President
Cedarville University
251 North Main Street
Cedarville, Ohio 45314