



HUMAN  
RIGHTS  
CAMPAIGN<sup>®</sup>

HIDDEN DISCRIMINATION:

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**TITLE IX  
RELIGIOUS  
EXEMPTIONS  
PUTTING LGBT  
STUDENTS AT RISK**

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## LETTER FROM HRC PRESIDENT CHAD GRIFFIN

**DEAR FRIENDS,**

THE CLASSROOM IS A PLACE WHERE STUDENTS SHOULD FEEL SAFE, RESPECTED, AND CAPABLE OF FULFILLING THEIR GREATEST POTENTIAL. UNFORTUNATELY, FOR MANY LESBIAN, GAY, BISEXUAL, AND TRANSGENDER STUDENTS, SCHOOL IS A PLACE WHERE THEY FACE DAILY BULLYING, HARASSMENT, AND DISCRIMINATION. A PATCHWORK OF STATE LAWS COMPOUNDS THAT PROBLEM, LEAVING LGBT STUDENTS IN MOST STATES ACROSS THE NATION WITH NO LEGAL PROTECTIONS FROM THE DISCRIMINATION THEY FACE.

Federal law does not explicitly protect students on the basis of sexual orientation or gender identity from discrimination, and 35 states offer little or no protections for LGBT students. This has created a dangerous environment for many students, and has prompted the Obama Administration to clarify that Title IX – the federal law that prohibits sex discrimination in any education program or activity that receives federal funding – also outlaws discrimination based on gender identity and nonconformity to sex–stereotypes. As we continue to push for explicit federal non-discrimination protections for sexual orientation and gender identity, Title IX is a crucial tool to combat the discrimination and harassment that many LGBT students face on a daily basis.

Some religious educational institutions, however, are relying on a little-known provision in Title IX to seek waivers that exempt them from treating LGBT students equally. The Human Rights Campaign has investigated this practice and found 33 schools in states across the country have obtained waivers that allow them to

discriminate against LGBT students in admissions, housing, athletics, financial aid, and more. The combined total enrollment of these schools is more than 73,000 students, most of whom are entirely unaware of these waivers. Moreover, these schools together receive more than 50,000 applications each fall from prospective students who may not be informed about the school's policy.

This is an alarming trend that puts thousands of students at risk, and HRC believes there is more the government can do to hold these schools accountable and ensure students, parents, employees, and the public have all the facts.

Most urgently, we are seeking greater transparency and accountability from the Department of Education and Congress so that prospective students and their families know exactly which schools are requesting a license to discriminate from the federal government. The information that we are presenting in this report should be released to the public every year by the Department of Education,

and these schools should be required to inform their communities and prospective students when they request the right to discriminate.

Many Americans look to their faith as a source of guidance and inspiration. LGBT individuals are no different. At the Human Rights Campaign, we believe that religious liberty is a bedrock principle of our country. We also believe that no one should use faith as a guise for discrimination, and that all students deserve to enter a school environment knowing they will be protected. This resource is just the beginning of our advocacy on this issue, and we will continue to push for full equality for all LGBT people, at school, at work, and in the communities they call home.

Sincerely,

Chad Griffin  
President  
Human Rights Campaign



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# EXECUTIVE SUMMARY

Lesbian, gay, bisexual, and transgender (LGBT) students face discrimination and harassment at an alarming rate. According to a 2010 study on LGBT students in higher education, lesbian, gay, and bisexual college students are nearly twice as likely to experience harassment when compared with their non-LGB peers, and are seven times more likely to indicate the harassment was based on their sexual orientation.<sup>1</sup> In the 2011 National Transgender Discrimination Survey, one-fifth of transgender students reported that they were denied gender-appropriate housing, and five percent reported outright denial of campus housing.<sup>2</sup> LGBT college students also suffer from higher rates of sexual assault and misconduct on America's campuses; transgender and gender nonconforming students report one of the highest rates of sexual assault and misconduct.<sup>3</sup>

Title IX of the Education Amendments of 1972 (Title IX) prohibits sex discrimination in any educational program or activity that receives federal funding. Although best known for its impact on girls' and women's athletic programs, Title IX protects students from discrimination in a broad array of areas in education including admissions, housing, recruitment, athletics, facilities, financial assistance, and counseling services.<sup>4</sup> Title IX also prohibits sex discrimination in employment decisions made by an educational institution including hiring, recruitment, and compensation.<sup>5</sup>

There is growing recognition that Title IX protects students on the basis of gender identity and sexual orientation. Recent case law, Department of Education guidance, and school district settlements support the use of Title IX by LGBT students seeking recourse from discrimination. In the absence of explicit, federal non-discrimination protections

for sexual orientation and gender identity, Title IX serves as a vital tool to combat the discrimination and harassment that LGBT students face.

While the LGBT community has made great strides, this report reveals how religious colleges and universities are taking advantage of legal loopholes to enshrine their ability to discriminate on the basis of sexual orientation and gender identity. Title IX contains a little-known provision that allows educational institutions controlled by a religious organization to request an exemption from full compliance with the law if "application of the law would conflict with specific tenets of the religion."<sup>6</sup> Alarmingly, more than four dozen schools have requested a license to discriminate. The rate of schools seeking exemptions has increased dramatically from only one school in 2013 to more than 43 schools in 2015.

Among this report's key findings:

- More than half of all states (26) have at least one school that has requested an exemption;
- Schools in the South have requested the most exemptions;
- Schools that are affiliated with the Southern Baptist Convention requested the greatest number of exemptions, followed by schools affiliated with Wesleyan and Catholic churches;
- Almost a third of schools receiving a gender identity related exemption referred to the federal government's groundbreaking Arcadia Settlement as a primary reason for requesting an exemption;
- 56 schools requested an exemption;
- 33 schools received an exemption from the law as it pertains to protecting students on the basis of gender identity;
- 23 schools also received an exemption from the law as it pertains to protecting students on the basis of sexual orientation; and
- Schools most commonly requested exemptions from provisions of the law relating to housing, access to facilities, and athletics.

If this trend continues, many LGBT students may find themselves enrolled at schools that are granted the legal right to discriminate against them partway through their degree program. Students should have the opportunity to make determinations about school attendance based on full information regarding a university's ability to legally discriminate against the student. For some

students, that may mean choosing an alternate school during the application process, transferring to another university, or even deciding not to come out as LGBT until after graduation. Allies of LGBT people may wish to make similar decisions lest they face repercussions for supporting their LGBT friends.

The Department of Education has little discretion to deny requests by religiously affiliated colleges and universities for an exemption under Title IX. However, through administrative action the Department of Education should:

- Issue regulations requiring schools to publicize the number of exemptions that are requested and received, the scope of the exemption, and a statement explaining that students are still protected under all other provisions of Title IX.
- Report the educational institutions receiving exemptions under Title IX as well as the scope of the exemptions.

Congress requires the Department of Education's Office for Civil Rights (OCR) to submit an annual report to the President, Secretary of Education, and Congress on OCR's compliance and enforcement activities. Congress should amend 20 U.S.C. § 3413 (the Office for Civil Rights' governing statute) to:

- Require OCR to annually report the number of Title IX exemptions that were requested, as well as the number of requests that the Department granted or denied.

**56**

**SCHOOLS REQUESTED AN EXEMPTION**

**33**

**SCHOOLS RECEIVED AN EXEMPTION FROM THE LAW AS IT PERTAINS TO PROTECTING STUDENTS ON THE BASIS OF GENDER IDENTITY**

**23**

**SCHOOLS ALSO RECEIVED AN EXEMPTION FROM THE LAW AS IT PERTAINS TO PROTECTING STUDENTS ON THE BASIS OF SEXUAL ORIENTATION**



# LEGAL LANDSCAPE

## STATUTORY PROHIBITIONS ON SEX DISCRIMINATION IN EDUCATION

Congress first addressed discrimination in education with the landmark Civil Rights Act of 1964. Title IV of the Civil Rights Act prohibits discrimination in public primary and secondary schools as well as public universities and colleges on the basis of race, color, national origin, sex, and religion. Private schools and educational programs, along with public schools, are barred from discrimination through Title VI of the Civil Rights Act if they accept federal funding; however, the protected characteristics are limited to race, color, and national origin. The primary remedy under Title IV is school desegregation, thus Title VI has been a more popular tool for students since the Supreme Court of the United States has determined that it contains an implied private right of action.<sup>7</sup>

In order to address continued discrimination on the basis of sex in education, Congress passed Title IX of the Education Amendments of 1972 (Title IX). The law states that, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance."<sup>8</sup>

More specifically, Title IX:

- Prohibits discrimination in any educational program or activity that receives federal funding, including primary and secondary schools, colleges and universities, secular and parochial schools;
- Prohibits discrimination in vocational and professional programs;
- Prohibits discrimination in admissions, recruitment, housing, facilities, classes, extracurricular activities,

## STORIES OF LGBT DISCRIMINATION

### George Fox University

Jayce, a transgender male student, was denied a request to live in male housing with his friends. George Fox University is affiliated with the Quakers, one of the more liberal Protestant denominations, but it had received a Title IX religious exemption from the Department of Education before Jayce made his request. George Fox had argued that accommodating transgender students would be incompatible with their interpretation of the Bible. Jayce questioned the school's rationale: "I'm living with a bunch of young women... It's not a good recipe for promoting the kind of behavior that a Christian university expects from its students."<sup>9</sup> Unfortunately, he had no legal recourse.

counseling, financial assistance, employment, health insurance and benefits, and athletics; and

- Applies to schools even if their only source of federal funding is in the form of federal student loans, scholarships, or research grants.<sup>10</sup>

Title IX conditions federal funding on agreement by the recipient institution that it will not discriminate on the basis of sex. Non-compliance can result in suspension or termination of a recipient's federal funding.<sup>11</sup> Prior to suspension or termination of funding, the Department of Education must notify the educational institution of its failure to follow the law, give the school an opportunity to remedy the alleged violation, and determine that the school – even with notice – will not comply.<sup>12</sup> It is very rare for the Department of Education to terminate federal funding.

In 1977, the U.S. Supreme Court ruled that individuals can sue to enforce Title IX.<sup>13</sup> Enforcement typically results in an injunction compelling the institution to cease its discriminatory activities. The Supreme Court held in subsequent cases that victims of discrimination can also sue for money damages resulting from an educational institution's deliberate indifference to known acts of discriminatory conduct.<sup>14</sup>

## EMERGING CASE LAW AND AGENCY GUIDANCE

Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of sex – among other characteristics – in employment. Because federal courts routinely rely on Title VII case law to interpret Title IX,<sup>15</sup> developments in Title VII case law are critical to understanding the rights of students. Increasingly, federal courts have allowed claims of employment discrimination based on an employee's sexual orientation or gender identity to proceed under Title VII's sex discrimination provisions. These determinations have been made based on the legal theory that discrimination on the basis of gender identity, sexual orientation, or sex-stereotyping is, at its core, discrimination “on the basis of sex.”

Several notable cases underscore this line of reasoning. In *Price Waterhouse v. Hopkins*<sup>16</sup>, a female employee

was denied partnership in the accounting firm and was advised to act more feminine to be considered for future promotions. The Supreme Court unanimously held that Title VII did not permit an employer to evaluate female employees based upon their conformity with the employer's stereotypical view of femininity. While this case did not raise questions involving sexual orientation, the sex stereotyping reasoning utilized by the Court has proved pivotal for later claims involving sexual orientation and gender identity discrimination.

In *Oncale v. Sundowner Offshore Services*, the Supreme Court determined that an employer could be held liable under Title VII for failing to stop sexual harassment involving employees of the same gender.<sup>17</sup> Subsequently, federal district and circuit courts have found that openly gay and lesbian employees can seek recourse under Title VII when they have been subjected to sexual harassment.<sup>18</sup>

Lower courts have also contributed to the body of law on discrimination against LGBT employees. To date, two federal circuit courts have ruled that Title VII could apply to a claim brought by a transgender woman who alleged that she was fired based on her gender identity.<sup>19</sup> In addition, several district courts have determined that discrimination against gay and lesbian employees was a violation of Title VII because the employers relied upon gender-based stereotypes when making employment decisions.<sup>20</sup>

This line of reasoning was further extended in administrative decisions issued by the U.S. Equal Employment Opportunity Commission (EEOC).<sup>21</sup> In 2012, the EEOC “recognized that a complaint of discrimination based on gender identity, change of sex, and/or transgender status was cognizable under Title VII.”<sup>22</sup> And in 2015, the EEOC concluded that “sexual orientation is inherently a ‘sex-based consideration,’ and an allegation of discrimination based on sexual orientation is necessarily an allegation of sex discrimination under Title VII.”<sup>23</sup>

Through a series of “Dear Colleague” letters and guidance documents, the Department of Education has provided clarification on how educational institutions should interpret Title IX. The Department of Education has

interpreted Title IX to prohibit:

- Gender-based harassment of both male and female students, including harassment by a person of the same sex;<sup>24</sup>
- Harassment “for failing to conform to stereotypical notions of masculinity or femininity;”<sup>25</sup>
- Discrimination against transgender and gender non-conforming students;<sup>26</sup> and
- Failure to respect transgender students’ gender identity when operating single-sex classes.<sup>27</sup>

The Department of Justice also interprets Title IX to protect students on the basis of gender identity and sex-stereotyping. Relying on the precedents set in *Oncale* and *Price Waterhouse*, the Department of Justice has explained that “[t]reating a student adversely because the sex assigned to him at birth does not match his gender identity is literally discrimination ‘on the basis of sex.’”<sup>28</sup> The agency has participated in an array of lawsuits to ensure that LGBT students’ Title IX rights are enforced.

## THE ARCADIA SETTLEMENT

The Department of Education and Department of Justice have entered into numerous settlement agreements with

school districts clarifying that Title IX protects students based on gender identity and sex-stereotypes. In July 2013, the agencies entered into a settlement agreement with the Arcadia Unified School District in Arcadia, California, following an investigation into allegations of discrimination against a transgender student.<sup>29</sup> The student filed a complaint with the Department of Education alleging that the school district prevented him from using restroom and locker room facilities consistent with his gender identity, and also alleged that the school prevented him from staying in overnight accommodations with other male students on a school-sponsored trip because he is transgender.

The school district agreed to settle the case without admitting any unlawful conduct. The agreement required the school district to implement school- and district-wide measures to prevent gender-based discrimination based on an individual’s gender identity. In addition, the district was required to amend its policies and procedures to prohibit discrimination based on a student’s gender identity and nonconformity with sex-stereotypes.<sup>30</sup>

The Arcadia Settlement was a critically important step in protecting LGBT students in the absence of explicit federal protections.

## STORIES OF LGBT DISCRIMINATION

### Pepperdine University

Hayley Videckis and Layana White played college basketball in Arizona before they were offered full scholarships to play at Pepperdine University, an NCAA Division I basketball school. Videckis and White allege that after they began dating, members of the University and the athletic staff became obsessed with uncovering whether the couple was in a relationship. The women’s basketball head coach frequently spoke disapprovingly of “lesbianism.” Videckis and White hid their relationship, but the environment became so hostile that they ultimately left the basketball team and the school.<sup>31</sup>

## STANDARDS FOR RECEIVING A RELIGIOUS EXEMPTION

Title IX contains a little-known provision that allows educational institutions controlled by a religious organization to request an exemption from fully complying with the law if “application of the law would conflict with specific tenets of the religion.”<sup>32</sup> However, not all schools that claim to be religious are entitled to an exemption. In order to receive an exemption under Title IX, a school must prove that it is “controlled by a religious organization.” The Department of Education has said that a school is normally considered to be controlled by a religious organization if:

1. The educational institution “is a school or department of divinity, defined as an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects;”
2. “Faculty, students or employees [are] members of, or otherwise espouse a personal belief in, the religion of the organization by which it claims to be controlled;” or
3. The school’s “charter and catalog, or other official publication, contains explicit statement that it is controlled by a religious organization or an organ thereof or is committed to the doctrines of a particular religion, and the members of its governing body are appointed by the controlling religious organization or

an organ thereof, and it receives a significant amount of financial support from the controlling religious organization or an organ thereof.”<sup>33</sup>

Schools that are not controlled by a religious organization – but nevertheless embed faith principles into their missions – have also sought exemptions. These schools have described themselves in a variety of ways, such as a “Christ-centered learning community”<sup>34</sup> and as a school with an “unqualified commitment to historic, orthodox positions on essential doctrines of Christian faith.”<sup>35</sup> To date, the Department of Education has neither denied nor granted an exemption to these types of schools.

Religious schools are not exempted from the entirety of Title IX. Rather, a school must identify which portions of Title IX and its accompanying regulations are inconsistent with the tenets of its religion that provide the basis for the exemption.<sup>36</sup> Thus, if a school requests an exemption from Title IX with regards to housing for “homosexual” students, the school is still bound by Title IX for discrimination in housing for transgender students or admissions for lesbian, gay and bisexual students. In letters from the Department of Education to the schools that received exemptions, the Assistant Secretary for Civil Rights cautions the schools that if a student alleges that the exemptions requested are not in fact based upon the religious tenets of the controlling organization, OCR will follow up with the religious organization to confirm the veracity of the claim.

## STORIES OF LGBT DISCRIMINATION

### California Baptist University

Domaine Javier, a transgender nursing student, was expelled after publicly revealing her gender identity.<sup>37</sup> California Baptist University alleged that Javier committed fraud on her school application by listing her gender as “female.” Javier sued the school for violating California’s Unruh Civil Rights Act, which prohibits “business establishments” from discriminating on the basis of sex, including gender identity and gender expression.<sup>38</sup> The court ruled that for-profit enterprises at California Baptist, such as the library and restaurant on campus, could not discriminate against Javier, but the school’s educational activities were not a business establishment, and therefore her expulsion was not prohibited.<sup>39</sup>

# FINDINGS

## TIMING

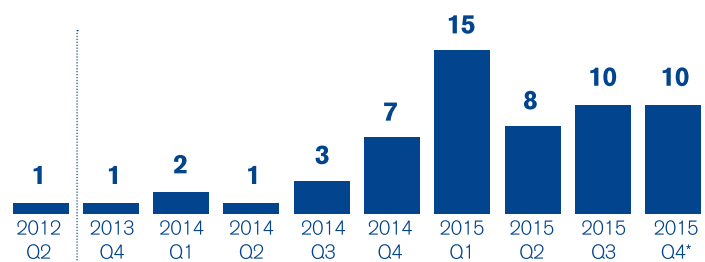
The announcement of the Arcadia Settlement appears to have marked the beginning of a new and dangerous trend: religious colleges and universities requesting Title IX exemptions to discriminate on the basis of gender identity. Prior to the Arcadia Settlement in July 2013, there were no requests to discriminate on the basis of gender identity. After the settlement, 10 of the schools that received exemptions for gender identity cited the Arcadia Settlement. When the Supreme Court declined to review marriage equality cases from three circuit courts in October 2014,<sup>40</sup> the trend expanded to include requests to discriminate on the basis of sexual orientation. Only one educational institution, Spring Arbor University, requested permission to discriminate on the basis of sexual orientation before October 2014.



**10 OF THE SCHOOLS THAT RECEIVED EXEMPTIONS FOR GENDER IDENTITY CITED THE ARCADIA SETTLEMENT**

More than four dozen schools have already requested a Title IX religious exemption. The rate of schools seeking exemptions during the Obama Administration has increased dramatically. There were no requests at all from 2009 through 2011. In 2012 and 2013, only one school requested an exemption each year. In 2014 there were 13 requests, and in 2015 there were at least 43.

## Frequency Chart by Quarter



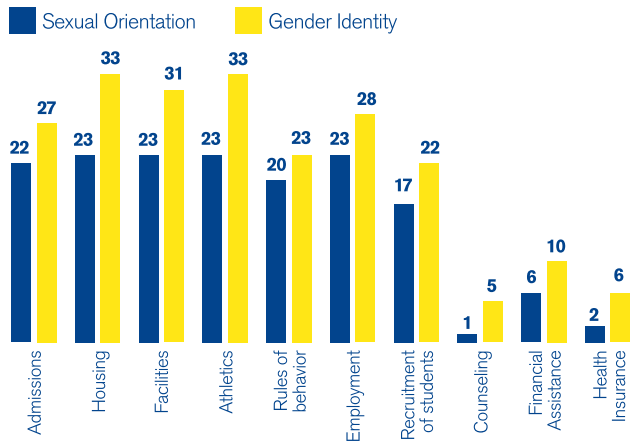
*\*Department of Education data is incomplete. Note that for purposes of showing accurate volume over time, this data includes the two schools that requested exemptions that were not based on sexual orientation or gender identity.*

Of the two universities that requested exemptions during the Obama Administration prior to 2014, only one requested an exemption for sexual orientation or gender identity. The other, Maranatha Baptist College, requested an exemption for discrimination based on parental or marital status because the school does not admit divorced individuals, men or women married to a divorced person, or individuals who have or are expecting a child outside of heterosexual marriage.<sup>41</sup>

## SCOPE OF EXEMPTIONS

Regulations implementing Title IX identify 25 different areas in which discrimination is prohibited, divided into three broad categories: discrimination in recruitment and admissions, discrimination in education programs or activities, and discrimination in employment.<sup>42</sup> Schools requesting an exemption must specify exactly which areas of the regulation they wish to be exempt from. The most common areas from which exemptions were requested were housing, facilities, and athletics.

### Frequency Chart by Area of Discrimination



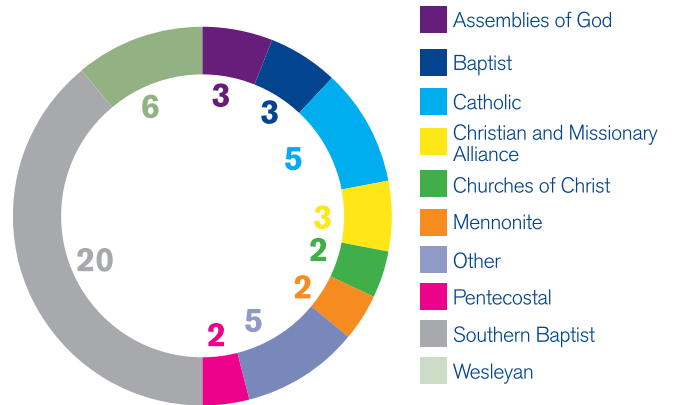
Schools have sought exemptions to be able to discriminate on the basis of sexual orientation and gender identity. While every school that received an exemption for sexual orientation also sought an exemption for gender identity, some schools only sought gender identity exemptions. To date, 23 have received an exemption from the law as it pertains to protecting students on the basis of sexual orientation, while 33 schools have received an exemption from the law as it pertains to protecting students on the basis of gender identity. Of those schools, 16 also received exemptions related to marital status. All but one of the schools that received exemptions based on sexual orientation and marital status made their request after the Supreme Court refused to hear marriage equality cases on appeal from three circuit courts.

### LOCATION OF SCHOOLS AND RELIGIOUS AFFILIATION

The Southern region of the United States holds the greatest number of schools seeking exemptions, followed by the West Coast. California and Texas are home to the greatest number of these schools with 6 apiece. Oklahoma follows closely behind with 5. In total, 26 states – more than half of the United States – had at least one school seeking an exemption.

The religious affiliations of schools requesting a religious exemption from Title IX cover an array of denominations, but all are Christian educational institutions. Press coverage of schools seeking exemptions initially came about as

### Religious Affiliation



Note: Five schools did not identify a religious affiliation

a result of the highly publicized case involving George Fox University (see sidebar). Yet George Fox University is an outlier as the only Quaker institution to request an exemption. Schools affiliated with the Southern Baptist Convention have far outnumbered any other denomination with regards to requests for exemptions.

### COORDINATED REQUESTS

Close examination of the request letters shows that schools affiliated with the Southern Baptist Convention (SBC) appear to have coordinated requests for an exemption. The SBC is the largest Protestant denomination in the United States.<sup>43</sup> The requests used common language and rationale, and several argue that “denominational loyalty” required them to seek an exemption from Title IX. For example, many schools referenced the Southern Baptist Convention’s policy on gender identity:

The separation of one’s gender identity from the physical reality of biological birth sex poses the harmful effect of engendering an understanding of sexuality and personhood that is fluid.” Moreover, “gender identity is determined by biological sex and not by one’s self-perception—a perception which is often influenced by fallen human nature in ways contrary to God’s design.<sup>44</sup>

Other schools referenced the SBC's most recent statement of faith, the Baptist Faith and Message: "Man is the special creation of God, made in His own image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation."<sup>45</sup>

Among the schools that are not affiliated with SBC, at least four schools cc'd Alliance Defending Freedom (ADF) on their exemption letters: Belmont Abbey College, Biola University, George Fox University, and Simpson University. ADF is a legal advocacy organization that has long sought to slow progress for LGBT Americans. While the exact relationship between ADF and the schools is unclear, their presence on the letters suggests at least some degree of collaboration.

Recently, ADF has sent letters to public school districts across the country including in Arizona, Illinois, Missouri, New York, and Ohio, urging them to prevent transgender students from using facilities consistent with their gender identity. The group included a suggested model policy for schools to implement that defines "sex" as "the biological condition of being male or female as determined at birth based on physical differences, or, when necessary, at the chromosomal level."<sup>46</sup> The model policy explicitly does not allow students to use facilities based on their gender identity. All of the letters requesting religious exemptions

under Title IX that include ADF only request exemptions on the basis of gender identity.

Further suggestive of coordination, 17 schools – including those that cc'd ADF – used identical language in their requesting letters:

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute. And as you also know, the resolution agreement between the Arcadia United School District and ED 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. It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. 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 ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of [X College/University].

## STORIES OF LGBT DISCRIMINATION

### Southwestern Christian University

Christian Minard was one semester shy of graduation when she was expelled after school officials learned that she had married her same-sex partner. Southwestern Christian required students to sign a "lifestyle covenant" prohibiting, among other things, "Lesbian, Gay, Bi-sexual and Transgender (LGBT) behavior or acts."<sup>47</sup> The school argued that students are expelled for violating a variety of infractions that are prohibited in the lifestyle covenant including cursing, drinking, and smoking. But according to Minard, "Students violate parts of [the lifestyle] covenant all the time, but they don't get expelled. I didn't even get a hearing."<sup>48</sup>

# POLICY RECOMMENDATIONS

Religiously controlled educational institutions should not be exempt from full transparency. Costs related to education are one of the biggest expenses incurred by Americans; therefore, as consumers prospective students should have the right to complete and accurate information about whether a school has received a license to discriminate before making such an important decision. Laws and regulations already require educational institutions to publicly report a multitude of consumer information to help students decide which school is right for them, such as:

- Pertinent institutional information;<sup>49</sup>
- Financial assistance available to students enrolled in the institution;<sup>50</sup>
- Athletic participation rates;<sup>51</sup>
- Crime statistics;<sup>52</sup> and
- An annual security report.<sup>53</sup>

Currently, the Department of Education does not voluntarily release the names of schools that have been granted Title IX religious exemptions nor are educational

institutions required to notify students about exemptions they have received. This data is only available through FOIA requests. The process to obtain these records is complex, placing this critical information out of reach of the majority of students.

## **Recommendation: Notice by Schools**

The Department of Education should require schools to publish comprehensive information about the scope of the exemption they received and the ways in which Title IX still protects students. HRC calls on the Department of Education to amend its regulations to require educational institutions to post:

- When an exemption has been requested;
- When an exemption has been received;
- The characteristics or behaviors to which the exemption applies;
- The scope of the exemption; and
- A statement explaining that students are still protected under all other provisions of Title IX.

## STORIES OF LGBT DISCRIMINATION

### **Wheaton College**

Wheaton College ranks among America's most unfriendly colleges for LGBT students.<sup>54</sup> So it was a big deal when Justin Massey was allowed to form an LGBT support group, Refuge. The school's decision to officially sanction Massey's student-led group in 2013 sent shockwaves across religiously affiliated campuses. Refuge served as a lifeline for LGBT and questioning students who felt isolated and alone. However, after Massey came out as gay, the school removed him from the group's leadership. He further claimed that the school removed him from student government activities.<sup>55</sup>



### **Recommendation: Notice by the Department of Education**

The Department of Education provides a wealth of information for students exploring options for college including tuition, estimated fees, accreditation, degree programs, campus security, and varsity athletic teams. HRC calls on the Department of Education to:

- Regularly report which educational institutions have been granted Title IX religious exemptions and the scope of the exemptions;
- Add Title IX religious exemptions as a searchable feature on College Navigator; and
- Provide the following information on individual school landing pages as a part of College Navigator:
  - When an exemption has been received;
  - The characteristics or behaviors to which the exemption applies;
  - The scope of the exemption; and
  - A statement explaining that students are still protected under all other provisions of Title IX.

### **Recommendation: Congressional Action**

Congress requires the Department of Education's Office for Civil Rights (OCR) to submit an annual report to the President, Secretary of Education, and Congress on OCR's compliance and enforcement activities. The law also requires OCR to identify significant civil rights or compliance problems that require "corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made."<sup>56</sup> HRC calls on Congress to amend 20 U.S.C. § 3413 (the Office for Civil Right's governing statute) to:

- Require OCR to annually report the number of Title IX exemptions that were requested, as well as the number of requests that the Department granted and denied.

## STORIES OF LGBT DISCRIMINATION

### **Grace University**

Danielle Powell was not allowed to enroll for her final college semester after her same-sex relationship was revealed. Grace University told Powell that she could re-enroll if she went through a restoration program involving mandatory church attendance, meetings with counselors and mentors, and regular communication with a school dean. However, the school expelled her when it became clear that she continued dating women. The school even demanded that she return more than \$6,000 in federal aid money. Powell said that she did not think that "a lot of people are aware of the fact that you legally can be kicked out of a school... for being gay."<sup>57</sup>

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# ABOUT THE AUTHORS



**Sarah Warbelow** is the Legal Director for the Human Rights Campaign. She leads HRC's team of lawyers and fellows focused on federal, state, and municipal policy. She also coordinates HRC's advocacy efforts as amicus

curiae ("friend of the court") in litigation affecting the lesbian, gay, bisexual, and transgender community.

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Before joining HRC, Warbelow served as the program manager for the American Association of University Women Foundation Legal Advocacy Fund, specializing in education and employment discrimination law. Warbelow is also an affiliated professor at George Washington University and George Mason Law School, teaching courses on civil rights law and public policy. She received her bachelors' degrees in social relations and women's studies from Michigan State University and her master's of public policy and law degree from the University of Michigan.



**Remington Gregg** serves as legislative counsel at the Human Rights Campaign, principally focusing on federal legal and policy issues related to the military and veterans, education, immigration, foreign affairs, domestic

violence, racial justice, hate crimes, and profiling.

Prior to joining HRC in 2013, Gregg was Associate Counsel and Advisor for Open Government in the White House Office of Science and Technology Policy, advising on a range of legal and policy issues related to science, technology, and national security, and reducing legal and regulatory burdens to create a more open and accountable government. He has also worked on civil rights litigation and policy with the American Civil Liberties Union and NAACP Legal Defense Fund. Gregg graduated from Binghamton University (State University of New York) and New York Law School.

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# ENDNOTES

<sup>1</sup> Sue Rankin, et. al, *2010 State of Higher Education for LGBT People*, Campus Pride.

<sup>2</sup> Jaime M. Grant, Et Al., National Center for Transgender Equality and National Gay and Lesbian Task Force, *Injustice At Every Turn: A Report of The National Transgender Discrimination Survey*, 39 (2011), [http://www.thetaskforce.org/static\\_html/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf).

<sup>3</sup> David Cantor et. al.; Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct; Westat, iv (September 2015), available at [https://www.aau.edu/uploadedFiles/AAU\\_Publications/AAU\\_Reports/Sexual\\_Assault\\_Campus\\_Survey/Report%20on%20the%20AAU%20Campus%20Climate%20Survey%20on%20Sexual%20Assault%20and%20Sexual%20Misconduct.pdf](https://www.aau.edu/uploadedFiles/AAU_Publications/AAU_Reports/Sexual_Assault_Campus_Survey/Report%20on%20the%20AAU%20Campus%20Climate%20Survey%20on%20Sexual%20Assault%20and%20Sexual%20Misconduct.pdf).

<sup>4</sup> See generally 34 CFR Part 106, Subpart D.

<sup>5</sup> See generally 34 CFR Part 106, Subpart E.

<sup>6</sup> 20 USC § 1681(a)(3); and see 34 CFR § 106.12(b).

<sup>7</sup> Cannon v. University of Chicago, 441 U.S. 677 (1979). See Cannon v. Univ. of Chicago, 441 U.S. 677 (1979) (holding that a woman who alleged discriminatory denial of admission to a medical school had a private right of action for injunctive relief against the school).

<sup>8</sup> 20 U.S.C. § 1681(a).

<sup>9</sup> Joshua Hunt and Ricard Pérez-Peña, *Housing Dispute Puts Quaker University at Front of Fight Over Transgender Issues*, The New York Times (July 24, 2014), <http://www.nytimes.com/2014/07/25/us/transgender-student-fights-for-housing-rights-at-george-fox-university.html>.

<sup>10</sup> See Civil Rights Restoration Act of 1987, Pub. L. No. 259-100, 102 Stat. 28, (overturning *Grove City v. Bell*, 465 U.S. 555 (1984), in which the Supreme Court held that only the precise activity receiving federal aid was subject to Title IX enforcement and not the entire school).

<sup>11</sup> 20 U.S.C. § 1682.

<sup>12</sup> See generally *id.* at § 1682 and 34 C.F.R. § 106.

<sup>13</sup> *Supra* note 7.

<sup>14</sup> See *Franklin v. Gwinnett County Pub. Sch.*, 503 U.S. 60 (1992)(holding that a claim for damages can be brought against a school district under Title IX), *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 286 (1998) (holding that a claim for damages can be brought against a school district under Title IX for failing to stop teacher-on-student harassment where the school district had actual notice and acted with deliberate indifference to the misconduct), *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999) (holding that a claim for damages can be brought against a school under Title IX for student-to-student harassment where the funding recipient acted with deliberate indifference to known acts of harassment).

<sup>15</sup> See *Jennings v. Univ. of N. Carolina*, 482 F.3d 686 (4th Cir. 2007). (“We look to case law interpreting Title VII of the Civil Rights Act of 1964 for guidance in evaluating a claim brought under Title IX.”) and *Preston v. U.S.*, 376 U.S. 364 (1964)(holding that the Title IX discrimination claim should be interpreted by principles governing Title VII).

<sup>16</sup> 490 U.S. 228 (1989).

<sup>17</sup> 523 U.S. 75 (1998).

<sup>18</sup> *See, e.g.*, *Rene v. MGM Grand Hotel, Inc.*, 305 F.3d 1061 (9th Cir. 2002) (holding that an openly gay employee subjected to severe physical harassment of a sexual nature in the workplace may have a valid sex discrimination claim under Title VII.) *See also* *Nguyen v. Buchart-Horn, Inc.* 2003 U.S. Dist. LEXIS 12398 (E.D. La. July 15, 2003)(holding that the plaintiff was not barred from a sex discrimination claim under Title VII because of his sexual orientation.)

<sup>19</sup> *Smith v. City of Salem*, 378 F.3d 566 (6th Cir. 2004) *and* *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011).

<sup>20</sup> *See, e.g.*, *Heller v. Columbia Edgewater Country Club*, 195 F. Supp. 2d 1212, 1224 (D. Or. 2002) *and* *Terveer v. Billington*, 2014 WL 1280301 (D.D.C. Mar. 31, 2014).

<sup>21</sup> As an administrative body, the EEOC is not part of the judiciary. EEOC decisions are not binding on the federal courts, but they are generally given deference.

<sup>22</sup> *Macy v. Holder*, EEOC Appeal No. 0120120821, 2012 WL 1435995 (April 20, 2012).

<sup>23</sup> *Baldwin v. Foxx*, EEOC Appeal No. 0120133080 (July 15 2015).

<sup>24</sup> *Dear Colleague Letter: Harassment and Bullying*, U.S. Department Of Education, 8 (October 26, 2010), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Questions and Answers on Title IX and Sexual Violence*, U.S. Department Of Education, 5 (April 29, 2014), <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> (noting that the Office for Civil Rights “accepts such claims for investigation”).

<sup>27</sup> *Questions and Answers on Title IX and Single-Sex Elementary and Secondary Classes and Extracurricular Activities*, U.S. Department Of Education, (December 25, 2014), <http://www2.ed.gov/about/offices/list/ocr/docs/faqs-title-ix-single-sex-201412.pdf>.

<sup>28</sup> Brief for the United States as Amici Curiae Supporting Appellant, *G.G. v. Gloucester County School Board*, No. 15-2056, 13-14 (4th Cir. Oct. 28, 2015) (internal citations omitted).

<sup>29</sup> 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, No. 09-12-1020 (August 24, 2013), *available at* <http://www.justice.gov/sites/default/files/crt/legacy/2013/07/26/arcadiaagree.pdf>. *See also* Resolution Agreement of the Downey Unified School District, No. 09-12-1095, (Oct. 8, 2014), *available at* <http://www2.ed.gov/documents/press-releases/downey-school-district-agreement.pdf>.

<sup>30</sup> *See, e.g.*, Department of Justice Case Summaries, *available at* <http://www.justice.gov/crt/case-summaries> (last visited Nov. 18, 2015) for other agreements.

<sup>31</sup> *Two Former Basketball Players Sue Pepperdine*, The Los Angeles Times (December 17, 2014), <http://documents.latimes.com/two-former-basketball-players-sue-pepperdine/>.

<sup>32</sup> 20 USC § 1681(a)(3); and see 34 CFR § 106.12(b).

<sup>33</sup> *Religious Exemption*, Department of Education, Office for Civil Rights, <http://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/rel-exempt-pr.html> (last visited Dec. 12, 2015).

<sup>34</sup> Letter from William Jessup University to the Office for Civil Rights, Department of Education (April 28, 2015) (on file with authors).

<sup>35</sup> Letter from Lancaster Bible College to the Office for Civil Rights, Department of Education (June 1, 2015) (on file with authors).

<sup>36</sup> *Religious Exemption*, Department of Education, Office for Civil Rights, <http://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/rel-exempt-pr.html> (last visited Dec. 12, 2015).

<sup>37</sup> Lorelei Laird, *Transgender Student and Baptist College Both Claim Victory in Lawsuit Over Expulsion*, ABA Journal, (Jul 14, 2014, 9:12 PM), [http://www.abajournal.com/mobile/article/transgender\\_student\\_baptist\\_college](http://www.abajournal.com/mobile/article/transgender_student_baptist_college).

<sup>38</sup> Cal. Civ. Code §§ 43-53.7, *available at* <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=00001->

[01000&file=43-53.7](#).

<sup>39</sup> Cabading v. Cal. Baptist Univ., RIC1302 (Riverside Super. Ct., filed Feb. 25, 2013).

<sup>40</sup> Bogan v. Baskin, 135 S. Ct. 316, *denying cert. to* 766 F.3d 648 (7th Cir. 2014) (Indiana); Walker v. Wolf, 135 S. Ct. 316, *denying cert. sub nom. to* Baskin v. Bogan, 766 F.3d 648 (7th Cir. 2014) (Wisconsin); Schaefer v. Bostic, 135 S. Ct. 308, *denying cert. to* 760 F.3d 352 (4th Cir. 2014) (Virginia); McQuigg v. Bostic, 135 S. Ct. 314, *denying cert. sub nom. to* Bostic v. Schaefer, 760 F.3d 352 (4th Cir. 2014) (Virginia); Rainey v. Bostic, 135 S. Ct. 286, *denying cert. sub nom. to* Bostic v. Schaefer, 760 F.3d 352 (4th Cir. 2014) (Virginia); Smith v. Bishop, 135 S. Ct. 271, *denying cert. to* 760 F.3d 1070 (10th Cir. 2014) (Oklahoma); Herbert v. Kitchen, 135 S. Ct. 265, *denying cert. to* 755 F.3d 1193 (10th Cir. 2014) (Utah).

<sup>41</sup> Letter from the Office for Civil Rights, Department of Education to Maranatha Baptist Bible College (June 19, 2013).

<sup>42</sup> See 34 C.F.R. § 106.

<sup>43</sup> Thom S. Rainer, *The 15 Largest Protestant Denominations in the United States*, The Christian Post, (March 27, 2013), <http://www.christianpost.com/news/the-15-largest-protestant-denominations-in-the-united-states-92731/>.

<sup>44</sup> *On Transgender Identity*, Southern Baptist Convention, <http://www.sbc.net/resolutions/2250/on-transgender-identity> (last visited Dec. 17, 2015).

<sup>45</sup> *The 2000 Baptist Faith and Message*, Southern Baptist Convention, <http://www.sbc.net/bfm2000/bfm2000.asp> (last visited Dec. 9, 2015).

<sup>46</sup> *Students Physical Privacy Policy*, Alliance Defending Freedom, <http://www.adfmedia.org/files/StudentPhysicalPrivacyPolicy.pdf> (last visited Dec. 12, 2015).

<sup>47</sup> *SCU Lifestyle Covenant*, Southwestern Christian University, [http://swcu.edu/Websites/swcu/images/forms/SCU\\_Lifestyle\\_Covenant.pdf](http://swcu.edu/Websites/swcu/images/forms/SCU_Lifestyle_Covenant.pdf) (last visited Dec 16, 2015).

<sup>48</sup> Greg Horton, *Student Who Married Same-sex Partner Expelled from Southwestern Christian University*, The Washington Post (July 11, 2014).

<sup>49</sup> 34 CFR § 668.43.

<sup>50</sup> 34 CFR § 668.41(d)(1).

<sup>51</sup> 34 CFR § 668.41(g).

<sup>52</sup> 34 CFR § 668.46 (c).

<sup>53</sup> 34 CFR § 668.46 (b).

<sup>54</sup> *LGBTQ Unfriendly*, The Princeton Review, <http://www.princetonreview.com/college-rankings?rankings=lgbtq-unfriendly> (last visited Dec. 16, 2015).

<sup>55</sup> Samantha Watkins, *Christian College Allows LGBT Group But Won't Let Gay Student Lead It*, The College Fix, (May 12, 2015), <http://www.thecollegefix.com/post/22439/>.

<sup>56</sup> 20 U.S.C. § 3413.

<sup>57</sup> Allie Grasgreen, *Expelled for Sexuality, and Sent a Bill, Inside Higher Ed*, (June 13, 2013), <https://www.insidehighered.com/news/2013/06/13/student-expelled-being-gay-and-charged-6000-back-tuition-protests-online-petition>.

## APPENDIX A: METHODOLOGY

The Human Rights Campaign (HRC) sought access to records regarding Title IX exemptions through the federal Freedom of Information Act (FOIA). Under FOIA, the public can obtain copies of federal agency records – such as letters and emails – that are sent or received by the agency. In September 2014, HRC requested all communications between the Department of Education and schools requesting a Title IX religious exemption, including the original requests as well as information on whether the agency granted or denied the requests. HRC has since submitted six additional FOIA requests; four of those requests have been fulfilled to date. Materials sent to HRC in accordance with the FOIA requests have been incomplete. For example, HRC received several letters granting an exemption without being sent the original requests even though the original request fell within the scope of HRC's FOIA request. Additional schools may have requested or received exemptions from the Department of Education that were not disclosed by the agency.

The majority of the data is derived from the request letters from the schools to the Department of Education and the granting letters from the Department of Education to the schools. In addition, HRC relied upon data provided by the Department of Education regarding pending requests that did not include request letters. The records obtained by HRC span from January 2009 through December 2015. A FOIA request for documents dating back to the passage of Title IX is still pending. Letters sent from the Department of Education to individual schools granting Title IX exemptions can be viewed in Appendix D.

For the purposes of tabulation, HRC did not include two exemptions granted to schools that specifically did not include sexual orientation and/or gender identity in their requests.

HRC will continue to submit FOIA requests to the Department of Education on a regular basis. This report will be updated upon receipt of new information at least twice per calendar year.

## APPENDIX B: OPTIONS FOR STUDENTS WHO HAVE EXPERIENCED DISCRIMINATION

If you believe that you or your child are the victim of discrimination based on actual or perceived sexual orientation or gender identity, you have alternatives for recourse.

### 1. Department of Education Office for Civil Rights

The Department of Education is responsible for enforcing several civil rights laws, including Title IX. If you believe that you or your child are the victim of discrimination at school based on gender identity, gender nonconformity, sexual orientation, or sex-stereotypes, you can file a complaint online at the Office for Civil Rights' website at <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>. You do not need a lawyer to file a complaint with the agency. Alternatively, you can file a complaint in federal court. Additional guidance can be found at <http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

### 2. State Anti-Discrimination Laws

Fourteen states and the District of Columbia explicitly address discrimination against students based on sexual orientation and gender identity: California, Colorado, Connecticut, Illinois, Iowa, Maine, Massachusetts, Minnesota, Nevada, New Jersey, New York, Oregon, Vermont, and Washington. Wisconsin explicitly prohibits discrimination in education only on the basis of sexual orientation. If you believe that you or your child are the victim of discrimination based on sexual orientation or gender identity in one of the above states, you may file a complaint with the state's human rights agency. Please note that the name of the responsible agency varies from state to state as do timelines for filing a complaint.

## APPENDIX C: TABLE OF SCHOOLS REQUESTING EXEMPTIONS AND SCOPE OF EXEMPTIONS

University	State	Date Requested	Date Granted	Affiliation
<b>American Indian College</b>	Arizona	10/07/15		Pentacostal
<b>Anderson University</b>	South Carolina	01/07/15	02/11/15	Southern Baptist
<b>Asbury University</b>	Kentucky	01/07/15		Wesleyan
<b>Baptist College of Florida</b>	Florida	12/04/14	12/22/14	Southern Baptist
<b>Belmont Abbey College</b>	North Carolina	01/16/15	02/11/15	Catholic
<b>Bethel College</b>	Indiana	05/01/15	07/29/15	Missionary Church
<b>Biola University</b>	California	11/14/14		
<b>Blue Mountain College</b>	Mississippi	08/12/15	10/26/15	Southern Baptist
<b>Carson-Newman University</b>	Tennessee	05/01/15		Southern Baptist
<b>Charleston Southern University</b>	South Carolina	12/08/14	02/11/15	Southern Baptist
<b>Colorado Christian University</b>	Colorado	11/04/14		
<b>Covenant College</b>	Georgia	05/28/15	07/29/15	Presbyterian
<b>Criswell College</b>	Texas	10/13/15		Southern Baptist
<b>Dordt College</b>	Iowa	10/1/15		Christian Reformed Church
<b>East Texas Baptist University</b>	Texas	02/27/15	05/04/15	Southern Baptist
<b>Franciscan University of Steubenville</b>	Ohio	08/27/14	10/22/14	Catholic
<b>Freed-Hardeman University</b>	Tennessee	07/15/15		Churches of Christ
<b>Fresno Pacific University</b>	California	06/02/15	10/13/15	Mennonite Brethren
<b>George Fox University</b>	Oregon	03/31/14	05/23/14	Quaker
<b>Hannibal-LaGrange University</b>	Missouri	08/27/15	10/30/15	Southern Baptist
<b>Hardin-Simmons University</b>	Texas	10/05/15		Baptist
<b>Howard Payne University</b>	Texas	03/25/15	04/24/15	Southern Baptist
<b>John Paul the Great Catholic University</b>	California	08/25/15		Catholic
<b>Judson College</b>	Alabama	02/17/15	04/29/15	Southern Baptist
<b>LABI College</b>	California	09/15/15		Assemblies of God
<b>Lancaster Bible College</b>	Pennsylvania	06/01/15		
<b>Liberty University</b>	Virginia	01/16/14	04/22/14	Baptist
<b>Louisiana College</b>	Louisiana	07/17/15	07/31/15	Southern Baptist
<b>Maranatha Baptist Bible College</b>	Wisconsin	02/29/12	06/19/13	Baptist

<b>University</b>	<b>State</b>	<b>Date Requested</b>	<b>Date Granted</b>	<b>Affiliation</b>
<b>Mississippi College</b>	Mississippi	09/11/15	10/13/15	Southern Baptist
<b>Missouri Baptist University</b>	Missouri	06/18/15		Baptist
<b>Multnomah University</b>	Oregon	02/11/15		Protestant
<b>North Greenville University</b>	South Carolina	02/09/15	05/04/15	Southern Baptist
<b>Northpoint Bible College</b>	Massachusetts	10/06/15		Pentacostal
<b>Northwest Nazarene University</b>	Idaho	07/29/14	08/18/14	Wesleyan
<b>Ohio Christian University</b>	Ohio	05/14/15		Wesleyan
<b>Oklahoma Baptist University</b>	Oklahoma	11/24/15	12/16/14	Southern Baptist
<b>Oklahoma Christian University</b>	Oklahoma	09/25/14	10/22/14	Churches of Christ
<b>Oklahoma Wesleyan University</b>	Oklahoma	11/14/14	12/22/14	Wesleyan
<b>Ozark Christian College</b>	Missouri	11/16/15		
<b>Simpson University</b>	California	10/07/13	05/23/14	Christian and Missionary Alliance
<b>Southeastern University</b>	Florida	10/26/15		Assemblies of God
<b>Southern Nazarene University</b>	Oklahoma	11/12/15		Wesleyan
<b>Southern Wesleyan University</b>	South Carolina	01/20/15	03/24/15	Wesleyan
<b>Southwest Baptist University</b>	Missouri	07/08/15	07/29/15	Southern Baptist
<b>Spring Arbor University</b>	Michigan	06/02/14	06/27/14	Methodist
<b>St. Gregory University</b>	Oklahoma	03/03/15	03/24/15	Catholic
<b>Tabor College</b>	Kansas	12/03/14	01/08/15	Mennonite Brethren
<b>Toccoa Falls College</b>	Georgia	07/08/15	07/31/15	Christian and Missionary Alliance
<b>Trinity Bible College</b>	North Dakota	10/18/15		Assemblies of God
<b>Union University</b>	Tennessee	01/19/15	03/24/15	Baptist
<b>University of Dallas</b>	Texas	07/23/15		Catholic
<b>University of Mary Hardin-Baylor</b>	Texas	01/29/15	03/24/15	Southern Baptist
<b>University of Mobile</b>	Alabama	03/18/15	05/04/15	Southern Baptist
<b>University of the Cumberlands</b>	Kentucky	01/19/15	03/24/15	Southern Baptist
<b>William Carey University</b>	Mississippi	03/06/15		Southern Baptist
<b>William Jessup University</b>	California	04/28/15		
<b>Williams Baptist College</b>	Arkansas	11/17/14	12/22/14	Southern Baptist



**SEXUAL ORIENTATION: GRANTED EXEMPTIONS OF INTEREST**

University	State	Date Requested	Date Granted	Affiliation	Admissions	Housing	Facilities	Athletics	Rules of Behavior/Sanctions	Employment	Recruitment of Students	Counseling	Financial Assistance	Health Insurance
Anderson University	South Carolina	01/07/15	02/11/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
Baptist College of Florida	Florida	12/04/14	12/22/14	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
Bethel College	Indiana	05/01/15	07/29/15	Missionary Church	✓	✓	✓	✓	✓	✓				
Blue Mountain College	Mississippi	08/12/15	10/26/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓		✓	
Charleston Southern University	South Carolina	12/08/14	02/11/15	Southern Baptist	✓	✓	✓	✓	✓	✓				
Covenant College	Georgia	05/28/15	07/29/15	Presbyterian	✓	✓	✓	✓		✓	✓	✓	✓	✓
East Texas Baptist University	Texas	02/27/15	05/04/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
Hannibal-LaGrange University	Missouri	08/27/15	10/30/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓		✓	
Howard Payne University	Texas	03/25/15	04/24/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
Judson College	Alabama	02/17/15	04/29/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
Louisiana College	Louisiana	07/17/15	07/31/15	Southern Baptist	✓	✓	✓	✓	✓	✓				
Mississippi College	Mississippi	09/11/15	10/13/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓		✓	
North Greenville University	South Carolina	02/09/15	05/04/15	Southern Baptist	✓	✓	✓	✓	✓	✓				
Oklahoma Baptist University	Oklahoma	11/24/15	12/16/14	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
Oklahoma Christian University	Oklahoma	09/25/14	10/22/14	Churches of Christ	✓	✓	✓	✓		✓			✓	✓
Southwest Baptist University	Missouri	07/08/15	07/29/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓		✓	
Spring Arbor University	Michigan	06/02/14	06/27/14	Methodist		✓	✓	✓	✓	✓				
Toccoa Falls College	Georgia	07/08/15	07/31/15	Christian and Missionary Alliance	✓	✓	✓	✓		✓	✓			
Union University	Tennessee	01/19/15	03/24/15	Baptist	✓	✓	✓	✓	✓	✓	✓			
University of Mary Hardin-Baylor	Texas	01/29/15	03/24/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
University of Mobile	Alabama	03/18/15	05/04/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
University of the Cumberlands	Kentucky	01/19/15	03/24/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
Williams Baptist College	Arkansas	11/17/14	12/22/14	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			

**GENDER IDENTITY: GRANTED EXEMPTIONS OF INTEREST**

University	State	Date Requested	Date Granted	Affiliation	Admissions	Housing	Facilities	Athletics	Rules of Behavior/Sanctions	Employment	Recruitment of Students	Counseling	Financial Assistance	Health Insurance
Anderson University	South Carolina	01/07/15	02/11/15	Southern Baptist				✓	✓	✓	✓			
Baptist College of Florida	Florida	12/04/14	12/22/14	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
Belmont Abbey College	North Carolina	01/16/15	02/11/15	Catholic	✓	✓	✓	✓	✓	✓	✓			
Bethel College	Indiana	05/01/15	07/29/15	Missionary Church	✓	✓	✓	✓	✓	✓				
Blue Mountain College	Mississippi	08/12/15	10/26/15	Southern Baptist	✓	✓	✓	✓	✓	✓				
Charleston Southern University	South Carolina	12/08/14	02/11/15	Southern Baptist	✓	✓	✓	✓		✓	✓	✓	✓	✓
Covenant College	Georgia	05/28/15	07/29/15	Presbyterian	✓	✓	✓	✓	✓	✓	✓			
East Texas Baptist University	Texas	02/27/15	05/04/15	Southern Baptist	✓	✓	✓	✓						
Franciscan University of Steubenville	Ohio	08/27/14	10/22/14	Catholic		✓	✓	✓		✓	✓	✓	✓	✓
Fresno Pacific University	California	06/02/15	10/13/15	Mennonite Brethren	✓	✓	✓	✓						
George Fox University	Oregon	03/31/14	05/23/14	Quaker		✓		✓	✓	✓	✓			
Hannibal-LaGrange University	Missouri	08/27/15	10/30/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			
Howard Payne University	Texas	03/25/15	04/24/15	Southern Baptist	✓	✓	✓	✓	✓	✓				
Judson College	Alabama	02/17/15	04/29/15	Southern Baptist	✓	✓	✓	✓	✓	✓				
Louisiana College	Louisiana	07/17/15	07/31/15	Southern Baptist	✓	✓	✓	✓	✓					
Mississippi College	Mississippi	09/11/15	10/13/15	Southern Baptist		✓	✓	✓	✓	✓	✓			
North Greenville University	South Carolina	02/09/15	05/04/15	Southern Baptist	✓	✓	✓	✓		✓			✓	✓
Northwest Nazarene University	Idaho	07/29/14	08/18/14	Wesleyan	✓	✓	✓	✓		✓	✓	✓	✓	✓
Oklahoma Baptist University	Oklahoma	11/24/15	12/16/14	Southern Baptist	✓	✓		✓	✓					
Oklahoma Christian University	Oklahoma	09/25/14	10/22/14	Churches of Christ		✓	✓	✓		✓	✓	✓	✓	✓
Oklahoma Wesleyan University	Oklahoma	11/14/14	12/22/14	Wesleyan	✓	✓	✓	✓	✓	✓	✓		✓	
Simpson University	California	10/07/13	05/23/14	Christian and Missionary Alliance	✓	✓	✓	✓	✓	✓				
Southern Wesleyan University	South Carolina	01/20/15	03/24/15	Wesleyan		✓	✓	✓		✓	✓	✓	✓	✓
Southwest Baptist University	Missouri	07/08/15	07/29/15	Southern Baptist	✓	✓	✓	✓						
Spring Arbor University	Michigan	06/02/14	06/27/14	Methodist		✓	✓	✓		✓	✓			
St. Gregory University	Oklahoma	03/03/15	03/24/15	Catholic	✓	✓	✓	✓	✓	✓	✓			
Tabor College	Kansas	12/03/14	01/08/15	Mennonite Brethren	✓	✓	✓	✓	✓	✓	✓			
Toccoa Falls College	Georgia	07/08/15	07/31/15	Christian and Missionary Alliance	✓	✓	✓	✓	✓	✓	✓			
Union University	Tennessee	01/19/15	03/24/15	Baptist	✓	✓	✓	✓	✓	✓	✓			
University of Mary Hardin-Baylor	Texas	01/29/15	03/24/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓		✓	
University of Mobile	Alabama	03/18/15	05/04/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓		✓	
University of the Cumberlands	Kentucky	01/19/15	03/24/15	Southern Baptist	✓	✓	✓	✓	✓	✓	✓		✓	
Williams Baptist College	Arkansas	11/17/14	12/22/14	Southern Baptist	✓	✓	✓	✓	✓	✓	✓			

## APPENDIX D: LETTERS FROM THE DEPARTMENT OF EDUCATION GRANTING AN EXEMPTION



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

February 11, 2015

Evans P. Whitaker, Ph.D.  
 President  
 Anderson University  
 316 Boulevard  
 Anderson, South Carolina 29621

Dear President Whitaker:

The purpose of this letter is to respond to your January 7, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Anderson University (University) of Anderson, South Carolina. 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 and/or regulation that conflict with those tenets.

Your request explained that the University is controlled by the South Carolina Baptist Convention (Convention), which is a "Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of South Carolina." Your letter enclosed a copy of the University's Articles of Incorporation and Bylaws. The Articles of Incorporation state that the University's board of directors "shall be appointed by South Carolina Baptist Convention in session."

Your letter requests a religious exemption from provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion." In support of this request, you cite to The Baptist Faith and Message 2000, a statement of faith adopted by the Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that marriage is between one man and one woman and serves as the means for procreation, that God created people in male and female form, and that the "gift of gender is thus part of the goodness of God's creation." You further cite the Convention's belief that one should "speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death."

You explain that it would not be consistent with the Convention's religious tenets for the University to comply with Title IX to the extent that it prohibits the University from "engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy and abortion; ... from subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics; [or] from making all employment decisions... in a

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Evans P. Whitaker – page 2

manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent that they prohibit discrimination based on marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy or abortion:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,



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



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

December 22, 2014

Thomas A. Kinchen  
President  
The Baptist College of Florida  
5400 College Drive  
Graceville, FL 32440-1898

Dear President Kinchen:

The purpose of this letter is to respond to your December 4, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for The Baptist College of Florida (College) of Graceville, Florida. 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 and/or regulation that conflict with those tenets.

Your request explained that the College "is subject to the direction and control of a religious organization. That organization is the Florida Baptist Convention." Your letter enclosed a copy of the College's Charter and Bylaws. Article II of the College's Charter states that the College's purpose is to be a "religious, educational, benevolent, and charitable body, medium, institution, trustee and agency, serving and doing the will of the Florida Baptist Convention in the matter of its operating, conducting, and managing The Baptist College of Florida, Inc., for and on its behalf, and in holding in trust the assets and properties of The Baptist College of Florida, Inc., for its use, maintenance and operation in accordance with the instruction, direction and authorization of the Florida Baptist Convention." Your request further explained that "[p]ursuant to the College's Charter and Bylaws, the Florida Baptist Convention controls the

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Thomas A. Kinchen -- page 2

[College] in part by exercising its right to select the entire elected membership of the board of directors of the College, the governing body of the College.”

Your letter requests a religious exemption from provisions of Title IX “to the extent application of those provisions would not be consistent with the Convention’s religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion.” In support of this request, you cite to The Baptist Faith and Message 2000, the most recent statement of faith adopted by the Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that marriage is between one man and one woman and serves as the means for procreation, that God made man in male and female form, and that the “gift of gender is thus part of the goodness of God’s creation.” You further cite the Convention’s belief that one should “speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death.”

You explain that it would not be consistent with the Convention’s religious tenets for the College to comply with Title IX to the extent that it prohibits the College from “engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission’s sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy and abortion; ... from subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics; [or] from making employment decisions... in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions to the extent that they prohibit discrimination based on marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy or abortion:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);

Thomas A. Kinchen – page 3

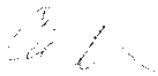
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,



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

February 11, 2015

William K. Thierfelder  
 President  
 Belmont Abbey College  
 100 Belmont-Mt. Holly Road  
 Belmont, NC 28012

Dear President Thierfelder:

The purpose of this letter is to respond to your January 16, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Belmont Abbey College (College) of Belmont, North Carolina. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

The Department's 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 and/or regulation that conflict with those tenets.

Your request explains that the College is owned by and affiliated with the Southern Benedictine Society of North Carolina, Inc., the members of which are Benedictine Monks. Your letter further explains that "[t]he Monks founded the college on the basis of, and as an expression of, their Catholic faith" and that "the Monks and the College also believe that the Church was founded by Jesus Christ and given authority by him to interpret the Word of God and to teach with binding authority on questions of faith and morals."

Your letter requests a religious exemption from provisions of Title IX to the extent that it prohibits discrimination based on gender identity. In support of this request, you cite Biblical passages that reflect the College's and Monks' belief "that human beings, fashioned by God in His own image and likeness, are thus created male and female (Genesis 1:27)" and that "heterosexual creation of human beings expresses God's creative intention (Matthew 19:4)." Your letter further explains that, because of these religious tenets, the College does not "support or affirm the resolution of tension between one's biological sex and the experience of gender by the adoption of psychological identity discordant with one's birth sex, nor attempts to change one's birth sex by surgical intervention, nor conduct or dress consistent with an identity other than one's biological birth sex."

Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that the College would not be able to make similar accommodations consistent with its Catholic beliefs. Instead, your letter explains that the College will "make institutional decisions... regarding housing, student admission and retention.

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William K. Thierfelder – page 2

appropriate conduct, employment, hiring and retention, and other matters” consistent with the tenets of the Southern Benedictine Society of North Carolina.

We interpret these statements as a request for exemption from the following provisions in the Department’s Title IX regulations to the extent that they prohibit discrimination based on gender identity:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 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. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The College 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 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,



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



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OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

July 29, 2015

Dr. Gregg Chenoweth  
President  
Bethel College  
1001 Bethel Circle  
Mishawaka, IN 46545

Dear Dr. Chenoweth:

I write to respond to your May 1, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Bethel College (College) of Mishawaka, Indiana, 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 request explained that the College "is a private, Christian evangelical College" that was "established in 1947, as a Christian liberal arts college by the Missionary Church." According to your letter, the College's Articles of Incorporation require "that the controlling majority of the Trustees governing the College must be members in good standing of the Missionary Church" and the Bylaws of the College require "that the President of the Missionary Church shall be an ex-officio member of the Board. In addition, the President of Bethel College is an ex officio member of the denominational Board of Trustees." Your letter explains that most of the tenets of the Missionary Church are codified in the Missionary Church Constitution (Constitution). The College uses the Constitution "as a reference for behavioral and doctrinal standards expected of the College, its students, faculty, and other employees...and follows Biblical principles in its policies and practices applicable to Christian education, and to its students and employees." You

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Dr. Gregg Chenoweth – page 2

further state that students “are required to attend chapel regularly” and that “The Covenant of Lifestyle requires students and employees to follow the Code of Conduct established by the College,” which “incorporated the Christian standards of behavior directed by Biblical principles and the tenets of the Missionary Church.”

Your letter requests a religious exemption from the provisions of Title IX to the extent those provisions “would require the College to allow males and females to reside in the same housing, to visit within the housing of the opposite sex without restrictions, to allow an unmarried male and female to live together, or to allow a person with gender identity issues to be treated as a member of the sex which they have assigned to themselves...” or “would require that the College not discriminate in discipline, admissions, hiring, and employment decisions, in matters such as employment leaves for pregnancy, childbirth, and elective termination of pregnancy, or on the basis of pre-marital sex, unmarried pregnancy, extra-marital sex, or homosexual activity.” In support of this request, you cite to the Constitution and Biblical principles that state “that God created two sexes, male and female; that marriage is between one man and one woman; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and therefore prohibited.” Your letter further explains that it is the position of the College, “based upon its religious beliefs taken from Biblical principles and the Doctrine of the Missionary Church, that a person cannot change his or her birth sex.” Finally, you state that the “College’s Christian religious beliefs, which are based upon the Bible and the tenets of the Missionary Church, also prohibit elective abortion, pre-marital sex, extra-marital sex, and homosexual behavior for students and employees.”

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions “so that the College may discriminate on religious grounds in regard to its students and employees, in keeping with its religious beliefs and the tenets of the Missionary Church:”

- 34 C.F.R. § 106.21(b)(iii) (governing admission);
- 34 C.F.R. § 106.21(c) (governing admission);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51(a) (governing employment);
- 34 C.F.R. § 106.51(b)(6) (governing employment); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

Dr. Gregg Chenoweth – page 3

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,

(b)(6)

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



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, DC 20202

December 22, 2014

Barry H. Corey  
President  
Biola University  
13800 Biola Avenue  
La Mirada, CA 90639

Dear President Corey:

The purpose of this letter is to respond to your November 14, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Biola University of La Mirada, California from Title IX of the Education Amendments of 1972. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. We are processing your request and have determined that we need further information.

Subsection (a)(3) of Title IX, 20 U.S.C. § 1681(a)(3), and the Department's implementing regulation at 34 C.F.R. § 106.12 provide that Title IX and its regulations do not apply to an educational institution controlled by a religious organization to the extent that application of Title IX would not be consistent with the controlling organization's religious tenets. Such educational institutions are allowed to claim an exemption from Title IX by identifying the provisions of the Department's Title IX regulations that conflict with a specific tenet of the controlling religious organization.

Your letter included sufficient information regarding the provisions of the Department's Title IX regulations from which the University requests exemption. But your letter did not identify the religious organization that controls the University. Your letter describes the University as "a Christian evangelical institution," but does not name a specific religious organization. An educational institution will normally be considered to be controlled by a religious organization under Title IX if one or more of the following conditions prevail:

- (1) It is a school or department of divinity, defined as an institution or a department or branch of an institution whose program is specifically for the education of

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Letter to President Corey – page 2

- students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects; or
- (2) It requires its faculty, students or employees to be members of, or otherwise espouse a personal belief in, the religion of the organization by which it claims to be controlled; or
  - (3) Its charter and catalog, or other official publication, contains an explicit statement that it is controlled by a religious organization or an organ thereof or is committed to the doctrines of a particular religion, and the members of its governing body are appointed by the controlling religious organization or an organ thereof, and it receives a significant amount of financial support from the controlling religious organization or an organ thereof.

If you would like OCR to make a determination regarding the University's religious exemption request, please let us know the specific religious organization that controls the University. Feel free to provide any explanation or supporting documentation that may be helpful to OCR's understanding. If you no longer desire a religious exemption determination, please simply let us know your wish to withdraw the request at this time so that we may close the request file.

Thank you for your cooperation. If you have any questions, please do not hesitate to contact me. I can be reached at (202) 453-6048.

Sincerely,



Seth Galanter  
Principal Deputy Assistant Secretary  
Office for Civil Rights  
U.S. Department of Education



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OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

October 26, 2015

Dr. Barbara C. McMillin  
President  
Blue Mountain College  
P.O. Box 160  
Blue Mountain, MS 38610

Dear Dr. McMillin:

I write to respond to your August 12, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Blue Mountain College (College) of Blue Mountain, Mississippi 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 request explains that the College, "a Southern Baptist institution of higher education," "is controlled by a religious organization. That organization is the Mississippi Baptist Convention . . . whose constituency is the cooperating Southern Baptist churches of Mississippi." Your letter states that "[p]ursuant to the College's Charter, the Mississippi Baptist Convention controls the College by electing the College's board of trustees."

Your letter requests a religious exemption from the provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, and gender identity." In support of this request, you cite to the Word of God, which your letter states is the Convention's religious authority. According to your letter, the Word of God teaches that marriage is between one man and one woman and serves as the means for procreation. You letter further states that the Convention has declared that "God's design was the creation of two distinct and

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Dr. Barbara C. McMillin – page 2

complementary sexes, male and female.”

You explain that it would not be consistent with the Convention’s religious tenets for the College to comply with Title IX to the extent that it prohibits the College from “engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission’s sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, and sex outside marriage[; . . . from] subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[; or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, and gender identity in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.37 (governing financial assistance);
- 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. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, or 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



Dr. Barbara C. McMillin – page 3

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 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,



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

February 11, 2015

Jairy C. Hunter, Jr.  
 President  
 Charleston Southern University  
 9200 University Boulevard  
 P.O. Box 118087  
 Charleston, SC 29423-8087

Dear President Hunter:

The purpose of this letter is to respond to your December 8, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Charleston Southern University (University) of Charleston, South Carolina. 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 and/or regulation that conflict with those tenets.

Your request explained that the University "is governed and controlled by its Board of Trustees, which consists of twenty-five members who are elected by the South Carolina Baptist Convention." Your letter enclosed a copy of the University's Bylaws. Article II of those Bylaws state that one of the objectives of the institution is to "[o]perate a Baptist, liberal arts university."

Your letter requests a religious exemption from certain provisions of Title IX to the extent that application of those provisions would not be consistent with the South Carolina Baptist Convention's religious tenets. In support of this request, your letter cites several religious tenets that conflict with the application of the Title IX regulations listed below. Specifically, your letter explains that the University, consistent with the Southern Baptist Convention's<sup>1</sup> statement on transgender individuals, "affirms that a person cannot change his/her birth gender and so must be treated as such; rather than a self-identified gender, which would be inconsistent with the University's religious beliefs." Additionally, your letter states that the University views "all forms of sexual intimacy that occur outside the covenant of heterosexual marriage, even when consensual" as inconsistent with the tenets of the Southern Baptist Convention and that the "University's religious beliefs prohibit pre-marital sex and elective abortion." You state that, for these reasons, application of certain provisions in Title IX "would be inconsistent with the religious beliefs and practices of the South Carolina Baptist Convention and Charleston Southern University."

<sup>1</sup> Your letter explains that the University is affiliated with the Southern Baptist Convention via its controlling organization, the South Carolina Baptist Convention.

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Jairy C. Hunter, Jr. – page 2

Your letter requests a religious exemption from the following provisions of Title IX to the extent that compliance would conflict with the South Carolina Baptist Convention's religious tenets:

- 34 C.F.R. § 106.21(b)(iii) and (c) (governing admission);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51(a) and (b)(6) (governing employment); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,



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

July 29, 2015

Dr. J. Derek Halvorson  
President  
Covenant College  
14049 Scenic Highway  
Lookout Mountain, GA 30750

Dear Dr. Halvorson:

I write to respond to your May 28, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Covenant College (College) of Lookout Mountain, Georgia, 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 request explained that the College "was founded in 1955 as a Christ-centered institution of higher education, emphasizing liberal arts. It is an agency of the Presbyterian Church in America (PCA) and is governed by a Board of Trustees elected by the General Assembly of the Presbyterian Church of America." Your request explains that "[t]he Presbyterian Church in America and Covenant College—as one of its agencies—understand the Bible to be the infallible written Word of God...[and] both the Denomination and the College affirm that the Westminster Confession of Faith and the Westminster Larger and Shorter Catechisms provide the most adequate and comprehensive expression of the system of doctrine taught in the Bible."

Your letter requests a religious exemption from the provisions of Title IX and its accompanying regulations "to the extent that they are interpreted to curtail the College's freedom to respond to transgender individuals in accordance with its theologically-grounded convictions." In support of this request you cite to the College's Statement on Sexual Identity and Conduct (Statement), which you assert is consistent with the Westminster Confession of Faith and the Westminster Larger and Shorter Catechisms. The Statement provides that "[t]he creation of human beings

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Dr. J. Derek Halvorson – page 2

was a special creative act of God. God created human beings, male and female...As such, students are not to adopt a gender identity different from one gifted them by their Creator. This gendered ordering of creation is to be accepted, honored, and reflected in sexual intimacy.”

Your request also notes that “the EEOC has begun openly 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.’ It is conceivable that the Department of Education’s Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way.” Your letter states “[t]o 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 Covenant College. The College, therefore, also seeks exemption on this basis.” In support of this request, you cite the following language from the Presbyterian Church of America’s Fifth General Assembly in 1977: “The act of homosexuality is a sin according to God’s Word;...In light of the Biblical view of its sinfulness, a practicing homosexual continuing in this sin would not be a fit candidate for ordination or membership in the Presbyterian Church in America.”

Finally you request an exemption from Title IX to the extent that it restricts the College’s freedom to apply and enforce its Statement on Human Life. In support of this request, you cite to the Presbyterian Church of America’s Position Paper on Abortion which states, “the intentional killing of an unborn child is a violation of God’s command and authority” and the College’s Statement of Community Beliefs which, according to your letter, states that the College “strongly oppose[s] abortion since it devalues and destroys human life.”

You state that, for these reasons, the College is requesting an exemption from Title IX and the following implementing regulations “to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College’s freedom to apply and enforce its Statement on Human Life:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences 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 and use of appraisal and counseling materials);
- 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 different rules based on marital or parental status of students);

Dr. J. Derek Halvorson – page 3

- 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 College is exempt from these provisions to the extent that they prohibit discrimination based on gender identity, sexual orientation, or abortion 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 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,

(b)(6)

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

May 4, 2015

Lawrence Ressler, Ph.D.  
Interim President  
East Texas Baptist University  
1 Tiger Drive  
Marshall, TX 75670

Dear Dr. Ressler:

I write to respond to your February 27, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for East Texas Baptist University (University) of Marshall, Texas, 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 request explained that the University "is controlled by a religious organization. That organization is the Baptist General Convention of Texas." Your letter states that "[p]ursuant to the University's Certificate of Formation and Bylaws, the Baptist General Convention of Texas controls the University in part by exercising its right to select a majority of the membership of the board of directors of the University, the governing body of the University." Your letter sets forth the University's mission, which states in part that the University "is an institution affiliated with the Baptist General Convention of Texas since 1912."

Your letter requests a religious exemption from the provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion." In support of this request, you cite to *On Sexual Ethics*, a resolution adopted by the Convention in 2009. According to your letter, that resolution states that "the Bible teaches that the ideal for sexual behavior is the marital union between husband and wife and that all other sexual relations – whether premarital, extramarital, or homosexual – are contrary to God's purposes and thus sinful." You further cite the Convention's religious belief that "gender is based on biological attributes and is seen as a gift from God and immutable." Your letter states that the "Convention has declared on six occasions its religious beliefs opposing abortion." Finally, you cite to the Baptist Faith and Message, which, according to your letter, states that "[m]arriage is the uniting of one man and one woman."

You explain that it would not be consistent with the Convention's religious tenets for the University to comply with Title IX to the extent that it prohibits the University from "engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual

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Dr. Lawrence Ressler – page 2

orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion[; . . .] from subjecting students to rules of behavior, sanctions, or other treatment because of these student behaviors[; or from] making all employment decisions . . . in a manner which takes into consideration these employee behaviors.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy, and abortion in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,



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



Page 3 - Dr. Riley

Based on the above principle, ETBU has requested and is granted by this letter, exemption to:

34 C.F.R. § 106.21(c)	Admission; prohibitions relating to marital or parental status
34 C.F.R. § 106.31	Education programs and activities
34 C.F.R. § 106.34	Access to course offerings
34 C.F.R. § 106.36	Counseling and use of appraisal and counseling materials
34 C.F.R. § 106.37	Financial assistance
34 C.F.R. § 106.38	Employment assistance to students
34 C.F.R. § 106.40	Marital or parental status

This letter should not be construed to grant exemption to any section of the Title IX regulation not specifically mentioned. If OCR receives a complaint on these issues against ETBU, we will be obligated to determine initially whether the allegations fall within the exemptions granted. Also, in the unlikely event that a complaint alleges that the practices followed by ETBU are not based on the religious tenets of the controlling organization, OCR may be 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 ETBU, or if the organization denies that it controls ETBU, 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,



Jeanette J. Lim  
Acting Assistant Secretary  
for Civil Rights

Enclosures



U.S. DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

OCT 22 2014

Fr. Sean O. Sheridan  
President  
Franciscan University of Steubenville  
1235 University Blvd.  
Steubenville, OH 43952

Dear Fr. Sheridan:

The purpose of this letter is to respond to your August 27, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Franciscan University of Steubenville (University) of Steubenville, Ohio 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 educational institutions controlled by a religious organization to the extent application of Title IX would be inconsistent with the 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 and/or regulation that conflict with those tenets.

Your request explains that the University is a "Catholic co-educational institution of higher education" that is "owned and controlled by a religious organization of the Catholic faith," specifically the "Franciscan Friars of the Most Sacred Heart of Jesus."

Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that the requirements of that resolution agreement are "opposed to Franciscan University's Catholic mission and identity and to the tenets of the Catholic Church." Specifically, you cite to Catholic theology that asserts that "human beings are created male or female" and that the "tenets of the Catholic Church are violated by manipulating one's God-given sex or gender and/or by attempting to identify as the sex or gender opposite to one's God-given sex/gender."

You state that, for these reasons, the University seeks an exemption from Title IX to the extent that it is interpreted as it was in the OCR resolution agreement described above. We interpret

Continued

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Fr. Sean O. Sheridan – page 2

this statement as a request for exemption from provisions 34 C.F.R. §§ 106.32 (governing housing), 106.33 (governing comparable facilities such as restrooms and locker rooms), and 106.41 (governing athletics). The University is exempt from these provisions to the extent that they require a recipient to treat students consistent with their gender identity, but doing so 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 its implementing regulations 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 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,



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

October 13, 2015

Dr. Richard Kriegbaum  
President  
Fresno Pacific University  
1717 S. Chestnut Ave.  
Fresno, CA 93702

Dear Dr. Kriegbaum:

I write to respond to your June 2, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Fresno Pacific University (University) of Fresno, California. 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 and/or regulation that conflict with those tenets.

Your request stated that throughout its history, the University "has always maintained its sponsorship by the Conferences of Mennonite Brethren Churches, and now specifically the Pacific District Conference of Mennonite Brethren Churches." Your request also stated that the University "has always existed for the purpose of providing education consistent with the beliefs of the Mennonite Brethren denomination." Your letter explains that the University's Articles of Incorporation and Bylaws "provide that . . . persons who are elected and serve as delegates to the Convention of the Pacific District Conference of Mennonite Brethren Churches . . . shall have the authority to elect sixty percent (60%) of the voting members of the Board of Trustees of Fresno Pacific University." Your letter further notes that the University's Bylaws "state that the Confession of Faith of the Pacific District Conference of Mennonite Brethren Churches shall be the Confession of Faith of Fresno Pacific University and that no amendment to the Articles of

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Dr. Richard Kriegbaum – page 2

Incorporation or Bylaws of Fresno Pacific University may be made which would conflict with the Confession of Faith of the Pacific District Conference of Mennonite Brethren Churches.”

Your letter requests a religious exemption from the provisions of Title IX “to the extent that they are interpreted to address gender identity discrimination and to the extent that they restrict the University’s freedom to enforce its Values and Behavioral Standards statement and otherwise conduct Fresno Pacific University in accordance with the Confession of Faith.” In support of this request you cite to the Confession of Faith of the United States Conference of Mennonite Brethren Churches, which states that “God created them [humans] male and female in the image of God. . . . Disciples maintain sexual purity and marital faithfulness and reject immoral premarital and extramarital relationships and all homosexual practices. . . . Marriage is a covenant relationship intended to unite a man and a woman for life. At creation, God designed marriage for companionship, sexual union and the birth and nurture of children. Sexual intimacy rightfully takes place only within marriage.” Your letter also cites to the University’s Values and Behavioral Standards statement, by which all students are required to abide, and which provides that “[p]hysical intimacy is reserved for individuals within a marriage covenant. Cohabitation with a boyfriend/girlfriend, or members of the opposite sex, outside of the marriage relationship is prohibited. Certain sexual behaviors are prohibited. These include but are not limited to: fornication, adultery, and same-sex romantic relations.” Your letter explains that the University “maintains gender-specific housing and allows members of one gender to be present in residence halls of the other only during specified hours and then only with the door remaining open.”

You state that, for these reasons, the University is requesting an exemption from “Title IX and the following regulations (in their current or future forms) to the extent that they are interpreted to address gender identity discrimination and to the extent that they restrict the University’s freedom to enforce its Values and Behavioral Standards statement and otherwise conduct Fresno Pacific University in accordance with the Confession of Faith:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences 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. § 106.35 (governing access to institutions of vocational education);
- 34 C.F.R. § 106.36 (governing counseling and use of appraisal and counseling materials);
- 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)

Dr. Richard Kriegbaum – page 3

- 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. §§ 106.51-61 (governing employment).

The University is exempt from these provisions to the extent that they are interpreted to address gender identity discrimination and to the extent that they conflict with the University's Values and Behavioral Standards statement or the Confession of Faith.

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 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,



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



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

May 23, 2014

Dr. Robin Baker  
President  
George Fox University  
414 N. Meridian St.  
Newberg, Oregon 97132

Dear Dr. Baker:

The purpose of this letter is to respond to your March 31, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for George Fox University (University) of Newberg, Oregon 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 educational institutions controlled by religious organizations to the extent that application of Title IX would be inconsistent with the institution'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 and/or regulation that conflict with those tenets.

Your request explained that the University, which is owned by the Northwest Yearly Meeting of Friends (part of the Quaker movement), is "a Christ-centered community" that is "committed to providing a Christian education." You note that four of the University's seven Board of Trustees members must be Friends. You state that the University's biblical belief is that human beings are created male and female, and that the University "cannot in good conscience support or encourage an individual to live in conflict with biblical principles."

Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that the University "would not be able to make similar accommodations consistent with [your] religious beliefs." You further state that, for these reasons, the University is requesting an exemption from Title IX and its

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Dr. Robin Baker, George Fox University  
May 23, 2014  
Page 2 of 2

implementing regulation to the extent that they prohibit discrimination based on gender identity. We interpret this statement as a request for exemption from provisions 34 C.F.R. §§ 106.32 (governing housing), 106.33 (governing comparable facilities such as restrooms and locker rooms), and 106.41 (governing athletics). The University is exempt from these provisions to the extent that they require a recipient to treat students consistent with their gender identity, but doing so 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 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,



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





UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

October 30, 2015

Dr. Anthony W. Allen  
President  
Hannibal-LaGrange University  
2800 Palmyra Road  
Hannibal, MO 63401

Dear Dr. Allen:

I write to respond to your August 27, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Hannibal-LaGrange University (University) of Hannibal, Missouri 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 request explained that the University, "a Southern Baptist institution of higher education," "is controlled by a religious organization. That organization is the Missouri Baptist Convention . . . whose constituency is the cooperating Southern Baptist churches of Missouri." Your letter states that "[p]ursuant to the University's Charter, the Missouri Baptist Convention controls the University in part by exercising its right to elect the entire membership of the board of directors of the University, the governing body of the University."

Your letter requests a religious exemption from the provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, and gender identity." In support of this request, you cite to The Baptist Faith and Message 2000, the most recent statement of faith adopted by the Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that marriage is between one man and one woman and serves as

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the means for procreation, that God made people in male and female form, and that the “gift of gender is thus part of the goodness of God’s creation.”

You explain that it would not be consistent with the Convention’s religious tenets for the University to comply with Title IX to the extent that it prohibits the University from “engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission’s sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, and sex outside marriage[; . . . from] subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[; or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, and gender identity in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.37 (governing financial assistance);
- 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. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, or 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

Dr. Anthony W. Allen – page 3

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 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,



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

April 24, 2015

William N. Ellis  
President and CEO  
Howard Payne University  
1000 Fisk Street  
Brownwood, Texas 76801-2715

Dear President Ellis:

I write to respond to your March 25, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Howard Payne University (University) of Brownwood, Texas. 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 and/or regulation that conflict with those tenets.

Your request explained that the University "is controlled by Baptists," in particular, the Baptist General Convention of Texas. Your letter states that "Every member of the board of trustees must be a member of a Baptist church. The majority of the members of the board of trustees are elected by the Convention."

Your letter requests a religious exemption "from provisions of Title IX to the extent application of those provisions would not be consistent with the religious tenets of the Baptist General Convention of Texas . . . regarding marriage, sex outside of marriage, sexual orientation, gender identity (including but not limited to transgender status), pregnancy, and abortion."

In support of this request, you state that "Messengers to the Convention's annual meetings have reaffirmed the view of Scripture on the sacredness and dignity of all human life, both born and

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unborn, and supported legislation prohibiting abortion except to save the life of the mother or in cases of incest or rape.” You also cite to a Resolution on Transgender Issues that the Executive Board of the Convention adopted in February 2015 that, according to your letter, states that “gender is based on biological attributes and is seen as a gift from God and immutable” and that the Convention affirms “that in creation God made male and female as biological gender assignment.” Finally, you cite to the Baptist Faith and Message, adopted by the Convention in 1988. According to your letter, that statement of faith states that “Marriage is the uniting of one man and one woman” and that it provides “the channel for sexual expression according to biblical standards, and the means for procreation of the human race.”

You explain that it would not be consistent with the Convention’s religious tenets for the University to comply with Title IX to the extent that it prohibits the College from “engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission’s sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy and abortion; . . . [f]rom subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[: or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions);

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- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marriage status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,



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

April 29, 2015

David E. Potts  
President  
Judson College  
302 Bibb Street  
Marion, AL 36756

Dear President Potts:

I write to respond to your February 17, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Judson College (College) of Marion, Alabama, 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 request explained that the College, "a Southern Baptist institution of higher education," "is controlled by a religious organization. That organization is the Alabama Baptist State Convention." Your letter enclosed a copy of the College's charter, which states that the College is "a distinctly Christian Liberal Arts College for Women. As an entity of the Alabama Baptist State Convention, Judson affirms its denominational loyalty, and accepts its responsibility to its Baptist constituency and to the total community and state." (Article III, Section 1(a)). The charter further explains that "[t]o be nominated for the office of trustee, a member must be in good standing of a cooperating Alabama Baptist church." (Article V, Section A). You also enclosed a copy of the College's bylaws, which state that the "management of the College shall be vested in a Board of Trustees consisting of not more than 32 rotating members plus such other honorary life members as shall be elected by the Alabama Baptist State Convention." (Article I, Section 1).

Your letter requests a religious exemption from the provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets

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David E. Potts-- page 2

regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.” In support of this request, you cite to The Baptist Faith and Message 2000, the most recent statement of faith adopted by the Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that marriage is between one man and one woman and serves as the means for procreation, that God made man in male and female form, and that the “gift of gender is thus part of the goodness of God’s creation.” You further cite the Convention’s belief that one should “speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death.”

You explain that it would not be consistent with the Convention’s religious tenets for the University to comply with Title IX to the extent that it prohibits the College from “engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission’s sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion[; . . .] from subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[; or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy, and abortion in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).



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The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,



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

July 31, 2015

Dr. Rick Brewer  
President  
Louisiana College  
1140 College Drive  
Box 583  
Pineville, LA 71359

Dear President Brewer:

I write to respond to your July 17, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Louisiana College (College) of Pineville, Louisiana, 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 request explained that the College is "affiliated with the Louisiana Baptist Convention." According to your letter, the College's Articles of Incorporation provide that "[t]he college is governed and controlled by its Board of Trustees, which consists of thirty-three members, who are elected by the Louisiana Baptist Convention . . . These elected members of the Board are members in good standing of a Baptist church in Louisiana cooperating with the Louisiana Baptist Convention." Your letter also states that "[t]he college follows biblical principles in its policies and practices applicable to Christian education, and to its students and employees."

Your letter requests an exemption from the provisions of Title IX to the extent they prohibit discrimination based on marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion so that the College "may make decisions consistent with its religious beliefs and principles in regard to its students and employees." In support of this

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Dr. Rick Brewer – page 2

request, you state that the College follows the “teachings of the Bible and the beliefs of the Baptist Church” and refer to The Baptist Faith and Message as the College’s statement of faith. According to your request, these teachings and beliefs provide “that God created two sexes, male and female; that marriage is between one man and one woman for a lifetime; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and therefore prohibited.” Your letter explains that “employees are expected to conduct themselves in a manner consistent with Louisiana College’s Christian values. As such, employment of someone who identifies as being of the opposite sex from their birth gender and who expresses that identification . . . is against the college’s religious beliefs.” Your letter further explains that “[t]he college’s religious beliefs prohibit pre-marital sex and elective abortion.” Finally, your letter states that “if students and/or employees exhibit behavior, which is not in keeping with the College’s mission and vision, then the College may impose sanctions up to, and including, expulsion from the college or termination of employment.”

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions so that “the College may make decisions consistent with its religious beliefs and principles in regard to its students and employees:”

- 34 C.F.R. § 106.21(b)(1)(iii) (governing admission);
- 34 C.F.R. § 106.21(c) (governing admission);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51(a) (governing employment);
- 34 C.F.R. § 106.51(b)(6) (governing employment); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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

Dr. Rick Brewer – page 3

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,

(b)(6)

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



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THE ASSISTANT SECRETARY

October 13, 2015

Dr. Lee Royce  
President  
Mississippi College  
Box 4001  
101 Nelson Hall  
Clinton, MS 39058

Dear Dr. Royce:

I write to respond to your September 11, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Mississippi College (College) of Clinton, Mississippi 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 request explained that the College, "a Southern Baptist institution of higher education," "is controlled by a religious organization. That organization is the Mississippi Baptist Convention . . . whose constituency is the cooperating Southern Baptist churches of Mississippi." Your letter states that "[p]ursuant to the College's Charter, the Mississippi Baptist Convention controls the College by electing the College's board of trustees."

Your letter requests a religious exemption from the provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion." In support of this request, you cite to the Convention's religious authority, the Bible. According to your letter, that Bible teaches that marriage is between one man and one woman and serves as the means for procreation and that "[c]hildren, from the moment of conception, are a blessing and heritage from the Lord." Your letter further states that the Convention has declared that "[t]he union of one man and one woman is the only form of marriage prescribed in

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Dr. Lee Royce – page 2

the Bible . . . [t]he Bible affirms that all human life, both born and preborn, is a person bearing the image of God”; and “God’s design was the creation of two distinct and complementary sexes, male and female.”

You explain that it would not be consistent with the Convention’s religious tenets for the College to comply with Title IX to the extent that it prohibits the College from “engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission’s sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, pregnancy, abortion, and sex outside marriage[; . . . from] subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[; or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, pregnancy, abortion, and gender identity in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.37 (governing financial assistance);
- 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. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

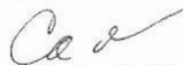
The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, pregnancy, abortion, and gender identity and compliance would conflict with the controlling organization’s religious tenets.

Dr. Lee Royce – 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 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. If you have any questions, please do not hesitate to contact me.

Sincerely,



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

May 4, 2015

Randall J. Pannell  
 Acting CEO and Vice President of Academic Affairs  
 North Greenville University  
 P.O. Box 1892  
 Tigerville, SC 29688

Dear Mr. Pannell:

I write to respond to your February 9, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for North Greenville University (University) of Tigerville, 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.

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 request explained that the University is "governed and controlled by its Board of Trustees, which consists of twenty-five members who are elected by the South Carolina Baptist Convention." Your letter enclosed a copy of the University's Amended and Restated Articles of Incorporation, which also states that the University's trustees "shall be appointed by the South Carolina Baptist Convention." (Section 9). You also attach the University's 2014-2015 Catalogue, which states that the University is "[a]ffiliated with and committed to the South Carolina Baptist Convention" and that an "education at North Greenville University is regarded as preparation for effective Christian service and witness. The Bible, as the inspired and infallible Word of God, is the solid foundation of the curriculum and the basis of the philosophy of education and of life."

Your letter requests a religious exemption from certain provisions of Title IX where compliance "would be inconsistent with the deeply held religious beliefs and practices of the South Carolina Baptist Convention and North Greenville University." In support of this request, you cite to the Southern Baptist Convention's statement of faith, The Baptist Faith and Message 2000, passages from the University's Student and Employee Handbooks, and the Bible. According to your letter, the statement of faith explains that the tenets of the Convention provide that "Christians should oppose ... all forms of sexual immorality, including adultery, homosexuality, and pornography" and "speak on behalf of the unborn and contend for the sanctity of all human life from conception until natural death." You also cite the Southern Baptist Convention's statement on transgender identity, which according to your letter "affirm[s] God's good design that gender identity is determined by biological sex and not by one's self-perception." In further support of the request for exemption related to human sexuality, you state that "the teachings of the Bible and the beliefs of the Baptist Church, both of which are followed by the University, are that God

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Randall J. Pannell– page 2

created two sexes, male and female; that marriage is between one man and one woman; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and are therefore prohibited.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent that they would require the University to act in a manner that is inconsistent with the Convention’s religious tenets:

- 34 C.F.R. § 106.21(b)(iii) (governing different treatment on the basis of sex in admission);
- 34 C.F.R. § 106.21(c) (governing the consideration of marital or parental status in admission);
- 34 C.F.R. § 106.31(b)(4) (governing the use of different rules of behavior or sanctions based on sex);
- 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. § 106.40 (governing the use of different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51(a) (governing employment);
- 34 C.F.R. § 106.51(b)(6) (governing leaves of absence from employment for pregnancy, childbirth, false pregnancy, and termination of pregnancy); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

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 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. If you have any questions, please do not hesitate to contact me.

Sincerely,



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

August 18, 2014

Dr. David Alexander  
President  
Northwest Nazarene University  
623 S. University Boulevard  
Nampa, Idaho 83686

Dear Dr. Alexander:

The purpose of this letter is to respond to your July 29, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Northwest Nazarene University (University) of Nampa, 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 and/or regulation that conflict with those tenets.

Your request explained that the University "is grounded in the Wesleyan-Holiness tradition, and is an educational expression of the Northwest region of the Church of the Nazarene." The letter explains that the school is "assigned by the Church of the Nazarene to serve seven districts of the denomination" and that its "Board of Trustees is elected from the members of the seven districts." Your letter states that the University's Amended and Restated Articles of Incorporation require all members of the University's Board of Trustees to be members of the Church of Nazarene and that half of the Board members must be clergy. Your letter further explains that the University's "faculty and staff are required to profess faith and are prohibited from professing views not in harmony with the Articles of Faith of the Church of the Nazarene." In addition, students are expected to maintain a lifestyle that is consistent with the directives and guidelines established by the General Assemblies of the Church and published in the Church of Nazarene Manual.

You state that the University and the Church of Nazarene's belief, based on biblical interpretation, is that human beings are created male and female, and that the University

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Dr. David Alexander -- page 2

“reject[s] all attempts at construing sexuality or sexual identity by medically altering the human body . . . or . . . practicing behaviors characteristic of the opposite sex as morally objectionable and sinful.” You refer to the Church of Nazarene’s Manual as evidence of the Church’s belief that homosexuality is a sin. Additionally, because the Manual states that the Church is opposed to abortion, the University also opposes the “intentional termination of a pregnancy absent a very few compelling circumstances.”

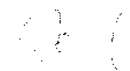
Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student’s gender identity, and to play on boys’ athletic teams. You explain that the University “would not be able to make similar accommodations consistent with [its] religious beliefs and convictions.” You further state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent that they prohibit discrimination based on gender identity: 34 C.F.R. §§ 106.31(b)(4) (governing different rules of behavior or sanctions); 106.32 (governing housing); 106.33 (governing comparable facilities such as restrooms and locker rooms), and 106.41 (governing athletics). The University is exempt from these provisions to the extent that they require a recipient to treat students consistent with their gender identity, but doing so would conflict with the controlling organization’s religious tenets.

Your request also seeks a “religious exemption from any regulation prohibiting discrimination against a student on account of termination of pregnancy.” We interpret that as a request for exemption from 34 C.F.R. § 106.40(b). The University is exempt from this provision 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 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. If you have any questions, please do not hesitate to contact me.

Sincerely,



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 16, 2014

David Wesley Whitlock  
President  
Oklahoma Baptist University  
500 West University  
OBU Box 61241  
Shawnee, OK 74804

Dear President Whitlock:

The purpose of this letter is to respond to your November 24, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Oklahoma Baptist University (University) of Shawnee, Oklahoma 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 and/or regulation that conflict with those tenets.

Your request explained that the University "is a Southern Baptist institution of higher education" and stated that it is controlled by the Baptist General Convention of the State of Oklahoma. Your letter enclosed a copy of the University's charter, which states that the University's purpose is "to encourage, support, provide, and maintain Christian education and to engage in Christian undertakings which are in keeping with the purpose of the Baptist General Convention of the State of Oklahoma." You also enclosed a copy of the University's bylaws, which state that the "Board of Trustees of the University shall consist of thirty Trustees who shall be elected by the Baptist General Convention of the State of Oklahoma." (Article II, Section 1.) The bylaws further state that the "President of the University must be an active member of a church affiliated with The Baptist General Convention of the State of Oklahoma." (Article V, Section 2.)

Your letter requests a religious exemption from the provisions of Title IX that "would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion." In support of this request, you cite to The Baptist Faith and Message 2000, the most recent statement of faith adopted by the Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that marriage is between one man and one woman and serves as the means for procreation, that God made man in male and female form, and that the "gift of gender is thus part of the goodness of God's creation." You further cite the Convention's belief that one should "speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death."

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David Wesley Whitlock – page 2

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent that they prohibit discrimination based on marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,



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



U.S. DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

OCT 22 2014

John deSteiguer  
President  
Oklahoma Christian University  
2501 E. Memorial Road  
Edmond, OK 73013

The purpose of this letter is to respond to your September 5, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Oklahoma Christian University (the University) of Edmond, Oklahoma 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 educational institutions controlled by religious organizations to the extent that application of Title IX would be inconsistent with the 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 and/or regulation that conflict with those tenets.

Your request explains that the University is controlled by the Churches of Christ and that its "mission is to transform lives for Christian faith, scholarship and service." You state that each full-time faculty member must be a member in good standing of the Churches of Christ, and that inactive or token membership in the church is grounds for dismissal. Additionally, your letter references a requirement in the University's Articles of Incorporation that each member of the University's Board of Trustees must be "an active, faithful member, in good standing, of a local congregation of the Church of Christ."

Among the religious tenets followed by the University and its controlling organization (the Churches of Christ) is that "gender identity is given by God and is revealed in one's birth sex." You also state that the University, in compliance with the religious tenets of its controlling organization, adheres to the belief that "all sexual relations outside of a heterosexual marriage covenant are sin." Your letter cites to several Biblical passages in support of these tenets.

Based on these tenets, your letter seeks an exemption from Title IX and the following provisions of its implementing regulation to the extent that they prohibit discrimination on the basis of gender identity or sexual orientation:

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President John deSteiguer – page 2

- 34 C.F.R. § 106.21 (governing admissions);
- 34 C.F.R. § 106.23 (governing recruitment);
- 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. § 106.37 (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. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.53 (governing recruitment and hiring of employees);
- 34 C.F.R. § 106.55 (governing job classification and structure);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment actions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination based on gender identity or sexual orientation or require a recipient to treat students consistent with their gender identity, but doing so 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 its implementing 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 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,



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



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

December 22, 2014

Everett Piper  
President  
Oklahoma Wesleyan University  
2201 Silver Lake Road  
Bartlesville, OK 74006

Dear President Piper:

The purpose of this letter is to respond to your November 14, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Oklahoma Wesleyan University (University) of Bartlesville, Oklahoma 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 and/or regulation that conflict with those tenets.

Your request explained that the University "was founded by The Wesleyan Church to provide higher education within a Christian environment for Wesleyan youth, and is owned and operated by The Wesleyan Church to this day."

Your letter requests a religious exemption from the provisions of Title IX that would "curtail the University's freedom to respond to transgender individuals in accordance with its religious convictions and those of The Wesleyan Church." In support of this request, you cite to The Wesleyan Church statement entitled "A Wesleyan View of Gender Identity and Expression." According to your letter, the statement sets forth The Wesleyan Church's tenets related to gender identity, specifically that "[g]ender differentiation is sacred." Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that, to the extent that this agreement indicates that Title IX prohibits discrimination on the basis of gender identity, compliance "would be inconsistent with the religious tenets of [the University] and The Wesleyan Church."

Your letter also requests an exemption from the Title IX provisions related to abortion. In support of this request, you cite to The Wesleyan Church's statement on "Sanctity of Life." You explain that the University has adopted a "Statement on Human Life" that prohibits "all members of the [University] community from promoting or participating in any act of, or related to, aborting a child whether such a child is pre-birth or post-birth."

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Everett Piper -- page 2

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent that they prohibit discrimination based on gender identity or abortion:

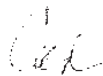
- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing sex discrimination in education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 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 and 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. § 106.51-61 (governing employment).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of gender identity or abortion 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 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,



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

May 23, 2014

Robin Keith Dummer, Ed.D.  
Interim President  
Simpson University  
2211 University View Drive  
Redding, California 96003

Dear Dr. Dummer:

The purpose of this letter is to respond to your letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Simpson University (University) of Redding, California 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 educational institutions controlled by religious organizations to the extent application of Title IX would be inconsistent with the institution'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 and/or regulation that conflict.

Your request explained that the University, which is owned by and affiliated with the Christian and Missionary Alliance denomination, is a Christ-centered learning community and that its identity as a Christian institution is central to all its programs. You state that the University's biblical beliefs allow only for heterosexual, biologically determined male and female identities and that the University rejects any attempt by an individual to change his or her gender identity as immoral and sinful.

You supplied information explaining that any individual who violates campus standards regarding gender identity would be subject to discipline, including expulsion. Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that the University "would not be able to make similar

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Dr. Robin Keith Dummer, Simpson University  
May 23, 2014  
Page 2 of 2

accommodations consistent with [your] religious beliefs.” You further state that, for these reasons, the University is requesting an exemption from Title IX and its implementing regulation to the extent that they prohibit discrimination based on gender identity. We interpret these statements as a request for exemption from provisions 34 C.F.R. §§ 106.31(b)(4) (governing different rules of behavior or sanctions), 106.32 (governing housing), 106.33 (governing comparable facilities such as restrooms and locker rooms), and 106.41 (governing athletics). The University is exempt from these provisions to the extent that they require a recipient to treat students consistent with their gender identity, but doing so 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 institution, this exemption will be rescinded.

I hope this letter responds fully to your request. I regret the delay in responding to your original request. If you have any questions, please do not hesitate to contact me.

Sincerely,



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



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

March 24, 2015

Todd S. Voss  
 President  
 Southern Wesleyan University  
 907 Wesleyan Drive  
 P.O. Box 1020  
 Central, South Carolina 29630

Dear President Voss:

The purpose of this letter is to respond to your January 20, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Southern Wesleyan University (University) of Central, South Carolina. 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 and/or regulation that conflict with those tenets.

Your request explained that the University "was founded by The Wesleyan Church to provide higher education within a Christian environment for Wesleyan youth, and is owned and operated by The Wesleyan Church to this day." Your letter references the University's website that states that the University "is a sponsored higher education institution of The Wesleyan Church."<sup>1</sup> Your letter also references the website of The Wesleyan Church where the University is listed as one of five Wesleyan institutions in the United States and Canada.<sup>2</sup>

Your letter requests a religious exemption from provisions of Title IX that would "curtail the University's freedom to respond to transgender individuals in accordance with its religious convictions and those of The Wesleyan Church." In support of this request, you cite to The Wesleyan Church's statement entitled "A Wesleyan View of Gender Identity and Expression." According to your letter, the statement sets forth The Wesleyan Church's tenets related to gender identity, specifically that "[g]ender differentiation is sacred." Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that, to the extent that this agreement indicates that Title IX prohibits discrimination on the basis of gender identity, compliance "would be inconsistent with the religious tenets of [the University] and The Wesleyan Church."

<sup>1</sup> Southern Wesleyan University, <http://www.swu.edu/about-swu/>

<sup>2</sup> The Wesleyan Church, Wesleyan Colleges and Universities, <http://www.wesleyan.org/college>  
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Todd S. Voss – page 2

Your letter also requests an exemption from the Title IX provisions related to abortion. In support of this request, you cite to The Wesleyan Church's statement on "Sanctity of Life." You explain that the University has adopted a "Statement on Human Life" that "prohibit[s] all members of the [University] community from promoting or participating in any act of, or related to, aborting a child whether such a child is pre-birth or post-birth."

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent that they prohibit discrimination based on gender identity or abortion:

- 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 sex discrimination in education programs and 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 and 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. § 106.51-61 (governing employment).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of gender identity or abortion 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 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,

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

July 29, 2015

C. Pat Taylor  
President  
Southwest Baptist University  
1600 University Ave.  
Bolivar, MO 65613

Dear President Taylor:

I write to respond to your July 8, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Southwest Baptist University (University) of Bolivar, Missouri 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 request explained that the University, "a Southern Baptist institution of higher education," "is controlled by the Missouri Baptist Convention . . . whose constituency is the cooperating Baptist churches of Missouri." Your letter states that "[p]ursuant to the University's Charter, the Missouri Baptist Convention controls the University in part by exercising its right to elect the entire membership of the board of directors of the University, the governing body of the University."

Your letter requests a religious exemption from the provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, and gender identity." In support of this request, you cite to The Baptist Faith and Message 2000, the most recent statement of faith adopted by the Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that marriage is between one man and one woman and serves as the means for procreation, that God made people in male and female form, and that the "gift of gender is thus part of the goodness of God's creation."

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C. Pat Taylor – page 2

You explain that it would not be consistent with the Convention’s religious tenets for the University to comply with Title IX to the extent that it prohibits the University from “engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission’s sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, and sex outside marriage[; . . . from] subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[: or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, and gender identity in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.37 (governing financial assistance);
- 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. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, or 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

C. Pat Taylor – page 3

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. If you have any questions, please do not hesitate to contact me.

Sincerely,

(b)(6)

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

JUN 27 2016

Dr. Brent Ellis  
President  
Spring Arbor University  
106 E. Main St.  
Spring Arbor, MI 49283

Dear Dr. Ellis:

The purpose of this letter is to respond to your correspondence to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Spring Arbor University (University) of Spring Arbor, Michigan 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 educational institutions controlled by a religious organization to the extent application of Title IX would be not be consistent with the religious tenets of such organization. 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 and/or regulation that conflict.

Your request explained that the University is “an evangelical Christian university affiliated with the Free Methodist Church” that “emphasizes Christian principles of religion in its community and campus life.” Your letter states that students are required to attend chapel regularly and must pass Christian Perspective courses in order to graduate. According to the University’s Articles of Incorporation, the majority of members of the University’s Board of Trustees must be members of the Free Methodist Church. Your letter explains that “the University is under the control of the Free Methodist denomination through the Church members who serve as Trustees and have the majority voice on the Board, and through the President of the University, who must be a member of the Free Methodist Church.”

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Dr. Brent Ellis, President  
 Spring Arbor University  
 June 24, 2014  
 Page 2 of 3

You state that the University's Code of Conduct is based on Biblical principles and the tenets of the Free Methodist Church, and that all students and employees are required to follow the Code of Conduct or risk sanctions, including dismissal from the University or termination of employment. Among the religious tenets followed by the University and its controlling organization (the Free Methodist Church) are "that God created two sexes, male and female" and that a person cannot change his or her sex assigned at birth. You also assert that the University, in compliance with the religious tenets of its controlling organization, "adhere[s] to the requirement of heterosexuality" and does not condone premarital cohabitation or extramarital sexual relationships.

Your letter states that, because of these tenets, a transgender student would not be permitted to live in University housing, play on athletic teams, share restrooms, or use locker rooms with individuals of the transgender student's gender identity. Your letter further states that transgender individuals would not be eligible for employment with the University. Your letter also provides that transgender individuals "would not be permitted to engage in dating or sexual activity with a person of their birth sex, because this behavior is considered to be homosexual in nature, based upon the University's religious beliefs." On this basis, your letter requests an exemption from Title IX and the following provisions of its implementing regulation to the extent that these provisions prohibit discrimination on the basis of gender identity or sexual orientation:

- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 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. § 106.41 (governing athletics); and
- 34 C.F.R. § 106.51 (governing employment).

The University is exempt from the provisions listed above to the extent that they prohibit discrimination based on gender identity or sexual orientation or require a recipient to treat students consistent with their gender identity, and compliance would conflict with the controlling organization's religious tenets.

Additionally, your letter states the tenets of the Free Methodist Church "also prohibit elective abortion, pre-marital sex, extra-marital sex, and homosexual behavior, for students and employees." On this basis, you request an exemption from Title IX and the following provisions of its implementing regulation to the extent that they would require the University to "retain pregnant unmarried employees or employees who elect to terminate their pregnancy, to admit pregnant unmarried students, to retain unmarried students who elect to terminate their pregnancy, to allow unmarried students of the opposite sex to live together, to retain pregnant, unmarried students and to allow them to live in University housing, and to allow homosexual students to live together":

- 34 C.F.R. § 106.21(b)(iii) (governing differential treatment on the basis of sex);
- 34 C.F.R. § 106.21(c) (governing admissions prohibitions on the basis of marital or parental status);

Dr. Brent Ellis, President  
Spring Arbor University  
June 24, 2014  
Page 3 of 3

- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.51(a) (governing employment);
- 34 C.F.R. § 106.51(b)(6) (governing the granting of pregnancy-related leave); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

The University is exempt from the provisions listed immediately above, to the extent that they require the University to treat pregnancy, abortion, sexual orientation, and pre-marital or extra-marital sexual relationships in a manner that is inconsistent with the religious tenets of its controlling organization.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and its implementing regulations 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 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,



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

cc: Diane Y. Bower, Esq., Marcoux Allen



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

March 24, 2015

D. Gregory Main  
 President  
 St. Gregory's University  
 1900 West MacArthur Street  
 Shawnee, Oklahoma 74804

Dear President Main:

The purpose of this letter is to respond to your March 3, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for St. Gregory's University (University) of Shawnee, Oklahoma. 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 and/or regulation that conflict with those tenets.

Your request explained that the University is "owned by the St. Gregory's Abbey, a community of Catholic Benedictine monks."

Your letter requests exemption from provisions of Title IX "to the extent they are interpreted to reach gender identity discrimination." In support of this request, you cite to the Catechism of the Catholic Church, which, according to your letter, states that "'Being man' or 'being woman' is a reality which is good and willed by God." Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that, to the extent that this agreement indicates that Title IX prohibits discrimination on the basis of gender identity, compliance "would be inconsistent with the religious tenets of St. Gregory's."

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent that they prohibit discrimination on the basis of gender identity:

- 34 C.F.R. § 106.21 (governing admissions);
- 34 C.F.R. § 106.22 (governing preference in admissions);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing sex discrimination in 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);

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D. Gregory Main -- page 2

- 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 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 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,



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

January 8, 2015

Dr. Jules Glanzer  
President  
Tabor College  
400 South Jefferson  
Hillsboro, KS 67063

Dear Dr. Glanzer:

The purpose of this letter is to respond to your December 3, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Tabor College (College) of Hillsboro, Kansas. 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 and/or regulation that conflict with those tenets.

Your request stated that the College was founded "by members of the Mennonite Brethren and Krimmer Mennonite Brethren faiths" and that it "has always existed for the purpose of providing education consistent with the beliefs of the Mennonite Brethren denomination." Your letter explains that the College's Bylaws state that "the corporate owners of the college are 'the church congregations which are members of the Central District Conference, the Southern District Conference, the Latin American District Conference and the North Carolina District Conference of Mennonite Brethren Churches,'" and require that "a majority of the Board of Directors be elected by these four district conferences." Your letter further notes that the Bylaws of the College require that any "doctrinal statement or other rules and/or regulations issued by the Corporation or the College shall be in complete harmony with" the Confession of Faith of the United States Conference of the Mennonite Brethren Churches (Confession of Faith).

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Dr. Jules Glanzer – page 2

Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that "[b]ecause of its deeply held faith-based convictions regarding the distinctiveness of males and females, Tabor College would not be able to provide the kind of accommodation required" in that resolution agreement. You state that, for these reasons, the University seeks an exemption from Title IX to the extent that Title IX prohibits discrimination based on gender identity. Specifically, you cite to the Confession of Faith, which states that "God created them [humans] male and female in the image of God." Your letter states that the College cannot "support or encourage an individual to live in conflict with biblical principles in any area, including gender and gender identity." We interpret these statements as a request for exemption from provisions 34 C.F.R. §§ 106.32 (governing housing), 106.33 (governing comparable facilities such as restrooms and locker rooms), and 106.41 (governing athletics). The College is exempt from these provisions to the extent that they require a recipient to treat students consistent with their gender identity, but doing so 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 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,



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

July 31, 2015

Robert M. Myers  
 President  
 Toccoa Falls College  
 P.O. Box 800777  
 107 Kincaid Drive  
 Toccoa Falls, GA 30598

Dear President Myers:

I write to respond to your July 8, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Toccoa Falls College (College) of Toccoa Falls, Georgia 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 institution'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 the College is an affiliate college of the Christian and Missionary Alliance (C&MA) and, as such, "adheres doctrinally to the beliefs of the denomination." According to your letter, the College requires all members of the College community, including students and faculty, to adhere to its policy on the Faith Community and Mission of the College (Policy). The Policy, which was included with your letter, explains that the College "has adopted the statement of faith set forth in the C&MA Manual." According to the Policy, the College's representatives are "expected to (i) model these [C&MA's] biblical beliefs and standards for others, (ii) perform all of their responsibilities as a service to God and (iii) comply with the following obligations: . . . affirm their agreement with the C&MA's statement of faith and other biblical beliefs[. . .] endeavor to conduct themselves in a manner that affirms biblical standards of conduct in accordance with theirs and the C&MA's biblical beliefs . . . [, and] be ready, willing, and able to lead or contribute to distinctly Christian activities such as worship or prayer services." The Policy further provides that the College may dismiss a representative from his or her position if the representative does not comply with these obligations.

Your exemption request states that the Policy provides that "God created human beings, male

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Robert M. Myers – page 2

and female . . . As such, students are not to adopt a gender identity different from the one gifted them by their Creator. This gendered ordering of creation is to be accepted, honored, and reflected in sexual intimacy.” Your request explains that “compliance with Title IX, as interpreted by ED OCR to reach transgender ‘discrimination,’ would be inconsistent with the religious tenets of Toccoa Falls College.”

Your request also points to a recent EEOC determination letter in which “the EEOC has begun openly 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.’” You explain that if Title IX were “interpreted by ED OCR to reach sexual orientation ‘discrimination,’ [compliance] would also be inconsistent with the religious tenets of Toccoa Falls College.”

Your exemption request also states that the College’s policies provide for the sanctity of human life. According to your letter, the policies state that the College “subscribes to the biblical belief that all life is sacred from conception to death . . . The college accordingly believes that no procedures should be performed for the primary objective of terminating a pregnancy . . . except in rarest circumstances where other biblical, moral principles prevail, such as where it is medically impossible to save the life of both the mother and the child. The college’s beliefs further prohibit paying for or otherwise facilitating such procedures.”

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions “to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College’s freedom to apply and enforce its beliefs and policy regarding human life:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences 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 and use of appraisal and counseling materials);
- 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 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. §§ 106.51-61 (governing employment).

Robert M. Myers – page 3

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of gender identity or sexual orientation, or restrict the College's freedom to apply and enforce its beliefs and policy regarding human life 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 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,

(b)(6)

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

March 24, 2015

Samuel W. Oliver, Ph.D.  
President  
Union University  
1050 Union University Drive  
Jackson, Tennessee 38305-3697

Dear President Oliver:

The purpose of this letter is to respond to your January 19, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Union University (University) of Jackson, Tennessee. 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 and/or regulation that conflict with those tenets.

Your request explained that the University "is controlled by a religious organization. That organization is the Tennessee Baptist Convention." Your letter states that "the trustees of Union University are elected by and responsible to the Tennessee Baptist Convention." Your letter also references the University's Bylaws (2.1.1. Control and Management) which state "[t]he Charter vests the control of the affairs of Union University in its Board of Trustees, which consists of not fewer than eighteen nor more than thirty-six in number, elected by the Tennessee Baptist Convention."

Your letter requests a religious exemption "from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity (including but not limited to transgendered status), pregnancy, and abortion." In support of this request, you cite to *The Baptist Faith and Message 2000*, the most recent statement of faith affirmed by the Tennessee Baptist Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that "marriage is between one man and one woman and serves as the means for procreation, that God made man in male and female form, and that the "gift of gender is thus part of the goodness of God's creation." You further cite the Convention's belief that one should "speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death."

You explain that it would not be consistent with the Convention's religious tenets for the University to comply with Title IX to the extent that it prohibits the College from "engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and

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Samuel W. Oliver -- page 2

present practices regarding marriage, sex outside marriage, pregnancy and abortion; . . . from subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[; or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, The University is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention:”


- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions);
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marriage status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,

  
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

March 24, 2015

Dr. Randy O'Rear  
President and CEO  
University of Mary Hardin-Baylor  
900 College Street  
Belton, Texas 76513

Dear Dr. O'Rear:

The purpose of this letter is to respond to your January 29, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for the University of Mary Hardin-Baylor (University) of Belton, Texas. 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 and/or regulation that conflict with those tenets.

Your request explained that the University is "controlled by a religious organization, the Baptist General Convention of Texas." Your request stated that pursuant to the University's Restated Certificate of Formation, "the Baptist General Convention of Texas controls the University in part by exercising its right to select a majority of the board of directors of the University, the governing body of the University."

Your letter requests exemption from provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity (including but not limited to transgender status), pregnancy, and abortion." In support of this request, you cite to *On Sexual Ethics*, a resolution adopted by the Convention in 2009. According to your letter, that resolution states that "the Bible teaches that the idea for sexual behavior is the marital union between husband and wife and that all other sexual relations – whether premarital, extramarital, or homosexual – are contrary to God's purposes and thus sinful." You further cite the Convention's religious belief that "gender is based on biological attributes and is seen as a gift from God and immutable." Finally, you cite to the Baptist Faith and Message, which, according to your letter, states that "[m]arriage is the uniting of one man and one woman."

You explain that it would not be consistent with the Convention's religious tenets for the University to comply with Title IX to the extent that it prohibits the University from "engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion; [...] from subjecting

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Dr. Randy O'Rear · page 2

students to rules of behavior, sanctions, or other treatment because of these student characteristics[; or from] making all employment decisions . . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent that they “would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity (including but not limited to transgender status), pregnancy and abortion in a manner that is inconsistent with the religious tenets” of the Baptist General Convention of Texas:

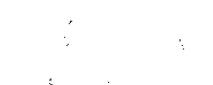
- 34 C.F.R. § 106.21 (governing admissions);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31 (b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,

  
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

May 4, 2015

Mark Foley, Ph.D.  
President  
University of Mobile  
5735 College Parkway  
Mobile, AL 36613

Dear Dr. Foley:

I write to respond to your March 18, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for the University of Mobile (University) of Mobile, Alabama, 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 request explained that the University, "a Southern Baptist institution of higher education," "is controlled by a religious organization. That organization is the Alabama Baptist State Convention." Your letter states that "pursuant to the University's Charter and Bylaws, the Alabama Baptist State Convention controls the University in part by exercising its right to select the entire membership of the board of directors of the University, the governing body of the University."

Your letter requests a religious exemption from the provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion." In support of this request, you cite to The Baptist Faith and Message 2000, the most recent statement of faith adopted by the Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that marriage is between one man and one woman and serves as the means for procreation, that God made people in male and female form, and that the "gift of gender is thus part of the goodness of God's creation." You further cite the

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Dr. Mark Foley – page 2

Convention’s belief that one should “speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death.”

You explain that it would not be consistent with the Convention’s religious tenets for the University to comply with Title IX to the extent that it prohibits the University from “engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission’s sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion[; . . .] from subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[; or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy, and abortion in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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



Dr. Mark Foley – page 3

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 'C. Lhamon', with a stylized flourish at the end.

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

March 24, 2015

Dr. Larry L. Cockrum  
Chief Executive Officer and President-Elect  
University of the Cumberlands, Inc.  
6191 College Station Drive  
Williamsburg, KY 40769

Dear Dr. Cockrum:

The purpose of this letter is to respond to your January 19, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for University of the Cumberlands, Inc. (University) of Williamsburg, Kentucky. 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 and/or regulation that conflict with those tenets.

Your request explained that the University is "controlled by a religious organization. That organization is the Kentucky Baptist Convention." Your letter explains that "pursuant to the University's Charter and Bylaws, the Kentucky Baptist Convention controls the University in part by exercising its right to select the entire elected membership of the board of directors of the University, the governing body of the University."

Your letter requests a religious exemption from the provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion." In support of your request, you cite *The Baptist Faith and Message 2000*, the most recent statement of faith adopted by the Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that marriage is between one man and one woman and serves as the means for procreation, that God made man in male and female form, and that the "gift of gender is thus part of the goodness of God's creation." You further cite the Convention's belief that one should "speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death."

You explain that it would not be consistent with the Convention's religious tenets for the University to comply with Title IX to the extent that it prohibits the University from "engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy and abortion; [... from] subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[: or from] making all employment decisions... in a

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Dr. Larry L. Cockrum – page 2

manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets” of the Kentucky Baptist Convention:

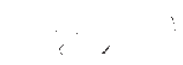
- 34 C.F.R. § 106.21 (governing admissions);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marriage status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,



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



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

December 22, 2014

Dr. Thomas O. Jones  
President  
Williams Baptist College  
P.O. Box 3733  
Walnut Ridge, AR 72476

Dear Dr. Jones:

The purpose of this letter is to respond to your November 17, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Williams Baptist College (College) of Walnut Ridge, Arkansas. 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 and/or regulation that conflict with those tenets.

Your request explained that the College "is owned and operated by a religious organization. That organization is the Arkansas Baptist State Convention." Your letter enclosed a copy of the College's Constitution and Bylaws. Article II of the Constitution designates the Arkansas Baptist State Convention as the College's sole member and Article IV provides that the Arkansas Baptist State Convention will select the entire elected membership of the Board of Trustees, the governing body of the College.

Your letter requests a religious exemption from provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding

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Dr. Thomas O. Jones -- page 2

marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion.” In support of this request, you cite to The Baptist Faith and Message 2000, the most recent statement of faith adopted by the Convention. According to your letter, that statement of faith explains that the tenets of the Convention are that marriage is between one man and one woman and serves as the means for procreation, that God made man in male and female form, and that the “gift of gender is thus part of the goodness of God’s creation.” You further cite the Convention’s belief that one should “speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death.”

You explain that it would not be consistent with the Convention’s religious tenets for the College to comply with Title IX to the extent that it prohibits the College from “engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission’s sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy and abortion; ... from subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics; [or] from making employment decisions... in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions to the extent that they prohibit discrimination based on marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

Dr. Thomas O. Jones -- page 3

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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,



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





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1640 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20036  
800-777-4723  
WWW.HRC.ORG



A photograph of three young people, two women and one man, looking upwards and to the right. The woman in the center has her hand on the shoulder of the man in the foreground. They are all wearing rainbow-colored scarves. The background is a mix of purple and orange geometric shapes.

# THE LGBTQ+ STUDENT DIVIDE

**The State of Sexual and Gender  
Minority Students at Taxpayer-Funded  
Christian Colleges**

EXHIBIT B

A Religious Exemption Accountability  
Project/College Pulse Study

 **COLLEGE PULSE**

March 2021

## ABOUT US

### About COLLEGE PULSE

College Pulse is a survey research and analytics company dedicated to understanding the attitudes, preferences, and behaviors of today's college students. College Pulse offers custom data-driven marketing and research solutions, utilizing its unique American College Student Panel™ that includes over 485,000 undergraduate college student respondents from more than 1,500 two- and four-year colleges and universities in all 50 states.

For more information, visit <https://collegepulse.com> or College Pulse's official Twitter account @Collegelnsights.

### About the RELIGIOUS EXEMPTION ACCOUNTABILITY PROJECT (REAP)

REAP empowers queer, trans and non-binary students at religious colleges, universities and schools where discrimination and abuse is practiced using taxpayer money. As a program sponsored by the national nonprofit Soulforce, REAP elevates the experiences of sexual and gender minority students through civil rights litigation, documentary film, oral history, research and public policy.

For more information, visit [www.thereap.org](http://www.thereap.org)

## EXECUTIVE SUMMARY

One-third of the more than 2,000 four-year undergraduate institutions in America are religiously affiliated. Of those, more than 200 Christian colleges and universities, with a combined student population nearing one million, explicitly discriminate against their LGBTQ+ students. This discrimination directly affects hundreds of thousands of LGBTQ+ students at these Christian colleges and universities. Data from a new survey reveals that 12% of students identify as LGBTQ+, and nearly one-third (30%) of students at these Christian colleges and universities describe experiencing some amount of non-heterosexual attraction or experience.

Students at today's Christian colleges identify with a broad array of different sexualities and gender identities, including bisexual, lesbian, gay, queer, same-sex attracted, asexual, non-binary, intersex, agender, genderqueer, and transgender. This report refers to this broad array of identities using the terms LGBTQ+ or sexual and gender minorities.

Results from this report reveal that sexual and gender minority students experience considerable challenges because of how they identify. From their rates of self-reported depression, anxiety, loneliness, suicidality, sexual assault and harassment, and substance abuse, to their inability to be open about their sexuality or gender identity for fear of rejection and condemnation from their campus community, sexual and gender minority students face significant obstacles that create markedly different and inferior college experiences. Some sexual and gender minority students face mandatory counselling, reparative therapy, and loss of campus privileges when their identities are revealed to school administrators.

The Religious Exemption Accountability Project (REAP) commissioned College Pulse to undertake a national poll of college student experiences on Christian colleges and universities to better understand the experiences of LGBTQ+ students at these campuses. Conducted from January 28 - February 6, 2021, findings from "The LGBTQ+ Student Divide: the State of Sexual and Gender Minority Students at Taxpayer-Funded Christian Colleges" represent a sample of 3,000 full-time students currently enrolled in four-year degree programs at taxpayer-funded Christian colleges and universities that explicitly discriminate against LGBTQ+ students, most of which are members of the Council for Christian Colleges & Universities (CCCU). Students were surveyed via the College Pulse mobile app and web portal, and weighted to be nationally representative of Christian colleges and universities.

Key takeaways include:

- **More than 1 in 10 students self-identify as a sexual minority.** Among those who attend Christian colleges and universities, 12% of students self-identify as non-heterosexual. With a broader definition that encompasses self-identification and any attraction or experience that is not between a heterosexual female and a heterosexual male, the number of non-heterosexual students more than doubles to approximately 30%.
- **Two percent of students identify as a gender minority.** When asked to select their gender, 2% of students identify as either non-binary, genderqueer, agender, transgender, or non-cisgender.
- **Most sexual and gender minority students are closeted.** One in five (19%) sexual minority students report telling no one about their sexual or gender identity. More than half (56%) have only told five or fewer people.
- **Nearly half of gender minority students say they do not feel like they belong on their campus.**
- **Gender minority students are seven times more likely to be sexually assaulted on their Christian campus than cisgender students (14% v. 2%).**
- **Sexual and gender minority students are 15 times more likely to report that their sexuality or gender identity has prevented them from feeling accepted by others on their college campus compared to their peers.** They are also more likely to say that their gender or sexual identity has prevented them from holding leadership positions, living on campus, and joining campus groups compared to their straight peers.
- **Sexual minority students are three times more likely to experience depression and anxiety compared to heterosexual students.** They are also three times more likely to have seriously considered suicide or had an eating disorder, and twice as likely to report loneliness compared to their straight peers.
- **Gender minority students are nearly five times more likely to experience bullying or harassment.** Five percent (5%) of cisgender students report bullying or harassment, while 1 in 5 (22%) gender minority students report bullying or harassment. Moreover, among students who have been bullied, 85% of those who self-identify as LGBTQ+ report that the bullying came from someone at their college or university.
- **LGBTQ+ students explicitly identify their sexual or gender identity as the source of their depression.** For example, 41% of both sexual and gender minority students say their



sexual identity is the source of their depression.

- **4 in 10 sexual minority students are uncomfortable with their sexual orientation on campus.** Among the students who report being uncomfortable with their sexual orientation at their college, 21% report being extremely uncomfortable.

The report, "The LGBTQ+ Student Divide: The State of Sexual and Gender Minority Students at Taxpayer-Funded Christian Colleges," details the full findings on these issues and others related to students' gender identity and sexual orientation on Christian college campuses today. Sexual and gender minority students' responses show marked divides between the experiences of LGBTQ+ students compared to their straight and cisgender peers. LGBTQ+ students experience more adverse events, more isolation, and less inclusion on their campuses, leaving them with starkly different mental health outcomes and college experiences than their straight peers.



## I. LGBTQ+ STUDENT POPULATION SIZE

More than one in ten students identify as a sexual minority.

Findings from the survey demonstrate that more than 1 in 10 students (12%) self-identify as non-heterosexual, that is, something other than straight<sup>1</sup>. While the majority (83%) of students in this survey identify as straight, 6% of students identify as bisexual, 5% are unsure or questioning their sexual identity, 2% of students identify as either gay or lesbian, and 2% identify as queer or same-sex attracted.

Of course, there are many ways to understand sexuality in addition to how a person self-identifies. Taking into account students who report same-sex attraction, a sexual experience with a person of the same sex, or who identify as something other than straight, we find that the percentage of students who are not strictly heterosexual is 30%.

Students in this survey clearly express angst over their sexual identities and their faith, as well as the teachings of their colleges. Says one bisexual female student at Corban University:

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*"I am not supposed to be what I am. Every day I live in sin just because I think the things I think. Christians talk about taking thoughts captive, dying to ourselves, putting off the old nature and putting on the new. I don't know how to do that with sexual orientation. I am convinced that the depths of who I am is sinful and abhorrent to God. I am also convinced God is real and I am required to live according to His laws. I don't want to think about my orientation because I'm worried people will think I'm a bandwagoner or making it up. Or worse, they will think I'm just a filthy sinner who has been corrupted by the world. There's no one on campus I'd trust to talk this through with them. I don't want to be called a worthless sinner any more than I already have."*

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This survey also reveals a small portion of students at Christian colleges who do not identify as a cisgender male or female, or do not report their gender identity aligning with the sex they were assigned at birth. Results show that 2% of students report a gender identity other than a cisgender "male" or "female," with the most frequent category being "non-binary." A small portion of students (1%) opted not to disclose their gender identity.

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<sup>1</sup> A recent study conducted by Gallup finds that 16% of people in Gen Z identify as something other than heterosexual <https://news.gallup.com/poll/329708/lgbt-identification-rises-latest-estimate.aspx>

## Incidence Rate of Sexual Orientation and Gender Identity

More than 1 in 10 students attending a Christian College Identify as LGBTQ+

	Percentage	Frequency
LGBTQ+ (based on self-identification only)	12%	346
LGBTQ+ (based on attraction only)	18%	530
LGBTQ+ (based on self-identification or attraction)	22%	656
LGBTQ+ (based on self-identification, sexual contact and attraction)	30%	899
Non-cisgender students*	2%	65
Straight and Cisgender students	70%	2101

\*Notes: All non-cisgender students in this sample identify as sexual minorities; 97% of students identified as male or female; 2% identified as either genderqueer, genderfluid, non-binary, intersex, demiboy, demigirl, questioning, or transgender; 1% chose not to disclose their gender.

Results from this survey show that many sexual minority students have not shared their gender or sexual identity widely with their peers on their college campus. For sexual minority students, 4 in 10 (39%) students have told two people or less about their sexual identity.

## LGBTQ+ Students' Sexual Identity on Campus

Few LGBTQ+ students are "out" to friends, faculty, or administrators on campus

	Percentage
Not known, I have not told anyone	19%
Known to just one or two people	18%
Known to three to five people	19%
Known to six to 10 people	12%
Known to 10 or more people	19%
I'm not sure	9%

Many students have not come out at all on campus, with 19% of students having chosen not to disclose their sexual or gender identity to anyone at their college.

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*"I feel very nervous to share the fact that I am not straight to anyone on campus. I feel that I will be judged. I've heard people say terrible things about the LGBTQ+ community on campus that makes me feel unwelcome as someone who is part of the LGBTQ+ community."* –Female student, Southeastern University

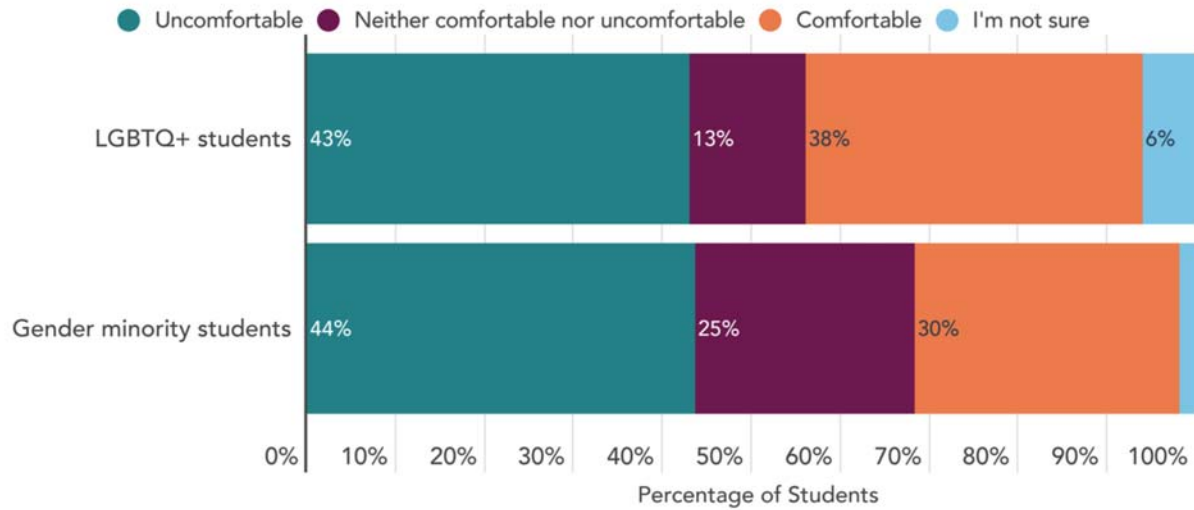
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Results show that 43% of sexual minority students report feeling uncomfortable, while only 38% are comfortable, and 13% say that they are neither comfortable nor uncomfortable. There is a

similar story for gender minority students, with only 30% of gender minority students feeling comfortable with their gender identity on campus, while 44% are uncomfortable.

### Comfort with Sexual Identity on Campus

Four in ten sexual or gender minority students are uncomfortable with their sexual identity on campus





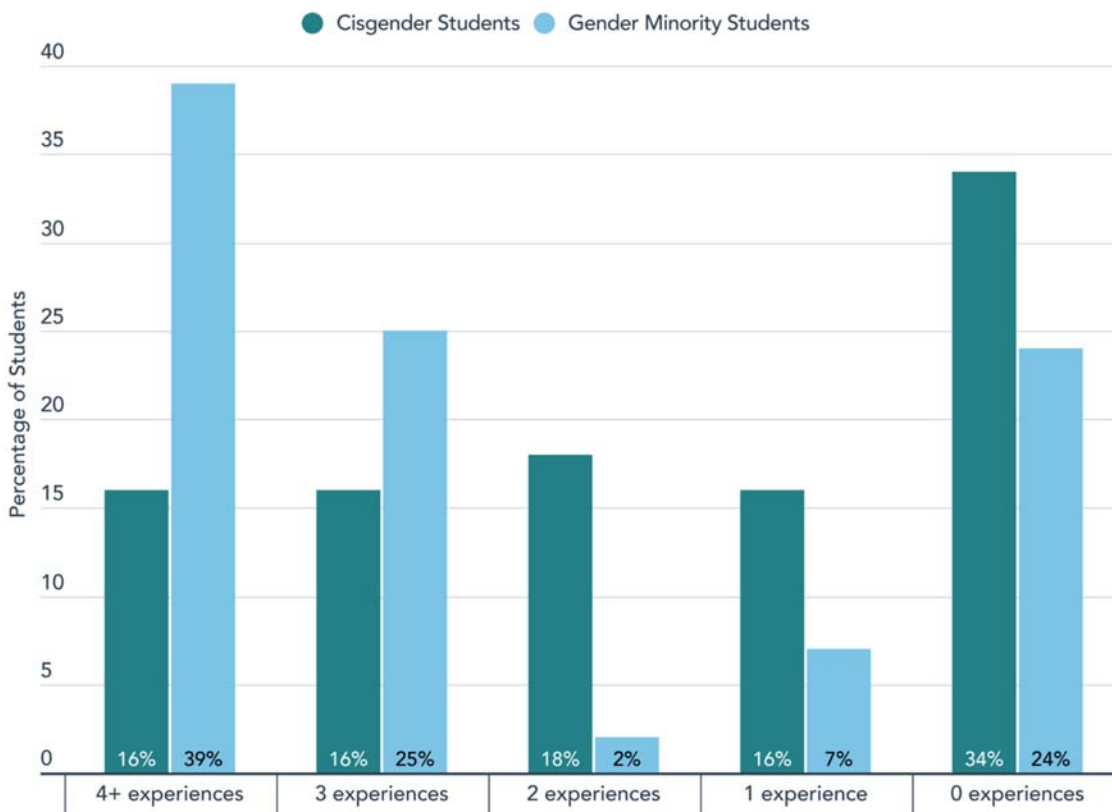
## II. THE GENDER MINORITY EXPERIENCE

Gender minority students have twice the adverse experiences as their fellow cisgender students

Gender minority students are seven times as likely to have survived a sexual assault and are five times more likely to have been bullied, harassed or contemplated suicide. Indeed, of the 11 items that this report analyzes (loneliness, anxiety, depression, suicidal thoughts, bullying or harassment, alcohol use, drug or substance use, physical or sexual assault, sexual harassment, or an eating disorder), results show that 39% of gender minority students experienced four or more adverse conditions while only 16% of cisgender students experienced four or more.

### Number Of Adverse Experiences Among Cisgender And Gender Minority Students

*Gender minority students are significantly more likely to have adverse experiences compared to their straight peers*

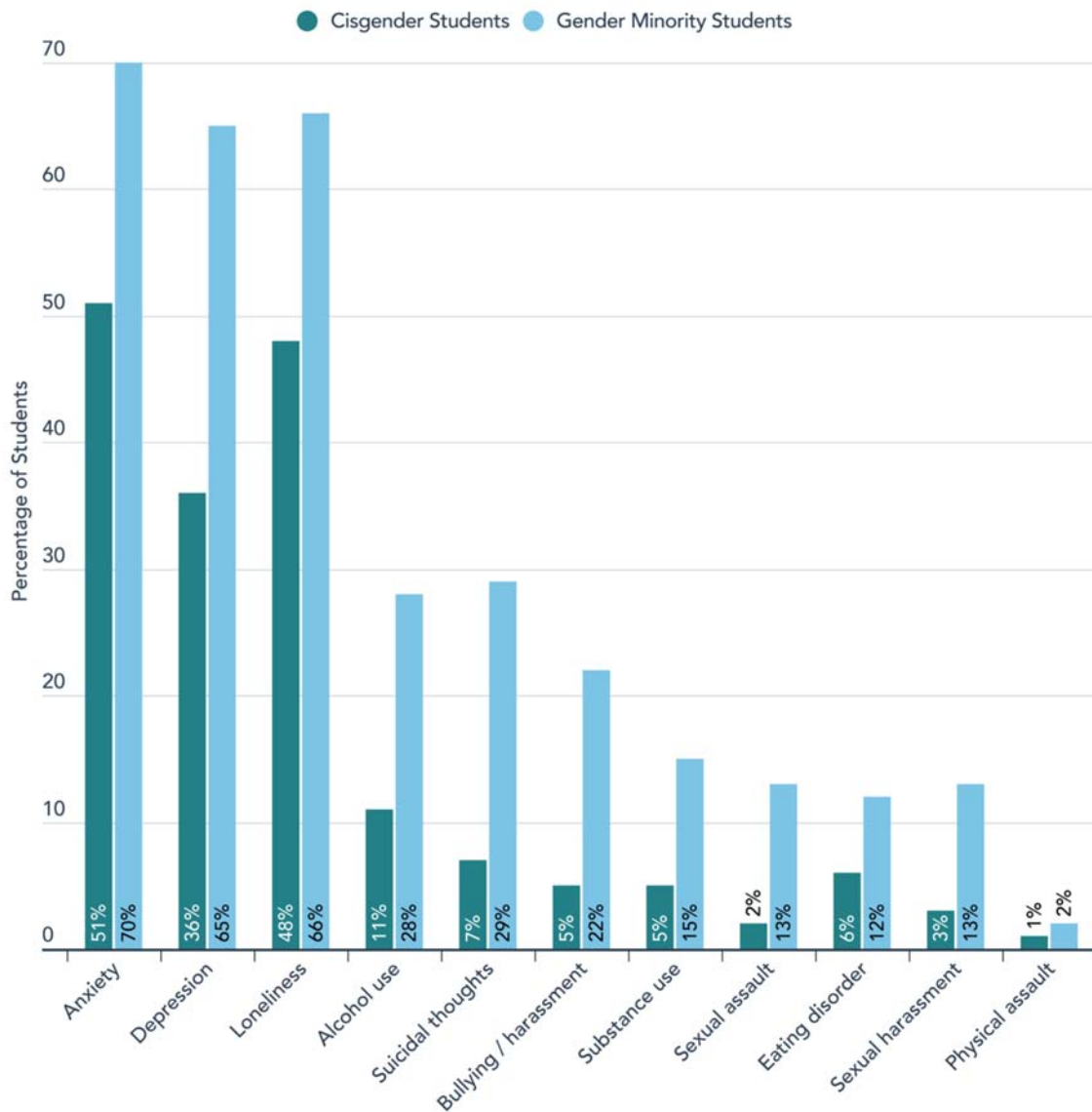


On average, gender minority students experience double the number of adverse experiences compared to their cisgender peers (3.6, compared to 1.8). Similar to sexual minority students, the types of adverse experiences gender minority students have most frequently include

anxiety, depression, and loneliness. Nearly 7 in 10 gender minority students report experiencing loneliness (70%) or depression (65%). Similarly, about one-third of gender minority students report having used alcohol (28%) or having had suicidal thoughts (29%) during their time at their college. This stands in stark contrast to their cisgender peers, for whom only 7% have seriously considered suicide. One in 5 (22%) gender minority students report being bullied during their college experience, and the majority (73%) of these students report the bullying coming from someone at their college.

### Adverse Experiences Among Gender Minority and Cisgender Students

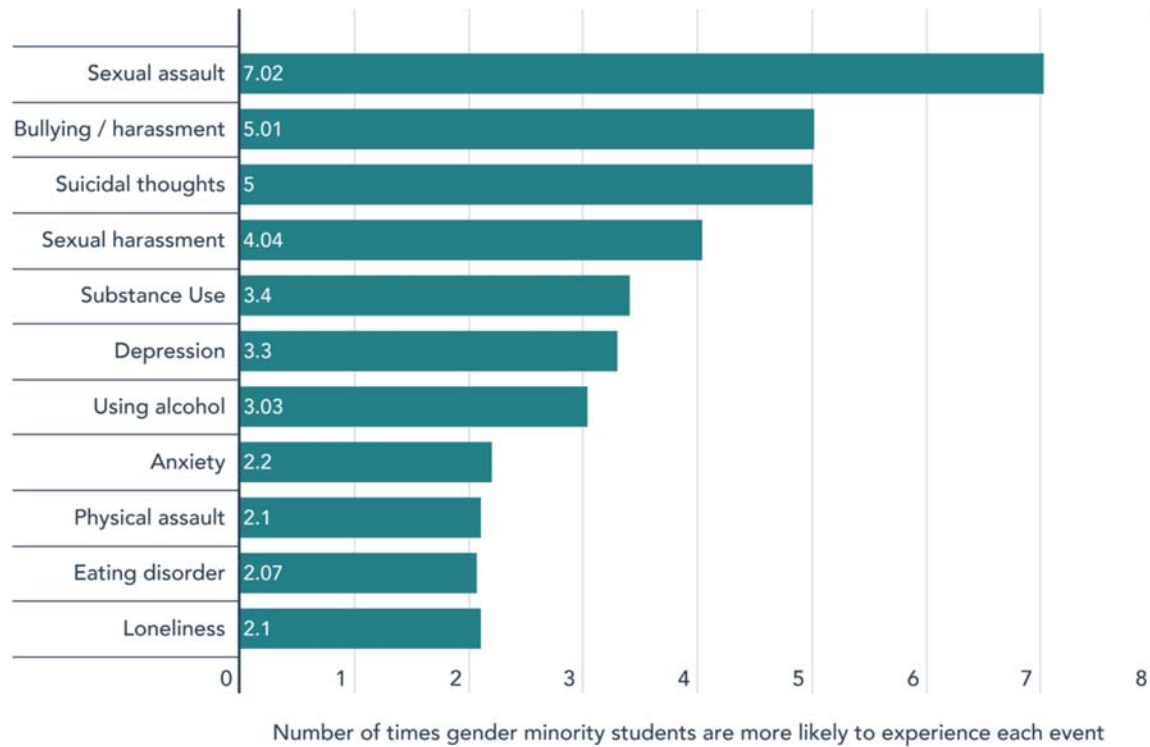
*Gender minority students are significantly more likely to experience all harms compared to their cisgender peers*



Across the board, gender minority students report experiencing more of these harms compared to their fellow cisgender students.

### Odds Ratios for Adverse Events Experienced by Gender Minority Students

*Gender minority students are nearly twice as likely to have negative personal experiences*



Put another way, gender minority students are significantly more likely to report having these negative experiences compared to their cisgender peers. For example, when it comes to sexual assault, gender minority students are seven times more likely to report a sexual assault compared to their fellow cisgender students. They are also five times more likely to report having been bullied and to have seriously considered suicide. Regardless of the metric, gender minority students report significantly more adverse events than students who identify with the sex they were assigned at birth.

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*"I feel extremely uncomfortable talking about my gender and sexual identity... I would definitely never recommend [my college] to anyone who was anything but a straight cis-gender person. I am also aware of an individual living on campus who is not allowed to live in the men's dorms because he is a trans man."* — **Questioning student, Roberts Wesleyan College**

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Gender minority students explicitly report that the cause of their depression, anxiety, and loneliness is due to their gender identity. The table below shows that when it comes to loneliness, about 3 in 10 (35%) gender minority students attribute their gender identity as one of the main drivers of their loneliness. Similarly, students who identify as something other than their birth sex report their gender identity as a contributor to their depression (39%) and anxiety (27%). While other factors contribute to their loneliness or anxiety (for example, about 80% of students report that academic stress contributes to their anxiety), gender minority students very intentionally identify their gender identity as a source of their adverse experiences.

### Sources of Loneliness, Depression, Anxiety and Bullying among Gender Minority and Cisgender students

*Gender identity directly contributes to feelings of loneliness, depression and anxiety*

	Loneliness		Depression		Anxiety		Bullying	
	Cisgender	Gender Minority	Cisgender	Gender Minority	Cisgender	Gender Minority	Cisgender	Gender Minority
<b>Gender identity</b>	2%	35%	2%	39%	2%	27%	8%	41%
<b>Sexual identity</b>	8%	44%	8%	41%	6%	29%	16%	45%
<b>Racial background</b>	7%	8%	7%	14%	6%	17%	22%	9%
<b>Academic Stress</b>	67%	63%	69%	59%	83%	67%	*	*
<b>Stress from home</b>	39%	51%	54%	65%	48%	77%	*	*
<b>Social stress</b>	62%	74%	60%	82%	58%	77%	*	*
<b>Romantic stress</b>	24%	26%	27%	28%	23%	22%	*	*
<b>Employment stress</b>	27%	39%	33%	48%	34%	65%	*	*
<b>Financial insecurity</b>	42%	64%	50%	79%	47%	79%	*	*
<b>Time management</b>	48%	36%	45%	45%	52%	59%	*	*

*Notes: The asterisk (\*) denotes answer options that were not shown for this series of questions.*

When it comes to bullying, one in five (22%) gender minority students report being bullied during their college tenure, and 41% of these students report that their gender identity is a contributor to the bullying they experienced.

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*"I feel that discussing my gender identity] would definitely result in instant stigma and no degree of support or understanding." — Demigirl student, Liberty University*

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### III. THE SEXUAL MINORITY EXPERIENCE

#### LGBTQ+ students report wholly inferior college experiences than their straight peers

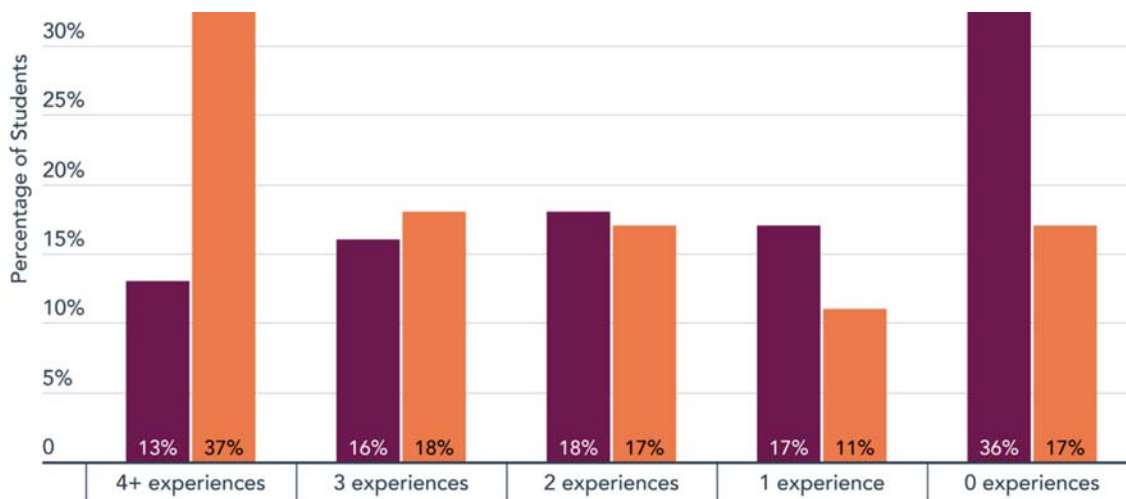
Prior research has shown that students face a significant amount of stress during their college years.<sup>2</sup> For many students, life during college includes increased academic workloads, living away from home from the first time, and more financial and social pressure, in addition to planning for their future careers. The results from this survey show, however, that sexual minority students are more likely than their straight peers to have a range of stressful and harmful experiences. Whether it is depression, anxiety, or an eating disorder, sexual minority students are much more likely to report personal challenges during their college years.

This survey polled students on whether they had experienced any of the following 11 adverse experiences during their time in college: loneliness, anxiety, depression, suicidal thoughts, bullying or harassment, alcohol use, drug or substance use, physical or sexual assault, sexual harassment, or an eating disorder.

More than one-third (36%) of straight students report not experiencing any adverse experiences from this list. This number stands in stark contrast to sexual minority students — only 17% did not select a single item. On average, sexual minority students report having an average of 3.2 adverse experiences, compared to their straight counterparts who experience an average of 1.7.

#### Reported Adverse Experiences by Straight and Sexual Minority Students

*Sexual minority students are more likely to face more harms compared to straight peers*



Of all these negative experiences, anxiety is the most frequent. Nearly three-quarters (73%) of sexual minority students report feeling anxious at some point during their time at their college, compared to nearly half (49%) of their straight peers who experience anxiety. Loneliness and

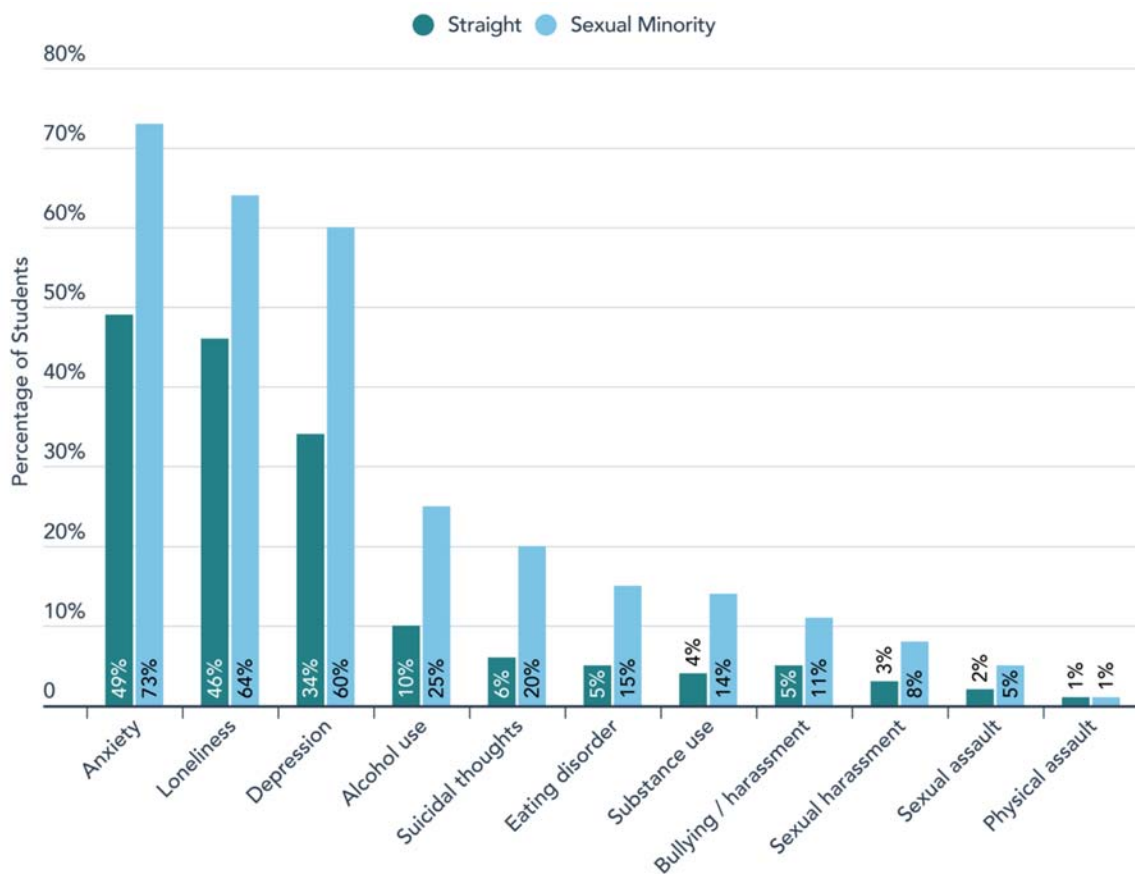
<sup>2</sup> ROSS, SHANNON E., et al. "SOURCES OF STRESS AMONG COLLEGE STUDENTS." College Student Journal, vol. 33, no. 2, 1999, p. 312. Gale Academic OneFile

depression round out the top three negative experiences, with more than half (64% and 60% respectively) of LGBTQ+ students reporting feelings of loneliness or depression during their college career.

Sexual minority students are also more likely to report experiencing harassment, bullying, and assault compared to their straight peers. Sexual minority students are more than twice as likely to report experiencing harassment and bullying and three times more likely to report having been the victim of sexual harassment or assault.

### Adverse Experiences Among LGBTQ+ and Straight Students

*Feelings of depression, anxiety and loneliness are more common among LGBTQ+ Students*

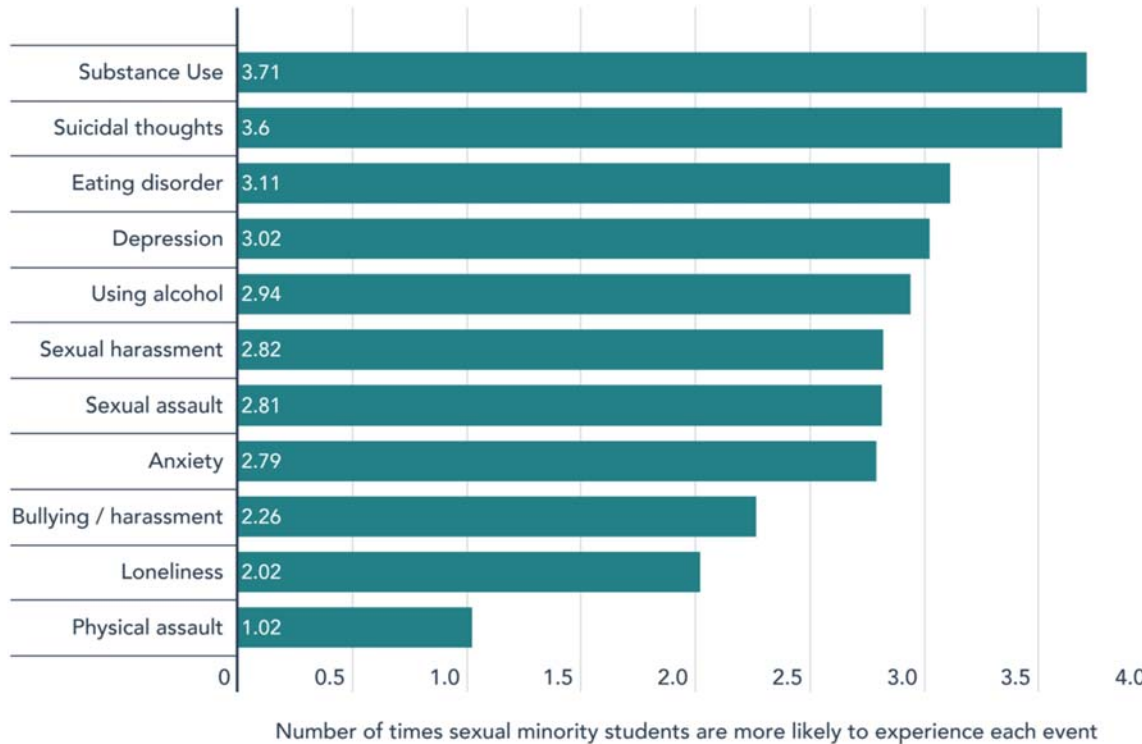


The following chart presents these adverse experiences in terms of odds ratios for LGBTQ+ students compared to heterosexual students. Odds ratios demonstrate how much more likely one outcome (e.g., depression) is for one group compared to another. For example, results show that sexual minority students are 3.7 times more likely than their straight peers to report using drugs or other substances,

and 3.6 times more likely to report having seriously considered suicide during their time at their college.<sup>3</sup>

### Odds Ratios for Adverse Events Experienced by Sexual Minority Students

*LGBTQ+ students are more likely to have adverse experiences compared to straight peers.*



Sexual minority students are three times more likely to experience an eating disorder or depression, and nearly three times (2.8 times) as likely to report having been sexually harassed at their college compared to straight students. LGBTQ+ students also report higher rates of sexual and physical assault, anxiety, and loneliness compared to their straight peers. In fact, sexual minority students are at more risk for every adverse experience this survey inquired about compared to their fellow straight students.

The survey also investigated sources of these negative experiences among LGBTQ+ students. It asked students to identify the aspects of their life that contributed to feelings of loneliness, depression, and anxiety. Sexual minority and straight students reported that academic stress, stress from home, and social stress all contributed to feelings of loneliness, depression, and anxiety. What is clear from the table below, however, is that LGBTQ+ students report their sexual identity is a key driver. Significant numbers of LGBTQ+ students say their sexual or gender identity is an important reason they feel lonely (48%), depressed (41%), or anxious (35%) at their college. For example, this female student from Wheaton College reflects on her experience navigating her sexual identity on campus:

<sup>3</sup> Results hold after controlling for race and gender.

*“Being queer at Wheaton College, even just trying to figure out my sexuality and my feelings, has made me feel extremely on edge almost always, especially around people who I fear may verbally harass me for my sexual orientation. Trying to navigate romantic feelings for a woman in this community culture has been one of the biggest contributors to my depression and anxiety. I understand the schools’ need to include same-sex marriage as unacceptable in the community covenant because they are a Christian school and depend on donors who are anti-LGBTQ+, but it is disgustingly unfair that straight individuals are able to figure out relationships in open spaces and with Christian counselors and friends to talk to and be open with and to help them navigate relationships, and that I was unable to do that and instead had to live in secrecy and fear of reprimand for feelings of agape love that I had towards a woman.”*

## Sources Of Loneliness, Depression, Anxiety And Bullying Among Sexual Minority And Straight Students

*Sexual and gender identity are sources of stress for sexual minority students*

	Loneliness		Depression		Anxiety		Bullying	
	Straight	Sexual Minority	Straight	Sexual Minority	Straight	Sexual Minority	Straight	Sexual Minority
Gender identity	1%	11%	2%	10%	2%	8%	8%	16%
Sexual identity	2%	48%	3%	41%	2%	35%	7%	62%
Racial background	8%	5%	8%	5%	6%	6%	24%	12%
Academic Stress	66%	72%	71%	60%	83%	76%	*	*
Stress from home	39%	44%	53%	59%	48%	51%	*	*
Social stress	62%	64%	60%	64%	57%	63%	*	*
Romantic stress	24%	20%	28%	23%	24%	22%	*	*
Employment stress	27%	31%	34%	35%	34%	39%	*	*
Financial insecurity	42%	51%	51%	50%	47%	49%	*	*
Time management	48%	49%	46%	39%	53%	49%	*	*

*Notes: The asterisk (\*) denotes answer options that were not shown for this series of questions.*

For students who report being bullied, 62% of sexual minority students report that one of the reasons they were bullied was due to their sexual identity. Of those sexual minority students who were bullied, 86% report that the bullying they experienced was perpetrated by someone at their college.



## EXPLORING THE GENDER GAP

LGBTQ+ women have inferior college experiences compared to straight, male peers

We can sometimes lose sight of the gaps in experiences when we take them piecemeal. Any single metric for health, well-being, exclusion or success does not provide a complete picture, but the variety of different questions designed to identify challenges faced by LGBTQ+ students provides a distinct pattern. LGBTQ+ students have very different college experiences from straight students. However, the experience gap is even wider when we consider the experiences of sexual minority females and their straight male peers.

When it comes to the adverse experiences that students have at college, we see that LGBTQ+ females report anxiety and depression at twice the rate of their straight male peers. Sexual minority females are also much more likely than their heterosexual male peers to report loneliness or isolation during their college years (63% vs. 40%), and specifically, these women call out that their loneliness is due to their sexual (47%) and gender identity (10%).

LGBTQ+ women are also particularly vulnerable to sexually aggressive acts, such as assault or harassment and experience such acts at significantly higher rates than their heterosexual male peers.

### Adverse Events Experienced by Straight Men and Women of Sexual Minority

*Women of sexual minority are significantly more likely to have inferior experiences during college compared to straight men*

Harms Experienced	Straight Men	Women of Sexual Minority
Anxiety	38%	77%
Depression	27%	63%
Feeling lonely or isolated	40%	63%
Using drugs or other substances	4%	15%
Sexual harassment	0%	7%
Sexual assault	0%	6%
Contributors to Loneliness		
My sexual identity / sexual orientation	0%	47%
My gender / gender identity	0%	10%



<b>Contributors to Anxiety</b>		
<b>My sexual identity / sexual orientation</b>	2%	32%
<b>Contributors to Bullying</b>		
<b>My sexual identity / sexual orientation</b>	9%	51%
<b>Sexual or Gender Identity Prevented You from Doing the Following:</b>		
<b>Feeling accepted by others at your college</b>	1%	43%
<b>Dating the person you want you</b>	1%	23%
<b>Living on campus</b>	1%	8%
<b>Becoming an officer of a club or other campus leadership position</b>	0%	8%
<b>Feeling comfortable eating in cafeterias</b>	0%	7%

LGBTQ+ women also experience significantly inferior college campus experiences compared to their straight male peers. For example, 43% of sexual minority females report that their sexual or gender identity has prevented them from feeling accepted on their college campus, and 23% agree that their sexual or gender identity has prevented them from dating who they want to. About 1 in 12 LGBTQ+ females report that their gender or sexual identity has prevented them from living on campus and holding leadership positions on campus.



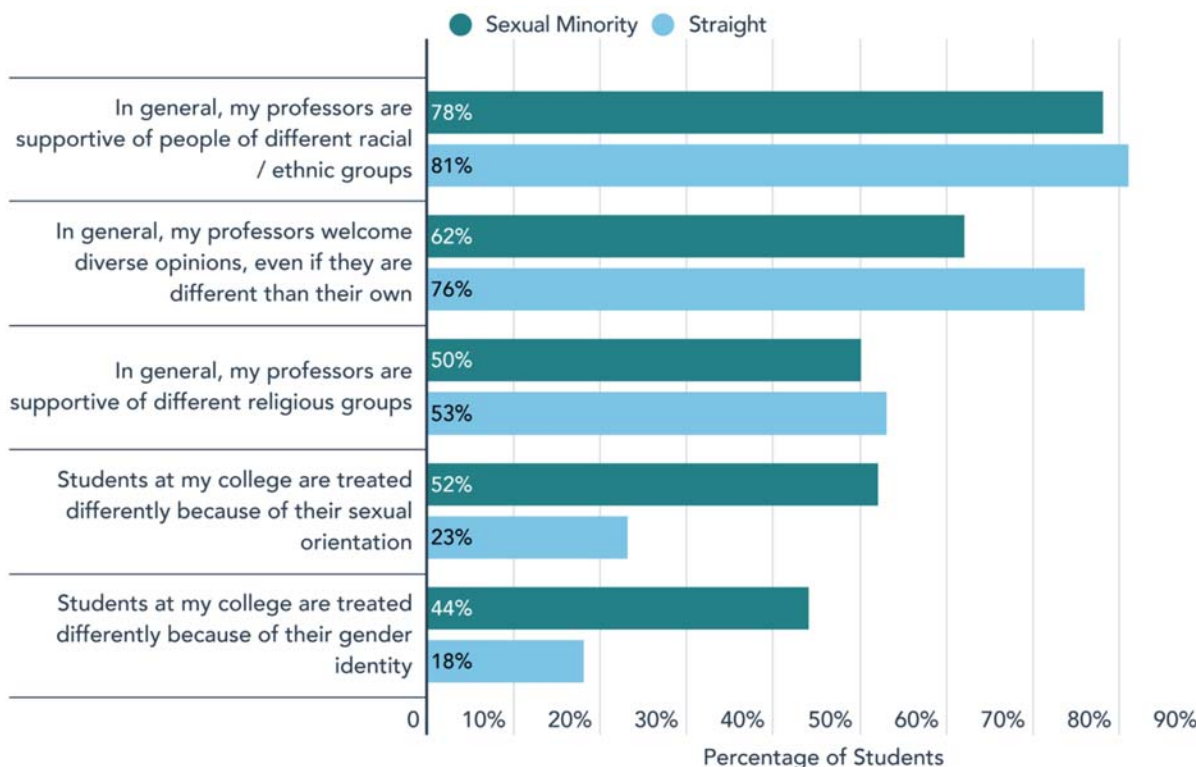
## IV. SENSE OF BELONGING

Nearly half (47%) of gender minority students feel that they don't belong at their Christian college

When it comes to their experiences in their classrooms and engaging in dialogue with their professors, straight students on Christian college campuses overwhelmingly believe (81%) that their professors are supportive of students of diverse racial and ethnic backgrounds. Half (50%) of sexual minority students agree that their professors are supportive of students of different faiths. However, there is a stark divide in the assessment of perceived acceptance of LGBTQ+ students on college campuses. For example, 52% of sexual minority students report that students are treated differently as a result of students' sexual orientation. Straight students have a considerably different view, with only 23% of straight students agreeing that their peers are treated differently as a result of their sexual orientation. A similar trend is present for sexual minority students who are more likely to report that students are treated differently based on gender identity compared to their straight peers (44% vs. 18%).

### Sense of Belonging Among Sexual Minority and Straight Students

*LGBTQ+ students less likely to feel supported by their university compared to their straight peers*



Results also show significant divergence between sexual minority and straight students. Students were asked to state their level of agreement with how much they feel as though they are welcome and included on their campus. Approximately 3 in 10 (29%) LGBTQ+ students say they feel as though they do not belong on campus. In comparison, only 17% of straight students feel the same. Gender minority students are most likely to feel as though they don't belong, with almost half (47%) saying so.

Sexual and gender minority students are also less likely to feel welcomed in the classroom. One in 3 (31%) LGBTQ+ students feel comfortable sharing their opinions in the classroom, compared to 42% of straight students. Students identifying as a gender minority are significantly more likely to feel uncomfortable sharing their opinions in class compared to their cisgender peers, with half (50%) saying so. Heterosexual students (52%) are more likely to feel as though their perspectives are welcome in class, with only 31% of LGBTQ+ students agreeing with this sentiment.

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*"I have often experienced that people will [look] down on me for mentioning any queer-related activity. I am a female-presenting person with a boyfriend. However in the past I have had more explicitly queer relationships. I have been outed for this by some non-accepting individuals. It has made it difficult to get along with others and it drove me out of my dorm. I feel safe as long as no one knows." — **Non-binary student, Houston Baptist University***

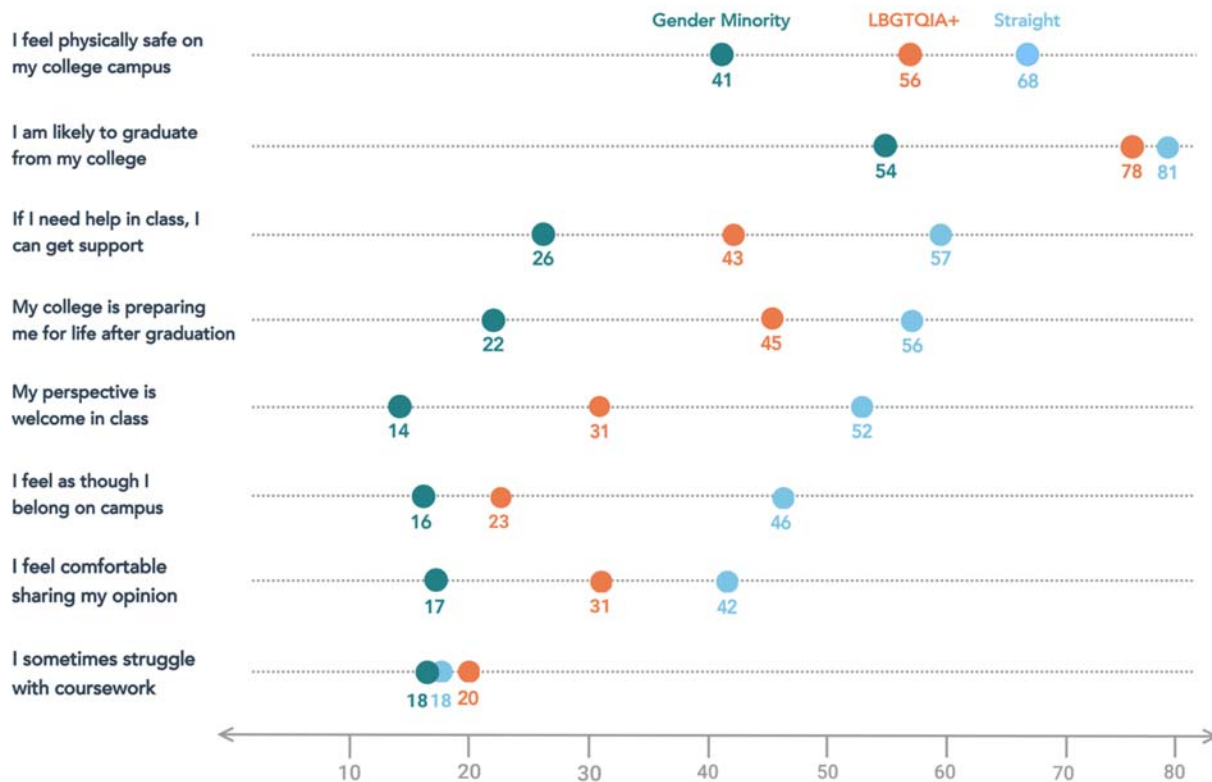
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Students self-identifying as a gender minority are also most likely to feel like outsiders on their campus. Aside from not feeling as welcomed in the classroom compared to their cisgender classmates, sexual minority students are also more likely to feel unsafe on their campus compared to cisgender peers (41% vs. 68%).

In terms of being prepared for life beyond college, LGBTQ+ students are about as likely to say that they are likely to graduate from their college compared to straight students (78% vs. 81%). But gender minority students are much less likely to agree, with only 54% believing they will graduate from their college. Gender minority students are also far less likely to agree that their college is preparing them well for life after graduation compared to their straight peers (22% vs. 56%).

### Level of Perceived Support from College

Gender minority students are less likely to feel supported by their college compared to both sexual minority and straight students



A major aspect of the college experience and personal growth occurs outside of the classroom. When it comes to critical facets of college life, such as socializing, intramural activities, and daily living arrangements, LGBTQ+ students are much more likely to report feeling limited—that their gender or sexual identity has prevented them from fully experiencing college. For example, more than 4 in 10 (43%) LGBTQ+ students report that their gender or sexual identity has prevented them from feeling accepted by others at their college, and one-quarter (25%) of sexual minority students report that they are unable to date who they want to at their college. About 1 in 10 (12%) sexual minority students also report that they are unable to join clubs on campus. The theme of feeling unwelcome or feeling restricted from participating in on-campus organizations, and clubs, features prominently:

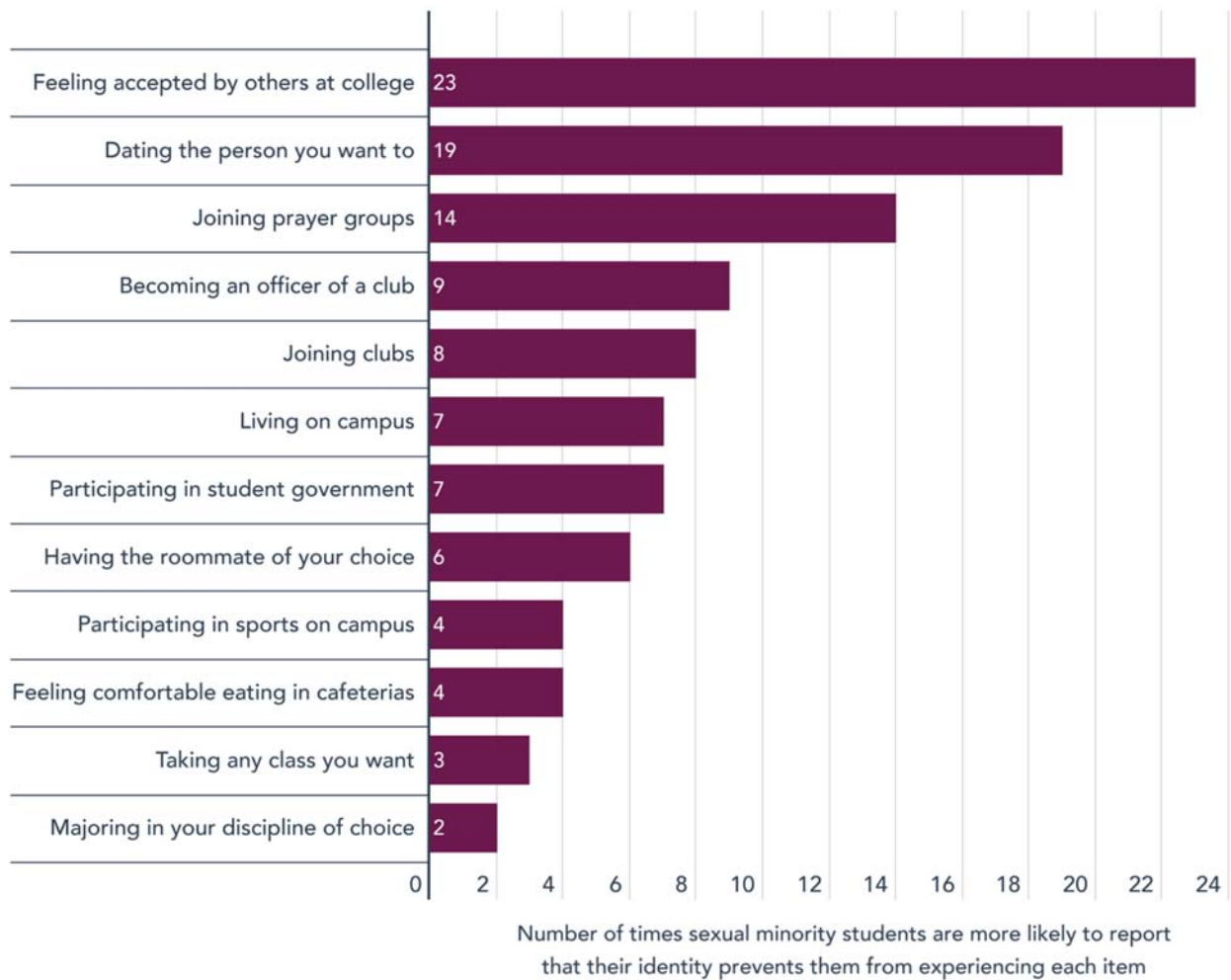
*"[I] feel unwelcomed by professors and staff. An LGBTQIA+ club was not supported by [our] institution. Protest was held by students." — Bisexual female, Asuza Pacific University*

*"I think that Baylor University does an awful job as a school to make their LGBTQIA+ students feel safe and welcomed. Not only do they refuse to charter the Baylor GAY club, which is unfair because it is about representation, but they also have not changed their Human Sexuality statement. Because of the person I am, I am proud to be a lesbian and am very open about it. However mostly everyone else I know who is also LGBTQIA+ here does not feel the same way. I still feel discriminated against and it hurts." — Lesbian student, Baylor*

*"The LGBT+ club has more restrictions than other clubs and the religious atmosphere promotes discrimination by the students and through the higher-up campus institutions. Overall I would not recommend [this school] to those questioning their gender or sexual identity." — Lesbian student, Pepperdine University*

### On-Campus Participation Among Sexual Minority Students

*Sexual minority students are significantly more likely to report that their gender or sexual identity prevents them from participating fully in campus life*



**On Campus Participation Among Sexual Minority, Gender Minority, And Straight Students**  
*Sexual and gender minority students more likely to report not being able to fully participate in college life than their heterosexual and cisgender peers*

	Sexual Minority	Gender Minority	Straight
Feeling accepted by others	43%	48%	4%
Dating who you want to	25%	30%	2%
Joining clubs	12%	14%	2%
Joining prayer groups	11%	14%	1%
Having the roommate of your choice	9%	4%	2%
Living on campus	9%	14%	2%
Becoming an officer in leadership positions	8%	8%	1%
Feeling comfortable eating in cafeterias	7%	14%	2%
Taking classes you want	4%	19%	2%
Participating in student government	4%	3%	1%
Participating in sports	3%	8%	1%
Choosing your major	2%	9%	1%
None of these	48%	32%	91%

Gender minority students are nearly 20 times more likely to report that their sexual or gender identity prevented them from dating the person that they want to compared to their cisgender peers, and 17 times more likely to say that their identity has prevented them from feeling accepted at their college. Gender minority students are nearly 10 times more likely to report that their gender has held them back from participating in campus life, such as joining clubs on campus or becoming an officer in one, compared to cisgender students.

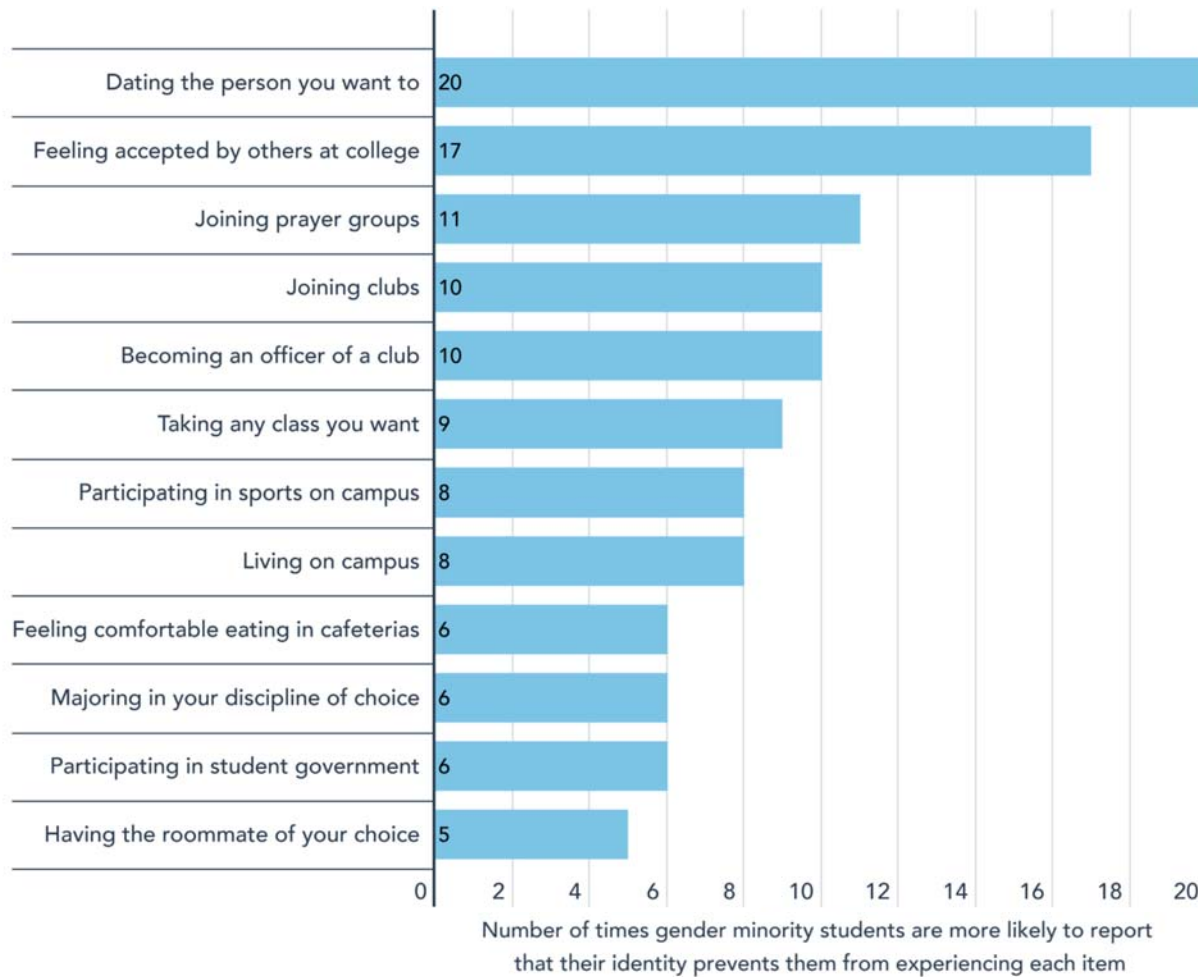
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*"I am a gay woman (she/they) and a senior in undergrad. I entered into undergrad as a [closeted] gay ministry major but soon found that I was definitely not going to receive any support were I to come out to my ministry friends. 90% of my Bible professors talked openly about homosexuality being a 'sin' and I just had to sit there and listen to the class discuss whether or not I deserve rights. It was awful. Then I switched to being an education major with a concentration in English." — Lesbian and Polyamorous student, Hope International University*

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### On-Campus Participation Among Gender Minority Students

*Gender minority students are significantly more likely to report that their gender or sexual identity prevents them from partaking in on-campus activities*



On a very deep and visceral level, sexual and gender minority students report that they are less likely to fully participate in campus life. They also feel less supported by the campus community and administration. Nearly half (48%) of straight students say their college supports them, while only about one-third (36%) of LGBTQ+ students say the same.



## V. UNIVERSITY SANCTIONS

Gender and sexual minority students are more likely to face university sanctions for their sexual or gender identity

When asked whether or not their college or university had ever taken formal actions against them for their sexual or gender identity, the majority of gender and sexual minority students report this has not happened. Nine in 10 (91%) straight students report that their college has not taken any action against them in regards to their sexual or gender identity. However, among sexual minority students, that number decreases to 88%. Similarly, gender minority students are more likely to say their college or university has taken action against them due to their sexual or gender identity, with only three-quarters (73%) of students saying they faced no repercussions.

### University-led Discipline due to Sexual or Gender Identity

*Sexual and gender minority students face suggested counseling from their college because of their sexual or gender identity*

	Sexual Minority Students	Gender Minority Students
Suggested counseling	6%	8%
Suggested sexual orientation change efforts	4%	8%
Suggested gender identity change efforts	1%	7%
Required sexual orientation change efforts	1%	3%
Mandatory meeting with RA or administrator	1%	2%
Received a bad grade in a class	1%	2%
Disciplinary action	0%	2%
Scholarships or financial aid revoked	0%	2%
Loss of on-campus housing	0%	2%
Required counseling	0%	2%
Not allowed to attend on-campus events	0%	2%

In fact, gender minority students are the most likely to report facing all of the disciplinary actions listed in the survey. Among students who have faced disciplinary action related to their gender or sexual identity, 7% of gender minority students say their school suggested gender identity

change efforts. Gender minority students are also twice as likely as sexual minority students to say their school suggested sexual orientation change efforts (8% vs. 4%), and three times as likely to say their school required sexual orientation change efforts (3% vs. 1%).

It is worth noting that reports of university sanctions may be slightly depressed, for students fear the consequences of what would happen to their status if their gender or sexual identity should be revealed. For many LGBTQ+ students whose identity is not known on campus, concealing their true identity is a strategy to preserve their housing, scholarships or even the ability to attend their college. Says one closeted student,

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*"I feel no support whatsoever and feel physically unsafe if it were to become public knowledge. I only share my orientation to those that I know for sure are also LGBTQ+. I have overheard people saying, "hang the f\*gs and let them burn." I have several friends forced into the wrong gender dorms and there have been multiple classes that have entire units condemning anyone not cisgender and straight. I know this will not change. I do not have the money to move out of state and receive good scholarships from the university." — Questioning student, Liberty University*

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## CONCLUSION

LGBTQ+ students are a significant part of the student body of every college and university, including at taxpayer-funded religious colleges and universities where they are explicitly discriminated against. The survey data reveal stark contrasts in mental health and student experience outcomes for sexual and gender minority students at these institutions.

Every student deserves a safe campus environment in which to learn and grow. Every parent wants this for their child, and every child needs this in order to flourish. Unfortunately, Christian colleges and universities that explicitly discriminate against LGBTQ+ students are not providing a safe campus environment for a large percentage of their student body. A review of campus policies and procedures by higher education leaders, administrators, policymakers and accreditation bodies may lead to more safe and affirming campus climates for this vulnerable student population.

Moreover, the experiences of sexual and gender minority students at taxpayer-funded religious colleges and universities may have important implications for religious exemptions to civil rights statutes like Title IX and the debates surrounding the Equality Act.



## METHODOLOGY

The survey was designed and conducted by College Pulse at the request of the Religious Exemption Accountability Project. The survey was fielded January 28 - February 6, 2021 and comes from a sample of 3,000 undergraduates who are currently enrolled full-time in four-year degree programs at taxpayer-funded Christian colleges and universities, most of which are members of the Council for Christian Colleges and Universities (CCCU). The students from this sample come from 134 universities in the United States. The margin of error for the U.S. undergraduate population is +/- 1 percentage point, and the margin of error for college student sub-demographics range from 2-5 percentage points. The final data set was weighted to ensure that the demographic characteristics of the sample closely approximate the demographic characteristics of the target populations using the Current Population Survey (CPS) and other benchmarks.

The initial sample was drawn from College Pulse's American College Student Panel™ that includes more than 485,000 verified undergraduate students representing more than 1,000 two- and four-year colleges and universities in all 50 states. Panel members are recruited by a number of methods to help ensure student diversity in the panel population, including web advertising, permission-based email campaigns, and partnerships with university-affiliated organizations.

College Pulse uses a two-stage validation process to ensure that all its surveys include only students currently enrolled in four-year colleges or universities. Students are required to provide an .edu email address to join the panel and verify that they are currently enrolled either part-time or full-time in a two- or four-year degree program. All invitations to complete surveys are sent using the student's .edu email address or through notification in the College Pulse App that is available on iOS and Android platforms.

We apply a post-stratification adjustment based on demographic distributions from multiple data sources, including the 2017 Current Population Survey (CPS), the 2016 National Postsecondary Student Aid Study (NPSAS), and the 2017-18 Integrated Postsecondary Education Data System (IPEDS). The post-stratification weight rebalances the sample based on a number of important benchmark attributes, such as race, gender, class year, voter registration status, and financial aid status. The sample weighting is accomplished using an iterative proportional fitting (IPF) process that simultaneously balances the distributions of all variables. Weights are trimmed to prevent individual interviews from having too much influence on the final results.

The use of these weights in statistical analysis ensures that the demographic characteristics of the sample closely approximate the demographic characteristics of the target populations. Even with these adjustments, surveys may be subject to error or bias due to question wording, context, and order effects.

For more information on our methodology, please visit <https://collegepulse.com/methodology>.

**COLLEGE EXPERIENCES SURVEY TOPLINE**  
**N=3001 COLLEGE STUDENTS**

Q.1 Thank you for participating in our survey. Please read the following message:

Q.2 Thinking about your experience at {{it.userSchool}}, how much do you agree or disagree with the following statement: **\*\*I feel as though I belong on my college campus\*\***

9%	Strongly disagree
10%	Somewhat disagree
9%	Neither agree nor disagree
28%	Somewhat agree
44%	Strongly agree
0%	Refused
100%	Total

Q.3 Thinking about your experience at {{it.userSchool}}, how much do you agree or disagree with the following statement: **\*\*I feel comfortable sharing my opinions in class\*\***

5%	Strongly disagree
11%	Somewhat disagree
9%	Neither agree nor disagree
34%	Somewhat agree
41%	Strongly agree
0%	Refused
100%	Total

Q.4 Thinking about your experience at {{it.userSchool}}, how much do you agree or disagree with the following statement: **\*\*My perspective is welcome in my classes\*\***



4%	Strongly disagree
7%	Somewhat disagree
10%	Neither agree nor disagree
29%	Somewhat agree
50%	Strongly agree
0%	Refused
100%	Total

Q.5 Thinking about your experience at {{it.userSchool}}, how much do you agree or disagree with the following statement: **\*\*I feel physically safe on my college campus\*\***

2%	Strongly disagree
4%	Somewhat disagree
8%	Neither agree nor disagree
19%	Somewhat agree
66%	Strongly agree
0%	Refused
100%	Total

Q.6 How much do you agree or disagree with the following statement: **\*\*I sometimes struggle with my coursework\*\***

5%	Strongly disagree
13%	Somewhat disagree
16%	Neither agree nor disagree
47%	Somewhat agree
18%	Strongly agree
0%	Refused
100%	Total

Q.7 How much do you agree or disagree with the following statement:



**\*\*If I need help in my classes, I can get the support I need\*\***

2%	Strongly disagree
3%	Somewhat disagree
8%	Neither agree nor disagree
31%	Somewhat agree
56%	Strongly agree
0%	Refused
100%	Total

Q.8 How much do you agree or disagree with the following statement:  
**\*\*I am likely to graduate from my college\*\***

2%	Strongly disagree
2%	Somewhat disagree
5%	Neither agree nor disagree
10%	Somewhat agree
81%	Strongly agree
0%	Refused
100%	Total

Q.9 How much do you agree or disagree with the following statement:  
**\*\*My college is preparing me well for my next steps in life (e.g., graduate school or a job in my field)\*\***

3%	Strongly disagree
5%	Somewhat disagree
10%	Neither agree nor disagree
28%	Somewhat agree
55%	Strongly agree
0%	Refused
100%	Total

Q.10



Considering your experience on your college campus, which of the following, if any, are true for you? [Select up to 5 options]

25% Students at my college are treated differently because of their sexual orientation

52% In general, my professors are supportive of different religious groups

81% In general, my professors are supportive of people of different racial / ethnic groups

20% Students at my college are treated differently because of their gender identity

74% In general, my professors welcome diverse opinions, even if they are different than their own

5% None of these

0% Refused

Q.11 During your time at {{it.userSchool}}, have you experienced any of the following? [Select up to 14 options]

48% Feeling lonely or isolated

52% Anxiety

36% Depression

8% Seriously considered attempting suicide

6% Being bullied or harassed (either online or in person)

12% Using alcohol

5% Using drugs or other substances

1% Physical assault

2% Sexual assault

3% Sexual harrassment

6% Anorexia, bulimia, or another eating disorder

5% Disciplinary action from your college or university

34% None of these

0% Refused

Q.12

**Contact:** Anne Schwichtenberg, PhD  
EXHIBIT B  
Director of Research, College Pulse

**Email:** Anne@collegepulse.com



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You previously mentioned using alcohol. During the past 30 days, on how many days did you have 4 or more drinks of alcohol within a couple of hours?

Question only shown to students who:

(1) Answered "Using alcohol" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

54%	0 days
12%	1 day
12%	2 days
9%	3 to 5 days
5%	6 to 9 days
2%	10 to 19 days
3%	20 or more days
3%	I'm not sure
0%	Refused
100%	Total

Q.13 You mentioned earlier that you experienced a disciplinary action from your college. What was the primary reason for the disciplinary action against you?

Question only shown to students who:

(1) Answered "Disciplinary action from your college or university" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

2%	Social media use
11%	Academic reasons
27%	General code of conduct
17%	Alcohol/drug use
12%	Sexual code of conduct
6%	I'm not sure
26%	Something else
0%	Refused

**Contact:** Anne Schwichtenberg, PhD  
 EXHIBIT B  
 Director of Research, College Pulse

**Email:** Anne@collegepulse.com



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100% Total

Q.14 What was the disciplinary action you experienced?

[Select up to 11 options]

Question only shown to students who:

(1) Answered "Disciplinary action from your college or university" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

- 19% Monetary fine
- 39% A warning
- 12% Temporary suspension
- 49% Required meeting with an administrator
- 8% Community service
- 21% Academic probation
- 0% Permanent expulsion
- 12% Mandatory counseling
- 3% I'm not comfortable saying
- 13% Something else
- 2% None of these
- 0% Refused

Q.15 You mentioned experiencing loneliness or isolation. During the past 4 weeks, how often have you felt lonely or isolated?

Question only shown to students who:

(1) Answered "Feeling lonely or isolated" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

- 6% Never
- 19% Rarely
- 38% Sometimes
- 20% Often
- 14% Very often
- 1% I'm not sure
- 3% Something else



0% Refused  
 100% Total

Q.16 During the past 4 weeks, what contributed to why you experienced loneliness or isolation? [Select up to 12 options]

Question only shown to students who:

(1) Answered "Feeling lonely or isolated" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

(2) Did not answer "Never" or "I'm not sure" to "You mentioned experiencing loneliness or isolation. During the past 4 weeks, how often have you felt lonely or isolated?"

67% Academic stress  
 40% Stress from home  
 7% My racial background/identity  
 3% My gender/gender identity  
 8% My sexual identity/sexual orientation  
 62% Social stress  
 24% Romantic or partner(s) stress  
 27% Employment/unemployment  
 43% Financial insecurity  
 48% Time management  
 8% I'm not sure  
 12% Other  
 0% Refused

Q.17 You mentioned experiencing depression. During the past 4 weeks, how often have you felt depressed?

Question only shown to students who:

(1) Answered "Depression" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

8% Never  
 19% Rarely



35%	Sometimes
22%	Often
15%	Very often
1%	I'm not sure
0%	Refused
100%	Total

Q.18 During the past 4 weeks, have any of the following contributed to your experience with depression? [Select up to 12 options]

Question only shown to students who:

(1) Answered "Depression" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

(2) Did not answer "Never" or "I'm not sure" to "You mentioned experiencing depression. During the past 4 weeks, how often have you felt depressed?"

"

69%	Academic stress
54%	Stress from home
8%	My racial background/identity
3%	My gender/gender identity
9%	My sexual identity/sexual orientation
60%	Social stress
27%	Romantic or partner(s) stress
34%	Employment/unemployment
51%	Financial insecurity
45%	Time management
9%	I'm not sure
9%	Other
0%	Refused

Q.19 You mentioned experiencing anxiety. During the past 4 weeks, how often have you experienced anxiety?

Question only shown to students who:

(1) Answered "Anxiety" to "During your time at {{it.userSchool}}, have you



experienced any of the following?"

4%	Never
13%	Rarely
32%	Sometimes
27%	Often
24%	Very often
1%	I'm not sure
0%	Refused
100%	Total

Q.20 During the past 4 weeks, have any of the following contributed to your experience with anxiety? [Select up to 13 options]

Question only shown to students who:

(1) Answered "Anxiety" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

(2) Did not answer "Never" or "I'm not sure" to "You mentioned experiencing anxiety. During the past 4 weeks, how often have you experienced anxiety?"

"

82%	Academic stress
48%	Stress from home
6%	My racial background/identity
3%	My gender/gender identity
7%	My sexual identity/sexual orientation
58%	Social stress
23%	Romantic or partner(s) stress
35%	Employment/unemployment
47%	Financial insecurity
52%	Time management
6%	I'm not sure
8%	Other
0%	Refused

Q.21



During the past year, how often have you been bullied or harassed (in person or online)? Count being bullied through texting, Instagram, Facebook, or other social media.

Question only shown to students who:

(1) Answered "Being bullied or harassed (either online or in person)" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

15%	Never
33%	Rarely
37%	Sometimes
8%	Often
5%	Very often
2%	I'm not sure
0%	Refused
100%	Total

Q.22 Did this bullying or harassment come from someone at your college?

Question only shown to students who:

(1) Answered "Being bullied or harassed (either online or in person)" to "During your time at {{it.userSchool}}, have you experienced any of the following?"

(2) Did not answer "Never" or "I'm not sure" to "During the past year, how often have you been bullied or harassed (in person or online)? Count being bullied through texting, Instagram, Facebook, or other social media."

78%	Yes
13%	No
10%	I'm not sure
0%	Refused
100%	Total

Q.23 Did any of the following contribute to why you experienced bullying or harassment (in person or online)? [Select up to 7 options]

Question only shown to students who:

(1) Answered "Being bullied or harassed (either online or in person)" to "During your time at {{it.userSchool}}, have you experienced any of the following?"



(2) Did not answer "Never" or "I'm not sure" to "During the past year, how often have you been bullied or harassed (in person or online)? Count being bullied through texting, Instagram, Facebook, or other social media."

- 22% My racial background/identity
- 9% My gender/gender identity
- 17% My sexual identity/sexual orientation
- 35% I'm not sure
- 36% Other
- 0% Refused

Q.24 Do you think your gender or sexual identity has prevented you from doing any of the following at your college? [Select up to 13 options]

- 1% Majoring in your discipline of choice
- 2% Taking any class you want
- 3% Joining clubs
- 5% Dating the person you want to
- 8% Feeling accepted by others at your college
- 2% Joining prayer groups
- 2% Becoming an officer of a club or other campus leadership positions
- 1% Participating in sports on campus
- 1% Participating in student government
- 2% Having the roommate of your choice
- 3% Feeling comfortable eating in cafeterias
- 2% Living on campus
- 1% Something else
- 86% None of these
- 0% Refused

Q.25 During the past 12 months, where did you usually sleep?

- 55% In on-campus housing or a dorm



19%	In off-campus housing or a dorm/apartment/house
21%	In my parent's or guardian's home
2%	In the home of a friend, family member, or other relative
<1%	In a shelter or emergency housing
<1%	In a motel or hotel
<1%	In a car, park, campground, or other public place
<1%	I do not have a usual place to sleep (e.g., couch surfing or staying with different friends)
2%	Something else
0%	Refused
100%	Total

Q.26 How stable do you consider your housing situation to be?

71%	Very stable
22%	Somewhat stable
4%	Somewhat unstable
3%	Very unstable
1%	I'm not sure
0%	Refused
100%	Total

Q.27 People are different in their sexual attraction to other people. Which statement best describes your feelings?

47%	I am only attracted to men
7%	I am mostly attracted to men
3%	I am equally attracted to men and women
4%	I am mostly attracted to women
34%	I am only attracted to women
2%	Gender or gender identity is not relevant to who I am attracted to
<1%	I am attracted to non-binary/agender people
2%	I am not sure





0% Refused  
100% Total

Q.28 During your life, with whom have you had sexual contact? [Select up to 9 options]

47% I have never had sexual contact  
22% Women  
26% Men  
<1% Trans women  
<1% Trans men  
1% Non-binary individuals  
<1% Other gender identity  
9% I don't feel comfortable saying  
0% Refused





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