

PSNW

P. Smith

538 Venard Road · Clarks Summit, Pennsylvania 18411 · Telephone: 717 | 587-1172 · ANCHORED IN THE WORD

Admissions
NA



TO: The Director, Office for Civil Rights

FROM: Baptist Bible College and School of Theology of PA

RE: Identification of the specific provisions of 45 C.F.R. part 86 which conflict with the specific religious tenets of Baptist Bible College and School of Theology of PA.

86.15 Admissions

- (1) Baptist Bible College - admissions policies of private undergraduate institutions are exempt.
- (2) School of Theology (Grad School) - 86.15 is inconsistent with the religious tenets of this institution. We believe that, by divine appointment, there are some ministries in the church which are prohibited to women. Such prohibitions do not imply any mental or spiritual inferiority on the part of women, but are simply part of God's wise arrangements for His people. Women cannot serve as preachers or pastors, and in areas of theological instruction are to remain subordinate to men (I Timothy 2:11-15; Titus 1:5-9, Bible references). There is no instance of a woman preacher or pastor in the New Testament. For these reasons, since its beginning in 1932, Baptist Bible College and School of Theology does not admit women as 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.

With respect to the above ministries in the church which are prohibited to women, the college and School of Theology adhere to the position of the General Association of Regular Baptist Churches, by which we are approved.

86.21 Admission,

86.22 Preference in Admissions,

86.23 Recruitment: Students -- same as exemption request in 86.15

86.31 Education Programs and Activities

Baptist Bible College and School of Theology find 86.31(a) inconsistent with its religious tenets regarding the participation of women in academic programs designed to train preachers, pastors, or theological teachers.

86.34 Access to Course Offerings

Baptist Bible College and School of Theology find 86.34 inconsistent with its religious tenets regarding the participation of women in classes designed to train preachers, pastors, or theological teachers.

86.51 Employment

Baptist Bible College and School of Theology find 86.51 inconsistent with its religious tenets regarding the employment of women in areas of theological instruction.

86.55 Job Classification and Structure

Baptist Bible College and School of Theology find 86.55 inconsistent with its religious tenets regarding the classification of women in areas of theological instruction.

Date December 9, 1976

By Ernest Pickering
Dr. Ernest Pickering
President



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

JUN 18 1985

Dr. Mark Jackson
President
Baptist Bible College and
School of Theology
538 Venard Road
Clarks Summit, Pennsylvania 18411

Dear Dr. Jackson:

The Office for Civil Rights of the Department of Education (OCR/ED) is in the process of clearing a backlog of requests for religious exemption from Title IX of the Education Amendments of 1972. Our records indicate that the Baptist Bible College and School of Theology filed such a request but there is no record that OCR adequately acknowledged this request.

We have recently reviewed the request filed by former President Pickering (copy enclosed) in which he described several policies practiced at the Baptist Bible College and School of Theology as consistent with the tenets of the religious organization that controls the institution. These policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. The former president supplied information in his request letter that establishes that the institution is controlled by a religious organization and that tenets followed by this organization conflict with specific sections of the Title IX regulation. Therefore, I am granting the Baptist Bible College and School of Theology an exemption to those sections of the Title IX regulation appropriate to the request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the institution. The Baptist Bible College and School of Theology is hereby exempted from the requirements of the following sections of the Title IX regulation: 106.21, 106.22, 106.23, 106.31, 106.34, 106.51 and 106.55. The bases for our decision to grant this exemption are discussed in further detail below. The institution's letter also requests exemption from § 106.15 regarding admissions at particular types of institutions. The exemption granted by this letter to § 106.21 more accurately addresses the admissions of students and precludes the necessity for exemption to § 106.15.

The institution's letter indicates that the Baptist Bible College and School of Theology is controlled by the General Association of Regular Baptist Churches. The General Association of Regular Baptist Churches and the Baptist Bible College and School of Theology practice the tenets of prohibiting women from serving as preachers or pastors. The letter states

Page 2 - Dr. Mark Jackson

that the Baptist Bible College and School of Theology is approved by the General Association of Regular Baptist Churches. This relationship between the General Association of Regular Baptist Churches and the Baptist Bible College adequately establishes that the Baptist Bible College and School of Theology is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In the request letter it states that based on religious tenets women are not permitted to enroll in classes that prepare students to become ministers of religion or to enter upon some other religious vocation. Also, women are not employed as theological instructors. Thus, the institution practices the following:

1. Only men are admitted to the School of Theology.

Based on the above, the Baptist Bible College and School of Theology has requested and is granted by this letter, exemption to § 106.21: Admission; § 106.22: Preference in admission; § 106.23: Recruitment.

2. Only men are admitted to academic programs and courses designed to train preachers, pastors, or theological teachers.

Based on the above, the Baptist Bible College and School of Theology has requested and is granted by this letter, exemption to § 106.31: Education programs and activities and § 106.34: Access to course offerings.

3. Employment and classification of men, exclusively, in areas of theological instruction.

Based on the above, the Baptist Bible College and School of Theology has requested and is granted by this letter, exemption to § 106.51: Employment and § 106.55: Job Classification and Structure.

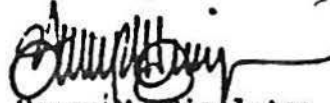
This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically mentioned. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here granted. Also, 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.

Page 3 - Dr. Mark Jackson

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

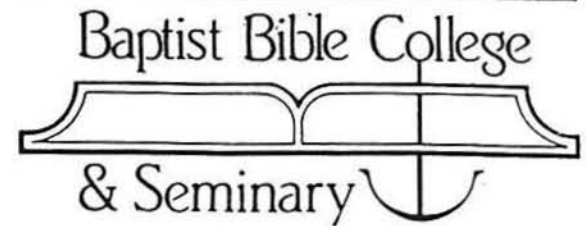
Dewey E. Dodds
Regional Civil Rights Director
Office for Civil Rights, Region III
Department of Education
Gateway Building, 6th Floor
3535 Market Street
Philadelphia, Pennsylvania 19104

Sincerely,



Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosures



October 17, 1988

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

PES
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- AS sig
cy: AS
D.P. (LEWIS)

RE: Baptist Bible College of Pennsylvania
 Clarks Summit, Pennsylvania
 Title IX Exemption

Dear Sir:

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

Baptist Bible College of Pennsylvania is a regionally accredited Bible College, offering courses of instruction in theology, religion, Old and New Testament and also the humanities, arts and sciences. The College is a non-profit corporation incorporated under the laws of the Commonwealth of Pennsylvania and is approved by the General Association of Regular Baptist Churches, Schaumburg, Illinois, as a Christian institution of higher education. It is exempt from federal income taxation as a not-for-profit religious educational institution under Section 501(c)(3) of the Internal Revenue Code. Its property, business and affairs are controlled by a Board of Trustees all of whom must be members of local, autonomous Baptist churches which adhere to and practice the historic religious doctrines and tenets of the Christian faith. Each Trustee and each member of the College's faculty, staff of employees and its student body are required to espouse a personal belief in the religious tenets of the Christian faith. The catalogs and other official publications of the college contain explicit statements that the college is committed to the doctrines of the Christian religion and maintains its religious tradition, standards and beliefs in accordance with Baptist distinctives.

Assistant Secretary for Civil Rights
October 17, 1988
Page 2

The College adheres to biblical tenets for matters of faith and practice, following its religious tradition and Baptist distinctives. It specifically utilizes a religious preference in employment practices to assure that faculty and staff adhere to a common religious understanding of the religious beliefs, values and purposes that guide the educational mission of the College. Accordingly, the personnel of the College accept religious standards in matters of moral behavior, dispute and grievance resolution and disciplinary matters, as well as the performance of any religious role or office in which gender distinctions may be required. The Holy Bible sets forth the standards for Christian morality and practice in far too many places and forms to be identified comprehensively in this letter; however, see for example, Romans 1:18-32; Galatians 5:16-24 and Ephesians 4:17-5:6.

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

The College adjudicates matters of moral behavior, including the misuse of human sexuality, in accordance with Scriptural teaching about moral behavior. See, for example, Matthew 18:15-20 and I Corinthians 5:1-13.

The College has previously communicated with the Department of Education concerning a religious exemption from certain of the provisions of Title IX. However, in light of the passage of the Civil Rights Restoration Act of 1987 and the college's current understanding of the provisions of Title IX and the regulations thereunder that are applicable to the college, this additional exemption notice is being submitted at this time in order to clarify the scope of the exemption claimed by the College.

The College hereby claims exemption from the application of the following provisions of the Title IX regulations, to the extent that they conflict with the College's religious tenets and

Assistant Secretary for Civil Rights
October 17, 1988
Page 3

traditions as described above: 34 C.F.R. Sections 106.21(c), 106.40, 106.57 and 106.60 (treatment based on marital and parental status), Section 106.34 (access to course offerings in ministerial or pre-ministerial programs limited by religious tenets to students of one gender) and Section 106.51 (employment opportunities for religious offices or positions limited by religious tenets to one gender, such as, chaplains), together with any application of Sections 106.38 (employment assistance to students), 106.53 (recruitment), 106.55 (job classification and structure) or 106.59 (advertising) that relates to employment opportunities that are limited to one gender by the religious beliefs of the College.

There are a number of issues central to the religious beliefs and practices of the College that may not have been discussed in this letter because of our understanding that no specific exemption is required. For example, the College believes that Title IX, as amended by the Civil Rights Restoration Act of 1987, shall not be construed to require the College to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Additionally, pursuant to 34 C.F.R. Section 106.15(d), the provisions of Sections 106.16 through 106.23, inclusive, do not apply to the college because it is a private institution of undergraduate higher education. Finally, the college understands that Sections 106.32 and 106.33 permit the college to provide separate, although substantially comparable, housing, bathroom, locker room and similar facilities for men and women.

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

Assistant Secretary for Civil Rights
October 17, 1988
Page 4

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

Thank you for your assistance and for your prompt consideration of this letter. If you have any questions or require any further information, please contact the undersigned at the College.

Very truly yours,

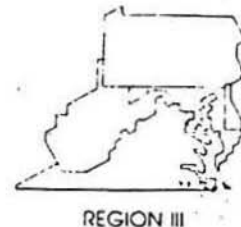


Milo E. Thompson, Jr.
President

MET:bw



U.S. DEPARTMENT OF EDUCATION
3535 MARKET STREET, ROOM 6300
PHILADELPHIA, PENNSYLVANIA 19104-3326



OFFICE FOR
CIVIL RIGHTS

NOV 10 1988

Dr. Milo E. Thompson, Jr.
President
Baptist Bible College and Seminary
538 Venard Road
Clarks Summit, Pennsylvania 18411

Dear Dr. Thompson:

The Office for Civil Rights (OCR), U.S. Department of Education (the Department) has received your October 17, 1988, request for religious exemptions from Title IX of the Education Amendments of 1972 (Title IX) and various provisions of the Department's Title IX implementing regulation at 34 C.F.R. Part 106. We have reviewed your request and have determined that we need further information to make a decision to grant an exemption.

Although your request letter included general statements of religious tenets, and information regarding the Title IX regulation at 34 C.F.R. Sections 106.21(c), 106.40, 106.57, and 106.60 regarding marital and parental status, it did not state the specific tenets or how they conflict with these sections of the regulation. If you wish the office to make a determination regarding a religious exemption in these areas, please provide the information requested and return it to this office.

Thank you for your cooperation. If you have any questions, please do not hesitate to contact Mr. Robert E. Harvey, Director, Postsecondary Education Division at (215) 596-6804.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Smallwood".

Robert A. Smallwood
Regional Civil Rights Director
Region III



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

NOV 2 1989

Dr. Milo Thompson
President
Baptist Bible College and Seminary
536 Venard Road
Clark Summit, Pennsylvania 18411

Dear Dr. Thompson:

The Office for Civil Rights (OCR) in the U.S. Department of Education has completed its review of your October 17, 1988, request for religious exemption from Title IX of the Education Amendments of 1972 (Title IX) as amended, 20 U.S.C. Sections 1681 *et seq.*, and its implementing regulation 34 C.F.R. Part 106 (copy enclosed). Your letter of January 26, 1989, provided OCR with the additional information necessary to clarify your request. I apologize for the delay in responding to your request.

In your letters, you supplied information that establishes that Baptist Bible College and Seminary (College) is controlled by a religious organization and that the tenets followed by this organization conflict with specific sections of the Title IX regulation. You described in your request several policies and practices at the College as being consistent with the tenets of the religious organization that controls the College. These policies would violate specific sections of the regulation implementing Title IX absent a religious exemption. Therefore, I am granting the College an exemption from several of the sections of the Title IX regulation specified in your letters. The College is hereby granted an exemption from the requirements of the following sections of the Title IX regulation: 34 C.F.R. Sections 106.38, 106.40, 106.53, 106.57, 106.59, and 106.60. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the College. The basis of our decision to grant this exemption is discussed in further detail below.

Your letter of October 17, 1988, indicates that the College is controlled by its Board of Trustees. All trustees must be members of local, autonomous Baptist churches which adhere to and practice the historic religious doctrines and tenets of the Christian faith. In addition, the College is approved by the General Association of Regular Baptist Churches. The trustees, faculty, employees, and students of the College are required to espouse a personal belief in the religious tenets of the Christian faith. This relationship between the General Association of Regular Baptist Churches and the Board of Trustees and the College adequately establishes that the College is controlled by a religious organization as is required for consideration for exemption under 34 C.F.R. Section 106.12 of the Title IX regulation.

Page 2 - Dr. Milo Thompson

Your letter and accompanying materials indicate that the College maintains its religious tradition, standards, and beliefs in accordance with Biblical tenets, following its religious tradition and Baptist distinctives. The College, its students and employees must adhere to Biblical tenets for matters of faith and practice. Thus, conduct of staff and students such as cohabitation without marriage, pre-marital sexual relations, promiscuity outside of marriage, and divorce and marriage without biblical grounds would violate religious tenets regarding moral behavior, marriage and residential living environments and standards. In addition, based on the College's religious tenets and traditions, it provides access to ministerial and pre-ministerial course offerings and opportunities for certain religious offices and positions only to members of one gender.

Based upon the information submitted, the College is granted by this letter, exemption from 34 C.F.R. Sections 106.38 (employment assistance for students); 106.40 (marital and parental status of students); 106.53 (recruitment); 106.57 (marital and parental status of employees); 106.59 (advertising); and 106.60 (pre-employment inquiries).

By letter dated June 18, 1985 (copy enclosed), the Department granted the College's request for religious exemption from 34 C.F.R. Sections 106.21, 106.22, 106.23, 106.31, and 106.34, as they relate to the College's policy of admitting only men to its seminary and its classes that prepare students to become ministers of religion, teachers of theology or to enter upon some other religious vocation; and 34 C.F.R. Sections 106.51 and 106.55, as they relate to the College's policy of employing and classifying men, exclusively, in areas of theological instruction. Thus, no additional exemption is required for the College relative to these sections of the Title IX regulation on the basis of these policies and practices.

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

Page 3 - Dr. Milo Thompson

I hope this letter responds to your request. If you have any questions, please do not hesitate to contact the Philadelphia Regional Office at this address:

Dr. Robert A. Smallwood
Regional Civil Rights Director
U.S. Department of Education
Office for Civil Rights, Region III
3535 Market Street, Room 6300, 03-2010
Philadelphia, Pennsylvania 19104-3326
(215) 596-6772.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Williams". The signature is written in a cursive style with a large initial "M".

Michael L. Williams
Assistant Secretary
for Civil Rights

Enclosures

cc: Robert A. Smallwood, Regional Civil Rights Director, Region III

January 26, 1989

Baptist Bible College & Seminary

Mr. Robert A. Smallwood
Regional Civil Rights Director
Region III
U.S. Department of Education
3535 Market Street
Room 6300
Philadelphia, Pennsylvania 19104-3326

RECEIVED
1989 JAN 30 PM 12:55
OFFICE FOR CIVIL RIGHTS
ED/REGION III

RE: Baptist Bible College of Pennsylvania
Title IX Exemption

Dear Mr. Smallwood:

I received your letter of November 10, 1988, responding to this College's letter dated October 17, 1988, claiming a religious exemption from Title IX of the Education Amendments of 1972 and the Department's Title IX implementing regulation at 34 C.F.P. Part 106. This letter is written in response to your letter dated November 10, 1988, and will provide you with the information that you requested in it.

As pointed out in the College's letter dated October 17, 1988, claiming a religious exemption, the College adheres to biblical tenets for matters of faith and practice and does this in all matters of faith and practice. Its religious tenets relevant to marital and parental status are, therefore, biblically derived.

In order to live within commonly received Christian meanings of human relationships and provide a moral and biblical ethos for the College community, moral standards are maintained consistent with the precepts of the Bible and the religious custom and practice which inform its moral standards. The College maintains that it must be able to deal, on religious grounds, with those members of the College community who, for whatever reasons, are unrepentant and unrepentant in matters of moral conduct and whose actions are detrimental to themselves, their families and others. Where such willful conduct expressly violates biblical norms [e.g., cohabitation without marriage (see, e.g., Exodus 20:14; I Corinthians 5:1-11, Hebrews 13:4); pre-marital sexual relations (see, e.g., Genesis 2:24, Deuteronomy 22:20-24, I Corinthians 6:13-20, Galatians 5:16-21, I Thessalonians 4:3-8, Hebrews 13:4); homosexual behavior (see, e.g., Genesis 18-19, Leviticus 18:22, 20:13, Romans 1:24-27, I Corinthians 6:9-11),

Mr. Robert A. Smallwood
January 26, 1989
Page 2

promiscuous conduct outside of wedlock (see, e.g., Leviticus 18:6-24, Proverbs 5:1-23, I Corinthians 5:1-11, 6:13-20, Galatians 5:16-21, Hebrews 13:4); or marriage or divorce without biblical grounds (see, e.g., Genesis 2:24, Leviticus 18, Malachi 2:13-16, Matthew 19:3-12, Luke 16:18)], and offending persons cannot be reconciled to biblical standards, the College reserves its right to exercise its discretion for the remedy appropriate to the circumstances consistent with its religious beliefs and practices, as described above.

I trust that this letter provides you with the information which you requested. If you have any questions or desire additional information, please feel free to contact me at the College.

Very truly yours,



Milo Thompson, Jr.
President

MT:bw



College
of
the Ozarks®

P.O. Box 17
Point Lookout, MO 65726
www.cof.edu

Office of the President

June 9, 2017

Phone 417-690-2470

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

Re: College of the Ozarks' Request for Title IX Religious Exemption

Dear Ms. Jackson,

The College of the Ozarks is a four year, accredited Christian college whose vision is "to develop citizens of Christ-like character who are well-educated, hard-working, and patriotic."¹ It is affiliated with the Presbytery of Mid-America, Evangelical Presbyterian Church. College of the Ozarks has been committed to the historic Christian faith and the Protestant tradition from its founding and continues to remain so today.² It follows the doctrine expressed in the Apostles' Creed, Nicene Creed, and, most importantly, the authority of Scripture.

College of the Ozarks is completely controlled by its Board of Trustees.³ The Bylaws require the following as qualifications for its Trustees:

Trustees shall be dedicated Christians who express their commitment through active involvement in a local christian church and the living of a life that is appropriate for those who serve as role models for college students and for one another. Trustees shall share the College's faith commitment to the historic evangelical Christian faith and Protestant tradition. Trustees shall annually affirm adherence to the Apostles' and Nicene Creeds and dedication to the inspiration and authority of Scriptures.⁴

Furthermore, the Bylaws describe the purpose of the College as follows:

The purpose of the College of the Ozarks is to provide the advantages of a Christian education for youth of both sexes, especially for those found worthy, but who are

¹ Exhibit 3: College of the Ozarks Vision; Exhibit 1: Articles of Incorporation.

² Exhibit 11: History of the College of the Ozarks.

³ Exhibit 2: Bylaws, Article III, Section 1.

⁴ Exhibit 2: Bylaws, Article III, Section 2.



SPH-2157450-~~Incorporated~~ incorporated in 1906 as *The School of the Ozarks* to serve financially needy youth from the Ozarks region

without sufficient means to procure such education. To carry out this purpose, the following goals have been defined: academic, vocational, Christian, patriotic, and cultural.⁵

College of the Ozarks' Christian beliefs permeate its hiring decisions, admission requirements, and daily academic and cultural environment. Faculty are expected to support the College's ethical and moral positions, including those on the sanctity of human life, traditional marriage, and religious liberty. Faculty are also expected to maintain active involvement in a local church and model Christian virtues for students.⁶ Faculty members' Christian commitment, evidenced by church membership and attendance, is considered as a part of the evaluation process.

The College's students clearly know that College of the Ozarks is a Christian institution which prioritizes the development of Christian character traits.⁷ The Student Handbook clearly describes its adherence to Christianity and the Christian goal.⁸ It includes the Apostles' and Nicene Creeds. Furthermore, the College requires chapel attendance and provides information on outside religious organizations.

As described clearly in the faculty, staff, and student handbooks, College of the Ozarks is guided by a long-standing traditional, biblical worldview which reflects the understanding that human sexuality is a gift from God, and that:

- sex assigned at birth is a person's God-given, objective gender, whether or not it differs from internal sense of "gender identity" (Genesis 1:27; Leviticus 18:22; Matthew 19:4; Romans 1:26-27; 1 Corinthians 6:9-10);
- sexual relations are for the purpose of the procreation of human life and the uniting and strengthening of the marital bond in self-giving love, purposes that are to be achieved solely through heterosexual relationships in marriage (Genesis 1:28; Exodus 20:14; Proverbs 5:15-23; Matthew 19:5; 1 Corinthians 6:12-20; 7:2-5; 1 Thessalonians 4:3).⁹

College of the Ozarks also believes in the sanctity of human life from the moment of conception.¹⁰ It clearly communicates its vision and expectation to faculty in the Employee Commitments brochure and in the application process as evidenced in the Faculty Applicant Questionnaire.¹¹ It continues to reinforce its expectation of adherence to

⁵Exhibit 2: Bylaws, Article II.

⁶ Exhibit 4: Faith and Practice Commitments, Faculty Handbook, p. 37.

⁷ Exhibit 9: Student Handbook, pages 65-67; Exhibit 10: Student Admission Documents.

⁸ Exhibit 9: Student Handbook, pages 65-67.

⁹ Exhibit 5: Lifestyle/Sexuality Policy (Faculty Handbook, p. 40; Staff Handbook, p. 2; Student Handbook, p. xvii).

¹⁰ Exhibit 4: Faith and Practice Commitments, Faculty Handbook, p. 37; Exhibit 8: Employee Commitments Brochure.

¹¹ Exhibit 8: Employee Commitments Brochures; Exhibit 7: Faculty Applicant Questionnaire.

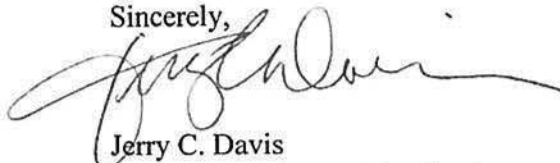
Christian principles in its faculty evaluation criteria.¹² These beliefs produce concern for the impact of possible Office for Civil Rights (OCR) interpretations of Title IX requirements.

Therefore, College of the Ozarks requests that your office acknowledge that the College is exempt 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 conflict with the College's belief in and commitment to the sanctity of human life and marriage):

- 34 C.F.R. § 106.21 (Admission)
- 34 C.F.R. § 106.22 (Preference in Admission)
- 34 C.F.R. § 106.23 (Recruitment)
- 34 C.F.R. § 106.31 (Education Programs or Activities)
- 34 C.F.R. § 106.32 (Housing)
- 34 C.F.R. § 106.33 (Comparable Facilities)
- 34 C.F.R. § 106.34 (Access to Classes and Schools)
- 34 C.F.R. § 106.35 (Access to Institutions of Vocational Education)
- 34 C.F.R. § 106.36 (Counseling)
- 34 C.F.R. § 106.37 (Financial Assistance)
- 34 C.F.R. § 106.38 (Employment Assistance to Students)
- 34 C.F.R. § 106.39 (Health and Insurance Benefits and Services)
- 34 C.F.R. § 106.40 (Marital or Parental Status)
- 34 C.F.R. § 106.41 (Athletics)
- 34 C.F.R. § 106.42 (Textbooks and Curricular Material)
- 34 C.F.R. § 106.43 (Standards for Measuring Skill or Progress in Physical Education Classes)
- 34 C.F.R. § 106.51-61 (Relating to Employment)

Thank you for your prompt attention to this matter.

Sincerely,



Jerry C. Davis

President, College of the Ozarks

¹² Exhibit 6: Christian Commitment and Religious Character and Expectations, Faculty Handbook, p. 6-7; 21.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 2, 2018

Jerry C. Davis
President
College of the Ozarks
P.O. Box 17
Point Lookout, MO 65726

Dear President Davis:

I write in response to your June 9, 2017, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for the College of the Ozarks (College) of Point Lookout, Missouri, from Title IX of the Educational Amendments of 1972 (Title IX), 20 U.S.C. § 1681.

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

Your request letter states that the College is affiliated with the Presbytery of Mid-America, Evangelical Presbyterian Church and "completely controlled by its Board of Trustees." Your letter explains that the College's bylaws require trustees to "share the College's faith commitment to the historic evangelical Christian faith and Protestant tradition" and "annually affirm adherence to the Apostles' and Nicene Creeds." Your letter further explains that "[f]aculty members' Christian commitment, evidenced by church membership and attendance, is considered a part of the evaluation process" and that the College requires chapel attendance by students.

Your letter requests exemption from certain provisions of Title IX and its implementing regulations to the extent that they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they conflict with the College's belief in and commitment to the sanctity of human life and marriage. In support of this request, your letter cites its faculty, staff, and student handbooks, explaining that the College "is guided by a long-standing traditional, biblical worldview which reflects the understanding that human sexuality is a gift from God," that "sex assigned at birth is a person's God-given, objective gender, whether or not it differs

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Jerry C. Davis — page 2

from internal sense of ‘gender identity,’” and that sexual relations are for the purpose of the procreation of human life and the uniting and strengthening of the marital bond in self-giving love, purposes that are to be achieved solely through heterosexual relationships in marriage.” Your letter further explains that the College “believes in the sanctity of human life from the moment of conception.”

Your letter states that, for the above 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 conflict with the College’s belief in and commitment to the sanctity of human life and marriage:

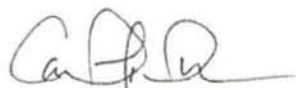
- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities);
- 34 C.F.R. § 106.34 (governing access to classes and schools);
- 34 C.F.R. § 106.35 (governing access to institutions of vocational education);
- 34 C.F.R. § 106.36 (governing counseling);
- 34 C.F.R. § 106.37 (governing financial assistance);
- 34 C.F.R. § 106.38 (governing employment assistance to students);
- 34 C.F.R. § 106.39 (governing health and insurance benefits and services);
- 34 C.F.R. § 106.40 (governing marital or parental status);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.43 (governing standards for measuring skill or progress in physical education classes); and
- 34 C.F.R. §§ 106.51-61 (governing employment).

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

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

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

Sincerely,



Candice Jackson
Acting Assistant Secretary for Civil Rights

Colorado Christian University
8787 West Alameda Avenue
Lakewood, CO 80226
303-963-3350
warmstrong@ccu/edu

November 4, 2014

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

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

Dear Ms. Lhamon:

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

CCU is a non-profit institution of higher education with its main campus in Lakewood, Colorado. It traces its origins to the founding of Denver Bible Institute in 1914.¹ A century later, CCU is a Christ-centered learning community committed to developing each student in mind, faith and character for a lifetime of meaningful work and service in a constantly changing world.² Its identity as a Christian institution is central to all it does and teaches.³ Christ, the living Word, is the integrating center of Colorado Christian University, intentionally at the core of all that CCU is and does.⁴ The University exists to produce graduates who think critically, live faithfully, and impact effectively their spheres of influence.⁵ This purpose is accomplished through a highly competent and dedicated faculty, an integrated academic curriculum, and student life programs designed to strengthen faith, shape character, and nurture compassionate response in a need-filled world.⁶

¹ <http://www.ccu.edu/about/history/>

² <http://www.ccu.edu/about/essence/>

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

Letter to Catherine Lhamon

October 13, 2014

Page 2 of 5

CCU's educational philosophy is guided by its Statement of Faith, which is embraced by all faculty and staff.⁷ The Statement⁸ affirms the key elements of the historical Christian faith, assuring consensus on the foundational tenets of the faith.⁹ The essence of the CCU experience is its integration of faith and learning.¹⁰ This distinctive integration of academic achievement, character development, and spiritual formation prepares CCU graduates to honor God and impact the world with their lives.¹¹

CCU's Board of Trustees have adopted strategic objectives that direct the implementation of the University's consistent mission and vision and provide context for its first priority: an enduring commitment to Jesus Christ and His Kingdom.¹² These strategic objectives include:

- Honoring Christ and sharing His love on campus and around the world;
- Teaching students to trust the Bible, live holy lives and be evangelists;
- Giving students significant opportunities to serve the Lord while they are at CCU and to help them develop a lifetime habit of such service;
- Impacting culture in support of traditional family values, sanctity of life, compassion for the poor, a Biblical view of human nature, limited government, personal freedom, free markets, natural law, original intent of the Constitution and Western civilization; and
- Serving the Church.¹³

CCU states its vision as follows: "We envision graduates, who think critically and creatively, lead with high ethical and professional standards, embody the character and compassion of Jesus Christ, and who thereby are prepared to impact the world."¹⁴ It articulates its mission as follows: "Colorado Christian University cultivates knowledge and love of God in a Christ-centered community of learners and scholars, with an enduring commitment to the integration of exemplary academics, spiritual formation, and engagement with the world."¹⁵

On October 22, 2010, CCU's Board of Trustees adopted a policy on homosexuality, transvestitism, and transgenderism. It reads in pertinent part as follows:

[A]lthough some Christians may take other positions concerning transvestitism and/or transgenderism, CCU's position is clear as to both. As a matter of religious faith, conviction, and exercise, Colorado Christian University adheres to the Biblical admonitions against both transvestitism and transvestite behavior, as set forth in Deuteronomy 22:5, and

⁷ *Id.*

⁸ <http://www.ccu.edu/about/webelieve/>

⁹ <http://www.ccu.edu/about/essence/>

¹⁰ *Id.*

¹¹ *Id.*

¹² <http://www.ccu.edu/strategicobjectives/>

¹³ *Id.*

¹⁴ <http://www.ccu.edu/about/mission/>

¹⁵ *Id.*

Letter to Catherine Lhamon
October 13, 2014
Page 3 of 5

transgenderism and transgender behavior, as set forth in Genesis 1:27. Therefore, Colorado Christian University prohibits all of its officers, trustees, employees, and students from engaging in, advocating, teaching, supporting, encouraging, defending, or excusing transvestitism and transvestite behavior and/or transgenderism and transgender behavior, in any form or for any purpose.

CCU's Student Handbook contains the following section, entitled "Gender Identification":

Based on the mission of CCU, its standards, and uniqueness as a living and learning environment that honors Jesus Christ, the university recognizes that some students may struggle with their gender identity and wish to explore living as a particular gender other than the one that they were biologically created as. When a student is cooperative and willing to explore these feelings in an appropriate setting and not act out the feelings, the university will allow them to continue being a part of the CCU community if they are pursuing counseling and a mentoring relationship that will help them discuss appropriately who God made them to be. In this process, however, the university will uphold a view that we are "fearfully and wonderfully made" in the uniqueness and image of God and therefore strategically and purposefully made as the biological gender we were born as. Because of this belief the university will not allow a student of a particular gender to dress and act differently than the biological one that God created them to be. When a student decides to identify as a gender other than their biological one, it is in their, and the university's, best interest for them to leave the university community. It is also in the best interest of the university and the student for them to separate themselves from the CCU community if she or he pursues a medical course of action to physically change their biological gender to that of another sex.¹⁶

In the employment context, both applicants and existing employees are required to affirm their commitment to CCU's Statement of Faith and Employee Lifestyle Expectations.¹⁷ Those expectations include the following: "Members of the CCU community are expected to refrain from engaging in, advocating, teaching, supporting, encouraging, defending, or excusing homosexuality, transvestitism, transvestite behavior, transgenderism and transgender behavior."¹⁸

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. As you also know, however, the resolution

¹⁶ http://www.ccu.edu/uploadedFiles/Pages/Campus_Life/handbook.pdf (p. 144).

¹⁷ <http://jobs.ccu.edu/>

¹⁸ <http://jobs.ccu.edu/employee-lifestyle-expectations>

Letter to Catherine Lhamon
October 13, 2014
Page 4 of 5

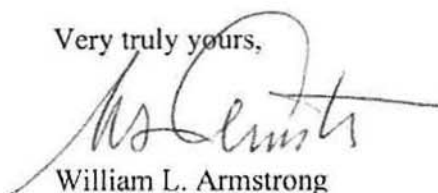
agreement¹⁹ between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen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

CCU accordingly requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity discrimination):

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

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

Very truly yours,



William L. Armstrong
President

¹⁹ Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.nclrights.org/wp-content/uploads/2013/09/Arcadia_Resolution_agreement_07.24.2013.pdf.

²⁰ *Id.*



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

December 5, 2014

William L. Armstrong
President
Colorado Christian University
8787 West Alameda Avenue
Lakewood, CO 80226

Dear President Armstrong:

The purpose of this letter is to respond to your November 4, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Colorado Christian University of Lakewood, Colorado 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 Christ-centered learning community" and states that it identifies as a "Christian 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 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

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Page 2: Letter to William L. Armstrong

- (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

Colorado Christian University

8787 West Alameda Avenue
Lakewood, Colorado 80226
303-963-3350
warmstrong@ccu.edu

January 6, 2015

Via Federal Express

Seth Galanter
Principal Deputy Assistant Secretary
Office for Civil Rights
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, D.C. 20202-1100

Re: Colorado Christian University Application for Religious Exemption under Title IX

Dear Mr. Galanter:

I have just received a phone message from you pointing out that my letter of December 22nd neglected to include the referenced attachments:

- Statement of Faith
- Lifestyle Expectations
- Strategic Objectives

I apologize for this oversight

An additional copy of my December letter and the attachments are attached hereto.

Thank you for drawing this matter to my attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Armstrong", with a large, sweeping flourish extending to the left.

William L. Armstrong
President

Colorado Christian University

8787 West Alameda Avenue
Lakewood, Colorado 80226
303-963-3350
warmstrong@ccu.edu

December 22, 2014

Seth Galanter
Principal Deputy Assistant Secretary
Office for Civil Rights
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, D.C. 20202-1100

Re: Colorado Christian University Application for Religious Exemption under Title IX

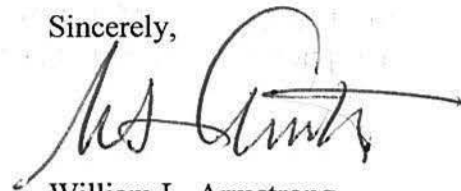
Dear Mr. Galanter:

This is in response to your letter dated December 5, 2014, requesting further information from Colorado Christian University regarding our request for a religious exemption from Title IX of the Education Amendments of 1972.

Colorado Christian University ("CCU") requires all of its faculty and employees to espouse a personal belief in the evangelical Christian faith. Every applicant for any position at CCU must sign an Application Acknowledgement agreeing to abide by CCU's Statement of Faith and Statement of Lifestyle Expectations, and to adhere to traditional biblical values and CCU's Strategic Objectives. If an individual is offered a job at CCU, he or she must execute the Statement of Faith and the Statement of Lifestyle Expectations before the hiring process is complete. Each of these documents is attached for your reference.

Please do not hesitate to contact me if you have further questions about this matter.

Sincerely,



William L. Armstrong
President



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

June 28, 2016

William L. Armstrong
President
Colorado Christian University
8787 West Alameda Avenue
Lakewood, CO 80226

Dear President Armstrong:

I write to respond to your November 4, 2014, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Colorado Christian University (University or CCU) of Lakewood, Colorado from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. In response to a request from OCR on December 5, 2014, you submitted further information on December 22, 2014 about the University's eligibility for an exemption from Title IX. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

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

Your December letter explains that the University "requires all of its faculty and employees to espouse a personal belief in the evangelical Christian faith. Every applicant for any position at CCU must sign an Application Acknowledgement agreeing to abide by CCU's Statement of Faith and Statement of Lifestyle Expectations, and to adhere to traditional biblical values. . . . If an individual is offered a job at CCU, he or she must execute the Statement of Faith and the Statement of Lifestyle Expectations before the hiring process is complete."

As stated in your November letter, you request an exemption to the extent that Title IX or its implementing regulations "are interpreted to reach gender identity discrimination." In support of this request, you explain that the University's Employee Lifestyle Expectations include the following: "Members of the CCU community are expected to refrain from engaging in,

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William L. Armstrong – page 2

advocating, teaching, supporting, encouraging, defending, or excusing homosexuality, transvestitism, transvestite behavior, transgenderism and transgender behavior.” Your letter also describes an October 2010 policy, adopted by the University’s Board of Trustees, which states that “although some Christians may take other positions concerning transvestitism and/or transgenderism, CCU’s position is clear as to both. As a matter of religious faith, conviction, and exercise, Colorado Christian University adheres to the Biblical admonitions against both transvestitism and transvestite behavior, as set forth in Deuteronomy 22:5, and transgenderism and transgender behavior, as set forth in Genesis 1:27.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “to the extent they are interpreted to reach gender identity discrimination:”

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

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of 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 identified in your request, OCR is obligated to identify a controlling organization to contact to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the

William L. Armstrong – page 3

institution, this exemption will be rescinded.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "CEL", with a long horizontal flourish extending to the right.

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



D O R D T C O L L E G E

October 1, 2015

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

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

Dear Ms. Lhamon:

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

Dordt is a non-profit institution of higher education associated with the Christian Reformed Church in North America, located in Sioux Center, Iowa.¹ The College opened its doors in 1955 with the purpose of training Christian day school teachers. Dordt College takes its name in honor of the historic Reformed synod held in Dordrecht, the Netherlands, in 1618-1619, a synod which emphasized the sovereignty of God through his electing grace—a theological distinctive that guides the College as an institution into the present day.² From this foundation in the Reformed Christian perspective, Dordt equips students, alumni, and the broader community to work effectively toward Christ-centered renewal in all aspects of contemporary life.³ As a fulfillment of its mission, Dordt provides a holistic learning experience in which classroom and other educational activities, infused with a kingdom perspective, work hand-in-hand with every other aspect of a student's experience. Dordt's curriculum is designed to help students develop Christian insight in every facet of their lives.⁴

Dordt College's mission and educational framework is shaped by the fact that the College is owned and controlled by an incorporated society composed entirely of members of the Christian Reformed Church in North America⁵ (CRCNA). It is governed by a Board of Trustees made up of 18 to 30 individuals. The board's membership includes a predominance of members elected by the society from the Christian Reformed Church. These board members represent geographical

¹ <http://www.dordt.edu/about/>.

² http://www.dordt.edu/about/our_mission/developing_history.shtml.

³ http://www.dordt.edu/about/our_mission/.

⁴ http://www.dordt.edu/about/our_mission/christian_learning_community.shtml.

⁵ <http://www.crcna.org/welcome/beliefs>.

OFFICE OF THE PRESIDENT

Letter to Catherine Lhamon

October 1, 2015

Page 2 of 5

districts in the CRCNA. In addition, a minority of at-large board members represent various other Reformed churches. Dordt has enjoyed the committed and faithful support of a loyal constituency for more than half a century, since its inception in 1955.⁶

Dordt states its mission as follows: “As an institution of higher education committed to the Reformed Christian perspective, Dordt College equips students, alumni, and the broader community to work effectively toward Christ-centered renewal in all aspects of contemporary life.”⁷ From this mission, Dordt’s four-facet educational framework molds the College’s entire curriculum, which is designed to develop students’ Christian insight into every area of their lives—academically, spiritually, and professionally. Below are some of the student outcomes the College measures through its framework.

- **Religious orientation: Who owns your heart?**
 - Graduates will demonstrate the ability to recognize the Bible's main themes and teachings and its guiding role in a life of Christian discipleship.
 - Graduates will demonstrate a commitment to living a life of Christian discipleship and to transforming those features of our culture that oppose Christ's rule.
- **Creational structure: How do things hang together?:**
 - Graduates will demonstrate an understanding that all of reality has been structured by God, that he faithfully preserves it through his laws, and that he unifies it in Christ Jesus as its sovereign head.
 - Graduates will demonstrate the ability to use the ideas, theories, and procedures from a variety of disciplines.
- **Creational development: How did we get where we are today?**
 - Graduates will demonstrate an understanding of how our world has developed historically.
 - Graduates will demonstrate an ability to evaluate formative influences and to contribute to reformation within their particular disciplines and vocations and in common areas of life.
- **Contemporary response: What should we do now?**
 - Graduates will demonstrate the insights, skills, and strategies needed to serve in their vocations and the common tasks of adult life.
 - Graduates will demonstrate increasing wisdom, rooted in a mature fear of the Lord, in their understanding of his world and their service to his kingdom.

On August 14, 2015, the College’s Board of Trustees adopted a policy on sexual standards and conduct. It reads in pertinent part as follows:

⁶ http://www.dordt.edu/about/our_mission/supportive_constituency.shtml.

⁷ http://www.dordt.edu/about/our_mission/.

Letter to Catherine Lhamon

October 1, 2015

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SEXUALITY, GENDER IDENTITY, AND SEXUAL CONDUCT

7.2.4.1 INTRODUCTION

Dordt College is committed to a policy that maintains an environment where employees, faculty, staff, and students abide by biblical injunctions regarding sexual activity and refrain from sexual immorality. It is the responsibility of every Dordt College employee and student to live Christianly in harmony with the guidance of Scripture as interpreted and set forth in the reformed confessions. Scripture is clear that God created humans as two distinct sexes, male and female; however, due to sin and brokenness, our experience of sex and gender is not always what God the Creator originally designed for His glory and our joy and flourishing as his servants.

A person's desire for sexual intimacy is a creational and often very strong characteristic in human nature. Dordt College believes, based on its understanding and interpretation of the Bible that the only appropriate and permissible context in which sexual intimacy may be expressed as overt sexual interaction is in the marriage partnership of a man and a woman. Dordt College is committed to being a community where its employees and students live according to God's creational structure and abide by these Biblical injunctions for marriage and sexual activity. The college expects all students, faculty, and staff to live in accord with this understanding of sexual interaction as long as they are members of the college community.

Dordt College believes that the Bible encourages us to maintain a loving and supportive attitude towards each other and that there should be mutual respect for members of the opposite sex, as well as a loving and supportive attitude toward those who struggle with restricting their sexual interaction to marriage. The college will make efforts to work in a counseling context with individuals who find it difficult to restrict their sexual activity within the institution of marriage.

Dordt College is committed to maintaining an environment free of sexual harassment. Members of our community have the right to work, study, and communicate with each other in an atmosphere free from unsolicited and unwelcomed communication of a sexual nature. The anti-harassment policy and procedures are intended to provide fair and equitable treatment of both the complainant and the alleged harasser.

All students and employees are responsible to determine if they can abide by Dordt's sexual standards and conduct policy. If any individual doubts or questions his or her ability to do so, that person should speak to the area leader, or director of human resources, or dean of campus life to receive guidance and/or instruction.

7.2.4.2 UNACCEPTABLE CONDUCT

Dordt College specifically holds as unbiblical and therefore prohibited:

- A. Promoting or advocating sexually immoral activity. This does not prohibit members of various academic disciplines, including students and faculty, from studying, discussing, viewing films or other media about, or examining such issues as they affect individuals, society, or others.
- B. Extramarital sexual relations. Sexual activity with anyone other than with one's spouse is prohibited.
- C. Homosexual relations. It is unacceptable to have sexual relations with someone of the same sex as long as one is a member of the Dordt community, whether on or off campus. Dordt College also prohibits promoting or advocating such activity.
- D. Transgendered Behavior. Adopting an identity discordant with one's biological sex is prohibited.

For those persons in our community who struggle with restricting their sexual interaction to marriage, as well as for those in our community who struggle with gender identity, same sex behavior, same sex attraction and/or sexual orientation issues, we aspire to be a gracious community that promotes openness and honesty. We pledge to extend compassion and care, providing assistance and accountability as we support all members of our community in their desire to live consistently with the Bible's teaching on sexual purity. Dordt College will make institutional decisions in light of this policy regarding employment, hiring, retention of employees, and continued enrollment of students. Dordt College may determine that, as the result of conduct described as prohibited in 7.2.4.2, an individual shall be dismissed from the college.

Letter to Catherine Lhamon

October 1, 2015

Page 4 of 5

In the employment context, both applicants and existing employees are required to affirm their commitment to the College's Sexual Standards and Conduct: Statement of Policy Regarding the Christian Lifestyle at Dordt College.⁸

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.⁹ And as you also know, the resolution agreement¹⁰ between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the 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 their chosen sex.¹¹ 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 DC.

Dordt College accordingly requests that your office acknowledge that the College is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity discrimination):

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

⁸ Dordt College Faculty Handbook, Dordt College Staff Handbook, p.13.

⁹ U.S. Department of Education, Questions and Answers on Title IX and Sexual Violence, *available at* <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> at 5 ("Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation.").

¹⁰ Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at*: <http://www.justice.gov/sites/default/files/crt/legacy/2013/07/26/arcadiaagree.pdf> -

¹¹ *Id.*

Letter to Catherine Lhamon

October 1, 2015

Page 5 of 5

34 C.F.R. § 106.43 (standards for measuring skill or progress in physical education classes)

34 C.F.R. § 106.51-61 (relating to employment)

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

Very truly yours,

A handwritten signature in blue ink, appearing to read "Erik Hoekstra", with a long horizontal flourish extending to the right.

Dr. Erik Hoekstra
President
Dordt College



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

September 7, 2016

Erik Hoekstra
President
Dordt College
498 Fourth Avenue NE
Sioux Center, IA 51250

Dear President Hoekstra:

I write to respond to your October 1, 2015, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Dordt College (College) of Sioux Center, Iowa, from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

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

Your request letter explains that the College is an "institution of higher education associated with the Christian Reformed Church in North America." According to your letter, "the College is owned and controlled by an incorporated society composed entirely of members of the Christian Reformed Church in North America (CRCNA)" and is "governed by a Board of Trustees" the membership of which "includes a predominance of members elected by the society from the Christian Reformed Church." Your letter explains that "the College's Board of Trustees adopted a policy on sexual standards and conduct" and that "[i]n the employment context, both applicants and existing employees are required to affirm their commitment to the College's Sexual Standards and Conduct: Statement of Policy Regarding the Christian Lifestyle at Dordt College."

Your letter requests an exemption from the provisions of Title IX "to the extent they are interpreted to reach gender identity discrimination." In support of this request, your letter cites to the College's policy on sexual standards and conduct. According to your letter, that policy

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Erik Hoekstra – page 2

states that “Scripture is clear that God created humans as two distinct sexes, male and female; however, due to sin and brokenness, our experience of sex and gender is not always what God the Creator originally designed for His glory and our joy and flourishing as his servants” and that, as a result, “[a]dopting an identity discordant with one’s biological sex is prohibited” at the College.

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 discrimination:”

- 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 education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 34 C.F.R. § 106.34 (governing access to classes and schools);
- 34 C.F.R. § 106.36 (governing counseling);
- 34 C.F.R. § 106.37 (governing financial assistance);
- 34 C.F.R. § 106.38 (governing employment assistance to students);
- 34 C.F.R. § 106.39 (governing health insurance benefits and services);
- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.43 (governing standards for measuring skill or progress in physical education classes); and
- 34 C.F.R. § 106.51-61 (governing employment).

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 identified in your request, OCR is obligated to identify a controlling organization to contact to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

Erik Hoekstra – page 3

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

Sincerely,

A handwritten signature in black ink, appearing to read 'CEL', written in a cursive style.

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

HAMELIN
10/15
3

Office of the President

September 24, 1976

Mr. Martin H. Gerry, Director
Office of Civil Rights
Department of Health, Education, and Welfare
Washington, D.C. 20201

Dear Mr. Gerry;

The College seeks exemptions from the following sections of the Final Title IX Regulations: 86.21(c); 86.40(b)(1) and (5); 86.57 (a)(1)(b)(c)(d); 86.60(a).

The substance of all of the above sections deals with items such as marital status, pregnancy, pregnancy as a temporary disability, pregnancy leave, etc. Normally, the College is not concerned with the marital status of either a prospective student or faculty member if the status is either that of single or married. Such persons are not discriminated against on the basis of sex. On the subject of divorce, however, the College takes a different stance.

Scripture teaches that a person is to be married to one partner for life barring certain circumstances. And when a person procures a divorce because of circumstances which are specifically contrary to Biblical teaching, the acceptance of such a person as a student or member of the faculty/staff can jeopardize the Biblical stance/teaching/education process of this church-owned College. For example, assume two persons are married. Person one involves himself in all kinds of extramarital immoral sexual activity while married which leads to his partner's procural of a divorce. Since this College takes a very clear position on the high moral behavior of students and faculty, and since these expectations are based on clear Biblical teachings, the acceptance of such a student or employee (assuming the student or employee still practices the immoral behavior) will jeopardize the integrity of the College community and its religious teachings.

Under section 86.21(c), the College may make no pre-admission inquiries as to the marital status of the applicant. This same prohibition exists with regard to employees in 86.60(a). In sum, both of these prohibitions are contrary to religious tenets of the institution in that it prevents the college from seeking to select the kind of students and employees it desires for its student body. It should be noted here that both men and women divorcees are treated in identical manners so that in fact no sexual discrimination exists here.



GEORGE FOX COLLEGE / NEWBERG, OREGON 97132 / (503) 538-8383

EXHIBIT I

Assurance

Mr. Martin H. Gerry

September 24, 1976

Page 2

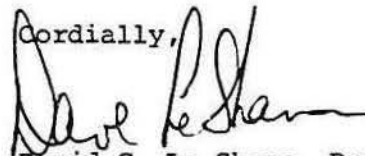
With regard to the pregnancy sections (sections 86.40 and 86.57) the College is only concerned here with an out-of-wedlock pregnancy. : As long as the pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom occur in wedlock, the College is in compliance with sections 86.40 and 86.57. But where either a student or employee becomes pregnant out of wedlock, the College reserves the right to exclude such persons (bother mother and father) from any or all of its programs. To do otherwise would be to run counter to the College's position with regard to sexual morality, which position is based on a religious/Biblical tenet.

Further, consistent with the expectations of HEW Form 639, the College submits the following information:

- (1) The name of the religious organization governing the College is the Northwest Yearly Meeting of Friends Church. The College is controlled by such organization.
- (2) Implementing the sections of Title IX as hereinbefore noted without exemptions asked for would conflict with a specific religious tenet of religion as practiced by the Northwest Yearly Meeting of Friends Church.

I trust this is acceptable to you.

Cordially,



David C. Le Shana, President
GEORGE FOX COLLEGE
Newberg, OR 97132

DLS:gj

Enclosure



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

AUG 3 1985

Dr. Edward F. Stevens
President
George Fox College
Newberg, Oregon 97132

Dear Dr. Stevens:

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

We have recently reviewed the request filed by former President David C. Le Shana (copy enclosed) in which he described several policies practiced at George Fox College as consistent with the tenets of the religious organization that controls the institution. These policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. Dr. Le Shana supplied information in his request letter that establishes that the institution is controlled by a religious organization and that tenets followed by this organization conflict with specific sections of the Title IX regulation. Therefore, I am granting George Fox College an exemption to those sections of the Title IX regulation specified in the request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the institution. George Fox College is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.21(c); 106.40(b)(1) and (5); 106.57(a)(1), (b), (c), (d); and, 106.60(a). The basis for our decision to grant this exemption is discussed in further detail below.

Dr. Le Shana's letter indicated that the religious organization governing George Fox College is the Northwest Yearly Meeting of Friends Church (NYMFC), and that the College is controlled by this organization. This relationship between the NYMFC and George Fox College adequately establishes that George Fox College is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In his letter Dr. Le Shana indicated that "Scripture teaches that a person is to be married to one partner for life barring certain circumstances. And when a person procures a divorce because of circumstances which are specifically contrary to Biblical teaching, the acceptance of such a person as a student or member of the faculty/staff can jeopardize the Biblical stance/teaching/education process of this church-owned college." Thus, with respect to admissions and hiring, George Fox College "takes a very clear position on the high moral behavior of students and faculty, and . . . these expectations are based on clear Biblical teachings[.]"

Page 2 - Dr. Edward F. Stevens

Based on the above principle, George Fox College has requested and is granted by this letter, exemption to 34 C.F.R. § 106.21(c), which pertains to prohibitions with respect to consideration of marital or parental status in admission of students; and 34 C.F.R. § 106.60(a), which pertains to pre-employment inquiries with respect to the marital status of an applicant.

Dr. Le Shana also indicated in his letter that, based on a religious/Biblical tenet concerning sexual morality, George Fox College reserves the right to exclude from its programs persons who become pregnant out of wedlock.

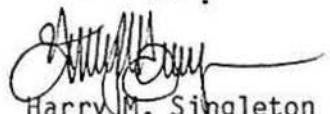
Based on the above principle, George Fox College has requested and is granted by this letter, exemption to: § 106.40(b)(1) and (5), which prohibits different treatment of students for reasons concerning pregnancy and related conditions; and § 106.57(a)(1), (b), (c), (d), which prohibits taking any employment action for reasons concerning a person's potential marital, parental, or family status, or concerning pregnancy and related conditions.

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

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

Gary D. Jackson
Regional Civil Rights Director
Office for Civil Rights, Region X
Department of Education
2901 Third Avenue, M/S 106
Seattle, Washington 98101

Sincerely,


Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosures

cc: Gary D. Jackson, Regional Civil Rights Director, Region X



GEORGE FOX
UNIVERSITY

414 N. Meridian St., Newberg, OR 97132
503.538.8383

March 31, 2014

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

Re: George Fox University's Request for Title IX Religious Exemption

Dear Ms. Lhamon:

I have become aware that the Departments of Education and Justice recently interpreted Title IX's ban on sex discrimination in education to include discrimination based on gender identity.¹ As President of George Fox University, a private, religious liberal arts college in Oregon, I hereby request, under 34 C.F.R. §106.12, an exemption for George Fox from this interpretation of Title IX, due to the religious beliefs of our institution.

George Fox University, a Christ-centered community, prepares students spiritually, academically, and professionally to think with clarity, act with integrity, and serve with passion. Since its founding more than a century ago, George Fox has been committed to providing a Christian education – from its early days as Friends Pacific Academy, established in 1885, to the present. Its name honors the founder of the Friends (Quaker) movement and the University is owned by the Northwest Yearly Meeting of Friends (in fact, 4/7 of the Board of Trustees must be Friends).

In its Statement of Faith, the University expresses its belief that, “[i]n love and joy, God creates and sustains the universe, including humanity, male and female, who are made in God’s image.”² The University believes “that God inspired the Bible and has given it to us as the uniquely authoritative, written guide for Christian living and thinking. As illumined by the Holy Spirit, the Scriptures are true and reliable.” These theological beliefs are also embedded in the doctrinal statements of the Northwest Yearly Meeting of Friends.

The University believes that human beings, fashioned by God in His own image, are created male and female (Genesis 1:27). In the New Testament, Jesus confirms the heterosexual creation of human beings: God made them male and female (Matthew 19:4). Like the rest of

¹ Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, available at <http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf>

² George Fox University, *About George Fox- Statement of Faith*, http://www.georgefox.edu/about/mission_vision_values/faith_statement.html (last visited Mar. 17, 2014).

Letter to Ms. Catherine Lhamon
March 31, 2014
Page 2 of 3

God's creation, the sexual differences between man and woman are pronounced "very good" (Genesis 1:31).

This distinction between men and women is also assumed in our lifestyle statement with regard to issues of sexual morality. The statement says that "in regard to sexual morality, we believe that only marriage between a man and a woman is God's intention for the joyful fulfillment of sexual intimacy. This should always be in the context of mutual compassion, love, and fidelity. Sexual behaviors outside of this context are inconsistent with God's teaching. We recognize these principles may conflict with the practice or opinion of some within the larger culture. We are convinced that this is God's design for providing the most loving guidance and practice for individuals and our community."

We affirm the dignity of all human beings. We also separate the value of each person from the behavioral choices one makes. We believe that, as Christians, we are called to treat all people with compassion, and to extend the gospel of repentance, forgiveness, and transformation through Jesus Christ to such persons without reservation. However, in keeping with our biblical beliefs surrounding the morality of such actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles.

Based on the resolution recently entered into by the Department and a California school district,³ it appears that the Department is now interpreting Title IX's ban on discrimination in education because of sex to also mean that educational institutions may not "discriminate" on the basis of "gender identity." Specifically, the school district in that dispute was ordered to allow a female student presenting herself as male to use the restroom, locker room, and living accommodations of her choice, and to participate in boys' athletic programs.

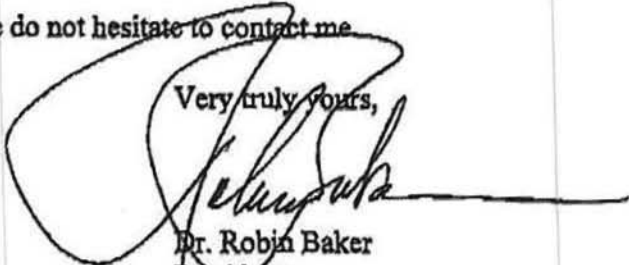
We would not be able to make similar accommodations consistent with our religious beliefs. Because of our biblical beliefs regarding gender and sexual morality, our practices might be deemed a violation of this interpretation of Title IX. However, under 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12(a), this interpretation does not apply to George Fox: "This part does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization."

Thus, on behalf of George Fox University, I hereby request an official exemption from compliance with that interpretation of Title IX. George Fox gladly complies with Title IX with respect to granting equal opportunities in educational programs or employment to members of both sexes; our request for exemption is limited to the recent interpretation that "sex" under Title IX also includes gender identity.

³ See *supra* note 1.

Letter to Ms. Catherine Lhamon
March 31, 2014
Page 3 of 3

If you require anything further, please do not hesitate to contact me



Very truly yours,

Dr. Robin Baker
President
George Fox University

cc: Gregory S. Baylor, Esq., Alliance Defending Freedom



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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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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