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**Pro hac vice application pending*

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

ELIZABETH HUNTER, et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF EDUCATION;
and SUZANNE GOLDBERG, in her
official capacity as Acting Assistant
Secretary for the Office of Civil Rights,
U.S. Department of Education,

Defendants,

WESTERN BAPTIST COLLEGE d/b/a
CORBAN UNIVERSITY; WILLIAM
JESSUP UNIVERSITY; PHOENIX
SEMINARY,

[Proposed] Defendant-Intervenors.

Case No. 6:21-cv-00474-AA

**DECLARATION OF SHELDON C.
NORD, PH.D. IN SUPPORT OF
PROPOSED INTERVENORS'
MOTION TO INTERVENE**

COMES NOW Sheldon C. Nord, Ph.D. and declares as follows:

1. I am the President of Western Baptist College d/b/a Corban University (“Corban”), and I have personal knowledge of all facts stated in this declaration. I am an individual having obtained the age of majority and am capable of making this declaration pursuant to 28 U.S.C. § 1746.

2. Corban is a Christian, religious non-profit university in Salem, Oregon.

3. Our university traces its history all the way back to 1935. Originally founded as Phoenix Bible Institute, the university changed its name to Western Baptist Bible College in 1946. In 1978, the university changed its name to Western Baptist College, and since 2005, the university has done business as Corban University.

4. In 1985, the U.S. Department of Education’s Office for Civil Rights granted Corban an assurance of religious exemption from Title IX (under its name “Western Baptist College”). The Department of Education recognized that the university is controlled by a religious organization and that it holds religious tenets that conflict with Title IX, including a distinction between ministry opportunities based on biological sex, and the university’s right to take disciplinary action against students for violation of its religious beliefs on sexual morality.

5. Corban is controlled by a religious organization under the meaning of Title IX. Corban requires its faculty and students to engage in religious practices of, or espouse a personal belief in, the Christian religion. Corban’s bylaws include a doctrinal statement of faith and standards of conduct, and require that its faculty,

employees, and students agree to comply with the statement of faith and standards of conduct. Corban has published its bylaws articulating the university's institutional mission—approved by the Board of Trustees—that includes, refers to, and is predicated upon Christian tenets, beliefs and teachings.

6. As set forth more fully below, some of Corban's religious beliefs conflict with application of Title IX to the extent Title IX's definition of "sex" is interpreted to include "sexual orientation" and "gender identity."

7. Corban's mission is to educate Christians who will make a difference in the world for Jesus Christ. Corban takes its mission directly from Jesus Christ, who charges his followers to "Go therefore and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, teaching them to observe all that I have commanded you. And behold, I am with you always, to the end of the age." (Matthew 28:19-20).

8. Corban is committed to integrating God's Word into every major, program, and course, so that students are trained to view their vocation through the lens of a biblical worldview and approach their careers with a biblical sense of ethics, integrity, and decision-making.

9. As a religious university committed to Christian teachings, Corban believes and teaches perennial Christian doctrines regarding sex, gender, anthropology, and sexual morality. Corban believes and teaches that God wonderfully and immutably creates each human person as either male or female. Corban also believes and teaches that God has reserved sexual behavior for a lifelong and

exclusive marriage between one man and one woman. Corban derives its religious beliefs on human sexuality from the Bible, which presents conjugal marriage as a sacred image of God's Trinitarian life, a sacred image of the relationship between Christ and His Church, and a divine instruction for human flourishing.

10. Corban's curriculum is designed to convey Christian doctrines and to encourage religious formation. In numerous Corban courses (including Introduction to Theology, Survey of Bible Literature, and The Worldview Seminar), faculty teach and discuss Christian doctrines regarding gender and human sexuality, encourage students to refrain from sexual activity outside of a lifelong marriage between one man and one woman, and encourage students to gratefully accept and live in accordance with the biological sex that each individual receives as a gift from God.

11. Corban publishes an annual Student Handbook, also referred to as the "Community Life Walkthrough."

12. Corban's Student Handbook contains a section entitled "Relationships, Sexual Behavior, and Gender Identity." That section states Corban's religious belief that "[a]ll dating and sexual relationships should be consistent with those principles that support a faithful heterosexual marriage (I Thessalonians 4:3-8, I Corinthians 6:9-10, Galatians 5:19-21)." Consistent with this belief, this section of the Student Handbook provides that "[e]xamples of unhealthy/inappropriate activity include engaging with pornography, codependent relationships, and pervasive public displays of affection."

13. The Student Handbook's section on "Relationships, Sexual Behavior, and Gender Identity" clarifies that students experiencing same-sex attraction or desiring to live as a member of the opposite sex are not inherently in violation of Corban's policies. The Corban community understands that some of its members may question their gender identity and have a desire to explore living as a member of the opposite sex. Members of the community in these circumstances are expected to cooperatively explore these feelings within settings identified as appropriate by the Dean of Students. Consistent with Corban's religious beliefs concerning sexuality and marriage, however, the Student Handbook provides that students should refrain from same-sex dating and should continue to identify with their biological birth sex.

14. Corban's Student Handbook also contains a section entitled "Dress and Appearance," which states Corban's conviction that the way a person's dress can reflect their agreement or disagreement with religious tenets. Consistent with Corban's religious beliefs regarding anthropology and human sexuality, this section of the Student Handbook provides that persistent or exaggerated cross-dressing exhibiting a fundamental rejection of one's biological birth sex is considered a violation of the university's policy.

15. Corban is committed to integrating the Christian faith into every aspect of student life. Student programs such as Chapel, REACH (community service), mentoring by staff and faculty, and residence life each serve to create an environment for students to grow in their faith.

16. Corban encourages all students to attend chapel, which takes place at least three times each week. The intentional time of worship, prayer, and Bible teaching in chapel gives students the opportunity to focus on our great God and His work in our lives. Chapel includes teaching and application of Christian doctrines, including encouraging students to live consistent with Biblical views on marriage and human sexuality, encouraging students to reserve sexual activity for marriage between a man and a woman, and encouraging students to live consistent with the biological sex they received as a gift from God.

17. Every staff and faculty member at Corban is a professed believer in Jesus Christ, so that students not only learn Christian principles but are encouraged to live them out in a unique Christian community. Our hope is that Christ will be the foundation for every aspect of students' lives.

18. Corban believes that living on campus is an integral part of students' educational, social, and spiritual growth.

19. Consistent with Corban's religious beliefs, and for the physical safety and spiritual well-being of its students, Corban separates its facilities and residence halls into distinct areas based on students' biological sex.

20. Farrar Hall houses approximately 55 biological male students. Its facilities include community bathrooms; two community spaces for studying, games, and movies; one full kitchen; a laundry room; and sinks in each room.

21. Aagard Hall houses approximately 85 biological female students. Its facilities include four community spaces, a sizable laundry room, two full kitchens, and private bathrooms in each room.

22. Balyo Hall houses about 110 male and female students on three sex-separated floors, with the divisions based on students' biological sex. Its facilities include community bathrooms on each sex-separated floor, large community spaces, full kitchens, and laundry rooms on each floor.

23. Davidson Hall houses nearly 75 male and female students on two sex-separated floors, with the divisions based on students' biological sex. Its facilities include community bathrooms on each sex-separated floor, open community spaces, full kitchens, and laundry rooms on each floor.

24. Prewitt and Van Gilder Hall is two residence halls in one building divided into sex-separated floors, with divisions based on students' biological sex. Prewitt Hall houses approximately 135 female students on one floor, while Van Gilder Hall houses approximately 40 male students on a separate floor. The facilities include community bathrooms on each sex-separated floor, an open community space, a full kitchen, two quiet study rooms, and a movie room.

25. In order to participate in residential life at Corban, each student reads and signs a "Community Life Agreement," which includes the following language:

As a Christian institution, Corban University is committed to providing a Christian education for life and service. We believe that the expectations outlined in our [Student Handbook, also referred to as the] Community Life Walkthrough are conducive to students' personal growth and are in the best interest of the University's community as a whole. Our community expectations are based on biblical principles, our

local church support, as well as the University's history and responsiveness to today's culture. While we recognize that some students may not have personal convictions wholly in accord with these responsibilities and standards, the purposes and ideals underlying them necessitate that students be willing to modify their own personal preferences and standards of conduct while associated with the University. If a student cannot make needed modifications, they should seek a living/learning situation more acceptable for them.

Please read Corban's Community Life Walkthrough before signing below.

I hereby certify that I understand and accept the responsibilities of membership into the Corban community and will adhere to the standards of conduct outlined in the Community Life Walkthrough for the duration of my association with the University. I understand this includes breaks when classes are not in session and I will sign this agreement each fall as an indication of my continued commitment.

(emphasis and highlighting in original).

26. To facilitate its students' growth and well-being, Corban created its Counseling Center to provide students with confidential counseling, free of charge. Individual counseling can help students to make important decisions, gain insight into their personal strengths and weakness, and learn to cope more effectively with the demands and difficulties of university life.

27. Corban's Counseling Center provides counseling to assist students with a wide range of issues, including career counseling, conflict resolution, eating disorders, depression, anxiety, domestic abuse, loss and grieving, pregnancy and abortion counseling, time management, stress management, alcohol abuse, substance abuse, human sexuality, sexual identity, pornography addiction, and sex addiction.

28. The counselors at Corban's Counseling Center adhere to the Family Educational Rights and Privacy Act (FERPA), the Code of Ethics of the State of Oregon Board of Licensed Professional Counselors, and the American Counseling Association regarding the confidentiality of clients/students.

29. Corban receives and benefits from federal funding through various governmental programs, including Federal Pell Grants, the Federal Direct Student Loan Program, the Federal Supplemental Educational Opportunity Grant Program, the Federal Work-Study Program, the Federal Perkins Loan Program, and TEACH Grants.

30. Many of Corban's students wish to attend an institution with Christian convictions, but require federal assistance to pursue higher education at all.

31. Corban cannot in good moral conscience comply with Title IX's general prohibition against differential treatment on the basis of sex if "sex" is interpreted to include sexual orientation and gender identity. Among other things, Corban's religious beliefs require that it maintain the following:

- Oral and written speech in chapel, in the classroom, in the Counseling Center, and in Corban policies and handbooks, which encourages students to live consistent with Biblical views on marriage and human sexuality, encourages students to reserve sexual activity for marriage between a man and a woman, and encourages students to live consistent with the biological sex they received as a gift from God;

- Standards of conduct (including dress codes) for faculty, students, and staff to cultivate and reflect the Christian faith, including doctrines relating to sex, gender, marriage, sexual morality, and gender identity;
- Separation based on biological sex for certain Corban facilities, including residence halls, restrooms, and locker rooms;
- Separation based on biological sex for certain Corban activities, including sex-separated athletic teams.

32. At the same time, Corban could not sustain the loss of federal funding and enrollment that would alternatively come if Title IX no longer had a religious exemption.

33. On March 29, 2021, the plaintiffs in the above-referenced action filed a Class Action Complaint, seeking a judgment declaring Title IX's religious exemption unconstitutional, and prohibiting the Department of Education from granting or recognizing religious exemptions as applied to "sexual and gender minorities."

34. The present legal action seeks to remove Title IX's religious exemption, which would force Corban to choose between violating its religious convictions or suffering a significant reduction in funding/enrollment.

35. Because this lawsuit threatens Corban's interests, we have decided to move to intervene in this case, in order that we might make arguments respecting our university (and many others like it), which hold reasonable and sincere religious beliefs that conflict with Title IX's general prohibition of differential treatment on the basis of sex, especially if the definition of "sex" is defined to include sexual orientation

and gender identity. Without our participation, the voice, unique perspective, and arguments of religious universities will not be represented or heard in this matter.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

A handwritten signature in blue ink, appearing to read 'S. Nord', is positioned above a horizontal line.

Sheldon C. Nord, Ph.D.
President, Western Baptist College d/b/a
Corban University