

**Paul Carlos Southwick (OSB 095141)**  
**Religious Exemption Accountability Project**  
**Paul Southwick Law, LLC**  
8532 N. Ivanhoe St. #208  
Portland, OR 97203  
Email: paul@paulsouthwick.com  
Phone: 503-806-9517

**Timothy R. Volpert (OSB 814074)**  
**Tim Volpert PC**  
2111 NE Hancock St. Ste. 2B  
Portland, OR 97212  
Email: tim@timvolpertlaw.com  
Phone: 503-703-9054

**Alletta S. Brenner (OSB 142844)**  
**Perkins Coie LLP**  
1120 N.W. Couch Street, Tenth Floor  
Portland, Oregon 97209-4128  
Email: ABrenner@perkinscoie.com  
Phone: 503-727-2000

**Misha Isaak (OSB 086430)**  
**Perkins Coie LLP**  
1120 N.W. Couch Street, Tenth Floor  
Portland, Oregon 97209-4128  
Email: misaak@perkinscoie.com  
Phone: 503-727-2000

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**  
**EUGENE DIVISION**

Elizabeth HUNTER; et al.,

Plaintiffs,

v.

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

Defendants,

v.

COUNCIL FOR CHRISTIAN COLLEGES &  
UNIVERSITIES, WESTERN BAPTIST COLLEGE  
d/b/a CORBAN UNIVERSITY, WILLIAM JESSUP  
UNIVERSITY AND PHOENIX SEMINARY,

Intervenor-Defendants.

Case No. 6:21-cv 00474-AA

**DECLARATION OF PAUL  
CARLOS SOUTHWICK  
ISO SUPPLEMENTAL  
BRIEF OF NEWLY  
DISCOVERED FACTS**

I, Paul Carlos Southwick, declare:

1. I am over 18 years of age and have personal knowledge of the matters stated in this declaration and would testify truthfully to them if called upon to do so.
1. Attached as **Exhibit A** are compiled documents relating to OCR's investigation of alleged Title IX violations by Lincoln Christian University (LCU), submitted by plaintiffs' counsel on behalf of Kalie Hargrove. On October 28, 2021, OCR Case No. 05-22-2023 was filed by plaintiffs' counsel on behalf of putative plaintiff Kalie Hargrove. On January 7, 2022, OCR emailed a letter to plaintiffs' counsel stating that the agency had opened an investigation based on the allegation that "in August 2021, the University discriminated against Kalie Hargrove (Student A) on the basis of sex (gender identity) by directing her to either to withdraw from classes or face discipline because she publicly identified as transgender." In a letter dated January 22, 2022, LCU requested assurance from the Assistant Secretary for Civil Rights of exemptions from a range of Title IX provisions regarding sexual orientation, gender identity, and other criteria based on religious beliefs. In a letter to LCU dated April 5, 2022, the Assistant Secretary provided LCU with the requested assurance of exemptions.
2. Attached as **Exhibit B** are compiled documents relating to OCR's investigation of alleged Title IX violations by Clarks Summit University (CSU), submitted by plaintiffs' counsel on behalf of Gary Campbell. On July 28, 2021, OCR Case No. 03212192 was filed by plaintiffs' counsel on behalf of Gary Campbell. On January 18, 2022, OCR emailed a letter to plaintiffs' counsel, stating that "OCR will proceed with an investigation of Allegation 1 because it raises a possible violation of Title IX and its implementing regulation that is ongoing based on existing policies." The OCR is investigating the allegation that "The

University maintains a policy in its Student Handbook prohibiting students from engaging in same-sex romantic or sexual relationships, as well as from ‘crossdressing or other actions deliberately discordant with birth gender.’” In the same letter, the OCR also informed plaintiffs’ counsel that it was dismissing “Allegation 2” that “The University discriminated against the Student on the basis of sexual orientation by expelling him from the University and refusing to allow him to reenroll or to graduate,” because OCR had deemed the allegation untimely. In a letter dated February 3, 2022, CSU requested assurance from the Assistant Secretary of exemptions from a range of Title IX provisions with regard to sexual orientation and gender identity, purportedly based on religious beliefs. In a letter dated April 5, 2022, the Assistant Secretary provided CSU with the requested assurance of exemptions.

3. Attached as **Exhibit C** are compiled documents relating to OCR's investigation of alleged Title IX violations by Colorado Christian University (CCU), submitted by plaintiffs' counsel on behalf of Journey Mueller. Prior to this case, on November 4, 2014, CCU requested assurance from the Assistant Secretary of exemption from a range of Title IX provisions regarding gender identity. Additional letters were exchanged between the Assistant Secretary and CCU from December 5, 2014, to January 6, 2015, requesting and providing clarification of the bases for the request. In a letter dated June 28, 2016, the Assistant Secretary provided CCU with the requested assurance of exemptions. On August 3, 2021, OCR Case No. 8-21-2214 was filed by plaintiffs’ counsel on behalf of Journey Mueller. On April 8, 2022, OCR emailed a letter to plaintiffs’ counsel stating that “OCR is opening Allegation 1 for investigation because OCR has determined that it has jurisdiction, that the allegation was timely filed, and that it is appropriate for investigation

under the laws and regulations enforced by OCR.” The OCR is investigating the allegation that Colorado Christian University “discriminates against LGBTQ+ students because its policies and practices, including in its current Student Handbook, prohibit students from engaging in behavior that exhibits a same-sex romantic relationship and subject students who engage in same-sex romantic relationships to discipline.” In the same letter, the OCR also informed plaintiffs’ counsel that it was dismissing “Allegation 2” that “after the University learned that the Student is a lesbian, it discriminated against her on the basis of sexual orientation during the 2017-18 school year by, among other things, placing the Student on academic probation, removing her from her housing, requiring her to attend conversion therapy and mentorship meetings, and blocking access to LGBTQ+ affirming resources on the University’s wi-fi.” because OCR had deemed the allegation untimely.

4. Attached as **Exhibit D** are compiled documents relating to OCR's investigation of alleged Title IX violations by Azusa Pacific University, submitted by plaintiffs' counsel on behalf of Jonathan Jones. On July 27, 2021, OCR Case No. 09-21-2318 was filed by plaintiffs’ counsel on behalf of Jonathan Jones. On May 3, 2022, the OCR emailed a letter to plaintiffs’ counsel stating “OCR is opening Allegations 1 and 2 for investigation with respect to the University’s policies and practices in the 2021-2022 academic year and the spring 2021 semester, the Student’s last semester, because OCR has determined that it has jurisdiction, that these allegations were timely filed, and that they are appropriate for investigation under the laws and regulations enforced by OCR.” The OCR is investigating allegations that: “1. The University discriminated against the Student in the Spring 2021 semester and continues to discriminate against LGBTQ+ students based on sexual orientation and gender identity because its policies and practices, including in its current

Student Handbook, prohibit sexual intimacy outside of marriage and endorse the doctrine that marriage is between a man and a woman (Allegation 1) and 2. The University discriminated against the Student in the Spring 2021 semester and continues to discriminate against LGBTQ+ students based on sexual orientation and gender identity by refusing to fully recognize the LGBTQ+ student group on campus (Allegation 2).” In the same letter, OCR also dismissed “Allegation 3” that “The University discriminated against the Student based on sexual orientation and gender identity because changes the University made to its policies on same-sex dating in 2018 and 2019, as well as a letter a University professor sent to the University in fall 2018 about such changes, left the Student fearful of being punished and having their scholarship revoked,” because OCR had deemed the allegation untimely.

5. Attached as **Exhibit E** are compiled documents relating to OCR's investigation of alleged Title IX violations by La Sierra University, submitted by plaintiffs' counsel on behalf of Cameron Martinez. On July 27, 2021, OCR Case No. 09-21-2314 was filed by plaintiffs' counsel on behalf of Cameron Martinez. On May 3, 2022, the OCR emailed a letter to plaintiffs' counsel, stating “OCR is opening Allegations 1 and 2 for investigation because OCR has determined that it has jurisdiction, that these allegations were timely filed, and that they are appropriate for investigation under the laws and regulations enforced by OCR.” The OCR is investigating allegations that “1) The University is discriminating against the Student and other LGBTQ students on the basis of sexual orientation and gender identity by refusing to officially recognize the LGBTQ student group on campus (Allegation 1), and 2) The University is discriminating against the Student and other LGBTQ students on the basis of sexual orientation and gender identity because its policies

and practices, including in its current student handbook, endorse the Seventh-day Adventist doctrine on homosexuality, stating that sexual intimacy belongs only within the marital relationship of a man and a woman (Allegation 2).” In the same letter, OCR also dismissed “Allegation 3” that: “The University discriminated against the Student on the basis of sexual orientation and gender identity by failing to address their two complaints to the University in 2018, which alleged that a faculty member made homophobic comments in the classroom and a guest lecturer made comments disparaging LGBTQ individuals,” because OCR had deemed the allegation untimely.

6. Attached as **Exhibit F** are compiled documents relating to OCR's investigation of alleged Title IX violations by Liberty University, submitted by plaintiffs' counsel on behalf of Lucas Wilson. On July 27, 2021, OCR Case No. 11-21-2235 was filed by plaintiffs' counsel on behalf of Lucas Wilson. On May 4, 2022, the OCR emailed a letter to plaintiffs' counsel stating that “OCR is opening Allegation 1 for investigation because OCR has determined that it has jurisdiction, that the allegation was timely filed, and that it is appropriate for investigation under the laws and regulations enforced by OCR.” OCR is investigating the allegation that “The University discriminates against LGBTQ+ students through its policies and practices, including the Statement on Sexuality and Relationships in the Student Honor Code and the role of the on-campus group called Armor Bearers.” In the same letter, OCR also dismissed “Allegation 2” that “The University discriminated against the Student on the basis of sexual orientation while he attended the University between 2008 and 2012 by maintaining a policy that behavior reflecting LGBT identity was a violation of the Student Honor Code, and by encouraging him to participate in

conversion therapy to avoid punishment.” because OCR had deemed the allegation untimely.

7. Attached as **Exhibit G** are compiled documents relating to OCR's investigation of alleged Title IX violations by Regent University, submitted by plaintiffs' counsel on behalf of Jamie Lord. On July 28, 2021, OCR Case No. 11-21-2233 was filed by plaintiffs' counsel on behalf of Jamie Lord. On May 24, 2022, OCR emailed a letter to plaintiffs' counsel stating that “OCR is opening the complaint for investigation because OCR has determined that it has jurisdiction, that the complaint was timely filed, and that it is appropriate for investigation under the laws and regulations enforced by OCR.”
8. Attached as **Exhibit H** are four dismissal letters sent by OCR to plaintiffs' counsel regarding Title IX complaints filed by plaintiffs' counsel on behalf of four plaintiffs against four different schools. The complaint filed for Ashtin Markowski, OCR Case No. 08-21-2212, alleging Title IX violations by Brigham Young University, was dismissed on October 19, 2021. The complaint filed for Joanna Maxon, OCR Complaint No. 09-21-2317, alleging Title IX violations by Fuller University was dismissed on January 12, 2022. The complaint filed for Nathan Brittsan, OCR Complaint No. 09-21-2322, alleging Title IX violations by Fuller University was dismissed on January 12, 2022. The complaint filed for Mackenzie McCann, OCR Complaint No. 11-21-2236, alleging Title IX violations by Liberty University was dismissed on May 5, 2022.
9. Attached as **Exhibit I** are compiled documents relating to OCR's dismissal of alleged Title IX violations by Brigham Young University (BYU) submitted by plaintiffs' counsel on behalf of putative plaintiff Alice Murphy.

10. Attached as **Exhibit J** are compiled documents relating to OCR's investigation of a prior complaint against BYU. On November 19, 2021, BYU submitted a request for assurance of religious exemption to the Assistant Secretary in response to being notified by the OCR on October 21, 2021, that the agency had initiated an investigation into alleged Title IX violations by BYU. These allegations were made in OCR Case No. 08-20-2196, submitted on March 9, 2020 by a student with no connection to Alice Murphy's case. In a letter dated January 3, 2022, the Assistant Secretary provided BYU with the requested assurance of exemptions. In a letter dated February 8, 2022, OCR stated that "Because the University is exempt from the above-referenced regulatory provisions of Title IX to the extent that application of those provisions conflict with the religious tenets of its controlling religious organization, OCR lacks jurisdiction to address the complaint's allegations. Accordingly, OCR is dismissing this complaint pursuant to Section 108(f) of its Case Processing Manual as of the date of this letter."
11. Attached as **Exhibit K** are compiled documents relating to OCR's dismissal of alleged Title IX violations by Brigham Young University-Idaho (BYU-I), submitted by plaintiffs' counsel on behalf of Chandler Horning on July 27, 2021, OCR Case Nos. 10212151.
12. Attached as **Exhibit L** are compiled documents relating to OCR's dismissal of alleged Title IX violations by Brigham Young University-Idaho (BYU-I), submitted by plaintiffs' counsel on behalf of Rachel Moulton on July 27, 2021, OCR Case No. 10212152.
13. Attached as **Exhibit M** are compiled documents relating to OCR's dismissal of alleged Title IX violations by Bob Jones University, submitted by plaintiffs' counsel on behalf of Elizabeth Hunter on July 27, 2021, OCR Case No. 11-21-2234.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed this 20th day of July, 2022.

By: s/Paul Carlos Southwick  
Paul Carlos Southwick