

Human beings are created in the image of God, male and female, and are of inestimable worth. Because we are created in God's image, people must be treated with respect and dignity by all institutions in society whether male or female, young or old, rich or poor, believer or unbeliever, homosexual or heterosexual. This priceless value constitutes the theological and anthropological foundation of our discussions regarding human sexuality. We, therefore, affirm the fundamental worth of all human persons, including those with whom we disagree.

Human beings are created in the image of God, male and female. The explicit relational dimension of human beings and the inherent differentiation of gender are foundational to our understanding of creation itself. Our discussions and considerations of human sexuality, therefore, take place within the context of these assumptions. Human sexuality is both a relational truth and it is gender differentiated.

Human sexuality is intended by God to include more than the contemporary cultural emphasis upon physical, sexual experience. Our sexuality is intended by God to reflect the whole of our sensual and relational createdness. We, therefore, renounce the equation of sexuality with genital sex alone and the false representation of sexuality found in pornography. We believe that such an emphasis results in the dehumanization of all people, especially women and children.

We recognize the need to affirm the Christian virtues of holiness and godliness in this very significant dimension of being human. We assert that holiness and godliness as they relate to human sexuality require more than the avoidance of evil. These dimensions of spirit-filled character involve the positive celebration of who we are as created beings. Therefore, we are to interact with one another with great responsibility, respect, and with unselfish love.

The delight we experience through our sexual experience requires of us a sense of stewardship, a trust that extends not only to ourselves but also to others. Therefore, we remind ourselves, as well as those beyond our community, of the responsibility not to engage in the sexual exploitation or the sexual harassment of others. This stewardship is particularly important in the human institutions of church, work, friendship, marriage, and family.

In particular, we affirm the institutions of marriage and family as central to the purposes of God. We believe it is in the context of the covenant of marriage between a man and a woman that the full expression of sexuality is to be experienced and celebrated and that such a commitment is part of God's plan for human flourishing. Within the teaching of our religious tradition, we affirm that sexual experience is intended between a man and a woman.

*We believe this is the ancient and historic teaching of Christian scriptures and tradition, including the teaching of Seattle Pacific's founding denomination, the Free Methodist Church. We believe this continues to be the teaching of the Christian Church around the world and remains the guiding light for our practice. We are also aware that this teaching is found in most other religious traditions as well. **While we affirm the institution of marriage, we also recognize and affirm the call of some to singleness and celibacy.***

Because the issues surrounding human sexuality are controversial, as a community of learning we recognize that our discussions and considerations regarding sexuality, whether in writing or in the classroom, must be treated with personal and spiritual sensitivity and with scholarly care. Therefore, we agree to evaluate our teaching and our pronouncements regarding sexuality in the light of the historic understanding of the Christian Church and the authority of the biblical witness. In this spirit we agree to submit our teachings and pronouncements to one another as followers of Christ.

Finally, recognizing the sinfulness and fallenness of our human nature, we acknowledge our need for God's grace and mercy in our actions, discussions, and considerations of human sexuality. We seek God's grace that we might rise above our human weaknesses and God's mercy that we might

live in unity with one another in the midst of our brokenness and in response to the call of God upon our lives to love one another and thus fulfill the law of Christ.

9. Because of SPU's policies and campus climate, I felt very afraid to come out as transgender on campus. I found comfort in trusted friends and faculty but it was difficult navigating who I could trust.
10. I felt like I was always doing something wrong being who I was. SPU's "grace" had edges.
11. I've had students call me slurs on campus. I've been kicked out of the men's bathroom in halls on my university campus.
12. I decided to publicly come out as transgender at SPU in 2019.
13. During this time, a teacher publicly humiliated me in front of my peers regarding my name and sex. In response to his questioning, I told him that I was transgender and had changed my name. She laughed at me and said "I'm not going to call you that." She did this in front of the entire class.
14. The most egregious action was that taken by the theater department in 2019. For a theater production, I auditioned for, and was cast to play, a male character. This was important to me because I wanted to play a character on-stage whose gender was consistent with my gender off-stage.
15. However, the head of the theater department called me to a meeting. There were a few students present at this meeting but I did not know what the meeting was about.
16. The professor handed me a document that was for 'my and the departments protection.'
17. The document explained that I knew I was knowingly breaking lifestyle expectations at SPU and that I was aware of a list of consequences that could be taken against me should the head of lifestyle expectations find out, including loss of scholarships, inability to graduate on time, and the potential to be kicked out of the University altogether.
18. I did not agree with these things but, at the time, I felt I had no other option. So, I signed the agreement.
19. After graduation, I had a difficult time processing this and would look to my friends for strength and clarification.
20. Thinking back on the situation, I was so emotionally devastated that I had trouble sleeping for months.
21. I eventually complained to SPU regarding this situation, and followed up with SPU on multiple occasions, but SPU failed to take action.

22. Transgender students like me remain vulnerable to harassment and discrimination at SPU.
23. I continue to suffer from anxiety, depression, and insomnia resulting from the campus climate at SPU and discriminatory actions taken against me.
24. I am a federal income taxpayer in the United States. I am also repaying student loans from the U.S. Department of Education that I took out to enroll in Seattle Pacific University
25. 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 ____ day of March, 2021.

By:  _____
Spencer Vigil (Mar 26, 2021 10:33 PDT)

Spencer Vigil

Spencer Vigil Declaration v2

Final Audit Report

2021-03-26

Created:	2021-03-26
By:	Lauren Swain (lauren@paulsouthwick.com)
Status:	Signed
Transaction ID:	[REDACTED]



9. Moreover, I feared that Liberty would punish me as a gay man.
10. Liberty continues to treat queer students poorly, actively discriminates against them, and attempts to change their orientations.
11. I remain in contact other alumni and current students at Liberty who are part of the LGBTQIA+ community. Many such students continue to face such immense hatred on a daily basis and must live in queer subterfuge.
12. While at Liberty, I chose to go to conversion therapy. My main form of therapy involved numerous individual meetings with a Liberty administrator over the course of all four years of my time at Liberty. Repression, deep-seated shame, self-hatred: these were the enduring fruits of my meetings. At the time, I didn't understand that you can't fix what isn't broken.
13. It pains me that conversion therapy remains an available option at Liberty and that it is encouraged by the administration.
14. I also attended one group conversion therapy meeting while at Liberty. While I was there, the conversion therapy group, formerly called "Masquerade," was dubbed "Band of Brothers." It is now called "Armor Bearers." The group meeting, led by Pastor Dane at the time, was held in a location on campus that was not disclosed to anyone but the group members in order to ensure secrecy.
15. Liberty's *Pathways Handbook*, from its Office of Community Life, last updated July 2020, describes Armor Bearers as follows: "This is a group that helps male students who are struggling with same-sex attraction and sexual addiction. The basis of the group is to grow as men of God. Growing as men of God takes the focus off of fixing oneself and instead allows them to grow closer to the Lord. You and your Associate Director will decide on a determined amount of meetings that you need to attend."
<https://www.liberty.edu/students/community-life/wp-content/uploads/sites/90/2020/08/Pathways-Handbook.pdf>
16. The *Pathways Handbook* goes on to say that "The Office of Community Life at Liberty University (LU) is changing the narrative for students by working with them when they accept responsibility for violating policy. Too often students view sanctions as pre-determined punishments for violating policy. Recognizing this, students who accept responsibility will be provided a 'menu' of educational opportunities to choose from that will allow them to participate in developing their own learning experience. The educational opportunities have been grouped into specific categories called Pathways."
17. Essentially, conversion therapy is part of the "menu" of educational opportunities available for same-sex attracted students "who accept responsibility" for what their homosexuality or homosexual behaviors. This "opportunity" is provided by Liberty as an alternative to disciplinary action.

18. I was very anxious when I was on campus that people would know that I am gay, so I constantly monitored how I presented myself. The school caused me a profound sense of shame, which led me to hate who I was for a very long time.
19. In addition to lasting psychological damage from Liberty, I continue to worry that potential employers will see Liberty University on my resume and not hire me, in part due to the school's homophobic views.
20. Queer students should be protected from the discrimination that I experienced at Liberty. No university that offers conversion therapy or treats LGBTQIA+ students the way Liberty University does should receive government funding.
21. I have been a federal income taxpayer in the United States.
22. 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 ____ day of March 2021.

By:

Lucas Wilson

Lucas Wilson (Mar 26, 2021 12:17 EDT)

Lucas Wilson

Lucas Wilson Declaration

Final Audit Report

2021-03-26

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

Elizabeth HUNTER; et al., on behalf of)	
themselves and all others similarly situated,)	
)	Civil Action No. 6:21-cv-00474-
Plaintiffs,)	AA
v.)	
)	DECLARATION OF
U.S. DEPARTMENT OF EDUCATION and)	AUDREY WOJNAROWISCH
Suzanne GOLDBERG, in her official capacity as)	
Acting Assistant Secretary for Civil Rights,)	
U.S. Department of Education,)	
Defendants.)	

I, Audrey Wojnarowisch, 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.
2. I am a resident of Newberg, Oregon, located in Yamhill County.
3. I started attending George Fox University in Newberg, Oregon in August 2018. I expect to graduate in May 2022 with a degree in English and Sociology.
4. I took out student loans from the U.S. Department of Education to study at George Fox.
5. I chose George Fox University because, at the time, it was important for me to be close to my family. I did not want to move out of state.
6. I felt most comfortable attending a small university and I was excited to see the Christian culture on campus. I appreciated the intimate, “Be Known” promise of a community that would see who I am and care for me as an individual.
7. George Fox has a “Lifestyle Statement” which states, “Our lifestyle excludes immoral practices and calls us to transformed living as we "offer [our] bodies as living sacrifices" to God (Romans 12:1-2). 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.”
8. The school also has a student handbook with an extensive Sexuality and Relationships section. It states that “George Fox University accepts the biblical standards that prohibit all sexual immorality.” It later goes on to say, “we believe the power of God and the

wisdom of the Holy Spirit combine to provide the means to live victoriously with respect to sexual purity.”

9. There are no explicit prohibitions on same-sex dating or displays of affection but it is unclear what counts as “sexual immorality” and same-sex relationships of any kind, dating, marriage or otherwise, are never affirmed by the university. The vague policy pronouncements make it difficult for LGBTQ+ student to navigate their relationships and make it unpredictable as to how any particular administrator, professor or student will, or will be expected, to respond.
10. I am bisexual and non-binary. My pronouns are she/they.
11. I did not start questioning my sexuality or gender identity until I was already at George Fox.
12. It was not until my Sophomore year, that I really started to embrace my sexual identity.
13. My coming out was prompted by the coming out of another gay student on campus. He came out to the entire student body during a lip sync performance for our annual talent show. His performance, and the student body’s reaction, was electric and joyous.
14. Campus felt safe for me, more than it ever had before. I felt known. I felt accepted. I felt at peace with all the different parts of myself.
15. I came out of the closet as bisexual because of this student’s bravery and the student body’s welcoming embrace of him as a gay man.
16. A social movement erupted on campus because of this event and a subcommittee of student government was formed to address LGBTQ+ issues.
17. The president of student government issued a campus-wide statement supporting and affirming LGBTQ+ students. This was the first affirming statement I heard from the George Fox community. It felt so validating.
18. However, the George Fox administration soon issued its own response. President Robin Baker, the president of George Fox, responded to this outpouring of support for the gay student by reminding the entire campus community of the university’s stance on marriage and sexuality, which prohibits same-sex marriage and all sexual conduct outside of heterosexual marriage.
19. I expected this kind of a response from the university but other LGBTQ+ students were more surprised and really hurt by it. It felt like a slap in the face.
20. Town halls and other meetings were held on campus. LGBTQ+ students expressed how they felt unsafe going to campus counselling services or talking with their RAs about their sexuality or gender identity, as well as other fears.

21. Several LGBTQ+ students, myself included, were asked to speak to George Fox leaders, most of whom we had never seen or met before.
22. During one of these meetings, the head of the theology department asked me: “If you knew that George Fox’s policies on marriage and sexuality were never going to change, would you still have enrolled here?” This was a scary question to be asked and it was unclear what the purpose of that question was.
23. At another meeting, a transgender student was asked to defend his use of masculine pronouns.
24. George Fox then had straight students go through the same meetings and explain why they defended the school’s current policies. This was hard to listen to after having just made ourselves vulnerable while pleading for our identities to be respected.
25. None of us went to class the next day. We were emotionally drained.
26. Having supportive faculty members helps us feel less alone on campus. And there are many supportive professors at George Fox. However, my affirming professors are worried that they will be fired for supporting LGBTQ+ students, so they cannot fully support us.
27. Unfortunately, the health and counselling center is a not a safe space for us. LGBTQ+ students and identities are controversial topics on campus. People are scared of interacting with us, even at the counselling center, because they are also subject to George Fox’s policies.
28. The school’s policies affect me and my brain. They affect my development and my family. They also prevent me from getting the mental health and mentoring support that I need.
29. We need George Fox to acknowledge our existence, affirm our identities and stop policing our relationships and bodies.
30. There is nothing in the health and counselling center that says we won’t be discriminated against for our sexuality or gender identity.
31. There are not enough LGBTQ+ students out on campus. They are here but it doesn’t feel safe for them to come out.
32. For example, some students ask to be moved out of their dorms if they are rooming with an LGBTQ+ person. It hurts to know that you can be seen as someone who is dangerous.
33. As another example, LGBTQ+ students who are RAs are put in impossible situations. When you are an RA on campus, you open yourself up to be in leadership over students with all kinds of beliefs and viewpoints. However, if your identity is considered divisive, you have to be quiet, or, if you make it known, you open yourself up to being criticized

and rejected. As a specific example, a lesbian RA had one of the students leave her dorm because she didn't want to be in a dorm with a lesbian.

34. I do not feel safe on campus. My needs and the needs of my fellow queer classmates are constantly being ignored and minimized.
35. I have been part of numerous task forces, subcommittee meetings, town halls and round table discussions specifically to communicate with the school administration about the ways our campus is unsafe for queer students. They have failed us every, single, time.
36. When we are given opportunities to share grievances, it always feels like they are attempting to quiet student concern with tokenism.
37. The school's policies and approach to LGBTQ+ students make me feel marginalized, pushed aside, and erased. It affects my college experience on every level. It affects my performance in the classroom, where professors teach that straight marriage is the foundation of God's social order. It affects my experience with potential mentors in my department, where professors preach that queer identities are fundamentally at odds with the Christian faith. It affects my experience in chapel, where I am alienated from worship spaces. It affects my experience with my peers, who are allowed to treat me as an outsider.
38. Marginalization is both a condition and a process that prevents flourishing. I am prevented from enjoying things that my cishet fellow students are allowed to participate in. The psychosocial effects of marginalization are impossible for my queer students and I to escape.
39. We are not allowed to exist without being politicized.
40. I have experienced depression and anxiety as a direct result of the homophobic culture at George Fox.
41. When I got to campus, I was looking for people like me. The first group of LGBTQ+ people I met was not safe. This is fairly common because we were hurt and rejected by our families. When you put broken people together, that sometimes ends poorly.
42. Freshman year I was stalked by a student who followed me everywhere and sent me hundreds of text messages.
43. The stalking eventually led to a sexual assault. This made me feel ostracized by the LGBTQ+ community that I found, because they were part of this community. Reporting or talking about the assault, would out my sexuality to the university, which would put me at risk with the school.
44. I decided to report the stalking and assault to my resident advisor. My resident advisor informed the Area Coordinator. The Area Coordinator was supposed to file a Title IX complaint but they never filed a complaint.

45. I asked my RA to keep my sexuality confidential so that I wouldn't lose friends or get in trouble with the school. My RA did not know how to handle my sexuality or how to care for me.
46. Because George Fox did nothing to help me, I had to figure out how to handle this as an 18 year-old-freshman, who was unfamiliar with sex and dating, all on my own. I did not know what to do.
47. I told the women who assaulted me that she couldn't speak to me alone anymore and that we could be pleasant to each other socially but we couldn't be friends.
48. I had to live close to this person and go to class with this person for the rest of the year. The assault and lack of protection affects me to this day.
49. Because I had no support from the outside, it would not have been good for me to tell people this woman had assaulted me, because I would have been demonized by all sides.
50. I was raised in purity culture. I was not taught about consent. We are not taught how to pursue someone you want to be with. This is even harder when you are queer because we don't have models or examples of how to date or approach sex. It is harder still when your campus environment demonizes sex and queerness. We are not taught consent because we are taught not to have sex and especially not queer sex.
51. Eventually, during my Sophomore year, I found a different, supportive and safe group of queer students. We help each other feel less alone.
52. I want George Fox's policies to change so that I won't be at risk of discipline for my identity or relationships and so I, and other LGBTQ+ students, will be protected if we experience unsafe situations, harassment or violence.
53. I am also concerned about my future career opportunities because of my school's views. I am working towards a degree in social justice and community development while being taught that LGBTQ+ people should not be treated equally. I do not believe my University has adequately prepared me to serve my community. And why would a future employer?
54. I am participating in this case because I do not want to be erased. The history and experience of LGBTQ people is constantly being covered up by George Fox and similar institutions. We matter. We deserve to be seen. We deserve safety and respect.
55. 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 23rd day of March, 2021.

By Audrey Wojnarowisch
Audrey Wojnarowisch (Mar 25, 2021 16:28 PDT)

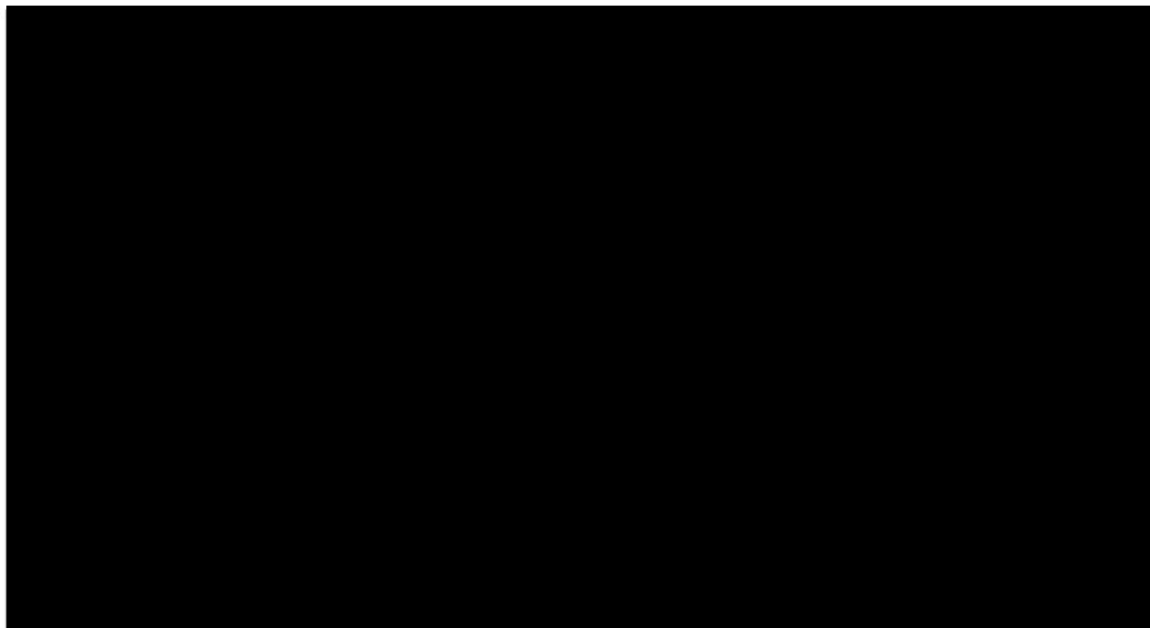
Audrey Wojnarowisch

Audrey Wojnarowisch Declaration

Final Audit Report

2021-03-25

Created:	2021-03-25
By:	Lauren Swain (lauren@paulsouthwick.com)
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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

Elizabeth HUNTER; et al., on behalf of themselves and all others similarly situated,)	
)	
Plaintiffs,)	Civil Action No. 6:21-cv-00474- AA
v.)	
)	DECLARATION OF AVERY BONESTROO
U.S. DEPARTMENT OF EDUCATION and Suzanne GOLDBERG, in her official capacity as Acting Assistant Secretary for Civil Rights, U.S. Department of Education,)	
)	
Defendants.)	

I, Avery Bonestroo, 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.
2. I am a resident of Sioux Center, Iowa, located in Sioux County.
3. Since August, 2017, I have been student at Dordt University (hereinafter "Dordt") in Sioux Center, Iowa.
4. I am majoring in theater.
5. I expect to graduate in May, 2021.
6. I am 21 years old.
7. While attending Dordt, I received Federal Financial Aid, including student loans from the U.S. Department of Education. I have a federal work study position in the costume shop for the theater department.
8. After graduation, I will be required to repay the federal student loans I received to pay for my education at Dordt.

9. I attended Dordt because I live close by, my mother approved of the college and the university offered me a generous financial aid package.

10. I live in on campus housing. Campus housing is gendered according to a gender binary.

11. Dordt has brought speakers to campus who advocate a non-affirming view of LGBTQ+ students.

12. In certain classes at Dordt, the professors teach that LGBTQ+ identities and lives are sinful and rejected by God. I have had to sit through such classes, which has been a painful experience. The professors do not make room for affirming positions to be expressed in class.

13. Dordt's student handbook outlines rules of behavior for students.

14. The handbook regulates romantic relationships and sexual conduct.

15. The handbook states "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." This statement makes me feel frustrated because it erases the lives and experiences of gender-nonconforming, transgender and intersex students.

16. The handbook later goes on to say, "the only appropriate and permissible context in which sexual intimacy may be expressed as overt sexual interaction is in a marriage partnership of a man and a woman." This statement feels very unwelcoming and threatening and ignores the history of non-heterosexual people at Dordt and in our community.

17. The 2020-2021 Student Handbook defines the following sexual misconduct forbidden for Dordt students both on and off campus:

A. "Promoting or advocating sexually immoral activity",

B. “Extramarital sexual relations”,

C. “Homosexual relations”,

D. “Transgendered Behavior.”

18. These regulations force strict, unhealthy views of sexuality and gender on students at Dordt.

19. The prohibitions on “homosexual relations” and “transgendered behavior” are vague, give rise to suspicion of non-conforming students and put queer and trans students at risk of disciplinary action.

20. Some professors have told me that I should dress more feminine. Other students have told me that I should dress more feminine. These conversations made me feel uncomfortable and like I do not belong here or have equal footing with heterosexual or cisgender students.

21. The 2020-2021 Student Handbook goes on to state the following about same-sex romantic relationships:

C. Homosexual relations. It is unacceptable to have sexual relations with someone of the same sex. It is unacceptable to marry or be engaged to marry a person of the same sex. Dordt University also prohibits promoting or advocating such activity.

D. Transgendered Behavior. Adopting an identity discordant with one’s biological sex is prohibited. Dordt university also prohibits promoting or advocating such activity.

11. Non-heterosexual public displays of affection are not allowed and will likely lead to other students reporting it to administration, followed by potential disciplinary action by Dordt. I am generally forced to use my birth name and female pronouns at Dordt for fear that I will be disciplined for using Avery or they/them pronouns. The handbook also states that “the

university will make efforts to work in a counselling context with individuals who find it difficult to restrict their sexual activity within the institution of marriage.” The handbook goes on to say that Dordt may determine that if an individual participates in the forbidden conduct “an individual shall be dismissed from the university.”

12. I am bisexual and genderfluid.

13. I have a girlfriend who is also a student at Dordt but we have to hide our relationship for fear of discipline and rejection from Dordt administrators, faculty and other students.

14. I do not feel safe coming out at Dordt due to their policies as set forth in the handbook. I fear I will be forbidden to graduate or be forced to participate in conversion therapy if I do come out.

15. I fear that by changing my legal name in the future, Dordt may refuse to issue me a new diploma with my new name.

16. A female friend of mine was engaged to a woman and Dordt found out about the engagement. Dordt threatened to forbid her from graduating. This woman was an education major and was student teaching at a local school. One of the parent’s found out she was a lesbian and complained about her. Ultimately, Dordt relented and allowed her to graduate but asked her not to associate herself with Dordt after graduation.

17. There is no official or unofficial LGBTQ+ club or support group on campus.

18. I wish we could have an LGBTQ+ club so that we could support each other.

19. I have experienced anxiety and depression while a student at Dordt. Dordt’s policies on sexuality and gender identity have contributed to my anxiety and depression.

20. Dordt's on-campus counselling center is inadequately staffed and not a safe space for queer or trans students to seek help with their mental health. Local therapists in my community are generally not accepting of LGBTQ+ people and I have been unable to find an affirming mental health provider.

21. I have stayed at Dordt, rather than leaving for another college, because many of my courses here would not transfer to another college, it would be difficult for me financially and I have made friends here that I would lose or be distanced from if I changed schools.

22. The campus climate at Dordt is not safe or supportive for queer and trans students. In addition to Dordt's policies, some students at Dordt harbor animosity towards queer and trans students and are given cover for their hostility by Dordt's policies and climate.

23. I have not filed a Title IX complaint with Dordt or with the U.S. Department of Education because I feel that it would not be safe for me to do so and that it would not be worth the risk of discipline, harassment or expulsion because my complaint would not go anywhere due to Dordt's status as a religiously affiliated institution.

24. There are other queer, non-binary and trans students at Dordt, most of whom are not publicly out at Dordt because they fear for their safety and security.

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 27th day of January, 2021.

By:


Avery Bonestroo



BOB JONES UNIVERSITY
EST. 1927

April 1, 2016

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

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

Dear Ms. Lhamon:

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

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

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

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

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

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

Ms. Catherine Lhamon

Page 2

April 1, 2016

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

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

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

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

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

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

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

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

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

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

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

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

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

Ms. Catherine Lhamon

Page 3

April 1, 2016

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

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

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

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

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

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

¹³ *Id.*

¹⁴ 1 Timothy 3; Titus 1.

Ms. Catherine Lhamon

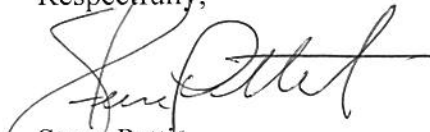
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April 1, 2016

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

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

Respectfully,



Steve Pettit
President

SP:mam



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

June 17, 2016

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

Dear President Pettit:

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

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

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

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

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Steve Pettit – page 2

ordained preachers be male.

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

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

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

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

Steve Pettit – page 3

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

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

Sincerely,



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



BOB JONES UNIVERSITY

EST. 1927

September 22, 2016

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

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

Dear Ms. Lhamon:

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

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

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

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

Ms. Catherine Lhamon

Page 2

September 22, 2016

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

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

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

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

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

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

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

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

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

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

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

Ms. Catherine Lhamon

Page 3

September 22, 2016

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

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

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

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

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

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

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

¹⁰ 1 Timothy 3; Titus 1.

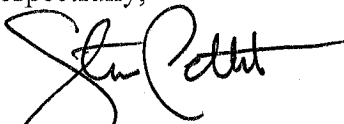
Ms. Catherine Lhamon
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September 22, 2016

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

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

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

Respectfully,



Steve Pettit
President
Bob Jones University

Enclosures



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

November 17, 2016

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

Dear President Pettit:

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

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

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

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

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Steve Pettit – page 2

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

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

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

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

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

Steve Pettit – page 3

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

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

Sincerely,

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

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



BOB JONES UNIVERSITY
EST. 1927

April 5, 2017

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

Re: Religious Exemption from Certain Applications of Title IX

Dear Ms. Battle:

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

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

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

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

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

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

Letter to Sandra Battle
April 5, 2017
Page 2 of 7

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

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

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

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

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

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

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

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

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

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

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

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

Letter to Sandra Battle

April 5, 2017

Page 3 of 7

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

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

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

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

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

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

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

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

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

Letter to Sandra Battle

April 5, 2017

Page 4 of 7

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

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

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

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

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

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

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

Letter to Sandra Battle
April 5, 2017
Page 5 of 7

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

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

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

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

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

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

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

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

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

Letter to Sandra Battle

April 5, 2017

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

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

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

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

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

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

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

¹⁶ *Id.* at p. 2.

¹⁷ *Id.*

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

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

²⁰ *Id.*

Letter to Sandra Battle

April 5, 2017

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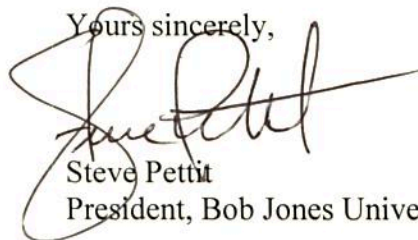
compassion and are committed to living out our commitments to these biblical standards with grace and humility. We also believe that we are called to speak God's truth in love (Eph. 4:15) as we call all men to recognize that all human sinfulness is an offense to God (Rom. 3:10-11; Rom. 6:23a), that God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

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

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

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

Yours sincerely,



Steve Pettit
President, Bob Jones University

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

Charter and Bylaws of Bob Jones University

Preamble

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

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

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

1.2.3 Christian Philosophy of Education

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

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

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

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

Bob Jones University Creed

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

Statement about Gender Identity

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

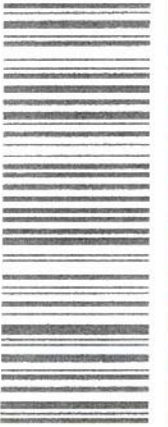


BOB JONES UNIVERSITY

1100 UNIVERSITY DRIVE
PO BOX 10000
GREENSBORO, NC 27402

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

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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

December 21, 2017

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

Dear President Pettit:

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

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

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

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

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Steve Pettit — page 2

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

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

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

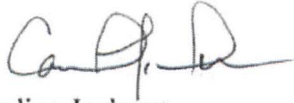
The University is exempt from these provisions to the extent that compliance would conflict with the controlling organization’s religious tenets.

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

Steve Pettit — page 3

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

Sincerely,

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

Candice Jackson
Acting Assistant Secretary for Civil Rights



BAYLOR UNIVERSITY

Abner V. McCall • President
Waco, Texas 76703

*McK
2/4*

January 12, 1976

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

Dear Sir:

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

1. Premarital unchastity whether on the part of a man or woman is contrary to the tenets of the Southern Baptists. Insofar as these regulations require Baylor University to treat the pregnancy, childbirth, false pregnancy or termination of pregnancy of an unmarried woman as a mere temporary disability such regulations conflict with the tenets of Southern Baptists. Such regulations pertaining to unmarried women whether students or prospective students or employees or prospective employees are inconsistent with the policies of the university and Southern Baptists. These inconsistent regulations include Sec. 86.21(c), 86.39, 86.40, 86.51(b)(6), 86.57(a)(1), (b), (c), 86.60(a).
2. It is the tenet and practice of practically all Southern Baptist churches that only men should be licensed and ordained for the ministry. The Baptist General Convention of Texas awards a partial scholarship to every licensed ministerial student attending Baylor University. Baylor University matches this partial scholarship. Section 86.37(a)(b) of such regulations is inconsistent with this Southern Baptist tenet. Educational programs

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McCall*

Director of the Office for Civil Rights
January 12, 1976

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

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

Sincerely,



Abner V. McCall
President

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

SEP 26 1985

SEP 26 1985

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

Dear President Reynolds:

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

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

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

Page 2 - Dr. Herbert H. Reynolds

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

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

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

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

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

Page 3 - Dr. Herbert H. Reynolds

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

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

Sincerely,



Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosures

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