AMERICAN INDIAN COLLEGE

October 7, 2015

Catherine E. 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: Statement of exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12

Dear Ms. Lhamon:

It has come to American Indian College's attention that the Department of Education has recently taken the position that 20 U.S.C. § 1681(a), Title IX's rule against discrimination on the basis of sex, now bars differential treatment based on "gender identity." The Department's new interpretation of Section 1681(a) conflicts with American Indian College's religious tenets and our ability to carry out our religious mission. In the course of our review, American Indian College has identified other potential interpretations or applications of Section 1681(a) that likewise conflict with our religious mission. Therefore, as the highest-ranking official of American Indian College's administration, I write to inform the Department of Education that American Indian College qualifies for the religious exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 because of its affiliation with the Assemblies of God. I also write to explain how certain provisions, as they may be interpreted by the Department, conflict with specific tenets of American Indian College and the Assemblies of God.

American Indian College qualifies for Title IX's religious exemption.

American Indian College is an educational institution affiliated with the Assemblies of God, a religious organization. The following explains why American Indian College qualifies for the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 as these provisions have been interpreted an applied by the Department of Education.[1]

The General Council of the Assemblies of God ("General Council"), the highest governing body of the church, has established the Alliance for Assemblies of God Higher Education ("Alliance") and tasked the Alliance with developing educational, spiritual, and theological standards for schools that wish to be affiliated with the church.[2] To fulfill this mandate, the Alliance developed Endorsement Criteria that are intended to facilitate the development of educational institutions that are committed to the Assemblies of God's mission, to the

[1] *See* U.S. Dep't of Ed., *Explanation of HEW Form 639 A* (March 1977) at 3-4, available at http://freepdfhosting.com/88b629f888.pdf.

[2] *See* The Alliance for Assemblies of God Higher Education, *Our Purpose*, http://colleges.ag.org/about/mission.cfm.

integration of faith and learning in the Pentecostal tradition, and to academic excellence.[3] The purpose of the Endorsement Criteria is to insure doctrinal fidelity and institutional conformity to Assemblies of God standards of morality.

American Indian College is endorsed by the Alliance and is committed to maintaining this status by carefully following the Alliance's Endorsement Criteria.

Consistent with the Alliance's Endorsement Criteria, American Indian College's mission documents commit American Indian College to the formation of mature Christian character and spiritual life, the development of loyalty to the doctrines and principles of the Assemblies of God, and the preparation of leaders for the Kingdom of God and the Assemblies of God.

The Alliance's Endorsement Criteria also shape how American Indian College selects its leadership, faculty, administrators, and students. At least 90% of American Indian College's board members are affiliated with the Assemblies of God and the remaining board members affiliated with another Pentecostal church. Under the Endorsement Criteria, American Indian College may not deviate from these standards without permission from the Alliance.

Additionally, the Alliance's Endorsement Criteria require American Indian College's faculty, administrators, and students to be members of an Assemblies of God church or otherwise espouse a personal belief in the basic tenets of the Christian faith as understood by the Assemblies of God. As required by the Endorsement Criteria, all of American Indian College's administrators and faculty annually sign a statement affirming loyalty to the Statement of Fundamental Truths of the Assemblies of God, a personal experience of Holy Spirit baptism, and a willingness to influence others with regard to loyalty to the Assemblies of God church and theology.

Consistent with Alliance standards, American Indian College asks all applicants for on-campus programs to affirm that they are born-again Christians, that they desire to be involved in Christian service, and that they agree with the accepted essentials of the Christian faith as held by the Assemblies of God. Applicants must also provide a letter of recommendation from a pastor.

Student life at American Indian College is also shaped by our commitment to Alliance standards. American Indian College shares the Assemblies of God's conviction that Christian colleges and universities should form their students both academically and spiritually. Faithful to the Endorsement Criteria, American Indian College helps stimulate students' appreciation for the Word of God and encourages students to pursue spiritual maturity and excellence. American Indian College is dedicated to strengthening our students' appreciation of and attachment to the Christian Church, especially the

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[3] *See* The Alliance for Assemblies of God Higher Education, *Endorsement Criteria*, Rev. 2010, available at http://colleges.ag.org/pdfs/Final%20Criteria.pdf.

Pentecostal tradition and the Assemblies of God. Our students are required to regularly participate in chapel and church attendance. They are also expected to become involved in ministry opportunities, with ministry majors required to do so.

As part our commitment to developing a robust Christian community, and consistent with the Alliance's standards, American Indian College holds at least three chapel services each week, which are mandatory for students. American Indian College also has enforceable church and chapel attendance policies for administrators and faculty.

Because American Indian College adheres to the Endorsement Criteria, it is eligible for financial support from the Assemblies of God. The Alliance develops financial resources for endorsed colleges in cooperation with the Assemblies of God Trust. The Alliance also develops educational resources and runs conferences to help affiliated schools better serve their mission and their students.

In light of all the above, American Indian College is entitled to the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12.

Certain applications of 20 U.S.C. § 1681(a) and 34 C.F.R. 106 conflict with Assemblies of God doctrine and practice.

American Indian College is compelled to submit this statement because it believes that its religious convictions, informed by its relationship with the Assemblies of God, conflict with some of the ways that the Department of Education may interpret or may seek to enforce 20 U.S.C. § 1681(a). Specifically, American Indian College is concerned with the Departments' assertion that Section 1681(a) prohibits distinctions on the basis of sexual orientation, gender identity, or more generally on the basis of the Assemblies of God's teachings about marriage and biblical standards for sexual conduct.[4]

As a Christian institution, American Indian College believes that all matters of faith and conduct must be evaluated on the basis of Holy Scripture, which is our infallible guide (2 Timothy 3:16-17). As a school founded in and inspired by the Assemblies of God tradition and endorsed by the Alliance, American Indian College looks to the General Council and the General Presbytery of the Assemblies of God to help us interpret Scripture.

Human Dignity: The Assemblies of God believes that God created humankind in His image and that people receive their essential dignity from the fact that they are created in God's image and are loved by Him (Genesis 1:27). This dignity does not depend on whether someone is single or married or on whether someone suffers from any particular temptation to sin (1 Corinthians 7; Romans 5:8).

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[4] The religious convictions set forth below are established by the Assemblies of God in its Constitution and Bylaws, available at http://ag.org/top/about/constitution_bylaws.cfm, and in Position Papers approved by the General Presbytery of the Assemblies of God, available at http://ag.org/top/Beliefs/position_papers/.

Abortion: The Assemblies of God believes that human beings bear the image of God and receive their essential identity and dignity before we are born (Luke 1:31-44; Acts 7:19; Job 31:15; Psalm 139:13-16). As such, the Assemblies of God believes that abortion is the killing of innocent human life and is therefore prohibited by the Ten Commandments and elsewhere throughout Scripture (Exodus 20:13, 21:22-24; Matthew 19:18; Romans 13:9).

Marriage: The Assemblies of God defines marriage as the permanent, exclusive, comprehensive, and conjugal "one flesh" union of one man and one woman, intrinsically ordered to procreation and biological family, and in furtherance of the moral, spiritual, and public good of binding father, mother, and child. The Assemblies of God teaches that the purpose of Christian marriage is to reflect the love, purity, and permanence between Christ and the Church (Ephesians 5:23-33).

Sexual Conduct: The Assemblies of God believes that God has designed sexual intimacy for marriage and that sexual acts outside of marriage are sinful. Such acts include but are not limited to adultery, fornication, incest, bestiality, pornography, prostitution, voyeurism, pedophilia, exhibitionism, sodomy, polygamy, polyamory, or same-sex sexual acts. (Exodus 20:14; Leviticus 18:7–23; 20:10–21; Deuteronomy 5:18; Matthew 5:27–28; 15:19; Romans 1:26–27; 1 Corinthians 6:9–13; Galatians 5:19; Ephesians 4:17–19; Colossians 3:5; 1 Thessalonians 4:3; Hebrews 13:4).

Sexual Orientation: The Assemblies of God affirms the sexual complementarity of man and woman and teaches that same-sex sexual attractions are temptations to sin and should therefore be resisted. (Genesis 1:27; 2:24; Matthew 19:4–6; Mark 10:5–9; Romans 1:26–27; 1 Corinthians 6:9–11).

Sexual Identity: The Assemblies of God believes that God created humankind in His image, male and female, sexually different but with equal personal dignity. The church supports the dignity of individual persons affirming their biological sex and discouraging any and all attempts to physically change, alter, or disagree with their predominant biological sex—including but not limited to elective sex-reassignment, transvestite, transgender, or non-binary "genderqueer" acts or conduct. (Genesis 1:26–28; Romans 1:26–32; 1 Corinthians 6:9–11).

Sexual Equality: The Assemblies of God believes that men and women have equal dignity before God and does not make any distinction between the sexes when selecting people for ministry or spiritual leadership positions. Having observed that God pours out His Spirit upon both men and women, the Assemblies of God concludes that God gifts both sexes for ministry in His Church.

American Indian College believes and embraces these teachings and has integrated them into its standards for its administrators, faculty, and students. In order to help foster these standards and to help ensure that American Indian College is a place of nourishment, American Indian College has adopted a student policy manual that clearly outlines policies regarding expectations for student behavior, accountability, rules and disciplinary actions, and other general expectations for student life on campus.

None of this to say that American Indian College or the Assemblies of God excludes anyone based on their sins or based on their temptations. The Assemblies of God believes that all have sinned and fall short of the glory of God and should seek redemption through confession, repentance, baptism, and faith in Jesus Christ. We welcome and treat with respect, compassion, and sensitivity all who experience same-sex attractions or confess sexually immoral acts and are committed to resisting sexual temptation, refraining from sexual immorality, and transforming their behavior in the light of biblical teachings. (Matthew 11:28–30; Romans 3:23; 1 Corinthians 10:13; Ephesians 2:1–10; Hebrews 2:17–18; 4:14–16). However, in keeping with our biblical beliefs about sexual morality, American Indian College cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Any individual who violates campus standards for biblical living is subject to discipline, including expulsion.

American Indian College believes that its policies and practices, informed by Assemblies of God teachings, do not discriminate on the basis of sex—that is, between men and women—and therefore do not violate Title IX. However, at the same time, I understand that American Indian College's faithful application of the religious tenets set forth above may conflict with the way that the Department may interpret or seek to apply certain provisions of 34 C.F.R. 106. Those potential conflicts are set forth below.

ADMISSIONS AND STUDENT DISCIPLINE:

Based on the convictions listed above, American Indian College believes that it cannot fulfill its God-given mission and build an intentional Christian community if it cannot require students to embrace and do their best to follow the Assemblies of God's teachings about sexual morality and sexual identity. These convictions shape American Indian College's admissions policies and student discipline policies. I understand that the Department may contend that American Indian College's faithful application of the religious tenets set forth above violates Sections 106.21 and 106.31(b)(4). To the extent that is so, American Indian College is exempt from these provisions.

HOUSING, RESTROOMS, AND LOCKER ROOMS.

Based on the convictions listed above, American Indian College expects all students to embrace their God-given biological sex. This expectation shapes American Indian College's policies regarding student housing, restroom and locker room use, and participation in athletic programs. I understand that the Department may contend that American Indian College's faithful application of the religious tenets set forth above violates Sections 106.32, 106.33, and 106.41. To the extent that is so, American Indian College is exempt from these provisions.

AMERICAN INDIAN COLLEGE

MARRIAGE, SEXUAL CONDUCT, AND ABORTION:

Based on the convictions listed above, American Indian College expects all students, faculty, and administrators to honor the Assemblies of God's teachings on marriage, sexual conduct, and abortion. I understand that the Department may contend that American Indian College's faithful application of these doctrines may conflict with Sections 106.40, 106.51, and 106.57. To the extent that is so, American Indian College is exempt from these provisions.

Thank you for your attention to this matter.

Sincerely,

David J. Moore, D.Min.
President
American Indian College

OFFICE OF THE PRESIDENT

10020 N. 15TH AVENUE | PHOENIX, ARIZONA 85021 | 602.944.3335 | WWW.AICAG.EDU

ANDERSON
UNIVERSITY
OFFICE OF THE PRESIDENT

January 7, 2015

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear Ms. Lhaman:

I am President of Anderson University. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, 1682, and which is the subject of 34 C.F.R. 106.12.

Anderson University is a Southern Baptist institution of higher education. It is a South Carolina nonprofit corporation whose principal office address is 316 Boulevard, Anderson, South Carolina 29621. I attach the Charter and Bylaws of the University.

Anderson University is controlled by a religious organization. That organization is the South Carolina Baptist Convention. This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of South Carolina. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Charter and Bylaws, the South Carolina Baptist Convention controls the University in part by exercising its right to select the entire membership of the board of directors of the University, the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, §703(e)(2), as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v. Samford University, 113 F. 3d 196 (1997)).*

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.

I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);

Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquiries).

I attach the University's *Mission, Vision and Values Statement.* The University strives to be a "Christ-centered community." In seeking to achieve its Mission, the University has declared that its faculty and staff are expected to help the University ". . . create an environment where students can understand what it means to be a 'holy priesthood' and learn how to live a life that is pleasing to God." The University's Vision is to be "a premier teaching university where liberal arts and professional studies thrive within a distinctively Christian community of faculty, staff and students dedicated to learning and service."

Southern Baptist religious tenets have been described most extensively and most recently in *The Baptist Faith and Message* 2000, a statement of faith adopted by the South Carolina Baptist Convention. That statement is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and

abortion, the following statements are illustrative:

> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord. XVII The Family, The *Baptist Faith and Message* 2000.

> Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. III Man, *The Baptist Faith and Message* 2000. (The Southern Baptist Convention elaborated on this tenet most recently in 2014 by the adoption of a resolution "On Transgender Identity." It is attached.)

> Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, *The Baptist Faith and Message* 2000.

The University's policies are rooted in these religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you kindly for your attention to this matter.

Sincerely,

Evans P. Whitaker, Ph.D.
President

NOTE: Anderson University, 316 Boulevard, Anderson, South Carolina **is not** affiliated with any other institution of higher education by the same name.

Enclosures: Charter of Anderson University
Bylaws of Anderson University
Mission, Vision, and Values Statement of Anderson University
The Baptist Faith and Message 2000
2014 Resolution by the Southern Baptist Convention "On Transgender Identity"

World Baptist Fellowship

3001 W. Division
Arlington, Texas 76012

December 22, 2015

Assistant Secretary for Civil Rights
U. S. Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202

Re: Arlington Baptist College
Title IX

Dear Assistant Secretary:

I am the highest ranking official of World Baptist Fellowship, an association of independent Baptist churches. World Baptist Fellowship elects all of the members of the Board of Trustees of Arlington Baptist College in Arlington, Texas. The college has as its ministry the preparation of men and women for Christian life and ministries, both lay and professional, through studies in Bible, general education, church vocations, and practical service; integrating faith and learning in the context of a Christian World View.

The college seeks an exemption under Title IX (20 U.S. Code Section 1681 (a)(3) from compliance with Federal regulations pertaining to sexual orientation contrary to the Bible as understood and taught by the college and its published religious statements on sexual conduct condemned by the Bible. This religious position of the college is contrary to 20 U.S. Code Section 1681 (a) reading "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." The word "sex" as interpreted would subject the college to legal action should it deny admission or discipline, including removal from the college, any individual whose conduct is contrary to the religious position of the college as it relates to matters of sex and marriage.

The basis for this request for exemption finds support in *Obergefell v. Hodges*, decided on June 26, 2015, by the Supreme Court of the United States. Justice Kennedy in writing for the majority states, to wit:]

> "Finally, it must be emphasized that religious, and those who adhere to religious doctrines, may continue to advocate with utmost sincere conviction that, by divine precepts, same-sex marriage should not be condoned. The First Amendment insures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faith, and to their own deep aspirations to continue the family structure they have long revered." (emphasis added) 135 S.Ct. at 2607.

World Baptist Fellowship

3001 W. Division
Arlington, Texas 76012

Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202

The college is one of those "religious organizations" identified in Justice Kennedy's quote.

Accordingly, Arlington Baptist College respectfully requests an exemption from Title IX.

Very truly yours,

Rev. Charles Bartlett

Rev. Charles Bartlett
President
World Baptist Fellowship

JSS:klg

Cc:
D.L. Moody, President
Arlington Baptist College

J. Shelby Sharpe
Attorney at Law

May 12, 2016

OFFICE OF THE PRESIDENT

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office of Civil Rights
400 Maryland Ave., SW
Washington, D.C. 20202-1100

RE: Application for Exemption from Certain Title IX Regulations

Dear Assistant Secretary Lhamon:

As the highest-ranking official of Asbury Theological Seminary's ("Asbury" or "Seminary") administration, I am submitting this application for recognition by the United States Department of Education's Office of Civil Rights ("OCR") that the Seminary is exempt from compliance with certain Title IX regulations pursuant to 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12. I have served as President of Asbury Theological Seminary since July 2009. In addition to being President, I am an ordained United Methodist minister and have pastored congregations in Georgia and in several of the largest churches in New England. I received my M.Div. from Gordon-Conwell Theological Seminary, my Th.M. from Princeton Theological Seminary, and my Ph.D. from the University of Edinburgh in Scotland. As such, I am familiar with the Biblical and Wesleyan theology and traditions on which the Seminary is founded and am qualified to present the religious tenets and beliefs of the Seminary, which are reflected in the policies and practices at issue in this letter.

By letter dated May 17, 1985, OCR has already recognized the Seminary as an institution controlled by Wesleyan interpretation of the Scriptures and granted the Seminary exemption from 34 CFR §106.21(c), 34 CFR §106.40, and 34 CFR §106.57 to the extent those provisions pertain to issues of pregnancy outside the confines of marriage. Copies of OCR's May 17, 1985 letter and the Seminary's precipitating request of June 2, 1977 are enclosed as Exhibit A. To the extent not already granted by OCR's May 17, 1985 letter, the Seminary now seeks recognition of its claim to exemption from the following regulations as more specifically explained below:

- 34 CFR §106.21(a) and (b)(1)(iii): Regarding prohibitions on the basis of sex in admissions
- 34 CFR §106.21(c): Regarding prohibitions based on marital, family, or parental status in admissions
- 34 CFR §106.31(b)(4): Regarding different rules of behavior, sanctions, or other treatment

- 34 CFR §106.32: Regarding housing
- 34 CFR §106.33: Regarding restrooms and locker rooms
- 34 CFR §106.40: Regarding marital, family, or parental status of students, including as related to pregnancy
- 34 CFR §106.41: Regarding intramural athletics
- 34 CFR §§106.51(a), (b)(2), (b)(6), (b)(7), (b)(9), and (b)(10): Regarding discrimination in employment, including leaves for pregnancy, childbirth, and termination of pregnancy, based on sex, and in regard to gender identity issues
- 34 CFR §106.57: Regarding marital, family, or parental status of employees, including as related to pregnancy

I. Standard of review

The criteria for determining whether the Seminary is entitled to Title IX's religious exemption are set out in 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12. Based on those provisions, an educational institution may claim exemption from provisions of Title IX if (a) it is controlled by a religious organization, and (b) it adheres to religious tenets that are inconsistent with provisions of Title IX. OCR has opined that an institution normally will be considered to have met the first of these criteria if one or more of the following conditions are true:

a. It is a school or department of divinity, defined as an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects; or

b. It requires its faculty, students, or employees to be members of, or otherwise espouse a personal belief in, the religion of the organization by which it claims to be controlled; or

c. Its charter and catalog, or other official publication, contains explicit statement that it is controlled by a religious organization or an organ thereof or is committed to the doctrines of a particular religion, and the members of its governing body are appointed by the controlling religious organization or an organ thereof, and it receives a significant amount of financial support from the controlling religious organization or an organ thereof.

See OCR's website at http://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/rel-exempt-pr.html (last visited May 9, 2016).

In evaluating whether a school qualifies for exemption from federal law on religious grounds, courts have admonished the government not to unduly scrutinize or second-guess whether that school is "religious enough," but rather, to focus on how the school holds itself out to the general public. *See University of Great Falls v. NLRB*, 278 F.3d 1335 (D.C.C. 2002). Indeed, "[i]t is well established…that [the government] should refrain from trolling through a person's or institution's religious beliefs." *Id.* at 1341-1342. Accordingly, "The Supreme Court repeatedly and in many different contexts has warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim." *Id.* at 1343 (internal brackets and quotations marks omitted). This admonition "is equally applicable to the agencies whose actions [the courts] review." *Id.*

Pursuant to OCR's May 17, 1985 letter (Exhibit A), it is already well-established that the Seminary satisfies the "controlled by a religious organization" criterion of 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12. Regardless, as explained below, the Seminary plainly is an institution "whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects."[1] And as set out in this letter and its exhibits, the Seminary's adherence to key religious tenets is equally apparent. In short, the Seminary plainly satisfies Title IX's requirements for exemption from the regulations listed above to the extent those regulations are inconsistent with the religious tenets discussed below. Exhibits supporting the Seminary's claim are enclosed.

II. <u>The Seminary is both an educational institution *and* a religious organization within the scope of 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12</u>

The Seminary assumes that most schools claiming religious exemption from provisions of Title IX are controlled by a "separate-but-related" religious organization such as a particular church denomination like the Roman Catholic or Free Methodist Church. The Seminary has the somewhat unique distinction of being both an educational institution *and* an established religious organization founded on and governed by principles of Wesleyan theology and related doctrine that reaches back to the Seminary's inception nearly 100 years ago. *See* Exhibit B: Articles of Incorporation at page 3, Section 4(F) ("The corporation having been organized as a religious *and* educational one…"). Stated another way, as OCR recognized in its letter of May 17, 1985, the Seminary is an educational institution controlled by the Wesleyan interpretation of the Scriptures. *See* Exhibit A. And of course the Seminary is a school dedicated to preparing students for Christian ministry as contemplated by OCR. Thus, and as explained in further detail below, the Seminary clearly falls within the first of Title IX's two criteria for exemption.

Asbury Theological Seminary was founded by Henry Clay Morrison in 1923, originally as a graduate school for Asbury College (now Asbury University). When founded, the Seminary's purpose was "to prepare and send forth a well-trained, sanctified, Spirit-filled, evangelistic ministry" in order to spread scriptural holiness around the world. The Seminary

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[1] As demonstrated in this letter, the Seminary also satisfies the other possible grounds recognized by OCR for finding that an institution is sufficiently controlled by a religious organization within the meaning of 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12.

continues to carry out this mission today, providing holistic ministerial preparation as an interdenominational institution still rooted in Wesleyan theological tradition.

As years passed, the Seminary grew. Former president Dr. David McKenna (1982-1994) visualized the Seminary as the leading world center for theological education. Today, ATS enrolls nearly 1600 students. Seminary alumni serve around the world in nearly 90 countries, all 50 states and the District of Columbia, and nearly every time zone across the globe. The Seminary's major objective remains "to help facilitate the preparation of men and women called by God to Christian ministry." *See* Exhibit C: Excerpts from 2015-2016 Academic Catalog at page 17. Even though it has grown into a leading interdenominational seminary, Asbury maintains core religious principles and tenets of its own consistent with the Biblical and Wesleyan pillars on which it was founded.

The religious doctrine and principles on which Asbury was founded permeate its governance, operations, and instruction. The premise of education at the Seminary is reflected in the "Educational Assumptions" of its Academic Catalog, which state:

> Asbury Theological Seminary, founded upon and committed to a vital evangelical Christian faith, finds its roots in the Wesleyan-Arminian theological tradition which is summarized in the Articles of Incorporation and in the statement of faith. The trustees, officers of administration and faculty members are committed to a style of education in which this faith will permeate ***all*** the work and instruction of the Seminary. The theological, ethical and social commitments of the Seminary provide the foundation for its instruction and life.

Exhibit C at page 16 (emphasis added). Regarding this Wesleyan-Arminian theological tradition, the Seminary's Articles of Incorporation, which were first filed in 1931, demonstrate that from the beginning the Seminary sought to "emphasize in its teaching the divine inspiration and infallibility of the Holy Scriptures" such that "the instruction of this Seminary [would] fully recognize the fallen estate of mankind" and "the necessity of individual regeneration." Exhibit B at page 2, Section 4(D). The Seminary further established that its instruction would "conform fully to the Wesleyan interpretation of the Scripture" such that "the instructors in this institution [would] guard with jealous care against any sort of teaching in sympathy with modern liberalism." *Id.* Accordingly, it was established early on that the Seminary's religious principles would govern all who serve under its banner:

> No person shall be elected to the Board of Trustees, or to any official position…nor shall any person be employed as an instructor or assistant instructor, in its corps of teachers who is not in full sympathy with the Wesleyan interpretation of the Scriptures on Entire Sanctification, and who does in humble faith trust in Christ for full deliverance from all sin.

Id. at pages 2-3, Section 4(E).

The Seminary's religious principles are carried over from the Articles of Incorporation into the Seminary's Bylaws, which require that all members of the Seminary community (faculty, staff, students, and trustees) commit to life consistent with the Seminary's religious beliefs:

> We will be faithful to the Mission, Statement of Faith, Ethos, and Code of Institutional Ethics and Values of Asbury Theological Seminary. We are committed to ethical, moral, and spiritual integrity in all matters, and honesty in all reporting. We will uphold all self-imposed standards of morality, decency, and propriety in all relationships within the seminary community and the world.

See Exhibit D: Excerpts from Bylaws at page 5. Accordingly, any person elected as a Trustee; appointed as President, Vice President, Provost or Dean; or appointed as faculty is required to "subscribe to and embrace fully the Statement of Faith, the Statement of Mission, the Statement of Ethos, and the Code of Institutional Ethics and Values of the Seminary." *See* Exhibit D at pages 8, 16, 18; Exhibit E: Excerpts from Board Handbook at page 58. Even visiting and adjunct faculty are expected at minimum to honor the Seminary's religious principles in the course of their work for the Seminary:

> Visiting and Adjunct Faculty shall normally subscribe to and embrace fully the Statement of Faith, the Statement of Mission, the Statement of Ethos, and the Code of Institutional Ethics and Values of the Seminary. On a case-by-case basis, and with the approval of the Provost and the Academic Affairs Team of the Board of Trustees, Visiting and/or Adjunct Faculty may be appointed who are unable to subscribe to and embrace fully the Statement of Faith, the Statement of Mission, the Statement of Ethos, and the Code of Institutional Ethics and Values of the Seminary, but who, for the purposes of their Visiting and/or Adjunct Faculty appointments, are willing to support them.

Exhibit D at page 18.

As for students, the Seminary's Academic Catalog is equally clear: "The applicant must demonstrate compatibility with the seminary's statements of faith and educational mission, and commitment to observe the seminary's ethos statement." Exhibit C at page 28.

The Seminary takes this commitment to its religious foundation very seriously. As discussed below, there are consequences for faculty, students, and staff who choose not to conduct themselves in a way that comports with the Seminary's religious tenets and principles. The same is true for officials who oversee the Seminary's daily operations. As the Seminary's Bylaws explain, "[a] member of the Administration may be removed from office by disciplinary action of the Board of Trustees, because of moral delinquency…doctrinal deviation, or other good and sufficient reason." Exhibit D at page 17.

The religious doctrine and principles on which Asbury was founded are also at the heart of its standing policies, as they have been since the Seminary's early days. The Seminary's first academic bulletin outlined its core theological beliefs as follows:

> Asbury Theological Seminary regards it fundamental to maintain in all its teachings the doctrines of the faith which have come down to us from the Apostles and the Fathers, the faith that has been tested through the ages, the faith that gave birth to the Reformation and that in the latter days brought on the great Evangelical Revival in the days of John Wesley. All our teaching will range around the Bible as an inspired book.

The Seminary's commitment to these principles was recognized by the public early on. In June of 1929, the Pentecostal Herald observed: "There is only one Theological School on the American Continent today granting the Bachelor of Divinity degree…in which there is taught in all departments of the school, the historic tenets of Wesleyan theology." Today, the Seminary remains "committed to historic Christian faith in the Wesleyan tradition," "committed to historic orthodoxy," and "called to highlight the distinctive contributions of the Wesleyan/Arminian tradition." As such, the Seminary has resolved that it will "resist attempts to downgrade our programs and scholarship and, instead, we will extend effective pastoral leadership and Wesleyan scholarship around the world." *See* Exhibit F: Defining Values.

The Seminary's religious tenets and principles are not merely historical. The Seminary holds core religious tenets that are codified in five (5) core statements that together establish and direct the Seminary's theological orientation: the Mission Statement, Statement of Faith, Ethos Statement, Defining Values, and the Institutional Ethics and Values found in the Seminary's Bylaws. Collectively, these core statements draw upon and affirm the Seminary's commitment to both the Holy Bible and Wesleyan theology. This commitment is an ongoing one, as the Board of Trustees demonstrated by formal resolution adopted in January 2011. Citing concern that "many seminaries which were founded on principles of historic Christian orthodoxy have drifted away from those secure moorings" and declaring that in contrast the Seminary "seeks to maintain our commitment to historic Christian orthodoxy for the coming generations," the Seminary's Board of Trustees formally resolved that all trustees, administrators, faculty, and staff at the director level or above will be asked to annually reaffirm, individually and collectively, their commitment to the Seminary's Statement of Faith, Mission Statement, and Ethos Statement. *See* Exhibit E at page 128.

Regarding the Seminary's commitment to the Bible, the Seminary's Statement of Faith affirms its belief in "the divine inspiration, truthfulness and authority of both the Old and New Testaments, the only written Word of God, without error in all it affirms." *See* Exhibit G: Statement of Faith. Accordingly, the Seminary's Statement of Faith recognizes Scripture as "the only infallible rule of faith and practice" that "constitutes the final authority for faith and life." *See* Exhibit G; *see also* Exhibit C at page 17.

Seminary policy also affirms the institutional importance of Wesleyan theology and tradition in several respects. As noted in its Academic Catalog, "[t]he Seminary is committed to a Wesleyan-Arminian theological position" and is "founded upon and committed to a vital evangelical Christian faith" that "finds its roots in the Wesleyan-Arminian theological tradition." Exhibit C at page 16. As such, the Seminary's trustees, officers of administration and faculty members "are committed to a style of education in which this faith will permeate all the work and instruction of the Seminary." *Id.* Accordingly, the Seminary seeks to maintain a community that "provides resources for scholarly leadership in the Wesleyan-Arminian tradition" and "nurtures men and women called of God for parish ministry and other forms of servant leadership in the experience and practice of personal and social holiness as defined by Scripture and Wesleyan theology." *See* Exhibit C at page 16; *see also* Exhibit H: Mission Statement.

As President of the Seminary, I have consistently affirmed these principles and challenged the Seminary community to hold fast to them amidst challenging times. In my 2009 Convocation address, I noted that "global vindication of Wesleyan Theological impulses is deep in our DNA." In 2010, I implored the modern Church to "embrace and become practitioners of what I call missional holiness....understanding the Holy Spirit's primary role as inwardly sanctifying us from sin—the eradication of that sinful orientation and living a life of dedicated purity." I further implored that we "must embody for the world what it means to be a holy people." I also suggested that "[i]f we as a Church can't model holiness, then we ought to change our name, because holiness is central to the DNA of who we are." Moreover, I reminded our Seminary community that "[w]e still believe in a post-conversion experience with the Holy Spirit that re-orients our affections away from sin and toward holiness."

In my 2011 Convocation address, I advocated against succumbing to the increasingly popular temptation to accept a diluted version of Christian theology, instead calling the Seminary to live by a higher standard:

> Who has lost sight more of the depth of human sin, the certainty of God's judgment and the call to repentance and transformation at the feet of a crucified savior than today's populistic, evangelical churches?
>
> ***
>
> I've been among those who have pointed out the theological weakness captured by such phrases of Protestant liberalism as, "Open hearts, open minds, open doors," or "open, progressive and inclusive."
>
> ***
>
> We are quite adept at measuring where people are culturally, but we are at best careless in any sustained theological reflection about where they *should be* culturally.

More recently, in my 2014 address, I spoke in depth about the four "deep foundations" upon which the Wesleyan Movement is built. In doing so, I again affirmed the need for a steadfast commitment to the Seminary's Christian and Wesleyan roots:

> We have no remit to remake Christianity into our own liking; or to reinvent the faith "once for all delivered to the saints" … We don't reinvent the gospel, we faithfully pass it down! We stand in a grand tradition which has stood through the ages, marked by Apostles and martyrs and faithful witnesses of which we have the privilege of joining … Today much of the church is not holy and there is no more important legacy we can leave the contemporary church than to fully embody holiness.

The Seminary's commitment to its religious tenets and heritage thus remain steadfast as ever as it trains men and women for Christian ministry.

III. <u>The Seminary's religious tenets are inconsistent with several provisions of Title IX as interpreted by OCR</u>

The religious principles and beliefs discussed above are not merely broad, aspirational, or intangible ideals. Relevant to this letter, the Seminary is governed and guided by several specific religious tenets that are inconsistent with Title IX as interpreted by OCR. In April 2011, OCR issued guidelines on Title IX that indicated OCR would interpret Title IX's protections against sex discrimination as extending to persons who claim gay, lesbian, bisexual, or transgender status. While Asbury generally embraces the protections and responsibilities of Title IX, OCR's interpretation of Title IX is inconsistent with the Seminary's religious tenets as drawn from Scripture, the Seminary's Wesleyan roots, and the Seminary's own theological orientation statements.

The Bible teaches that human life is sacred. God wonderfully and immutably creates each person as male or female. These two distinct genders together reflect the image and nature of God. Genesis 1:26-27. The Bible also demonstrates that the term "marriage" has only one meaning: the uniting of one man and one woman in a single, exclusive union, as delineated in Scripture. Genesis 2:18-25. God intends sexual intimacy to occur only between a man and a woman who are married to each other. 1 Corinthians 6:18; 7:2-5; Hebrews 13:4. Any form of sexual immorality is sinful and offensive to God. Matthew 15:18-20; 1 Corinthians 6:9-10.

John Wesley's own study of Scripture demonstrates similar conclusions, first in Wesley's view of the nature of sin and then more specifically in his analysis of Scripture on the topic at hand. Wesley affirmed that mere abstention from outward acts does not constitute true purity of the heart. Moreover, Wesley distinguished between conscious, willful sin and involuntary transgressions. "The first kind of sin is a 'voluntary transgression of a known law.' The second kind of sin is 'an involuntary transgression of a divine law, known or unknown.' Both kinds of sin, of course, need Christ's atoning blood." Kenneth Cain Kinghorn, *John Wesley on Christian Beliefs: The Standard Sermons in Modern English* (Volume 1, Sermons 1-20), Nashville: Abingdon Press, 2002, page 139.

In studying Chapter 6 of Paul's First Epistle to the Corinthians, Wesley examined verses 9-11 of that chapter, which provide in part, "[n]either the sexually immoral nor idolaters nor adulterers nor men who have sex with men…will inherit the kingdom of God. And that is what some of you were. But you were washed, you were sanctified, you were justified in the name of the Lord Jesus Christ by the Spirit of our God." Considering these verses, Wesley observed the sinful nature of non-heterosexual behavior and the need to guard against it:

> Idolatry is here placed between fornication and adultery, because they generally accompanied it. Nor the effeminate—Who live in an easy, indolent way; taking up no cross, enduring no hardship. But how is this these good-natured, harmless people are ranked with idolaters and sodomites! We may learn hence, that we are never secure from the greatest sins, till we guard against those which are thought the least; nor, indeed, till we think no sin is little, since every one is a step toward hell.

See Wesley's Notes on St. Paul's First Epistle to the Corinthians, available online at http://wesley.nnu.edu/john-wesley/john-wesleys-notes-on-the-bible/notes-on-st-pauls-first-epistle-to-the-corinthians/#Chapter+VI (last visited April 12, 2016). Likewise, in studying verse 7 of the Epistle to Jude, Wesley observed Scripture's warning to guard against "unnatural lusts" such as the "sexual immorality and perversion" of Sodom and Gomorrah, which Scripture shows to have involved homosexual behavior. *See* Genesis 19:1-7; Wesley's Notes on the General Epistle of St. Jude, available online at http://wesley.nnu.edu/john-wesley/john-wesleys-notes-on-the-bible/notes-on-the-general-epistle-of-st-jude/ (last visited April 12, 2016). And of course, Wesley's staunch opposition to the practice of slavery that was prevalent in his time demonstrates his own belief in the sanctity of all human life.

Consistent with these foundational teachings, the Seminary's Statement of Faith affirms its belief that "the fullness of salvation consists of the restoration of the image of God and our life in communion with God and others." In turn, the Seminary's Ethos Statement affirms its commitment to several related principles, including:

- We believe God wonderfully and immutably creates each person as either male or female. Together these two distinct sexes reflect the creative nature and image of God.

- We affirm celibacy as a valuable and honorable practice related to holy living. We honor and esteem the fidelity of deep holy friendships as being in the image of God.

- We affirm marriage as sanctioned by God, which joins one man and one woman in a single, exclusive union for life, as delineated in Scripture, and provides the sole context for sexual intimacy, helping to ensure the blessings of that relationship as God intended.

- We affirm God's design for holy living, and believe that Scripture clearly prohibits certain acts, including but not limited to drinking alcohol to excess, using pornography, stealing, speaking or writing profanely or slanderously, acting dishonestly, cheating, engaging in occult practice, and engaging in sexual relations outside the bonds of marriage (including but not limited to premarital sex, adultery, and same-sex sexual behavior). Such actions have devastating personal, social, and global effects, especially upon society's most vulnerable members.

- Based on a Biblical view of creation, fall, and redemption, our goal is to come alongside as a loving community anyone who is experiencing gender identity discordant with their birth sex. We do not affirm theologically the adoption of a psychological identity discordant with one's birth sex as a result of the tension between one's biological sex and one's experience of gender. Similarly, we do not affirm attempts to change one's given biological birth sex via medical intervention in favor of the identity of the opposite sex or of an indeterminate identity.

- In witness to society, we commit ourselves to these guiding principles, and we disavow advocating, supporting, or condoning behavior contrary to this Ethos.

See Exhibit I: Ethos Statement. In short, by faith the Seminary holds fast to the belief that human life as created by God is sacred, that there is one design for sexual intimacy, and one design for marriage.

These are not merely philosophical ideals. They are just a few of the religious tenets that dictate the Seminary's theological orientation and in turn, permeate every facet of the Seminary's work. Indeed, virtually every aspect of education, employment, and other programs and activities at the Seminary requires adherence to the tenets on human life, gender, and sexuality listed above through express incorporation of and/or citation to the Ethos Statement, the Statement of Faith, and other core theological orientation statements in which such tenets are found. As explained in the text of the Ethos Statement itself, the Seminary has committed that it "will make institutional decisions in light of this policy."

For example, as previously noted, these tenets form the basis for key expectations and requirements in Seminary governance, including the qualifications and conduct of both trustees and administrators. The same holds true for Seminary faculty. Adherence to the Ethos Statement and Statement of Faith are significant criteria in evaluating whether one is qualified to join and serve in the Seminary faculty's ranks. In general, the Seminary expects "theological and moral formation as a Wesleyan Christian" from its faculty. *See* Exhibit J: Excerpts from 2015-2016 Faculty Handbook at pages 33-35. Accordingly, "[t]he baseline for all members of the faculty is commitment to theological and moral formation as a Wesleyan Christian" such that the faculty member is expected to "fully embrace" the Ethos Statement, Statement of Faith, and

the Collegial Covenant of Faculty Responsibility, and demonstrate "commitment to continued growth in grace toward wholeness in the image of Jesus Christ." *Id.* at page 49.

Similarly, "[v]isiting and adjunct faculty shall normally subscribe to and embrace fully the 'Statement of Faith' and 'Ethos Statement' of the Seminary," or at the very least must affirm that they "are willing to support them." Exhibit J at page 153. Even Seminary librarians (also known as "faculty associates") are "expected to support the 'Faith Statement' of the Seminary and to embrace its 'Ethos Statement.'" *Id.* at page 43. Faculty search committees thus review credentials of prospective candidates "to certify that the prospective candidate fulfills accreditation requirements and has demonstrated in writing commitment to the Seminary's Faith Statement, Ethos Statement, and Faculty Covenant." *Id.* at page 63.

Adherence to the Seminary's religious tenets is relevant not only to the question of whether someone is qualified to join the faculty ranks, but also whether they are eligible to *remain* in the faculty and, ultimately, obtain tenure where applicable. The Seminary's Faculty Handbook warns, "[d]iscipline of faculty membership may result from verifiable violation of the Seminary 'Statement of Faith,' 'Ethos Statement,' and any [of] the policies set forth in the 'Collegial Covenant of Faculty Responsibility." The aforementioned Collegial Covenant of Faculty Responsibility provides in part that faculty will be "faithful members of the Asbury community" by "[l]iving in faithful witness to the statement of mission, the statement of ethos, and this collegial covenant of faculty accountability, *both on and off campus, in our public and in our private lives*." Exhibit J at page 10. And the granting of tenure assumes in relevant part "that the faculty person has demonstrated that he or she embodies the ethos and general positions of the Seminary." *Id.* at page 56. Ultimately, it is my responsibility as president to ensure "that the process for selecting faculty and tenure maintains the mission and ethos of the Seminary." Exhibit E at page 93.

The same expectations hold true for Seminary staff. As noted in its Personnel Policy Manual, the Seminary "is committed to conducting its business affairs in a socially responsible and ethical manner, consistent with its educational, research and service missions and with the Seminary ethos." *See* Exhibit K: Excerpts from Personnel Policy Manual at Policy No. 416. More specifically, "[e]mployees must abide by the Seminary's Ethos Statement," including the provisions therefrom discussed above. *Id.* at Policy No. 010. Thus, "[a]ctivities or behavior contrary to the Asbury Theological Seminary Ethos Statement" are a breach of the Seminary's "Standards of Conduct" for staff that may result in discipline or corrective action up to and including removal. *Id.* at Policy No. 416.

Students are likewise held to and impacted by the Seminary's religious tenets in virtually every respect, including the Seminary's assessment of whether a student is qualified to be admitted, remain enrolled, and ultimately, receive his or her degree:

> The Seminary, however, does reserve the right to make admission, employment and degree conferral decisions on the basis of those principles and beliefs set forth in the ethos statement and statement of faith. *Each student, as a condition of entering the Seminary, represents that he or she has read and understands the ethos*

> *statement, statement of educational mission, and statement of faith and further understands that remaining a student of the Seminary or having a degree conferred by the Seminary is dependent upon compliance with the ethos statement and statement of faith."*

Exhibit C at page 16 (emphasis added). The Seminary's religious tenets extend to student housing requirements and expectations, as well. Indeed, all students commit to following the Ethos Statement as a fundamental condition of participation in the Seminary's programs and services in general. As the Seminary's Student Handbook explains, the Seminary "community has a rule of life called our Ethos," and students "in violation of the Seminary's Ethos Statement or Seminary regulations may be subject to sanctions and/ or required to participate in a restoration plan." *See* Exhibit L: Excerpts from 2015-2016 Student Handbook at page 35.

Even the ability of third parties to access/use Seminary facilities depends in part on their willingness to do so in a manner that is consistent with the Seminary's religious tenets. The Seminary's Campus Access and Facility Use Policy addresses these expectations at length:

> Asbury Theological Seminary's facilities were provided through God's benevolence and by the sacrificial generosity of the Seminary community. The Seminary desires that its facilities be used for the fellowship of the Body of Christ and always to God's glory. Although the facilities are not generally open to the public, we make our facilities available to approved other persons and groups as a witness to our faith, in a spirit of Christian charity, and as a means of demonstrating the Gospel of Jesus Christ in practice.
>
> However, *facility use will not be permitted to persons or groups holding, advancing, or advocating beliefs, or advancing, advocating, or engaging in practices that conflict with the Seminary's faith or moral teachings, which are summarized in, among other places, the Seminary's Ethos Statement. Nor may facilities be used for activities that contradict, or are deemed by the Board of Directors as inconsistent with, or contrary to the Seminary's faith or moral teachings*. The Board of Directors, or its official designee, is the final decision-maker on whether a person or group is allowed to use the Seminary facilities.
>
> This restricted facility use policy is necessary for two important reasons. First, the Seminary may not in good conscience materially cooperate in activities or beliefs that are contrary to its faith. Allowing its facilities to be used for purposes that contradict the Seminary's beliefs would be material cooperation with that activity, and would be a grave violation of the Seminary's faith and religious practice. See 2 Corinthians 6:14; 1 Thessalonians 5:22.

> Second, it is very important to the Seminary that it presents a consistent message to the community, which the Seminary staff and students, and their families, conscientiously maintain as part of their witness to the Gospel of Jesus Christ. To allow facilities to be used by groups or persons who express beliefs or engage in practices contrary to the Seminary's faith would have a severe negative impact on the message that the Seminary strives to promote. It could also cause confusion and scandal to the Seminary families and the community because they may reasonably perceive that by allowing use of our facilities, the Seminary is in agreement with the beliefs or practices of the persons or groups using its facilities.
>
> Therefore, in no event shall persons or groups who hold, advance, or advocate beliefs, or advance, advocate, or engage in practices that contradict the Seminary's faith use any Seminary facility. Nor may facilities be used in any way that contradicts the Seminary's faith. This policy applies to all the Seminary facilities, regardless of whether the facilities are used as a sanctuary, because the Seminary sees all of its property as holy and set apart to worship God. See Colossians 3:17.

See Exhibit M: Campus Access and Facility Use Policy (emphasis added).

The Seminary's religious tenets also apply to the use of technology and participation in its intramural sports programs. The Seminary's network usage policy prohibits "access to Internet sites containing sexually explicit material deemed…in any way inconsistent with the Asbury Theological Seminary Ethos..." Exhibit C at page 25. As for intramural athletics (basketball, racquetball, and volleyball for all students, faculty, staff, and spouses), Seminary policy is clear:

> Asbury Theological Seminary intramurals exist to foster the development of Christian faith, character, and leadership.
>
> ***
>
> Participants are expected to behave in a Christlike manner towards teammates, opponents, fans, officials, and staff members. Those individuals who do not conduct themselves in this manner will not be allowed to participate.

See Exhibit N: Intramural Participant Handbook.

The practical impact of the tenets, principles, and policies discussed above are fairly self-evident, but to be clear: the Seminary's religious tenets and beliefs on issues of marriage,

gender, sexuality, and the sanctity of human life impact virtually every aspect of the Seminary's operations, programs, and services. Thus, by way of example:

- As a general rule, students are separated on the basis of sex in regard to housing, living arrangements, restrooms, and locker rooms. The Seminary has male-only and female-only residence facilities, with rules in place to regulate access by members of the opposite sex. To the extent Title IX regulations would require the Seminary to allow males and females to reside in the same housing (other than those legitimately residing in family units), to visit within housing of the opposite sex without restrictions, to allow an unmarried male and female to live together, or to allow a person with gender identity issues to be treated as a member of the sex to which they have assigned themselves in regard to the above categories, such behavior would be against the religious principles of the Seminary. This is true whether or not the person has undergone surgery or hormonal treatment to assume the physical characteristics of the opposite sex.

- The Seminary requires its students, faculty, and staff to adhere to heterosexual behavior. Thus, students, faculty, and staff must refrain from engaging in homosexual relationships. Similarly, a person who self-identifies as the opposite sex, but who has expressed an attraction to members of their birth sex, would not be permitted to engage in dating or sexual activity with a person of their birth sex, because such behavior would be considered homosexual in nature based upon the Seminary's religious beliefs.

- Employment of someone who identifies as being of the opposite gender from their birth sex, and who expresses that identification through behavior and/or dress would be against the Seminary's religious beliefs, on the same basis and reasons as set out above regarding gender identity issues. Employees are considered to be representatives of the Seminary and, as previously explained, are expected to model appropriate Christian behavior in keeping with the Seminary's Ethos Statement and other theological orientation statements. Thus, a male employee who announced himself to be female, or who adopted the appearance of a female, would not be modeling appropriate Christian behavior consistent with the Seminary's religious beliefs, nor would a female employee who announced herself to be male, or who adopted the appearance of a male.

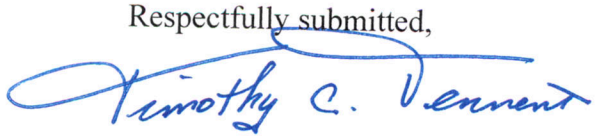
- It is the Seminary's position, based upon its religious beliefs taken from Scripture and the Seminary's theological orientation statements, that a person cannot change his or her birth sex.

Although they may undergo surgery or hormone treatments to alter their physical characteristics, only the outward appearance is changed. Thus a student would not be permitted to live in Seminary housing inconsistent with his or her birth sex, or to use restrooms or locker rooms inconsistent with his or her birth sex. That person also would not be eligible for employment with the Seminary.

- The Seminary's religious beliefs also prohibit elective abortion, pre-marital sex, and extra-marital sex for students and employees alike.

In short, the Seminary's religious tenets and beliefs make it necessary for the Seminary to make decisions and take actions on the basis of sex, including gender identity and sexual orientation, in virtually every area of Seminary life, including employment, admissions, conduct, housing and living arrangements, restrooms, locker rooms, and intramural athletics. To the extent the regulations cited at the outset of this letter are interpreted as contrary thereto, the Seminary is entitled by law to exemption pursuant to 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12. To the extent not already covered by the exemptions granted by OCR in 1985, Asbury Theological Seminary requests that OCR grant this application for recognition of the same.

Respectfully submitted,



Timothy C. Tennent, Ph.D.
President, Asbury Theological Seminary

Enclosures
cc: OCR@ed.gov (w/encl.)

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January 12, 2015

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

RE: Asbury University's claim to exemptions from Title IX

Dear Assistant Secretary Lhamon:

I represent Asbury University with respect to its claim for exemptions from certain provisions of Title IX and its implementing regulations on grounds that the school is controlled by a religious organization, and application of those provisions is inconsistent with the religious tenets of the organization. Enclosed please find a letter from Dr. Sandra Gray, the highest ranking official of Asbury University, identifying the provisions of the law that conflict with the school's governing religious tenets.

Please contact me if you need additional information in order to respond to the enclosed letter.

Sincerely,

WYATT, TARRANT & COMBS, LLP

Leila G. O'Carra

Leila G. O'Carra

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ASBURY UNIVERSITY

Academic Excellence & Spiritual Vitality

January 7, 2015

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

Dear Ms. Lhamon:

As president of Asbury University, I write to request a religious exemption for the school from Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681.

Asbury University is a small, private evangelical Christian school located in Wilmore, Kentucky. Originally named Kentucky Holiness College, the university was established in the Wesleyan-Holiness tradition. Asbury was founded in 1890 by the Reverend John Wesley Hughes, a Methodist evangelist. Hughes changed the name of the school to Asbury College, in honor of Bishop Francis Asbury, who had organized the Kentucky Conference of the Methodist Church and established Bethel Academy, a Methodist school.

Asbury University is controlled by an evangelical Wesleyan-Holiness perspective of Christianity. All members of the institution's controlling body, the board of trustees, must adhere to and believe in the fundamental doctrines of the religion—justification, regeneration, witness of the Spirit, and entire sanctification. Further, all members of the administration, including the president of the university, any vice president, and the provost must adhere to the religious beliefs on which the institution was founded.

Asbury University is bound by its by-laws to the doctrinal standards established by John Wesley and his immediate successors. Asbury's charter and articles of incorporation provide that if at any time the president of the institution, or any of its teachers, should teach any doctrine contrary to the fundamental doctrines of the Holy Scriptures, the institution shall revert to the National Holiness Association. The articles of incorporation further provide:

> *The doctrines of justification, regeneration, witness of the Spirit, and entire sanctification shall be held sacred; and it shall be chiefly to promote a true experience along these lines in connection with education that the conduct of this institution was undertaken, and this Article shall never be altered or revoked.*

Every facet of university life is shaped by the Wesleyan understanding of sin, grace, and the possibility of full salvation for Christ-like living.

Asbury University
Office of the President
One Macklem Drive
Wilmore, Kentucky 40390

asbury.edu
president@asbury.edu
859-858-3511 ext. 2110
fax 859-858-4267

Asbury's Statement of Mission provides: "Our global mission, as a Christian Liberal Arts College in the Wesleyan-Arminian and Holiness Traditions, is to equip men and women, through a commitment to academic excellence and spiritual vitality, for a lifetime of learning, leadership, and service to the professions, society, family, and the Church." Education at Asbury is Christ-centered, for He is "before all things and in him all things hold together" (Colossians 1:17).

We believe that the Scriptures of both the Old and New Testaments constitute the divinely inspired Word of God, that they are inerrant in the original writings, and that they are the final authority for truth and life. Asbury is committed to following biblical mandates for living. Certain behaviors are expressly prohibited in the Scripture and are therefore unacceptable at Asbury. These behaviors include sexual immorality (adultery, homosexual behavior, premarital sexual intimacy). (Galatians 5:19-21). While not explicitly mentioned in the Scripture, Asbury believes that elective abortion to terminate an unwanted pregnancy is a violation of biblical principles and therefore unacceptable. All persons affiliated with Asbury, including students, faculty, staff, and members of the administration and board of trustees must adhere to the lifestyle standards of the Asbury community. Engaging in any of the prohibited behaviors listed here is almost certain to result in immediate dismissal from the university.

Further, we believe that humans are beings created, in the image of God, male and female, and are of inestimable worth. We do not surrender the biblical standard of sexual purity to the prevailing secular culture, nor the definition of "male" and "female" to mean something more or different than an individual's sex at birth. Accordingly, we could not support or encourage an individual's expression of a gender other than that person's birth sex. Moreover, Asbury University will not recognize or support campus groups whose aim by statement, practice, or intimation is to promote a vision of human sexuality that is contrary to our understanding of biblical teaching.

Because compliance with certain provisions of Title IX and its implementing regulations would conflict with the religious tenets described above, Asbury requests an exemption from them to the extent that such provisions prohibit differential treatment on the basis of gender identity, sexual orientation, premarital sex/premarital pregnancy, and abortion:

- 34 C.F.R. § 106.21 (governing differential treatment in admissions);
- 34 C.F.R. § 106.31 (governing differential treatment in any academic, extracurricular, or other educational program or activity, including different rules of behavior or sanctions);
- 34 C.F.R. § 106.32 (governing housing);

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One Macklem Drive
Wilmore, Kentucky 40390

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859-858-3511, ext. 2110
fax 859-858-4267

- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment);
- 34 C.F.R. § 106.57 (governing the consideration of marital and parental status in employment decisions);
- 34 C.F.R. § 106.59 (regarding advertising); and
- 34 C.F.R. § 106.60 (regarding pre-employment inquiries).

Should you need any additional information about Asbury University in order to process this request, please contact me.

Sincerely,

Sandra C. Gray, Ph.D.
President

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BELMONT ABBEY COLLEGE

That in all things God may be glorified

January 16, 2015

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: Belmont Abbey College, Inc. ("Belmont Abbey") Request for Title IX Religious Exemption

Dear Ms. Lhamon:

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

Belmont Abbey College is a Catholic, Benedictine learning community committed to developing each member of the college community in mind, faith and character for a life of meaningful work and service. Our identity as a Catholic, Benedictine institution is central to all we do and teach at Belmont Abbey College.

Belmont Abbey is owned by and affiliated with the Southern Benedictine Society of North Carolina, Inc. whose Members are Benedictine Monks. The Monks founded the college on the basis of, and as an expression of, their Catholic faith. The Monks and the College itself, believe that the Bible is the divinely inspired Word of God and thus has authority for all Christian life. On the basis of the Catholic faith, the Monks and the College also believe that the Church was founded by Jesus Christ and given authority by him authentically to interpret the Word of God and to teach with binding authority on questions of faith and morals. This authoritative teaching includes teaching about human sexuality and provides norms for morally acceptable behavior.

OFFICE OF THE PRESIDENT

100 Belmont-Mt. Holly Road • Belmont, North Carolina 28012 • Phone: 704.461.6726

Belmont Abbey College and the sponsoring monastic community believe that human beings, fashioned by God in His own image and likeness, are thus created male and female (Genesis 1:27). The New Testament, Jesus confirms that the heterosexual creation of human beings expresses God's creative intention (Matthew 19:4). On the basis of this biblical teaching, of our faith in the Incarnation of the Son of God, and of the constant teaching of the Catholic Church, we believe that the creative intent of God is inextricably linked with our creation in the complementary reality of male and female sexual identity. [*We likewise believe, on the basis of the Bible and the teaching of the Catholic Church, that sexual intimacy is intended by God to be expressed solely within a marriage between one man and one woman, and that sexual relations of any kind outside the confines of marriage between one man and one woman are inconsistent with the teaching of the Bible and of the Catholic Church. Sexual practices which are divorced from a loving, covenantal relationship between a man and a woman frustrate God's intention and result in behaviors that rupture good human relationships and erodes the relationship between human beings and their Creator.*]

We affirm the dignity of all human beings and distinguish the inalienable dignity of each person from the behavioral choices a person makes. We believe that, as Catholics, we are called to treat all people with charity and respect, including those whose beliefs and behaviors differ from the teachings of the Catholic Church. We are not able, however, in good conscience to support or affirm choices and behaviors that conflict with our identity as a Catholic, Benedictine institution. We do not, therefore, support or affirm the resolution of tension between one's biological sex and the experience of gender by the adoption of a psychological identity discordant with one's birth sex, nor attempts to change one's birth sex by surgical intervention, nor conduct or dress consistent with an identity other than one's biological birth sex. [*We do not affirm or support sexual relations of any kind outside of marriage between one man and one woman.*] We will make institutional decisions in light of this policy regarding housing, student admission and retention, appropriate conduct, employment, hiring and retention, and other matters.

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

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

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

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

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

Very truly yours,

Dr. William K. Thierfelder
President

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

BETHEL COLLEGE
INDIANA

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www.BethelCollege.edu

May 1, 2015

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Re: Application for Recognition of Exemption from certain Title IX Regulations.

Dear Assistant Secretary Lhamon:

As the highest-ranking official at Bethel College, I am making this application for recognition by the Office for Civil Rights of the Department of Education, that the College is exempt from compliance with certain Title IX regulations, under the religious exemption provided in 20 USC 1681(a)(3). The particular regulations for which exemption is requested are:

> 34 CFR §106.31(b)(4) – regarding different rules of behavior, sanctions, or other treatment
> 34 CFR §106.21(b)(iii) – admissions; regarding prohibitions on the basis of sex
> 34 CFR §106.21(c) – admissions; regarding prohibitions based on marital and parental status
> 34 CFR §106.57 – pregnancy; regarding marital or parental status of employees
> 34 CFR §106.40 – pregnancy; regarding marital or parental status of students
> 34 CFR §§106.51(a) and 106.51(b)(6) – regarding discrimination in employment in leaves for pregnancy, childbirth, and termination of pregnancy, based on sex, including in regard to gender identity issues
> 34 CFR §106.32 – regarding housing
> 34 CFR §106.33 – regarding restrooms and locker rooms and

34 CFR §106.41 – regarding athletics

In addition to being the President of Bethel College, I am an ordained Missionary Church minister. As a minister of the Missionary Church, I am qualified to present the tenets of the Missionary Church which pertain to the matters addressed in this letter, and the religious beliefs of the College, which are reflected in its policies and practices.

Bethel College is located in Mishawaka, Indiana and is a private, Christian evangelical College. Section 2:33 of the Bylaws of Bethel College (enclosed as Item 1) states:

> "The Christian perspective of Bethel College, as expressed in the College Mission Statement, is fundamental to the educational and student development philosophy of the institution. Accordingly, each voting member of the Board of Trustees supports and personally subscribes to this Christian perspective."

The College was established in 1947, as a Christian liberal arts college by the Missionary Church, and has been in continuous existence in Mishawaka, Indiana, for almost seventy-five years.

Bethel College is an urban-situated, evangelical institution, currently composed of 1,800 traditional and adult/graduate students from 35 states and 10 countries, and 250 full-time employees.

Bethel is ranked in the Top 13% nationally by U.S. News & World Report, recognized in the Top 100 nationally for its commitment to character education, and by the Templeton Guide and by the President's Higher Education Community Service Honor Roll for measurable outcomes in our region. Bethel's 20,000 alumni occupy 49 states and 35 world areas, and enjoy a medical school acceptance rate double the national average, 100% job placement rate in Nursing, 99% in music education, Top 4% finish nationally in competitive math performance tests, and 100% pass rate every year on the national performance standard for a unique academic major in American Sign Language.

Bethel College alumni include the No. 1 voted School Superintendent in Indiana, the No. 1 voted School Principal in Indiana, a Top 1% pediatric surgeon in North America, the former Executive Director of the largest Youth for Christ district in the nation, the Chaplain of Barak Obama's childhood school, the lead in "South Pacific" off Broadway, a national leader and lab executive in Nanotechnology and Sustainable Energy, Lynne Hybels – spouse and ministry partner of Bill, as founders of Willowcreek Church, MLB All-Star Team representative from the

Cleveland Indians Justin Masterson, MLB pitcher for the San Diego Padres Eric Stoltz, a senior Midwest manager for Blue Cross / Blue Shield, and more.

The mission of Bethel College is to be a community of learners building lives of commitment for leadership in the Church and world. Bethel's liberating academic programs challenge the mind, enlarge the vision, and equip the whole person for lifelong service.

In July 2013, when I became Bethel College's 7th President, I set out to establish five institutional priorities - called the *GREATer Agenda.* The long-term, grand aspiration is that Bethel will become a **Top Five most influential Wesleyan college in America.**

What produces a GREATer Bethel? The five priorities are:

- "G" – grow by 1,000 students (200 traditional, 800 adult/graduate)
- "R"- perpetuate conditions for spiritual revival so compelling it spreads across our region
- "E" – serve our students and each other with such excellence we surprise them, and we earn an encore
- "A" – improve campus aesthetics with $20 million in designated projects ($5.8 million raised in first six months) and
- "T" – testify more broadly to who we are and what God is accomplishing among us.

The College is governed by and controlled by its Board of Trustees, at least one-half of whom must be members of the Missionary Church, as dictated by the College's Articles of Incorporation. A copy of the Articles is included with this letter as Item 2 and the transcript of my Inauguration Address is included as Item 3.

Since its inception, the College's Articles have required that the controlling majority of the Trustees governing the College must be members in good standing of the Missionary Church. This results in the Missionary Church, through its members, having majority control over the College. The Bylaws of the College require, in Article 8, that the President of the Missionary Church shall be an ex-officio member of the Board. In addition, the President of Bethel College is an ex officio member of the denominational Board of Trustees.

In regard to the tenets of the Missionary Church, most of these tenets are codified in the Missionary Church Constitution, which contains the doctrinal positions of the Church. The Constitution is used by the College as a reference for behavioral and doctrinal standards expected of the College, its students, faculty, and other employees. Bethel College also believes that the Bible is the true and reliable word of God, and follows Biblical principles in its policies and practices applicable to Christian education, and to its students and employees. Bethel College is

specifically mentioned in the Constitution of the Missionary Church (on page 17) and that entire document is attached at Item 4.

Among the teachings of the Bible and the tenets of the Missionary Church followed by Bethel College, are that God created two sexes, male and female; that marriage is between one man and one woman; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and therefore prohibited. (Constitution, page 54; Genesis 2:27; Exodus 22:16-17; Deuteronomy 22:23-28; Leviticus 20:10-16.)

Bethel College is dedicated to the promotion of the Christian religion not only locally, but throughout the world. With over 17,000 alumni, serving in churches and businesses internationally, the goal of Bethel College is to spread the blessings and benefits of a Christ-centered education to individuals throughout the world.

Dedication to the promotion of the Christian religion in its educational programs has always been an integral part of Bethel College. The initial Articles of Incorporation, filed on March 4, 1947, state:

> "The purpose or purposes for which (Bethel College) is formed are as follows: To establish, operate and maintain a college for the education and training of both men and women, in accordances with the usages and doctrines of the Missionary Church, Inc.; and in theology, to prepare them for pastoral ministry, missionary and other Christian service; in the arts and sciences to provide for them cultural understanding, and in the professions to prepare them in technical skills required for an adequate performance in their profession."

Bethel College also has a mission statement which states:

> "Bethel College, affiliated with the Missionary Church, is a Christian community of learners, dedicated to building lives of commitment for leadership in the church and the world. Bethel provides liberating academic and co-curricular programs to challenge the mind, enlarge the vision and equip the whole person for lifelong service."

The College also emphasizes Christian principles of religion in its community and campus life. The Covenant of Lifestyle requires students and employees to follow the Code of Conduct established by the College. The College incorporated the Christian standards of behavior directed by Biblical principles and the tenets of the Missionary Church, as the framework for the Code of Conduct. Students are required to attend chapel regularly, and must

take and pass Exploring the Christian Faith (THEO 110), at least one Bible Literature course (BIBL 215 or 216) and a Senior Experience (PHIL 452) in order to graduate from the College. Among other things, students and employees are prohibited from drinking, smoking, using tobacco and illegal drugs, cohabitation, engaging in pre-marital or extra-marital sex, and homosexual activity. The Student Handbook, the Employee Handbook, and the Faculty Handbook contain provisions regarding expected Christian behavioral standards. The College may impose sanctions for behavior which is not in keeping with these standards, including dismissal from the College or termination of employment.

Based upon the College's Articles of Incorporation and Bylaws, which are followed in practice by the Board of Trustees, the College is under the control of the Missionary Church through the Church members who serve as Trustees and have the majority voice on the Board, and through the President of the College, who must be a member of the Missionary Church.

In keeping with the religious tenets of the Missionary Church which prohibit cohabitation, and the College's Christian religious principles and practices in regard to that prohibition, students are separated on the basis of sex in regard to housing, living arrangements, restrooms, and locker rooms. The College has male-only and female-only residence halls and other housing, with rules in place which regulate access to residence halls and housing by members of the opposite sex. To the extent Title IX regulations would require the College to allow males and females to reside in the same housing, to visit within the housing of the opposite sex without restrictions, to allow an unmarried male and female to live together, or to allow a person with gender identity issues to be treated as a member of the sex which they have assigned to themselves in regard to the above categories, such behavior would be against the religious principles of Bethel College and the tenets of the Missionary Church, as it is cohabitation, which is a sin.

The tenets of the Missionary Church also prohibit homosexual activity, and adhere to the requirement of heterosexuality. (Page 54, Missionary Church Constitution). The College has deeply-held religious beliefs, based upon Biblical principles and the Church Constitution, which do not allow for any sexuality, other than heterosexuality. The College also believes, based upon Biblical principles, that a person cannot change their birth gender. Based upon its religious beliefs, it is the position of Bethel College that a person who self-identifies as the opposite sex cannot reside with individuals who are of the sex with which that person identifies. This is true whether or not the person has undergone surgery or hormonal treatment to assume the physical characteristics of the opposite sex. Such a living arrangement would be deemed to be cohabitation, and under the religious tenets of the Missionary Church and the Bethel College's Christian religious principles and practices, it would be sinful behavior.

Similarly, a person who self-identifies as the opposite sex, but who has expressed an attraction to members of their birth sex, would not be permitted to engage in dating or sexual activity with a person of their birth sex, because this behavior is considered to be homosexual in nature, based upon the College's religious beliefs. Bethel College is requesting that the OCR recognize an exemption for the College from 34 CFR 106.31(b)(4), so that the College may apply different rules of behavior, sanctions, or other treatment in matters involving gender identity issues.

An individual who identifies as being of the opposite sex from their birth gender also would not be permitted to play on the athletic teams of the sex which was opposite from their birth gender. An exemption in regard to 34 CFR 106.41 is therefore also being requested. A requirement that individuals be treated in keeping with their self-identified gender, rather than their birth gender, would be inconsistent with the College's religious beliefs and the tenets of the Missionary Church.

Employment of an individual who identifies as being of the opposite sex from their birth gender, and who expresses that identification through behavior and/or dress is against the religious beliefs of the College, on the same basis and for the same religious reasons as set forth above, regarding students with gender identity issues. Employees are considered to be representatives of the College, and are required to model appropriate Christian behavior. A male employee who announced himself to be female, or who adopted the appearance of a female, would not be modeling appropriate Christian behavior acceptable to the religious beliefs of the College, nor would a female employee who announced herself to be a male, or who adopted the appearance of a male.

Bethel College acknowledges the ethical difficulties involved in matters such as gender identity. This would be referred to as a bioethical dilemma and we would defer to Biblical principles for such issues. Because these complex bioethical issues involve religious and moral values, as well as medical and legal realities, Christians may not determine their rights and privileges only by the permissiveness of the state and the possibilities of safe medical procedures. Biblical principles should be applied to such bioethical issues, including gender identity issues. In keeping with the doctrine of the Missionary Church and the beliefs of Bethel College, the College applied Biblical principles and adopted a policy in respect to gender identity issues and other issues related to sexuality. A copy of the College's policy on Sexuality and Gender Identity is enclosed with this letter as Item 5.

It is the position of Bethel College, based upon its religious beliefs taken from Biblical principles and the Doctrine of the Missionary Church, that a person cannot change his or her birth sex. Although they may undergo surgery or hormone treatments to alter their physical characteristics, only the outward appearance is changed. Thus a student identifying as the opposite sex, rather than their birth sex, would not be permitted to live in College housing with individuals of the self-assigned sexual identity of that person, or to play on athletic teams, share restrooms, or use locker rooms with individuals of the self-assigned sexual identity of that person. That person also would not be eligible for employment with Bethel College.

Based upon the Christian religious beliefs of the College and the tenets of the Missionary Church, the College is requesting exemption on religious grounds from Title IX, regulations §§106.32 (housing), 106.33 (restrooms and locker rooms) and 106.41 (regarding athletics), to allow the College religious freedom to discriminate on the basis of sex, including gender identity, and sexual orientation, in regard to housing and living arrangements, restrooms, locker rooms, and athletics, and from §106.31(b)(4), regarding different treatment and sanctions. In regard to employment and gender identity, Bethel College is requesting exemption on religious grounds from §§106.51(a), which prohibits discrimination in employment and employment decisions on the basis of sex.

The College's Christian religious beliefs, which are based upon the Bible and the tenets of the Missionary Church, also prohibit elective abortion, pre-marital sex, extra-marital sex, and homosexual behavior, for students and employees. Application of the OCR's interpretation of Title IX regulations §§106.21(b)(iii), 106.21(c), 106.40, 106.51(a), 106.51(b)(6), 106.57, 106.31(b)(4), and 106.32 to the College, would result in such situations as the College being required to retain pregnant unmarried employees or employees who elect to terminate their pregnancy, to admit pregnant unmarried students, to retain unmarried students who elect to terminate their pregnancy, to allow unmarried students of the opposite sex to live together, to retain pregnant, unmarried students and to allow them to live in College housing, and to allow homosexual students to live together, all of which the College cannot do, because it would be inconsistent with the religious beliefs, policies, and values of the College, and the religious tenets of the Missionary Church.

Enforcement of the above regulations in respect to Bethel College would require that the College not discriminate in discipline, admissions, hiring, and employment decisions, in matters such as employment leaves for pregnancy, childbirth, and elective termination of pregnancy, or on the basis of pre-marital sex, unmarried pregnancy, extra-marital sex, or homosexual activity. As with the other regulations for which exemption is sought, requiring Bethel College to allow such situations to exist at the College would be inconsistent with the religious tenets of the

Missionary Church and the Missionary Church's Christian religious beliefs, policies, and values adhered to and practiced by the College.

Bethel College is requesting an exemption from the specific Title IX regulations referenced in this letter, so that the College may discriminate on religious grounds in regard to its students and employees, in keeping with its religious beliefs and the tenets of the Missionary Church, as set forth in this request. If you have any questions, or if additional information is required, please do not hesitate to contact me.

Very truly yours,

Gregg Chenoweth, Ph.D., President
Bethel College

enc.: seven

November 14, 2014

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

Re: Biola University's Request for Title IX Religious Exemption

Dear Ms. Lhamon:

As the President of Biola University, Inc. ("Biola"), I am writing to request supplemental approval of Biola's existing religious exemption under 34 C.F.R. §106.12 with regard to the recent actions by the Departments of Education and Justice interpreting Title IX's ban on sex discrimination in education to include discrimination based on gender identity.[1] Enclosed for your reference is a copy of the religious exemption granted to Biola by the Department in 1985.

Biola is a private Christian evangelical institution located in southern California whose mission is to provide biblically centered education, scholarship and service – equipping men and women in mind and character to impact the world for the Lord Jesus Christ. As such, Biola is also committed to the Biblical ethic which makes a differentiation in roles between the sexes and espouses moral standards applicable to the conduct of both sexes equally. Biola's governing board has adopted a "Statement on Transsexualism and Transgenderism" ("Statement") grounded in its long-standing institutional religious identity as expressed in its Articles of Faith contained in its Articles of Incorporation and Bylaws which have been a constant since Biola's founding over one hundred years ago.

The Statement provides in part: *"God's original and ongoing intent and action was the creation of humanity manifest as two distinct sexes, male and female. Jesus Christ himself affirmed this, in his teaching correcting abuses of divorce stating "at the beginning the Creator 'made them male and female'" (Matt. 19:5). Each person was intended to experience congruence between the physical and experiential dimensions of their sexuality. Except in very unusual*

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

cases, our sex as male or female is a biological given of the individual human person from conception made manifest at birth, and is not changeable but rather a stable, enduring characteristic of the person determined by God's creational intent."

It further states: "*We view growth in godliness to be directed toward alignment or reconciliation with one's biological birth sex as God's creational intent for those individuals. Biola University will not support persistent or exaggerated examples of cross-dressing that are grounded in the fundamental rejection of biological birth sex, or other actions or expressions that are deliberately discordant with birth sex, or advocacy of such viewpoints that are inconsistent with the University's theological positions . . .*" and "*In employment and in student life, we regard sex at birth as the identification of the given biological sex of each member of our constituency. We will not accept as valid alterations of one's sex at birth based on experiential variation or medical intervention.*"

We affirm the value of all human beings as created in the image of God. However, we also believe that the behavioral choices one makes are important. We believe that, as Christians, we are called to treat all people, including those who practice sexual behavior in conflict with the Bible, with compassion, and to extend the gospel of repentance, forgiveness, and transformation through Jesus Christ to such persons without reservation. However, in keeping with our biblical beliefs concerning the morality of such actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Moreover, any individual who violates Biola's Standards of Conduct is subject to discipline, including possible dismissal from the university.

Based on the resolution recently entered into by the Department and a California school district[2] and the recent guidance issued by the Department regarding Title IX and sexual violence,[3] it is apparent that the Department is now interpreting Title IX's ban on discrimination in education because of sex to also mean that educational institutions may not "discriminate" on the basis of "gender identity" or "the failure to conform to stereotypical notions of masculinity or femininity." Specifically, the Arcadia school district was ordered to allow a female student presenting herself as male to use the restroom, locker room, and living accommodations of her choice, and to participate in boys' athletic programs.

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

Thus, on behalf of Biola, I hereby request an official exemption from compliance with that interpretation of Title IX and particularly as this may relate to the provisions of 34 C.F.R. §§ 106.31(b)(4) (a section where an exemption was previously granted to Biola), 106.32 (governing housing), 106.33 (governing comparable facilities such as restrooms and locker rooms) and 106.41

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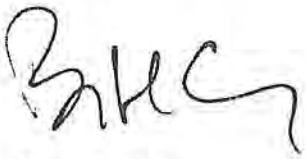
[2] See *supra* note 1.

[3] "Questions and Answers on Title IX and Sexual Violence" a guidance document issued by the United States Department of Education. Office for Civil Rights on April 29, 2014.

(governing athletics) and Subpart E of 34 CFR §106 (§§ 106.51 through 106.61 -governing employment). Biola wholeheartedly supports and complies with Title IX with respect to granting equal opportunities in educational programs or employment to members of both sexes; our request for exemption is limited to the recent interpretation that "sex" under Title IX also includes gender identity to the extent that such matters conflict with Biola's religious tenets.

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

Sincerely,



Barry H. Corey
President
Biola University

cc: Gregory S. Baylor, Esq., Alliance Defending Freedom
Jerry D. Mackey, Esq., Biola University Legal Counsel

OFFICE OF THE PRESIDENT
BARRY H. COREY

February 5, 2015

Mr. Seth Galanter
Principal Deputy Assistant Secretary
Office for Civil Rights
U.S. Department of Education
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave., SW
Washington, DC 20202-1100

Re: Biola University's Request for Title IX Religious Exemption

Dear Mr. Galanter:

I am in receipt of your thoughtful letter dated December 22, 2014, regarding Biola University's request for a supplemental religious exemption to the exemption granted to the University in 1985. Thank you. With respect to Biola status as "controlled by a religious organization" and identification of the religious organization that controls the University, I want to submit the following information.

As stated in my request letter of November 14, 2014, and in the September 3, 1985 letter from the Department granting Biola's original religious exemption that accompanied my letter, Biola is a private Christian evangelical institution. The University is governed and controlled by its Board of Trustees pursuant to the statement of mission and purpose and Articles of Faith contained in its Articles of Incorporation. A copy of Biola's Articles of Incorporation are enclosed with this letter. The 1985 letter from the Department states: "The inclusion of the Articles of Faith in the Articles of Incorporation of Biola University, and the goverance by the Board of Trustees pursuant to the Articles of Faith in the Articles of Incorporation, adequately establishes that Biola University is controlled by a religious organization as is required for consideration for exemption under §106.12 of the Title IX regulation."

We are not aware of any changes in the law or regulations governing Title IX that would modify or contradict the position of the Department taken in Biola's 1985 religious exemption. In point of fact, it is our understanding that the conditions referenced in your letter regarding the "controlled by" requirement were in place prior to Biola's initial exemption pursuant to an explanation of Title IX compliance issued in 1977 by the then Department of Health, Education and Welfare.

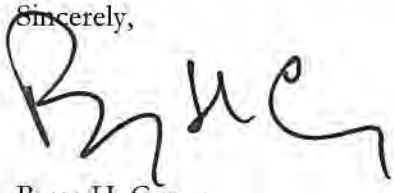
Further, the University's Articles of Incorporation require that every member of the Board of Trustees, every officer, member of the faculty and every employee espouse a personal belief in the

Christian faith and to subscribe annually to the Articles of Faith of the University. The Bylaws of the University require that all students of the University profess a belief in Jesus Christ as personal savior. All students and employees of the University agree to abide by a Standard of Conduct which expresses a commitment to the principles of Christian living found in the Bible.

One of the six schools of the University is Talbot School of Theology—and the largest by far of our graduate schools—whose purpose is specifically for the education of students to prepare them to become ministers, theology teachers, or to enter other religious vocations. In addition, the educational philosophy and practice of the University is to provide a Christ-centered and Biblically integrative educational program throughout the University in all programs of study consistent with the University's purposes. As stated in the University bylaws: "As the role of Scripture is central to a Biola University education, all undergraduate students are required to complete thirty (30) semester units of Biblical studies. All courses shall be taught at every level from a position faithful to the Word of God and consistent with the corporation's Purposes (Article 3.1) and the Articles of Faith (Article 4.1)."

Based on the foregoing, it is our position and belief based on the prior religious exemption granted to the University, that Biola does meet the requirements for the religious exemption requested in my letter of November 14, 2014. Please let me know if you are in need of further information in regard to this matter. Thank you for your consideration.

Sincerely,



Barry H. Corey
President
Biola University

cc: Gregory S. Baylor, Esq., Alliance Defending Freedom
Jerry D. Mackey, Esq., Biola University Legal Counsel

Blue Mountain College
FOUNDED 1873

Office of the President

To: Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

From: Dr. Barbara C. McMillin

Date: August 12, 2015

Re: Claim of Title IX Religious Tenet Exemption

I am President of Blue Mountain College. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the College the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Blue Mountain College is a Southern Baptist institution of higher education. It is a Mississippi nonprofit corporation. I enclose the Charter and Bylaws of the College.

The College is controlled by a religious organization. That organization is the Mississippi Baptist Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Mississippi. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the College's Charter, the Mississippi Baptist Convention controls the College by electing the College's board of trustees.

The Convention's authority over the College constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), (§703(e)(2)) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Alabama Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, and gender identity.

P.O. Box 160 • Blue Mountain, MS 38610 • Telephone: (662) 685-4771 • Fax: (662) 685-4776 • president@bmc.edu

I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 and §106.22 including but not limited to 106.21(b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).
Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).
Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. §106.37 (governing financial assistance);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);
Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquires).

The College holds itself out to be a Christian college. The College's Identity Statement and a portion of its Expanded Statement of Purpose are as follows:

> Identity Statement
>
> Founded in 1873 as a Christian liberal arts college and affiliated since 1920 with the Mississippi Baptist Convention, the College recruits undergraduate and graduate students who are committed to scholarship, servant leadership, and service in church and community. The student-centered campus exhibits a climate of personal attention, respect, inclusion, and high expectations in all modes of delivery. Students are guided to reach their God-given potential with the leadership of professionals who share the common bond of Christian faith and who are committed to excellence.

Expanded Statement of Purpose

The purpose of Blue Mountain College is to prepare students for graduate school, the job market, and a more fulfilled life. Providing a sound general education foundation, the College offers an undergraduate liberal arts curriculum, pre-professional and professional programs, and opportunities for graduate study in selected fields. The College is committed to offering programs which provide opportunities for service. Students who can benefit from the academic programs and student services at the College are recruited primarily from Mississippi and other southeastern states.

Blue Mountain College is committed to excellence and creativity in teaching and learning. With a faculty and staff who share a common bond of Christian faith and with all of the departments functioning in close proximity to each other, continuity exists among the various programs. Each student is encouraged to grow as an individual, to adjust to his/her own uniqueness, and to take advantage of opportunities for service.

The Convention's religious authority is the Word of God.

In regard to marriage, sex outside of marriage, sexual orientation, and gender identity, the Word of God teaches:

The family is the basic unit of human society, established by the creational decrees of God. The family is rooted in God's gift of marriage, which the Creator defines as the lifelong union of one man and one woman. God has ordained the family as the foundational institution of human society.

Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race.

Children, from the moment of conception, are a blessing and heritage from the Lord.

The Convention has declared:

The union of one man and one woman is the only form of marriage prescribed in the Bible as God's design for the family.

The Bible affirms that all human life, both born and preborn, is a person bearing

> the imagine of God.
>
> God's design was the creation of two distinct and complementary sexes, male and female which designate the fundamental distinction that God has embedded in the very biology of the human race.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the College:

From engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, and sex outside marriage (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

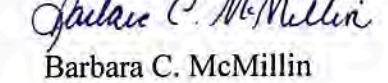
From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; and prohibition of sex outside of marriage between a man and a woman;

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, and gender identity that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,



Barbara C. McMillin
President

Enclosure

P16

TO: Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

FROM: Steven F. Echols

DATE: May 23, 2016

RE: Claim of Title IX Religious Tenet Exemption

I am President of Brewton Parker College, Inc. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the College the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Brewton Parker College is a Southern Baptist institution of higher education. It is a Georgia nonprofit corporation whose address is 201 David-Eliza Fountain Circle, Mt. Vernon, Georgia 30445. I enclose the Articles of Incorporation and Bylaws of the College.

The College is owned by a religious organization. That organization is the Georgia Baptist State Convention, newly renamed "Georgia Baptist Mission Board." This organization is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Georgia. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the College's Articles of Incorporation and Bylaws, this organization controls the College, as the sole Member of the College corporation, and in part by exercising its right to select the entire membership of the board of directors of the College, the governing body of the College.

This organization's authority over the College constitutes control which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), §703(e)(2) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation,

association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Alabama Southern Baptist university in *Killinger v. Samford University*, 113 F.3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the controlling body's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion. I identify those provisions to include:

ADMISSIONS:

34 C.F.R. §106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

RECRUITMENT:

34 C.F.R. §106.23 (governing nondiscriminatory recruitment).

EDUCATION PROGRAMS OR ACTIVITIES:

34 C.F.R. §106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, *etc.*);

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. §106.36 (governing counseling and use of appraisal and counseling methods);

34 C.F.R. §106.37 (governing financial assistance) ;

34 C.F.R. §106.38 (governing employment);

34 C.F.R. §106.39 (governing health and insurance benefits and services);

34 C.F.R. §106.40 (governing different rules based on marital or parental status of students); and 34 C.F.R. §106.41 (governing athletics);

Employment:

34 C.F.R. §106.51 (governing employment);

34 C.F.R. §106.52 (employment criteria);

34 C.F.R. §106.53 (recruitment);

34 C.F.R. §106.56 (governing fringe benefits);

34 C.F.R. §106.57 (governing the consideration of marital or parental status in employment decisions); and

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

The religious tenets of the controlling body have been described most extensively and most recently in *The Baptist Faith and Message 2000*, adopted by the messengers constituting the Georgia Baptist Convention in 2000. *The Baptist Faith and Message 2000* is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

> "Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord." XVII The Family, *The Baptist Faith and Message* 2000.

> "Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation." III Man, *The Baptist Faith and Message* 2000.

> "Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, *The Baptist Faith and Message* 2000.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the College:

> From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; and sanctions as the result of pregnancy and abortion;

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from the regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely yours,
BREWTON-PARKER COLLEGE

Steven F. Echols

Steven F. Echols, Ph.D., D.Min.
President

Enclosures:
Articles of Incorporation of Brewton-Parker College, Inc.
Bylaws of Brewton-Parker College, Inc.
The Baptist Faith and Message 2000

201 David-Eliza Fountain Circle, PO Box 197, Mount Vernon, Georgia 30445 / Office (912)-583-3202 /
Fax (912) 583-4816

CHRIST ABOVE ALL
BRYAN COLLEGE

February 25, 2016

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 Bryan College ("Bryan" or "the College") is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the College's freedom to act in accordance with its religious convictions. As President of Bryan College, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

Bryan College was chartered in 1930 as William Jennings Bryan University, a Christ-centered institution of higher education, emphasizing liberal arts.[1] The College was founded by persons from a variety of different Christian denominations, including Episcopal, Presbyterian, Baptist, Lutheran, Methodist, and Brethren – a diverse background which in part explains why Bryan is not affiliated with one single denomination,[2] but rather is controlled by a religious board of trustees.[3] The College is devoted to the mission of "educating students to become servants of Christ to make a difference in today's world," and accordingly "seeks to assist in the personal growth and development of qualified students by

[1] *See* http://www.bryan.edu/college-history.
[2] *See* http://www.bryan.edu/college-history.
[3] *See* Bryan College Charter, p. 3.

providing an education based upon an integrated understanding of the Bible and the liberal arts."[4]

Bryan College's motto is "Christ above all."[5] The College is "founded on the belief that God is the author of truth; that He has revealed Himself to mankind through nature, conscience, the Bible and Jesus Christ; that it is His will for man to come to a knowledge of truth; and that an integrated study of the arts and sciences and the Bible, with a proper emphasis on the spiritual, mental, social and physical aspects of life, will lead to the balanced development of the whole person."[6]

The College is governed by a board of trustees whose members must be "composed of born-again Christian men and women with a sound Christian testimony," and must sign the College's doctrinal statement annually.[7] As required by its charter, the College relies on and requires all trustees, administrators, faculty, and staff to affirm the following doctrines, as foundational to all that it does, including what is taught in its classes:

1. We believe that the Holy Bible, composed of the Old and New Testaments, is of final and supreme authority in faith and life and, being inspired by God, is inerrant in the original writings.
2. We believe in God the father, God the Son, and God the Holy Ghost, this trinity being one God, eternally existing in three persons.
3. We believe in the virgin birth of Jesus Christ: that He was born of the Virgin Mary and begotten of the Holy Spirit.
4. We believe that the origin of man was by fiat of God in the act of creation as related in the book of Genesis; that he was created in the image of God; that he sinned and thereby incurred physical and spiritual death.
5. We believe that all human beings are born with a sinful nature and are in need of a Savior for their reconciliation to God.
6. We believe that the Lord Jesus Christ is the only Savior, that He was crucified for our sins, according to the Scripture, as a voluntary representative and substitutionary sacrifice, and that all that believe in Him and Confess Him before men are justified on the ground of His shed blood.
7. We believe in the resurrection of the crucified body of Jesus, in his ascension into heaven, and in "that blessed hope," the personal return to this earth of Jesus Christ, and He shall reign forever.

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[4] *See* http://www.bryan.edu/mission-statement.
[5] *See* http://www.bryan.edu/about.
[6] See http://www.bryan.edu/college-history.
[7] Bryan College Bylaws, Section 4.1, p. 8.

8. We believe in the bodily resurrection of all persons, judgment to come, everlasting blessedness of the saved, and the everlasting punishment of the lost.[8]

The Board of Trustees and the College submit themselves to the Bible and to these historic expressions of its doctrine and seek to express positions that are in accord with those standards. Therefore, consistent with these theological standards, the College has developed its Statement on Gender Identification (enclosed). That statement provides in pertinent part as follows:

> Based on the mission of Bryan College, its standards, and uniqueness as a living and learning environment that honors Jesus Christ, the College recognizes that some members of the Bryan Community (faculty, staff, administrative personnel, and students) may struggle with their gender identity and wish to explore living as a particular gender other than their original gender assignment from birth.
>
> When a member of the Bryan Community is cooperative and willing to explore these feelings in an appropriate setting and not act out the feelings, the College will allow them to continue being a part of the Bryan community if they are pursuing counseling and a mentoring relationship that will help them discuss appropriately who God made them to be. In this process, however, the College will uphold a view that we are "fearfully and wonderfully made" *(Psalm 139:14)* in the uniqueness and image of God and, therefore, strategically and purposefully made as the biological gender we were born as.
>
> Because of this belief, the College will not allow a student or any member of the Bryan Community of a particular gender to dress and act differently than the biological one that God created them to be nor to use college facilities (including, but not limited to, restrooms, dorms, lockers rooms) other than those designated for their original gender assignment from birth.
>
> If a member of the Bryan community decides to identify as a gender other than their biological one or pursues a medical course of action to physically change their biological gender to that of another sex, it is in their best interest and that of Bryan College for them to leave the Bryan College community. Bryan College reserves the right to terminate any member of the faculty or staff and dismiss any student from the Community for violating

[8] Bryan College Charter, p. 3.

> this basic understanding of human life. It is expected that no member of the Bryan Community will publically promote or advocate anything contrary to the position stated above.[9]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[10]

And as you also know, the resolution agreement[11] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.[12] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX.

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

For that reason, I 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 Bryan is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail Bryan's freedom to respond to transgender individuals in accordance with its theologically-grounded convictions.

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[9] Bryan College Statement on Gender Identification, p. 1.
[10] 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.").
[11] 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.
[12] *Id.*

Additionally, consistent with historic understanding of the Holy Scriptures and our doctrinal standards,[13] the College's Statement on Human Sexuality (enclosed) provides in pertinent part:

> In keeping with our mission and our commitment to biblical fidelity, all members of the College community are expected to follow the teachings of Scripture. We believe that the only authoritative and trustworthy norm for proper moral judgments is what God has revealed in His Word. Therefore, Bryan College affirms that sexual intimacy is designed by God to be expressed solely within a marriage between one man and one woman. This view of sexuality and marriage is rooted in the Genesis account of creation, reflected in the teachings of Jesus Christ Himself, and is maintained consistently throughout Scripture. It is a view based on the biblical teaching of monogamy—that God designed sexual union for the purpose of uniting one man and one woman into a permanent, lifelong, one flesh union in the context of marriage.
>
> Thus, God's design for marriage and sexuality is the foundational reason for viewing acts of sexual intimacy between a man and a woman outside of marriage, and any act of sexual intimacy between two persons of the same sex, as illegitimate moral options for the confessing Christian. Sexual relations of any kind outside the confines of marriage between one man and one woman are inconsistent with the teaching of Scripture, as understood by Christian churches throughout history. On the other hand, chastity in the form of sexual purity for the unmarried person and chastity in the form of sexual faithfulness in marriage are blessed and affirmed. Therefore, as part of living out a consistent, biblical spirituality, one dedicated to the pursuit of Christ-likeness, all members of the College are expected to avoid sexual intimacy outside of marriage and to discourage others from indulging in that behavior. Indeed, whatever one's personal tendencies and desires, the call of Christ on our lives is the same: sexual purity manifested among the married as complete faithfulness and by those who are unmarried by living a chaste life (I Thess. 4:3-8).[14]

The College, in service to the Church, acknowledges those of professed Christian faith who experience same sex attraction. But, the College also, consistent with Church 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

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[13] *See* Bryan College Charter, p. 3.
[14] Bryan College Statement on Human Sexuality, pp. 1-2.

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.[15]

It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 Bryan College. The College, therefore, also seeks exemption on this basis out of an abundance of caution.

Lastly, consistent with a biblical interpretation of the value of life, the College in its Statement on Human Life (enclosed) provided the following summary of its beliefs regarding the sanctity of human life:

> [A]ll human life is sacred and is God's greatest blessing and, therefore, must be respected and protected from its conception to its completion. The taking of a human life through any means (including but not limited to abortion, homicide or suicide) is considered abhorrent. We, therefore, prohibit all members of the Bryan Community (faculty, staff, administrative personnel, and students) from promoting or participating in any act of, or related to, aborting a child whether such a child is pre-birth or post-birth. Bryan College reserves the right to terminate any member of the faculty or staff and dismiss any student from the Community for violating this basic understanding of human life. Bryan College understands that in cases where a pregnancy may put at risk the very life of a mother, triage decisions must be made within the private context of woman, her doctor, her pastor and her family.[16]

Bryan College accordingly requests that your office acknowledge that the College is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College's freedom to apply and enforce its Statement on Human Life):

34 C.F.R. § 106.21 (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)

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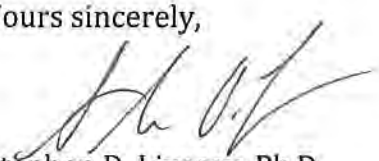
[15] *See* http://www.eeoc.gov/decisions/0120133080.pdf.
[16] *See* Bryan College Statement on Human Life, p. 1.

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,



Stephen D. Livesay, Ph.D.
President, Bryan College

Enclosures

OFFICE OF THE PRESIDENT

May 1, 2015

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear. Ms. Lhaman,

I am President of Carson-Newman University. As such, I am the highest ranking official ofthis institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681 and which is the subject of 34 C.F.R. 106.12.

Carson-Newman University is a Southern Baptist institution of higher education. It is a Tennessee nonprofit corporation whose address is 1646 Russell Avenue, Jefferson City, Tennessee 37760. I attach the Charter and Bylaws of the University.

Carson-Newman University is controlled by a religious organization. That organization is the Tennessee Baptist Convention. This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Tennessee. It is an "association of churches" in the terminology of the Internal Revenue Code. Because the University isaffiliated with the Tennessee Baptist Convention, the University's Bylaws give the Convention the right to have those persons who have been elected by the Convention appointed to thirty- six of the University's trustee (director) positions. The other two board of trustee positions are filled by designated directors. the President of the University and the Executive Director-Treasurer ofthe Convention. All board members must be Baptists. This group of persons constitutes the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, §703(e)(2), as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

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This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion. I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);

Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquiries).

Carson-Newman University' purposes include the following:

> (a) To operate, maintain, and build up a Christian institution of learning and training which will provide a competent faculty, a full curricular and extracurricular program of study and training in the various branches of liberal arts together with instruction in any other specific field of higher education which may appear useful and consistent with the purpose of Christian education.
>
> (b) To establish, expand, and affirm faith in an omnipotent, omniscient, and benevolent Creator revealed in Jesus Christ.

Southern Baptist religious tenets have been described most extensively and most recently in the *Baptist Faith and Message 2000*, a statement of faith affirmed by messengers constituting the Tennessee Baptist Convention. That statement is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

> Marriage is the uniting of one man and one woman in covenant commitment for a

> lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord. XVII The Family, the *Baptist Faith and Message* 2000.
>
> Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. III Man, the *Baptist Faith and Message 2000.* (The Southern Baptist Convention elaborated on this tenet most recently in 2014 by the adoption of a resolution "On Transgender Identity." It is attached.)
>
> Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, the *Baptist Faith and Message 2000.*

The University's policies are rooted in these religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

> From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;
>
> From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and
>
> From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the

Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Respectfully yours,

J. Randall O'Brien
President

CENTRAL CHRISTIAN
COLLEGE OF THE BIBLE

Providing Full-Tuition Scholarships Since 2001

April 7, 2016

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 am the President of Central Christian College of the Bible. As such I am the highest ranking official of this institution. I hereby respectfully request an exemption from certain aspects of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et. seq. (Title IX),* based on the sincerely held beliefs of its Board of Directors and its founding fellowship of the Independent Christian Churches/Churches of Christ. Recent declarations of Title IX enforcement intentions of the Education's Office of Civil Rights, if applied to Central Christian College of the Bible (CCCB), will violate the religious tenets of Central Christian College of the Bible and its controlling religious body, the Independent Christian Churches. Specifically, CCCB requests an exemption, on religious grounds, from Title IX, and its implementing regulations, as such apply to students, prospective students, employees, or prospective employees and issues involving gender identity and sexual orientation.

Title IX provides a religious exemption for educational institutions controlled by a religious organization, if application of Title IX would violate the religious tenets of the educational institution or the controlling religious organization. The exemption is found at 20 U.S.C. § 1681 (a)(3). *"this section shall not apply to an educational institution which is controlled by a religious organization if application of this subsection would not be consistent with the religious tenets of such organization."*

CCCB was founded in 1957. At its establishment the founding Board of Directors unanimously declared that "the purpose of the school is to recruit leadership for the church at large according to the New Testament teaching." Central has remained exclusively committed to pursuing this purpose which is reflected in our current mission statement: Central exists to develop servant-leaders for the church." One of the controlling documents which guides the governance of the college is the Bylaws. Article I Section 2. states: "The object and purpose of the Corporation shall be the recruiting and training of leaders for the churches according to the teaching of the New Testament Scripture: a dedication to preaching and the promulgation of the true gospel in all churches so that the Body of Christ may be

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spiritually united in love and service; to provide an institution of higher learning for the free churches of Christ, remaining loyal to the plea of the Restoration Movement; a continuing belief that Jesus is the Christ, the Son of the living God in the unique sense without reservation; an acceptance of the Bible as the Divinely inspired truth.

1. **CCCB is governed by a Board of Directors consisting of 7-13 members. Directors are members of the independent Christian Churches and they provide visionary leadership for the college.** (Administrative Handbook Section 2 Page 11)

The Board of Directors handbook and the Administrative Handbook require that the board is entirely made up of members of the independent Christian Churches.

CCCB Board of Directors Policy Manual Category 2 Document 9

3. **Eligibility**
    a. Any person shall be eligible for nomination as a Director who is an immersed believer in Christ as revealed in New Testament Scripture.
    b. A nominee must be a member in good standing of the New Testament church loyal to the plea of the Restoration Movement.
    c. A nominee must present a letter of recommendation from the Board of Elders of such church, prior to being seated as a director in full accord with Article I, Section 2 of the bylaws.
    d. A nominee must reflect Board values as stated in the Values policy.

2. **Central Christian College of the Bible is associated with the independent Christian churches/churches of Christ. <u>All faculty members will remain loyal to the plea of the Restoration Movement.</u>** (Faculty Handbook Section 3 Faculty Expectations)

Furthermore all faculty members have to agree to abide by the following theological affirmations. (Faculty Handbook Section 2.1)

<u>2.1 – Theological Affirmations</u>

Professors are expected to express theological compatibility with the College's affirmations of the teaching of Scripture. Any significant change in theological position or theological divergence from their original questionnaire should be noted to the Academic Dean. The faculty has approved the following affirmations for all teachers.

1. The one God exists eternally in the three persons of Father, Son, and Holy Spirit (Matt 28:19; 2 Cor 13:14).

2. Scripture is inspired, wholly without error in the original manuscripts, and the sole authority for the Christian's faith and practice (1 Tim 3:16; 2 Pet 1:19-21; Jn 10:35, 17:17; 1 Cor 2:12-13).
3. All that exists was created by God; He made humanity in His own image (Gen 1:1-27; Matt 19:4).
4. Adam and Eve's disobedience introduced sin and death to all mankind, who fall short of God's glory because of their own sin (Gen 3:1-19; Rom 3:23; 5:12-14).
5. Jesus Christ, God incarnate, was born of a virgin, tempted but without sin, fully human and fully divine (Phil 2:5-11; Jn 1:1-15; Isa 7:14; Lk 1:26-35; Heb 4:15).
6. The atoning death of Christ on the cross and His bodily resurrection from the grave demonstrate God's love and provide forgiveness and eternal life (Rom 5:6-11, 1 Cor 15:3-11).
7. Salvation is available to all people by God's grace, through personal faith in Christ, at the immersion of a penitent believer (Rom 3:21-25, 6:1-14; Gal 3:26-29; Eph 2:8-10; Acts 2:38).
8. The Holy Spirit inspired the authors of Scripture and miraculously empowered apostles and prophets to be the foundation of the church. Today, the Holy Spirit convicts the world of sin, regenerates and comforts believers, and indwells them for service in Christ's kingdom (2 Pet 1:19-21; John 3:5-8; 16:8-11; Titus 3:5-7; Gal 5:16-25; 1 Cor 12:4-7; Eph 2:20).
9. The bodily return of Christ will bring the resurrection of the dead and the final judgment of the righteous to eternal life and the wicked to everlasting destruction (Mt 24:29-51; 1 Cor 15:50-58; 2 Thess 1:9; Rev 20:7-15).
10. Christ has called the church to be holy, to carry out His Great Commission, and to build up all Christians. Each local congregation should be autonomous and unified, following the model of the New Testament church in government and practice (Mt 16:18, 19, 28:18-20; Eph 4:16ff.).

3. CCCB's Employees are expected to participate in a Restoration Movement (Independent Christian/Church of Christ) Church.

The Employee handbook: 1.3 Core Values and Standards of Excellence

Employees of Central Christian College of the Bible:

- Acknowledge the authority of the Scriptures
- Hold to the inspiration of the Bible
- Aspire to live in harmony with the model of Christ and the precepts of Scripture
- Conform their lifestyles to the will of God, live in the truth and walk in the light
- Demonstrate a spirit of servanthood and submission to authority
- Attendance at a Restoration Movement Church and support for the Restoration Movement
- Knowledge and understanding of the Restoration Movement plea
- A conservative theological stand
- Live out an authentic relationship with Christ – evident in work habits and relationships

4. **CCCB's Bylaw's reiterate our Biblical stance and core religious beliefs**
    a. ARTICLE III STATEMENTS OF FAITH AND CORE BELIEFS
        i. Section 1. Final Authority for Matters of Faith and Belief: The following statements of faith do not exhaust the extent of our beliefs. The Bible itself, as the inspired and infallible Word of God that speaks with final authority concerning truth, morality, and the proper conduct of mankind, is the sole and final source of all that we believe. For purposes of faith, doctrine, practice, policy, and discipline, the Board of Directors of Central Christian College of the Bible will be the final authority on the Bible's meaning and application.
        ii. Section 2. Statement on Gender and Sexuality: We believe that God wonderfully and immutably creates each person as male or female. These two distinct, complementary genders reflect together the image and nature of God (Gen 1:26-27). Rejection of one's genetic gender is a rejection of the image of God within that person.
        iii. Section 3. Statement on the Sanctity of Human Life: We believe that all human life is sacred and created by God in His image. Human life is of inestimable worth in all its dimensions, including pre-born babies, the aged, the physically or mentally challenged, and every other stage or condition from conception through natural death. We are therefore called to defend, protect, and value all human life.
        iv. Section 4. Statement on Marriage: We believe that the term "marriage" only refers to the uniting of one man and one woman in a single, exclusive union, as delineated in Scripture (Gen 2:18-25). We believe that God intends sexual intimacy to occur only between a man and a woman who are legally married to each other (1 Corinthians 6:18; 7:2-5; Hebrews 13:4).

5. **<u>Specific Exemption Request</u>**

Based upon the religious control, religious heritage, and the sincerely held religious beliefs of Central Christian College of the Bible, and the Independent Christian Churches/Churches of Christ, CCCB specifically requests a religious exemption from Title IX of the Education Amendments of 1972, and all implementing regulations related thereto, which would violate the sincerely held religious beliefs of Central Christian College of the Bible and the Christian Churches.

The request for religious exemption includes but may not be limited to, the following specific regulations growing out of Title IX, as such regulations may be amended hereafter:

- 34 CFR § 106.21 Admission
- 34 CFR § 106.23 Recruitment
- 34 CFR § 106.31 Education programs or activities
- 34 CFR § 106.32 Housing
- 34 CFR § 106.33 Separate Facilities
- 34 CFR § 106.34 Access to classes and schools
- 34 CFR § 106.37 Financial Assistance
- 34 CFR § 106.38 Employment Assistance to Students
- 34 CFR § 106.39 Health Insurance Benefits and Services
- 34 CFR § 106.41 Athletics
- 34 CFR § 106.51 Employment
- 34 CFR § 106.53 Recruitment of Employees
- 34 CFR § 106..55 Job Classification and Structure
- 34 CFR § 106.57 Marital or Parental Status
- 34 CFR § 106.60 Pre-employment opportunities

Thank you for your consideration of this request for exemption. If you need further clarification do not hesitate to contact me.

Sincerely,

David B. Fincher, Ph.D
President
Central Christian College of the Bible
Moberly, MO 65270
Office/Cell/Text: 660-833-4260
Email: davidfincher@cccb.edu

CHARLESTON
SOUTHERN
UNIVERSITY

OFFICE OF THE PRESIDENT

December 8, 2014

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Request for Title IX Religious Exemption.

Dear Assistant Secretary Lhamon:

As the highest-ranking official of Charleston Southern University, a private, Christian liberal arts university in South Carolina, I hereby request exemption from compliance with certain Title IX regulations, under the religious exemption provided in 20 CFR 1681(a)(3). The particular regulations for which exemption is requested are:

34 CFR §106.21(b)(iii) – admissions; regarding prohibitions on the basis of sex
34 CFR §106.21(c) – admissions; regarding prohibitions based on marital and parental status
34 CFR §106.31(b)(4) – regarding different rules of behavior, sanctions, or other treatment
34 CFR §106.57 – pregnancy; regarding marital or parental status of employees
34 CFR §106.40 – pregnancy; regarding marital or parental status of students
34 CFR §§106.51(a) and 106.51(b)(6) – regarding discrimination in employment in leaves for pregnancy, childbirth, and termination of pregnancy, based on sex, including in regard to gender identity issues
34 CFR §106.32 – regarding housing
34 CFR §106.33 – regarding restrooms and locker rooms
34 CFR §106.41 – regarding athletics

Charleston Southern University is a private, Christian liberal arts university located in North Charleston, South Carolina. The University was established in 1964 and is one of South Carolina's largest accredited, independent universities, enrolling approximately 3,400 students. The University's founding principle is Matthew 28:19-20 "Go ye therefore, and teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost: Teaching them to observe all things whatsoever I have commanded you: and, lo, I am with you always, even unto the end of the world."

Charleston Southern University's mission is *Promoting Academic Excellence in a Christian Environment* and its vision is "To be a Christian university nationally recognized for integrating faith in learning, leading and serving."

Integrating Faith in Learning, Leading and Serving

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www.CHARLESTONSOUTHERN.EDU • PHONE 843.863.7500 • FAX 843.863.7533

- **Learning** 2 Corinthians 10:5 "We demolish arguments and every pretension that sets itself up against the knowledge of God, and we take captive every thought to make it obedient to Christ."
- **Leading** Colossians 3:17 "And whatever you do, whether in word or deed, do it all in the name of the Lord Jesus, giving thanks to God the Father through him. "
- **Serving** Ephesians 2:10 "For we are God's workmanship, created in Christ Jesus to do good works, which God prepared in advance for us to do."

Our **Institutional Goals** are:

- **Faith Integration:** Strengthen the culture of the university where biblical faith is a priority
- **Academic Excellence:** Assure excellence in academic programs to maximize student learning
- **Student Engagement and Success:** Increase student satisfaction, retention, graduation rates and employment opportunities
- **Regional, National and International Reputation:** Promote academic and student success regionally, nationally and internationally
- **Faculty, Staff and Coaches Development:** Provide for the personal and professional development of faculty, staff and coaches
- **Enrollment:** Grow enrollment through academic program expansion
- **Athletics:** Improve the competitive status of the university's NCAA Division I athletic program
- **Resource Development:** Generate financial resources to accomplish the university's goals and objectives
- **Financial Stewardship:** Maximize financial and physical resources to meet current and projected needs

The University is governed and controlled by its Board of Trustees, which consists of twenty-five members who are elected by the South Carolina Baptist Convention, as dictated in the Charleston Southern University Trustee By-Laws. A copy of the By-Laws, approved by the Board of Trustees on March 29, 2005, is attached as Item 1.

The University's Biblical Core Values were adapted from THE BAPTIST FAITH & MESSAGE, Southern Baptist Convention, 1998 and read:

- **Scripture.** II Timothy 3:16 "All Scripture is given by inspiration of God and is profitable for doctrine, for reproof, for correction, for instruction in righteousness." The Bible is the inerrant and infallible record of God's revelation to humanity, and it is the only sufficient source of appeal on matters relating to the Christian faith.
- **God.** Genesis 1:1 "In the beginning, God created the heavens and the earth." John 1:3 "All things were made by him; and without him was not anything made that was made." There is one and only one living and true God. The historical account of Genesis decrees that He is the personal and direct Creator of all that exists, including the first human beings Adam and Eve. To Him we owe the highest love, reverence, and obedience.

- **Jesus Christ**. John 14:6 "Jesus saith unto them, I am the way, the truth, and the life: no man cometh unto the Father, but by me." God made provision through Christ for the redemption of sinful humanity by His substitutionary atonement on the cross, and He alone is sufficient as Savior.
- **Salvation**. John 3:16 "For God so loved the world, that he gave his only begotten Son, that whosoever believeth in him should not perish, but have everlasting life." Salvation involves God's gracious redemption of individuals and is offered freely to all who accept Jesus Christ as personal Lord and Savior by repentance and faith.
- **Life of the Believer**. Romans 12:2 "And do not be conformed to this world, but be transformed by the renewing of your mind, that you may prove what is that good and acceptable and perfect will of God." Christians are to be consistent with Scripture in their character and conduct.
- **Evangelism and Missions**. Acts 1:8 "But ye shall receive power, after that the Holy Ghost is come upon you; and ye shall be witnesses unto me both in Jerusalem, and in all Judea, and in Samaria, and unto the uttermost part of the earth." It is the privilege and duty of every Christian to share the Gospel of Christ personally and by all other methods in harmony with the Gospel.

The University believes that the Bible is the true and reliable word of God, and follows Biblical principles in its policies and practices applicable to Christian education, and to its students and employees.

Because of our commitment to the Holy Scriptures, Charleston Southern University implements Faith Integration on campus to students and employees in a number of ways:

- **Chapel**. Our corporate integration starts with our chapel. The purpose of CSU Chapel is to provide the University with a corporate worship experience connecting the campus community with the thoughts and heart of Jesus Christ, creating a generation to live for HIS Name. Forty-Eight chapel requirements must be met during a student's tenure for graduation.

- **Whitfield Center for Christian Leadership**. The mission of the Whitfield Center for Christian Leadership is to equip individuals for leadership and service through the development of a biblical worldview. The aforementioned happens in three areas:

  Biblical Worldview Institute. The foundation of all that the Whitfield Center for Christian Leadership has been called to do is the clear articulation and understanding of a biblical worldview.

  Faith Integration Institute. Understanding what the Bible teaches is foundational, but living out that understanding is transformational (i.e., men and women who actually integrate their faith into every area of their lives – how they teach, how they learn, how they work, how they live their lives).

  Marketplace Institute. The Whitfield Center is developing programs, resources and collaborative relationships in Charleston and beyond that will allow us to influence and have our students be influenced by key leaders who are standing for an integrated biblical worldview in some of the most difficult arenas.

- **Faith Integration for Faculty and Staff**. Each semester, a facilitator leads staff and faculty through three workshops designed to encourage and equip employees with the knowledge and application of how to integrate faith in the workplace. Intentionality on purpose and praxis are highlighted.

- **Faith Integration for Students**. All students, including non-traditional, must take two religion classes.

- **Campus Ministries**. Charleston Southern University intentionally provides a network of resources to connect students with opportunities to serve the local community, to minister throughout the United States and even to be a part of international missions! To allow students the opportunity to grow in the Holy Word of God, we have organized ministries that lead small groups, worship services and provide access to spiritual growth through residence life, commuter Bible studies, and conferences.

Regarding human sexuality, the teachings of the Bible and the beliefs of the Baptist Church, both of which are followed by the University, are that God created two sexes, male and female; that marriage is between one man and one woman; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and therefore prohibited. (Genesis 2:27; Exodus 22:16-17; Deuteronomy 22:23-28; Leviticus 20:10-16.)

Charleston Southern University, based upon Biblical principles, affirms that a person cannot change his/her birth gender and so must be treated as such; rather than a self-identified gender, which would be inconsistent with the University's religious beliefs. Furthermore, our affiliation with The Southern Baptist Convention, via The South Carolina Baptist Convention, confirms Charleston Southern University's core beliefs in alignment with the National Convention. Notwithstanding, we agree and support the Southern Baptist Convention's statement on transgender which, in summary, is as follows:

- We "affirm God's good design that gender identity is determined by biological sex and not by one's self-perception—a perception which is often influenced by fallen human nature in ways contrary to God's design (Ephesians 4:17–18)....
- That we grieve the reality of human fallenness which can result in such biological manifestations as intersexuality or psychological manifestations as gender identity confusion and point all to the hope of the redemption of our bodies in Christ (Romans 8:23....
- That we extend love and compassion to those whose sexual self-understanding is shaped by a distressing conflict between their biological sex and their gender identity....
- That we invite all transgender persons to trust in Christ and to experience renewal in the Gospel (1 Timothy 1:15–16)...."

Application within the context of the student culture at Charleston Southern University, guided by the understanding of the scriptures, soul-competency and support of The Southern Baptist Convention's biblical position, is clearly outlined in the Student Handbook.

- **Biblical Design for Human Sexuality**. We believe that all people should be treated with dignity, grace, and holy love, whatever their sexual beliefs.
    - Sexuality is one of the ways by which the marriage covenant between a husband and a wife is sealed and expressed. Marriage is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. It is important to note that Christian teaching on marriage and sexuality is in the narrative of all Scripture – from Genesis to Revelation. Marriage, gender and sexuality aren't just appendages tacked onto Scripture, but are icons of the Gospel and human flourishing (Matthew 19:4-6; Ephesians 5:22-33; Hebrews 13:4).
    - Sex misses its purpose when treated as an end in itself or when cheapened by using another person to satisfy pornographic and sinful sexual interests. We view all forms of sexual intimacy that occur outside the covenant of heterosexual marriage, even when consensual, as distortions of the holiness and beauty God intended for it.

- **Sexual Impropriety**. Premarital or extramarital sexual activity on or off campus. The promotion, advocacy, defense or ongoing practice of a homosexual lifestyle (including same-sex dating behaviors) is also contrary to our community values. We seek to help students who face all types of sexual temptation, encouraging single students to live chaste, celibate lives, and encouraging married students to be faithful to their marriage and their spouse.

Therefore, in accordance with the University's non-faculty and faculty handbook, employees are expected to conduct themselves in a manner consistent with Charleston Southern's Christian values. As such, employment of someone who identifies as being of the opposite sex from their birth gender and who expresses that identification either through behavior and/or dress is against the University's religious beliefs. Therefore, the University requests an exemption from 34 CFR §106.31(b)(4) and 34 CFR § 106.51(a).

The University's religious beliefs prohibit pre-marital sex and elective abortion. An exemption from CFR § 106.57 is therefore requested in order that the University not be required to violate its religious beliefs in order to retain pregnant unmarried employees or employees who elect to terminate their pregnancy.

If students and/or employees exhibit behavior which is not in keeping with the University's mission and vision, then the University may impose sanctions up to, and including, expulsion from the University or termination of employment.

Enforcing the above noted regulations would be inconsistent with the religious beliefs and practices of the South Carolina Baptist Convention and Charleston Southern University. As such, and in keeping with its religious beliefs, Charleston Southern University requests an

exemption for the specific Title IX regulations referenced in this letter in order that the University may make decisions consistent with its religious beliefs and principles in regard to its students and employees.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Jairy C Hunter Jr

Jairy C. Hunter, Jr.,
President

Encs.
1. CSU BOT By-Laws

300 Clear Creek Road
Pineville, Kentucky 40977
www.ccbbc.edu

CLEAR CREEK BAPTIST BIBLE COLLEGE

Phone: (606) 337.3196
Fax: (606) 337.2372
Email: info@ccbbc.edu

To: Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

From: Dr. Donald S. Fox

Date: February 16, 2016

Re: Claim of Title IX Religious Tenet Exemption

I am the Chief Executive Officer and President-Elect of Clear Creek Baptist Bible College, Inc. ("The College"). As such, I am the highest ranking official of the College. I submit the following statement on behalf of the College in order to claim the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. § 1681 et seq., and which is the subject of 34 C.F.R. §106.12.

The College is a Southern Baptist institution of higher education. It is a Kentucky nonprofit corporation whose principal office address is 300 Clear Creek Road, Pineville, Kentucky 40977. The Articles of Incorporation and Bylaws of the College are enclosed.

The College is controlled by a religious organization. That organization is the Kentucky Baptist Convention (the "Convention"). The Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Kentucky. It is an "association of churches" within the meaning of the Internal Revenue Code. Pursuant to the College's Charter and Bylaws, the Convention controls the College in part by exercising its right to select the entire elected membership of the board of directors of the College, the governing body of the College.

The Convention's authority over the College constitutes control by the Convention, making the College exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, § 703(e)(2) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." See, e.g. *Hall v. Baptist Memorial Health Care Corp.*, 215 F.3d 618, 624 (6th Cir. 2000).

34 C.F.R. § 106.12(a) also exempts the College from the prohibitions against discrimination on the basis of sex in Title IX, 20 U.S.C. § 1681 et seq. This request for exemption is from provisions of Title IX of the Education Amendments of 1972 to the extent those provisions conflict with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.

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Pineville, Kentucky 40977
www.ccbbc.edu

CLEAR CREEK
BAPTIST BIBLE COLLEGE

Phone: (606) 337.3196
Fax: (606) 337.2372
Email: info@ccbbc.edu

The College identifies the following provisions as being in conflict with its and the Convention's religious tenets:

34 C.F.R. § 106.21

34 C.F.R. § 106.23

34 C.F.R. § 106.31

34 C.F.R. § 106.32

34 C.F.R. § 106.33

34 C.F.R. § 106.34

34 C.F.R. § 106.36

34 C.F.R. § 106.37

34 C.F.R. § 106.38

34 C.F.R. § 106.39

34 C.F.R. § 106.40

34 C.F.R. § 106.41

34 C.F.R. § 106.51

34 C.F.R. § 106.52

34 C.F.R. § 106.53

34 C.F.R. § 106.56

34 C.F.R. § 106.57

34 C.F.R. § 106.60

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As a Christian institution of higher learning, the College exists to provide educational preparation for adults called of God into Christian service. To fulfill its mission, the College seeks to: (1) Nurture God-called students as they prepare for the Lord's work; (2) Provide a quality bible-based education with an emphasis on practical Christian service; (3) Initiate and maintain cooperative relationships with individual Christians, churches, associations and conventions; and (4) Manage human, physical and financial resources guided by biblical principles.

Southern Baptist religious tenets have been described most extensively and most recently in The Baptist Faith and Message 2000, a statement of faith adopted by the Convention; a copy of the statement is enclosed. With regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. Children, from the moment of conception, are a blessing and heritage from the Lord. *xvii The Family.*
>
> Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. *III Man.* (The Southern Baptist Convention elaborated on this tenet in 2014 by adopting a resolution "On Transgender Identity"; a copy is included.)
>
> Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death. *XV The Christian and the Social Order.*

The College's policies are rooted in these religious tenets. (Copy of Student Handbook-Standards of Conduct enclosed). Application of the regulations listed hereinabove would conflict with these tenets if the regulation prohibited the College from following its policies or prohibited the College from: (1) engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgender status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee

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characteristics"), and prohibited the institution from treating that person differently as a result of that consideration; (2) subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples include the College's rules regarding eligibility for employment of the student by the institution; assignment of housing, restrooms and locker rooms; and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and (3) making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, exemption from the regulations listed above to the extent those regulation require the College to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that conflicts with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please contact me. Thank you for your assistance.

Sincerely,

Donald S. Fox

Donald S. Fox
President

cc: C Bishop Johnson, Esq.

Colorado Christian University

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

January 6, 2015

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

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

Dear Mr. Galanter:

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

- Statement of Faith
- Lifestyle Expectations
- Strategic Objectives

I apologize for this oversight

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

Thank you for drawing this matter to my attention.

Sincerely,

William L. Armstrong
President

Colorado Christian University

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

December 22, 2014

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

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

Dear Mr. Galanter:

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

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

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

Sincerely,

William L. Armstrong
President

Colorado Christian University
8787 West Alameda Avenue
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warmstrong@ccu/edu

November 4, 2014

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

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

Dear Ms. Lhamon:

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

CCU is a non-profit institution of higher education with its main campus in Lakewood, Colorado. It traces its origins to the founding of Denver Bible Institute in 1914.[1] A century later, CCU is a Christ-centered learning community committed to developing each student in mind, faith and character for a lifetime of meaningful work and service in a constantly changing world.[2] Its identity as a Christian institution is central to all it does and teaches.[3] Christ, the living Word, is the integrating center of Colorado Christian University, intentionally at the core of all that CCU is and does.[4] The University exists to produce graduates who think critically, live faithfully, and impact effectively their spheres of influence.[5] This purpose is accomplished through a highly competent and dedicated faculty, an integrated academic curriculum, and student life programs designed to strengthen faith, shape character, and nurture compassionate response in a need-filled world.[6]

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[1] http://www.ccu.edu/about/history/
[2] http://www.ccu.edu/about/essence/
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.*

CCU's educational philosophy is guided by its Statement of Faith, which is embraced by all faculty and staff.[7] The Statement[8] affirms the key elements of the historical Christian faith, assuring consensus on the foundational tenets of the faith.[9] The essence of the CCU experience is its integration of faith and learning.[10] This distinctive integration of academic achievement, character development, and spiritual formation prepares CCU graduates to honor God and impact the world with their lives.[11]

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

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

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

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

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

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[7] *Id.*
[8] http://www.ccu.edu/about/webelieve/
[9] http://www.ccu.edu/about/essence/
[10] *Id.*
[11] *Id.*
[12] http://www.ccu.edu/strategicobjectives/
[13] *Id.*
[14] http://www.ccu.edu/about/mission/
[15] *Id.*

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

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

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

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

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations. As you also know, however, the resolution

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[16] http://www.ccu.edu/uploadedFiles/Pages/Campus_Life/handbook.pdf (p. 144).
[17] http://jobs.ccu.edu/
[18] http://jobs.ccu.edu/employee-lifestyle-expectations

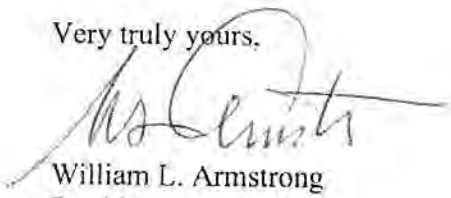
agreement[19] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[20] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of CCU.

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

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

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

Very truly yours,



William L. Armstrong
President

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[19] Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.nclrights.org/wp-content/uploads/2013/09/Arcadia_Resolution_agreement_07.24.2013.pdf.
[20] *Id.* 7

COVENANT
COLLEGE

28 May, 2015

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

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

Dear Ms. Lhamon:

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

Covenant College was founded in 1955 as a Christ-centered institution of higher education, emphasizing liberal arts. It is an agency of the Presbyterian Church in America (PCA) and is governed by a Board of Trustees elected by the General Assembly of the Presbyterian Church in America. Within that ecclesiastical context, Covenant College exists to provide post-secondary educational services to the denomination and the wider public.[1] The College's motto is "In All Things Christ Preeminent [Colossians 1:18]." Acknowledging Christ preeminent as the creator of all things, as the redeemer of people fallen into sin, as the touchstone of all truth, and as the sovereign ruler over all areas of life, the College strives to discern and to unfold the implications of His preeminence in all things. To serve this end, we seek to appropriate the mind of Christ as the biblical perspective from which

[1] Bylaws of Covenant College, page 1.

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P 706.419.1117 F 706.419.1142 PRESIDENT@COVENANT.EDU

we characterize and respond to reality. In attempting to make such a biblically-grounded frame of reference explicit and operative, we are committed to excellence in academic inquiry, and we seek to define all areas of the College's structure and program according to this understanding of our purpose.[2] In doing so, it seeks to "explore and express the preeminence of Jesus Christ in all things [Colossians 1:18]. . . . [and to] educate Christians to engage culture and cultures, to examine and unfold creation, and to pursue biblical justice and mercy in community."

The Presbyterian Church in America and Covenant College—as one of its agencies—understand the Bible to be the infallible, written Word of God. In addition, both the Denomination and the College affirm that the Westminster Confession of Faith and the Westminster Larger and Shorter Catechisms provide the most adequate and comprehensive expression of the system of doctrine taught in the Bible. The Denomination and the College submit themselves to the Bible and to these historic expressions of its doctrine and seek to express positions that are in accord with those standards.

Therefore, consistent with these standards, the College has developed a Statement on Sexual Identity and Conduct (enclosed). That statement provides in pertinent part as follows:

> The creation of human beings was a special creative act of God. God created human beings, male and female, in His own image and thus they are unique with respect to all other life in the created order. Adam and Eve, equally made in the image of God, belonged to the created order that God himself declared to be very good, serving as God's agents to care for, cultivate, and govern creation, living in holy and devoted fellowship with their Maker. Gender is not a cultural construct, but a divine gift assigned by the Creator at conception. As such, students are not to adopt a gender identity different from the one gifted them by their Creator. This gendered ordering of creation is to be accepted, honored, and reflected in sexual intimacy.
>
> Adam and Eve were made to complement each other in a one-flesh union. This creation ordinance establishes marriage between one man and one woman as the only proper context for all sexual relations. The New Testament makes clear that this relationship ultimately serves as a picture of the union between Christ and his Church. Although sin has distorted our affections, attractions, and impulses, we are still responsible as created beings and as those united with Christ by faith for our actions and thoughts. Sexual immorality, adultery, homosexual practice, the adoption of a different

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[2] The Purpose of Covenant College: http://www.covenant.edu/about/who/purpose

sexual identity, and all other sexual relations outside the bounds of marriage between a man and woman are inconsistent with the teaching of Scripture and will result in disciplinary follow-up by the College. Students with questions regarding sexual morality or permissible behaviors should talk with a member of the Student Development staff.[3]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[4] And as you also know, the resolution agreement[5] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.[6] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of Covenant College. For that reason, I 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 Covenant College is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the College's freedom to respond to transgender individuals in accordance with its theologically-grounded convictions.

Additionally, the PCA, consistent with the historic understanding of the Holy Scriptures and our doctrinal standards[7] have affirmed the following regarding homosexual conduct:

1. The act of homosexuality is a sin according to God's Word;

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[3] *See* Statement on Sexual Identity and Conduct.

[4] 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.")

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

[6] *Id.*

[7] Westminster Larger Catechism Questions 137-139

2. Churches should actively seek to lead the homosexual person to confession and repentance that he might find justification and sanctification in Jesus Christ, according to I Corinthians 6:11; and
3. In light of the Biblical view of its sinfulness, a practicing homosexual continuing in this sin would not be a fit candidate for ordination or membership in the Presbyterian Church in America.[8]

The College, in service to the Church, welcomes those of professed Christian faith even as they experience same sex attraction. But, it also affirms with the PCA that sexual activities with members of the same sex are sinful and are not to be condoned as acceptable expressions of one's sexuality. As you are aware, the EEOC has begun openly declaring that the ban on "sex" discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of "sexual orientation."[9] It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 Covenant College. The College, therefore, also seeks exemption on this basis out of an abundance of caution.

Lastly, the PCA affirms that "the intentional killing of an unborn child is a violation of God's command and authority. Scripture considers such a child a person and thus covered by Divine protection even as a person after birth. We are convinced Scripture forbids abortion. . . . God in His Word speaks of the unborn child as a person and treats him as such, and so must we. The Bible teaches the sanctity of life, and so must we. The Bible, especially in the Sixth Commandment, gives concrete protection to that life which bears the image of God. We must uphold that commandment."[10]

Consistent with this biblical interpretation, the College in its Statement of Community Beliefs (enclosed) provided the following summary of our beliefs regarding the sanctity of human life:

> We believe that the God who created all things is the Giver and Sustainer of life. Therefore, we must value, honor, and protect life, especially human life, which was made in God's image. This means that the Church should do all it can to cultivate life. For example, we strongly oppose abortion since it devalues and destroys human life. At the same time Christians should

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[8] 5th General Assembly, 1977, 5-49, 4, p. 67 and 8, p. 68.
[9] *See* http://www.macon.com/2015/03/30/3668458_eeoc-issues-determination-letter.html?rh=1
[10] PCA Position Paper on Abortion, page 29-30, Sixth General Assembly, 1978.

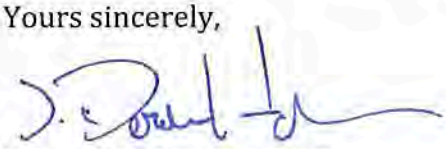
actively seek to provide for, protect, and nurture those who face the temptation to abort their baby.[11]

Covenant College accordingly requests that your office acknowledge that the College is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College's freedom to apply and enforce its Statement on Human Life):

34 C.F.R. § 106.21 (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,



J. Derek Halvorson, Ph.D.
President, Covenant College

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[11] *See* Statement of Community Beliefs at 2.

CRISWELL COLLEGE

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

Re: OCR Letter of January 27, 2016, asking for additional information for Criswell College's request for a religious exemption to certain provisions of Title IX of the Education Amendments of 1972

Dear Mr. Galanter:

Thank you for your letter dated January 27, 2016, regarding our request for a religious exemption for Criswell College from certain provisions of Title IX of the Education Amendments of 1972. You requested clarification as to whether Criswell College is controlled by a religious organization. We appreciate the opportunity to clarify that we are indeed controlled by a religious organization.
Criswell College meets the conditions of being an educational institution controlled by a religious organization in that.

1. The Internal Revenue Service has already determined that we meet the requirements for classification as an integrated auxiliary of a church. See enclosed IRS determination letter.
2. Our faculty is required to espouse a personal belief in the religion of our controlling organization. Each year the faculty and administration of Criswell College is required to reaffirm in writing the doctrinal position of the Southern Baptists of Texas Convention.
3. Students at Criswell College are required to attend chapel twice each week. All undergraduate students take at least 42 hours of study on Biblical and theological matters. Each student must be endorsed by a church and outline their personal statement of faith prior to admission. After admission, each student must agree to, and sign, Criswell College's Student Handbook Covenant, indicating their agreement to conform to the standards of faith and behavior as taught in Scripture.
4. The Southern Baptists of Texas Convention nominates 40% of Criswell College's trustees to the governing board of Criswell College. In addition, the Criswell Foundation, a religious nonprofit ministry, nominates an additional 40% of the trustees for Criswell College.
5. Criswell College receives 7% of its annual budget from the Southern Baptists of Texas.

Again, thank you for the opportunity to clarify that Criswell College meets the conditions that qualify us as being controlled by a religious organization. If we can be of any further assistance to you as you

process our exemption according to Section 901(a)(3) of Title IX, 20 U.S.C. § 1681(a)(3) and the Department of Education's implementing regulation at 34 C.F.R. § 106.12, please do not hesitate to contact me.

Sincerely,

Dr. Barry Creamer
President and CEO
Criswell College
4010 Gaston Avenue
Dallas, Texas 75246

Enclosure.

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Date: OCT 20 2012

Criswell College
4010 Gaston Avenue
Dallas TX 75246

Employer Identification Number:
75-6114836
Person to Contact – ID#:
Michelle A Glutz - 0203085
Toll Free Contact Number:
(877) 829-5500
Form 990 Required:
No

Dear Sir or Madam:

This is in response to your July 25, 2011 request to be exempt from the requirement to file Form 990, Return of Organization Exempt from Income Tax.

Treasury regulation section 1.6033-2(g)(1)(i) provides that an integrated auxiliary of a church exempt from taxation under section 501(a) of the Internal Revenue Code is not required to file Form 990. The term "integrated auxiliary of a church" is defined in Treasury regulation section 1.6033-2(h). Based on the information you provided in your request, we've determined that you meet the requirements for classification as an integrated auxiliary of a church. Therefore, in accordance with Treasury regulation section 1.6033-2(g)(1)(i), you are not required to file Form 990. We'll update our records accordingly.

As an organization exempt from federal income tax under section 501(c)(3), you must fulfill a number of other requirements under the Internal Revenue Code. Please see enclosed Publication 4221-PC, *Compliance Guide for 501(c)(3) Public Charities*, for helpful information about your responsibilities as an exempt organization.

If you have any questions, please call our toll-free number shown in the heading of this letter.

Sincerely,

Holly O. Paz

Holly O. Paz
Director, Exempt Organizations

Enclosure: Pub 4221

Letter 4715 (12-2011)
Catalog Number 57710B

CRISWELL COLLEGE

September 28, 2015

Assistant Secretary
U.S. Department of Education
Office of Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202

Re: Application for Recognition of Exemption from Certain Title IX Regulations

Dear Assistant Secretary,

As the highest-ranking official of Criswell College, I am making this application for recognition by the Office for Civil Rights of the Department of Education that the College is exempt from compliance with certain Title IX regulations under the religious exemption provided in 20 USCA § 1681(a)(3). The particular regulations for which exemption is requested are:

34 CFR§106.21(b)(1)(iii)	regarding prohibitions on the basis of sex in admissions
34 CFR §106.21(c)	regarding prohibitions based on marital or parental status in admissions
34 CFR §106.31(b)(4)	regarding different rules of behavior, sanctions, or other treatment in education programs and activities
34 CFR §106.32	regarding housing
34 CFR §106.33	regarding restrooms and locker rooms
34 CFR §106.36	regarding counseling and use of appraisal and counseling materials
34 CFR §106.37	regarding financial assistance for students
34 CFR §106.38	regarding employment assistance to students
34 CFR §106.40	regarding marital or parental status of students
34 CFR §106.51(a)	regarding discrimination in employment

34 CFR §106.51(b)(6)	regarding discrimination in employment for pregnancy
34 CFR §106.57	regarding marital or parental status of employees
34 CFR §106.60(a)	regarding pre-employment inquiries concerning marital status

Criswell College is a distinctively Christian institution of higher education located in Dallas, Texas. The College's purpose for existence is articulated in its Bylaws and current mission statement, copies of which are attached hereto as Exhibits "A" and "B", respectively.

> *The mission for which the corporation is formed is set forth in Corporation's Certificate of Formation, as amended, which provides principally for the operation of a Christian college to prepare men and women for a biblically-based gospel ministry.* (Bylaws 2.01). *The mission of Criswell College is to provide ministerial and professional higher education for men and women preparing to serve as Christian leaders throughout society, while maintaining an institutional commitment to biblical inerrancy.* (Strategic Plan 2014-16, Mission Statement)

The College is governed by a Board of Trustees (the "Board"). Members of the Board must be professing Christians and are required to affirm the College's Articles of Faith (Bylaws 4.02). Members may be removed from the Board for failure to uphold the Articles of Faith and for behavior inconsistent with the values of the College (Bylaws 4.07).

The College's Articles of Faith consist of the Baptist Faith and Message 2000 ("BF&M 2000") with several addenda. The BF&M 2000 is the official statement of faith of the Southern Baptist Convention (SBC). As the College is affiliated with a state branch of the SBC, the Southern Baptists of Texas Convention, it has aligned itself with the doctrines and values expressed in the BF&M 2000. The College has also included several addenda within the BF&M 2000, which articulate a more specific understanding of the Bible and eschatology (Articles of Faith: I: The Scriptures; X: Last Things [Addenda appear in italics.]).

Among the tenets of the College's Articles of Faith are the beliefs that (1) God created two sexes, male and female; (2) marriage is the uniting of one man and one woman in a covenant commitment for a lifetime; (3) husbands and wives have distinct and complementary roles in marriage; (4) human life begins at conception; (5) the office of a pastor is reserved for men; and (5) sexual immorality, including fornication, adultery and homosexuality, are prohibited (Articles of Faith III: Man; VI: The Church; XV: The Christian and the Social Order; XVIII: The Family).

In a policy approved by the Board of Trustees, the College has further clarified its understanding of sexuality and its policies regarding those who promote or practice sexual behavior inconsistent with the College's tenets.

In keeping with an institutional commitment to biblical inerrancy and conscientious submission to scripture, the only practices and beliefs Criswell College can affirm, approve, or endorse regarding gender and sexuality are those which align with a traditional, Judeo-Christian view of human identity and marriage—specifically that humans are normatively and innately male or female, that marriage is to be heterosexual, monogamous, and for a lifetime, and that sexual relationships are to be consummated only in marriage. The college will not admit or employ anyone practicing or endorsing activities incompatible with or contrary to these views. (Gender and Marriage Policy)

The College has also emphasized biblically-based Christian values in its Student Handbook, Staff Handbook, and Faculty Handbook which are consistent with the tenets listed above. The College may impose disciplinary action for behavior not in keeping with these tenets, including dismissal from the College or termination of employment.

On the basis of the religious tenets noted above, the College is requesting exemption from certain Title IX regulations. The table below includes each regulation and corresponding reasons for an exemption.

Title IX Regulations	**Reasons for Exemption**
34 CFR §106.21(b)(1)(iii) 34 CFR §106.21(c)	The regulations would require the College to admit pregnant unmarried students, to admit and retain students engaged in sexual immorality or homosexual behavior, and to admit and retain students who identify as a gender different from their birth sex.
34 CFR §106.31(b)(4)	The regulation would prohibit the College from subjecting persons to separate or different rules of behavior, sanctions, or other treatment in accordance with the College's beliefs about sexuality.

34 CFR §106.32	The regulation would require the College to assign housing to a student according to his or her self-assigned sexual identity rather than according to his or her birth sex. The regulation would also require the College to allow students of the opposite sex to cohabit and provide housing for pregnant unmarried students and to allow homosexual students to live together.
34 CFR §106.33	The regulation would require the College provide restrooms and locker rooms to a student according to his or her self-assigned sexual identity rather than according to his or her birth sex.
34 CFR §106.36	The regulation would prohibit the College from assigning counseling services and materials in a way that is consistent with the College's religious beliefs concerning male and female sexual identities and roles.
34 CFR §106.37	The regulation would prohibit the College from limiting eligibility for certain financial assistance on the basis of the College's religious act restricting the pastoral office to males.
34 CFR §106.38	The regulation would prohibit the college from assisting churches, whose religious tenets restrict the pastoral office to males, in making students available for their employ.

34 CFR §106.40	The regulation would require the College to retain pregnant unmarried students, and married or unmarried students who elect to terminate their pregnancy.
34 CFR §106.51(a) 34 CFR §106.51(b)(6) 34 CFR §106.60(a)	The regulations would require the College to employ pregnant unmarried individuals, individuals engaged in homosexual behavior and individuals who identify as a gender different from their birth or those who elect to terminate a pregnancy.
34 CFR §106.57	The regulation would require the College to retain pregnant unmarried employees, and married or unmarried employees who elect to terminate their pregnancy.

Criswell College is requesting exemption from the specific Title IX regulations referenced in this letter so that the College can discriminate in regard to its students and employees on grounds consistent with its religious tenets. The institutional documents cited in this letter have been included for your reference. If you have any questions, or if additional information is required, please contact me.

Sincerely,

Dr. Barry Creamer
President and CEO
Criswell College
4010 Gaston Ave.
Dallas, TX 75246

CROWN COLLEGE

Office of the President

8700 College View Drive | St. Bonifacius, MN 55375-9001 | 952.446.4112 | 1.800.68.CROWN | www.crown.edu

25 May 2016

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 Crown College is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the College's freedom to act in accordance with its religious convictions. As President of Crown College, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

Crown College ("the College") was founded in 1916 as a Christ-centered institution of higher education. It is a college of the Christian and Missionary Alliance (C&MA), a Christian denomination that is a "light-bearing, Jesus-centered missions and church-planting movement with deeper life at its heart."[1] The College is "connected with and subordinate to" the C&MA, and if the College were ever to reject the doctrines or teachings of the C&MA, the College's property would revert to the denomination.[2] The College is also governed by a board of directors, of which two-thirds must be comprised of C&MA church members.[3] Within that ecclesiastical context, the College's mission is to "provide a biblically-based

[1] *See* http://www.crown.edu/about/heritage-purpose/.
[2] Bylaws of Crown College, Article II, page 1.
[3] Bylaws of Crown College, Article V, page 2.

biblically-based education for Christian leadership in the Christian and Missionary Alliance, the Church-at-large and the world."[4]

Acknowledging Christ preeminent as the creator of all things, as the redeemer of people fallen into sin, as the touchstone of all truth, and as the sovereign ruler over all areas of life, the College strives to discern the implications of His preeminence in all things. To serve this end, we seek to appropriate the mind of Christ as the biblical perspective from which we characterize and respond to reality. We are committed to excellence in academic inquiry, and we seek to define all areas of the College's structure and program according to this understanding of our purpose.[5]

The C&MA and Crown College —as one of its agencies—understand the Bible to be the infallible, written Word of God. In addition, both the C&MA and the College affirm that the C&MA Statement of Faith provides the most adequate and comprehensive expression of the system of doctrine taught in the Bible.[6] The C&MA and the College submit themselves to the Bible and to this historic expression of its doctrine and seek to express positions that are in accord with those standards.

Therefore, consistent with these standards, the College has developed a Policy on Human Sexuality and Gender Identification (enclosed). That statement provides in pertinent part as follows:

> We uphold that creation of humanity in two distinct sexes, male and female, was and is God's original and continuing intent. [Genesis 1: 26-28; Matthew 19: 1-12; Ephesians 5: 1-5; Colossians 3: 5; 1 Thessalonians 4: 3] We do not uphold the adoption of a gender identity opposite of one's biological sex at birth. Nor do we uphold attempting to change one's biological birth sex by medical means. Because of our beliefs and guidance from God's word, we require and expect each member of our community to embrace and live in alignment with his or her birth sex. This includes, but is not limited to, using facilities in accordance with one's birth sex.
>
> This Crown College policy regarding human sexuality and gender identity is rooted in our faith and belief in God, in His inerrant Word, and is reflected in our century old religious identity and affiliation with the Christian and Missionary Alliance. Institutional decisions including but not limited to student admission, housing and retention and employee hiring and retention

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[4] *See* http://www.crown.edu/about/heritage-purpose/.
[5] *See* http://www.crown.edu/about/core-values/.
[6] *See* https://www.cmalliance.org/about/beliefs/doctrine.

will be made based on adoption of and adherence to this policy in conduct and belief.[7]

As you know, the Department of Education's Office for Civil Rights (OCR) recently 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 status."[8] That is, a school "must not treat a transgender student differently from the way it treats other students of the same gender identity."[9]

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.[10] 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.[11]

Moreover, the resolution agreement[12] between the Arcadia Unified School District and OCR (and the Department of Justice) required 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.[13] It is thus reasonable to suppose that OCR believes that such responses are required by Title IX.

It is also reasonable to assume 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, compliance with Title IX, as

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[7] *See* Policy on Human Sexuality and Gender Identification, page 1.
[8] 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.
[9] *Id.* at page 2.
[10] *Id.*
[11] 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.").
[12] 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.
[13] *Id.*

interpreted by OCR to reach transgender discrimination, would be inconsistent with the religious tenets of the College.

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

Additionally, the C&MA, consistent with its understanding of the Holy Scriptures and doctrinal standards has affirmed the following regarding homosexual conduct:

1. The act of homosexuality is a sin according to God's Word;
2. Churches should actively seek to lead the homosexual person to confession and repentance that he might find justification and sanctification in Jesus Christ, according to I Corinthians 6:11; and
3. In light of the Biblical view of its sinfulness, a practicing homosexual continuing in this sin would not be a fit candidate for ordination or membership in the C&MA.[14]

Accordingly, Crown College has adopted the following policy regarding sexual conduct:

> As reflected in Crown College's Statement of Faith, the Old and New Testament are a complete revelation of God's will for the salvation of men and the divine and only rule of Christian faith and practice. Accordingly, Crown upholds that sexual intimacy is a gift of God to be expressed exclusively within marriage between one woman and one man. [Genesis 2: 20-25; Matthew 19: 1-6]. Engaging in sexual intimacy outside the covenant marriage relationship, such as premarital sex, adultery, or same-sex sexual intimacy is unacceptable for members of the Crown College Community. [Matthew 19: 1-12; Romans 1: 26-27; 1 Corinthians 6: 9-10;].[15]

The College, in service to the Church, welcomes those of professed Christian faith who experience same sex attraction. But, it also affirms with the C&MA that sexual activities with members of the same sex are sinful and are not to be condoned as acceptable expressions of one's sexuality. As you are aware, the EEOC has begun declaring that the

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[14] *See* https://www.cmalliance.org/about/beliefs/perspectives/human-sexuality; https://www.cmalliance.org/serve/qualifications.
[15] *See* Policy on Human Sexuality, page 1.

ban on sex discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination based on sexual orientation.[16]

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 OCR to reach sexual orientation discrimination, would also be inconsistent with the theological commitment of Crown College. The College, therefore, also seeks exemption on this basis out of an abundance of caution.

Additionally, the College seeks exemption from the Title IX regulations prohibiting marital status discrimination, to the extent that these regulations apply to the College's policies on divorce and remarriage. The College, in compliance with denominational standards,[17] takes the following position regarding divorce and remarriage:

> Divorce and remarriage is permissible when one's spouse (not oneself) has been guilty of adultery and restoration of the broken marriage vows has become impossible (Matthew 19:9). Divorce and remarriage is permissible when one's spouse (not oneself) abandons the marriage (1 Corinthians 7:15). Divorce and remarriage is permissible if the parties made no profession of faith prior to or at the time of the divorce (2 Corinthians 5:17).[18]

Lastly, regarding the sanctity of life, the C&MA affirms:

> [E]ach individual is known by God from before the foundation of the world. Since all life exists for God's purposes and all human lives are equally sacred, it is our belief that human life is blessed of God and must be preserved and nurtured . . . Abortion-on-demand must be opposed as a violation of human dignity and a moral evil precisely because it forcibly terminates the life of a human being fashioned in God's image.[19]

Consistent with this biblical interpretation, the College's Statement of Community Beliefs (enclosed) includes our beliefs regarding the sanctity of human life:

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[16] *See* http://www.eeoc.gov/decisions/0120133080.pdf.
[17] *See* http://www.cmalliance.org/about/beliefs/perspectives/divorce.
[18] *See* http://www.crown.edu/about/heritage-purpose/.
[19] *See* https://www.cmalliance.org/about/beliefs/perspectives/sanctity-of-life.

> The Bible is clear in its teaching on the sanctity of life. Life begins at conception. We are opposed to the destruction of innocent life through abortion on demand.[20]

Crown College accordingly requests that your office acknowledge that the College is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College's freedom to apply and enforce its divorce policy and its Statement on Human Life):

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,

D. Joel Wiggins, Ph.D.
President, Crown College

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[20] *See* http://www.crown.edu/about/heritage-purpose/.

DORDT COLLEGE

October 1, 2015

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

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

Dear Ms. Lhamon:

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

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

Dordt College's mission and educational framework is shaped by the fact that the College is owned and controlled by an incorporated society composed entirely of members of the Christian Reformed Church in North America[5] (CRCNA). It is governed by a Board of Trustees made up of 18 to 30 individuals. The board's membership includes a predominance of members elected by the society from the Christian Reformed Church. These board members represent geographical

[1] http://www.dordt.edu/about/.
[2] http://www.dordt.edu/about/our_mission/developing_history.shtml.
[3] http://www.dordt.edu/about/our_mission/.
[4] http://www.dordt.edu/about/our_mission/christian_learning_community.shtml.
[5] http://www.crcna.org/welcome/beliefs.

OFFICE OF THE PRESIDENT

498 Fourth Avenue NE Sioux Center, Iowa 51250-1606 Phone 712-722-6002

districts in the CRCNA. In addition, a minority of at-large board members represent various other Reformed churches. Dordt has enjoyed the committed and faithful support of a loyal constituency for more than half a century, since its inception in 1955.[6]

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

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

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

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

SEXUALITY, GENDER IDENTITY, AND SEXUAL CONDUCT

7.2.4.1 INTRODUCTION

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

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

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

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

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

7.2.4.2 UNACCEPTABLE CONDUCT

Dordt College specifically holds as unbiblical and therefore prohibited:

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

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

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

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[9] And as you also know, the resolution agreement[10] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[11] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It is also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of DC.

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

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

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[8] Dordt College Faculty Handbook, Dordt College Staff Handbook, p.13.
[9] U.S. Department of Education, Questions and Answers on Title IX and Sexual Violence, *available at* http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf at 5 ("Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation.").
[10] Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at*: http://www.justice.gov/sites/default/files/crt/legacy/2013/07/26/arcadiaagree.pdf -
[11] *Id.*

34 C.F.R. § 106.43 (standards for measuring skill or progress in physical education classes)
34 C.F.R. § 106.51-61 (relating to employment)

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

Very truly yours,

Dr. Erik Hoekstra
President
Dordt College

EAST TEXAS BAPTIST UNIVERSITY

February 27, 2015

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear Ms. Lhaman,

I am President of East Texas Baptist University. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

East Texas Baptist University is a Baptist institution of higher education. It is a Texas nonprofit corporation whose principal office address is One Tiger Drive, Marshall, Texas 75670. I enclose the Certificate of Formation and Bylaws of the University.

East Texas Baptist University is controlled by a religious organization, the Baptist General Convention of Texas. This Convention is a Baptist general body whose constituency is the cooperating Baptist churches of Texas. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Certificate of Formation and Bylaws, the Baptist General Convention of Texas controls the University in part by exercising its right to select a majority of the membership of the board of directors of the University, the governing body of the University.

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion. I identify those provisions to be:

Admissions:

34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:

34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

PRESIDENT
ONE TIGER DRIVE • MARSHALL, TEXAS 75670
(903) 923-2222 WWW.ETBU.EDU

Education Programs or Activities:

34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and 34 C.F.R. § 106.41 (governing athletics);

Employment:

34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquires).

The mission of the University is stated as follows:

> East Texas Baptist University is an institution affiliated with the Baptist General Convention of Texas since 1912. Our purpose is the development of intellectual inquiry, social consciousness, wellness, skills for a contemporary society, global awareness, and Christian character, for we believe that these endeavors prepare students to accept the obligations and opportunities to serve humanity and the Kingdom of God. Our primary focus is on quality academic programs in the humanities, natural and social sciences, fine arts, and selected professional areas. We are committed to Christian stewardship and to providing and maintaining an environment conducive to learning, leadership development, and academic excellence. We affirm that the liberal arts form the surest foundation for education and that the Christian faith provides the surest foundation for life.
>
> We strive to serve students of varied ages and of diverse socioeconomic, geographic, cultural, ethnic, and religious backgrounds. We seek students who demonstrate a potential for success in our supportive and challenging environment. We employ Christian faculty who are dedicated to teaching, scholarship, advising, and service as they model the principles of the Christian faith. As a Baptist university we are committed to the integration of learning and Christian faith in the pursuit of truth.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the Convention has repeatedly spoken. For example, in 2009, the Convention adopted the attached resolution *On Sexual Ethics.* The Convention declares ". . . the Bible teaches that the ideal for sexual behavior is the marital union between husband and wife and that all other sexual relations - whether premarital, extramarital, or homosexual - are contrary to God's purposes and thus sinful." Since 1980, the

Convention has declared on six occasions its religious beliefs opposing abortion. The Convention has declared its religious belief that "gender is based on biological attributes and is seen as a gift from God and immutable." That declaration is also attached.

In 1988 the Convention adopted an addition to its previously adopted statement of Baptist Faith and Message which includes the following expression of religious tenets of the Convention:

> XVIII. THE FAMILY
>
> God has ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption.
>
> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is Gods unique gift to reveal the union between Christ and His church, and to provide for the man and the woman in marriage the framework for intimate companionship, the channel for sexual expression according to biblical standards, and the means for procreation of the human race.
>
> Children, from the moment of conception, are a blessing and heritage from the Lord. Parents are to demonstrate to their children Gods pattern for marriage. Parents are to teach their children spiritual and moral values and to lead them, through consistent lifestyle example and loving discipline, to make choices based on biblical truth. Children are to honor and obey their parents.

In 2015, the Executive Board of the Baptist General Convention of Texas, which carries the authority of the Convention, adopted a resolution on Transgender Issues that affirms its position that " in creation God made male and female as biological gender assignment."

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as student and employee "behaviors"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student behaviors. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside

of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee behaviors.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Lawrence Ressler, Ph.D.
Interim President

FRANCISCAN UNIVERSITY
OF STEUBENVILLE

Office of the President

1235 University Boulevard
Steubenville, Ohio 43952-1792
740-283-6216
fax: 740-284-5006
www.franciscan.edu

August 27, 2014

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

Re: Request for Title IX Exemption Pursuant to 34 C.F.R. 106.12

Dear Assistant Secretary Lhamon:

On behalf of Franciscan University of Steubenville ("Franciscan University"), I am writing pursuant to 34 C.F.R. § 106.12 to request an exemption for Franciscan University from certain aspects of Title IX of the Education Amendments of 1972, specifically from the Department of Education's in[illegible] of Title IX to encompass a prohibition of differential treatment on the ba[illegible]ntity and gender expression, as more fully discussed below.

Franciscan University is a private [illegible] higher education located in Steubenville, Ohio which is owned and controlled by a religious organization of the Catholic faith, i.e. the Franciscan Friars of the Most Sacred Heart of Jesus, T.O.R. ("Franciscan Friars"). The Franciscan Friars founded Franciscan University in 1946.

Franciscan University is a passionately Catholic co-educational institution of higher education which follows the example of St. Francis of Assisi in finding its identity at the heart of the Catholic Church. Franciscan University embraces the teachings of Sacred Scripture, Sacred Tradition, and the Teaching Magisterium of the Catholic Church with a spirit of Christian humanism that relates all learning to Jesus Christ.

As you know, Title IX of the Education A[illegible]ments of 1972 ("Title IX") prohibits "sex" discrimination in [illegible]derally-funde[illegible] [illegible]rograms. Title IX, as written, does not prohibit discrimination on the b[illegible] [illegible]dentity or gender expression. Rather, the language of Title IX pro[illegible]des i[illegible] [illegible]at "[n]o person in the United States shall, *on the basis of sex*, [illegible] [illegible]on in, be denied the benefits of, or be subjected to discrimination [illegible] [illegible]ded educational programs or activities. 20 U.S.C. Section 168(a) (emphasis [illegible]ded.)

The *Arcadia Unified School District Case*

On July 24, 2013, the Office for Civil Rights of the United States Department of Education ("OCR") along with the Department of Justice ("DOJ") issued a Letter and entered into a Resolution Agreement with a public school district in California (Arcadia Unified School District) in connection with a claim that the school district was discriminating against a middle school student based on sex by denying the student equal access to the school district's education programs and activities because the student is transgender. More specifically, the complaint alleged that the school district prohibited the student (who was born female) from accessing facilities consistent with the student's male gender identity, including restrooms and locker rooms at school, as well as sex-specific overnight accommodations at a school-sponsored trip to an off-site academic camp.

In the July 24, 2013 Letter accompanying the Resolution Agreement, OCR and DOJ stated that transgender students are protected from sex-based discrimination under Title IX. The Letter also stated that a gender transition is the experience by which a transgender person goes from living and identifying as one's "assigned" sex to living and identifying as the sex consistent with one's gender identity.

The Resolution Agreement in the *Arcadia* case explicitly states that "gender-based discrimination is a form of sex discrimination [under Title IX] and refers to differential treatment or harassment of a student based on the student's sex, including *gender identity, gender expression, and nonconformity with gender stereotypes*, that results in the denial or limitation of education services, benefits, or opportunities." (Emphasis added.)

The definitions in the Resolution Agreement in the *Arcadia* case also include, among others, the following:

> "Sex assigned at birth" and "assigned sex" refer to the gender designation listed on one's original birth certificate.
>
> "Gender identity" refers to one's internal sense of gender, which may be different from one's assigned sex, and which is consistently and uniformly asserted, or for which there is other evidence that the gender identity is sincerely held as part of the student's core identity.
>
> "Transgender" describes an individual whose gender identity is different from the individual's assigned sex. "Transgender boy" and "transgender male" refer to an individual assigned the female sex at birth who has a male gender identity. An individual can express or assert a transgender gender identity in a variety of ways, which may but do not always include specific medical treatments or procedures. Medical treatments or procedures are not considered a prerequisite for one's recognition as transgender. For purposes of this Agreement, a "transgender student" is a student who consistently and uniformly asserts a gender identity different

from the student's assigned sex, or for which there is documented legal or medical evidence that the gender identity is sincerely held as part of the student's core identity.

"Gender transition" refers to the experience by which a transgender person goes from living and identifying as one's assigned sex to living and identifying as the sex consistent with one's gender identity. A gender transition often includes a "social transition," during which an individual begins to live and identify as the sex consistent with the individual's gender identity, with or without certain medical treatments or procedures.

Conflict with Franciscan's Catholic Mission and Identity

The interpretation of Title IX embodied in the *Arcadia School District* Letter and Resolution Agreement is diametrically opposed to Franciscan University's Catholic mission and identity and to the tenets of the Catholic Church, including deeply-held Catholic religious beliefs on human sexuality.

Pursuant to fundamental Catholic theology, each person is a unity of body and soul made in the image and likeness of God. Because of this, man is obliged to regard his body as good and to hold it in honor since God has created it and will raise it up on the last day. Likewise, pursuant to Catholic theology, human beings are created male or female and every person's body reveals his or her God-given sex/gender. These tenets of the Catholic Church are violated by manipulating one's God-given sex or gender and/or by attempting to identify as the sex or gender opposite to one's God-given sex/gender.

Requiring Franciscan University to comply with the doctrine embodied in the *Arcadia* Letter and Resolution Agreement would be contrary to and inconsistent with these fundamental tenets of the Catholic Church. It would also infringe Franciscan's right to carry out its religious mission and severely impair Franciscan's ability to express its distinctly Catholic message on human sexuality.

Franciscan, therefore, respectfully seeks an exemption from Title IX to the extent Title IX is interpreted as embodied by the *Arcadia* Letter and Resolution Agreement discussed above. If you should have any questions or need any further information in order to process this request for an exemption on behalf of Franciscan University of Steubenville, please do not hesitate to contact me. Thank you.

In Christ and St. Francis,

Fr. Sean O. Sheridan, TOR
President

FREED-HARDEMAN UNIVERSITY
Office of the President • 158 E. Main Street • Henderson, Tennessee 38340-2398 • 731.989.6001 • Fax:731.989.6030 • www.fhu.edu

July 15, 2015

Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
Office of Civil Rights
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: **Request for exemption from certain aspects of Title IX of the Education Amendments of 1972, 20 U.S. Code §1681, on the basis of religion**

Dear Assistant Secretary Lhamon:

Freed-Hardeman University is hereby respectfully requesting an exemption from certain aspects of Title IX of the Education Amendments of 1972, 20 U.S. Code §1681 *et seq* (Title IX), based on the sincerely held religious beliefs of its Board of Trustees and its founding fellowship, the churches of Christ. Recent declarations of Title IX enforcement intentions by the Department of Education's Office of Civil Rights, if applied to Freed-Hardeman University, will violate the religious tenets of Freed-Hardeman University and its controlling religious body, the churches of Christ. Specifically, Freed-Hardeman University requests an exemption, on religious grounds, from Title IX and its implementing regulations, as such apply or may apply to students, prospective students, employees, prospective employees and issues involving gender identity and sexual orientation.

Title IX expressly provides a religious exemption for educational institutions controlled by a religious organization, if application of Title IX would violate the religious tenets of the educational institution or the controlling religious organization. The exemption is found at 20 U.S. Code §1681 (a)(3), "*this section shall not apply to an educational institution which is controlled by a religious organization if application of this subsection would not be consistent with the religious tenets of such organization.*"

Freed-Hardeman University was founded by members of the churches of Christ and "*is dedicated to moral and spiritual values*." The University's purpose is to "*provide every student an education permeated with ... Christian values*." [Bylaws, Article I §3] Freed-Hardeman University's governing documents ensure its faithfulness to its founding religious educational purpose.

EACH MEMBER OF FREED-HARDEMAN UNIVERSITY'S BOARD OF TRUSTEES MUST BE A "MEMBER OF THE CHURCH OF CHRIST IN GOOD STANDING"

Freed-Hardeman University's Restated Charter of Incorporation and Bylaws vest control of the University in its Board of Trustees.

The Bylaws of the University require membership in the churches of Christ as a condition of membership on the Board of Trustees:

> *Each member of the Board of Trustees shall be a member of the church of Christ in good standing with the person's home congregation. Each member must be an active supporter of the work and worship of the church as taught in the New Testament.* [Bylaws, Article II §2]

This directive ensures that Freed-Hardeman University is and will continue to be controlled by members of the churches of Christ.

FULL TIME FREED-HARDEMAN UNIVERSITY EMPLOYEES MUST BE MEMBERS OF THE CHURCH OF CHRIST

The Bylaws and policies adopted by the Board of Trustees indicate the importance of Freed-Hardeman University's association with and control by our founding fellowship, the churches of Christ.

The Bylaws of the University require that all employees of the University, with limited exceptions, be members of the churches of Christ as a condition of employment:

> *All employees, excluding (a) temporary non-faculty, (b) hourly facilities workers, and (c) hourly security or police officers of Freed-Hardeman University shall be members in good standing of the church of Christ. Members of the church of Christ are preferred* [for all positions].
>
> *For the purpose of this requirement, the church of Christ (1) teaches baptism for the remission of sins, and (2) uses a capella music in worship (meaning does not use instruments of music in worship), and (3) recognizes male spiritual leadership in the church (meaning does not have women serving in the office of elder or deacon or leadership speaking roles in primary worship assemblies).* [Bylaws, Article VII §8]

The University's Nondiscrimination and Equal Opportunity in Employment policy reserves its legal right to limit employment to "coreligionists."

> *Freed-Hardeman University is an equal opportunity employer and does not unlawfully discriminate on the basis of race, color, national origin, age, sex, disability or prior military service in accordance with Title VII of the Civil Rights Act and other applicable laws...* [Policy 3.1.1]
>
> The University expressly reserves "*the right to restrict employment in any or all employment positions to members of the churches of Christ, whose members control and operate the university.*" [Policy 3.1.1A]

CHURCHES OF CHRIST ARE CONGREGATIONAL RATHER THAN HIERARCHICAL

"The largest of the three principal bodies of the American restoration movement, Churches of Christ are located throughout the nation but concentrated in the South and Southwest. Because this is not a denomination but a brotherhood with no central headquarters, activities such as record keeping are very difficult. Recent efforts show the membership to be about 1,250,000 in nearly 13,000 churches.

A distinctive plea for unity- a unity that is bible-based- lies at the heart of the Churches of Christ. It is believed that the Bible is "the beginning place," in and through which God-fearing people can achieve spiritual oneness - to "speak where the Bible speaks and to be silent where the Bible is silent" in all matters pertaining to faith and morals. Consequently, members recognize no other written creed or confession of faith. In all religious matters, there must be a "thus said the Lord."

...

The leaders among the Churches of Christ in the nineteenth century were more conservative than their counterparts among the Disciples of Christ. Stressing strict adherence to the New Testament pattern of worship and church organization, they refused to join any intercongregational organization such as a missionary society. Worship was simple, they opposed the addition of instrumental music on the grounds that the New Testament did not authorize it, and the early church did not use it.

...

Today, one of the outstanding features of the Churches of Christ lies in the acceptance of the Bible as a true completely adequate revelation. The basic concept has resulted in such practices as weekly observance of the Lord's Supper, baptism by immersion, a cappella singing, a vigorous prayer life, support of church needs through voluntary giving, and a program of preaching and teaching the Bible. This concept also explains the autonomy of local churches governed by elders and deacons appointed under New Testament qualifications; dignified

worship services; enthusiastic mission campaigns and far-flung benevolence, all financed by local churches.

The scriptural doctrines usually classified as conservative are found in Churches of Christ; belief in the Father, the Son and the Holy Ghost as members of the Godhead; the incarnation, Virgin birth, and bodily resurrection of Christ; the universality of sin after the age of accountability, its only remedy the vicarious atonement of the Lord Jesus Christ. A figurative rather than a literal view is prevalent with reference to the book of Revelation. Membership is contingent upon an individual's faith in Jesus Christ as the only begotten son of God, repentance, confession of faith, and baptism by immersion for the remission of sins. Church attendance is stressed.

...

Properties owned by the group probably exceed $2.5 billion in value. There are 21 colleges, including one in Japan and several in Europe; 70 secondary and elementary schools; 83 child-care facilities 46 senior citizen facilities; and 117 periodicals, newspapers, and magazines published throughout the country." [Handbook of Denominations in the United States; Mead, Frank Spencer, 1898-1982. Abingdon Press, 1995, pp. 91-93. ISBN: 0687014786]

CHURCHES OF CHRIST BELIEVE THAT ALL SEXUAL RELATIONS OUTSIDE OF A HETEROSEXUAL MARRIAGE COVENANT ARE SIN

Since churches of Christ seek to base what they both believe and practice about marriage and sexual relations upon the Bible, churches of Christ point to such passages of Holy Scripture as those listed below as providing the Scriptural position which they should hold.

A. **Hebrews 13:4** "*Marriage should be honored by all, and the marriage bed kept pure, for God will judge the adulterer and all the sexually immoral.*"

B. **Leviticus 18:22** "*Do not have sexual relations with a man as one does with a woman; that is detestable.*"

C. **1 Corinthians 6:9-10** "*or do you not know the wrongdoers will not inherit the kingdom of God? Do not be deceived: Neither the sexually immoral nor idolaters nor adulterers nor men who have sex with men nor thieves nor the greedy nor drunkards nor slanderers nor swindlers will inherit the kingdom of God.*"

D. **Romans 1:24-28** "*Therefore God gave them over in the sinful desires of their hearts to sexual impurity for the degrading of their bodies with one another. They exchanged the truth about God for a lie, and worshiped and served created things rather than the Creator- who*

is forever praised. Amen. Because of this, God gave them over to shameful lusts. Even their women exchanged natural sexual relations for unnatural ones. In the same way the men also abandoned natural relations with women and were inflamed with lust for one another. Men committed shameful acts with other men, and received in themselves the due penalty for their error. Furthermore, just as they did not think it worthwhile to retain the knowledge of God, so God gave them over to a depraved mind, so that they do what ought not to be done."

Based on the authority of these and other passages, those in the churches of Christ believe it is not God's intention for people to engage in homosexual behavior. In order for Freed-Hardeman University to be true to its founding documents and the sincerely held religious beliefs of its controlling church constituency, it must continue with the view that homosexual practice is sinful, a view which has characterized the University from its beginning.

CHURCHES OF CHRIST BELIEVE GENDER IDENTITY IS GIVEN BY GOD AND IS REVEALED IN ONE'S BIRTH SEX, REGARDLESS OF ONE'S GENDER CONFUSION

This view also comes from Holy Scripture and is based upon certain Scriptures including, but not limited to, those below:

A. **Genesis 1:27** "*So God created mankind in his own image, in the image of God he created them; male and female he created them.*" The original account of the creation of human beings shows God's original intention of creating two and only two distinct sexes.

B. **Deuteronomy 22:5** "*A woman must not wear men's clothing, nor a man wear women's clothing…*" God gives laws about a person's attempt to show himself or herself as of a sex different from the sex assigned by God at birth.

C. **1 Corinthians 11:14-15**, "*Does not the very nature of things teach you that if a man has long hair, it is a disgrace to him, but that if a woman has long hair, it is her glory? For long hair is given to her as a covering.*" In this passage, Paul describes his personal attitudes toward a culturally relevant distinction between the sexes and how confusion of these culturally relevant distinctions is divisive for the Kingdom of God. Paul's personal teaching about a specific cultural problem in the church in Corinth indicated that clear distinction between the sexes is necessary to prevent division in the church in Corinth.

Based on passages such as these, churches of Christ would oppose a person's attempt to modify his or her birth sex, and present as a sex other than his or her original birth sex, and would consider one who does so misguided and a disruptive presence.

SPECIFIC EXEMPTION REQUEST

Based upon the religious control, religious heritage, and the sincerely held religious beliefs of Freed-Hardeman University, and the churches of Christ, Freed-Hardeman University specifically requests a religious exemption from Title IX of the Education Amendments of 1972, and all implementing regulations related thereto, which would violate the sincerely held religious beliefs of Freed-Hardeman University and the churches of Christ.

This request for religious exemption includes, but not be limited to, the following specific regulations, growing out of Title IX, as such regulations may be amended hereafter: 34 CFR §106.21 Admission; 34 CFR §106.23 Recruitment; 34 CFR §106.31 Education programs or activities; 34 CFR §106.32 Housing; 34 CFR §106.33 Separate Facilities; 34 CFR §106.34 Access to classes and schools; 34 CFR §106.37 Financial Assistances; 34 CFR §106.38 Employment Assistance to Students; 34 CFR §106.39 Health Insurance Benefits and Services; 34 CFR §106.41 Athletics; 34 CFR §106.51 Employment; 34 CFR §106.53 Recruitment of Employees; 34 CFR §106.55 Job Classification and Structure; 34 CFR §106.57 Marital or Parental Status; 34 CFR §106.60 Pre-employment inquires.

Thank you for your consideration of this request for exemption. If you need further clarification, please do not hesitate to contact me.

Sincerely,

Joe Wiley, Ph.D.
President

Cc: Brett L. Pharr

Office of the President

1717 S. Chestnut Ave.
Fresno, CA 93702-4709

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June 2, 2015

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

Dear Ms. Lhamon:

I write to you as the president of Fresno Pacific University, a private Christian university in Fresno, California. I hereby request, pursuant to 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12(b), that the Department of Education's Office for Civil Rights acknowledge that Fresno Pacific University is exempt from Title IX of the Educational Amendments of 1972 and its accompanying regulations, to the extent that they conflict with Fresno Pacific University's freedom to respond to matters of gender identity and activities which are nonconforming with gender stereotypes in accordance with the religious tenets of the U.S. Mennonite Brethren churches.

Throughout its history, Fresno Pacific University has been sponsored by the Conferences of Mennonite Brethren Churches. Fresno Pacific University's predecessor, the Pacific Bible Institute was founded in 1944 by the Conferences of Mennonite Brethren Churches. Over time, the Pacific Bible Institute grew into the modern day Fresno Pacific University; however, it has always maintained its sponsorship by the Conferences of Mennonite Brethren Churches, and now specifically the Pacific District Conference of Mennonite Brethren Churches. It has always existed for the purpose of providing education consistent with the beliefs of the Mennonite Brethren denomination, and that remains the case today. The most recent amended articles of incorporation of Fresno Pacific University state its purpose as follows:

> "This Corporation is formed for the educational and religious purposes of establishing, conducting and maintaining a Christian school, university, or seminary of learning, providing an opportunity for students to study courses in Bible and Theology, Religion, Liberal Arts, Sciences, Humanities, other courses of study customarily offered by schools, universities, or seminaries, and other courses of study which the Board of Trustees may from time to time deem appropriate."[1]

Further, both the articles of incorporation and the bylaws of Fresno Pacific University provide that the members of the corporate entity "shall consist of the persons who are elected and serve as delegates to the Convention of the Pacific District Conference of Mennonite Brethren

[1] Article 4 of Certificate of Amendment and Restatement of Articles of Incorporation of Fresno Pacific University filed with the California Secretary of State 2006

Churches."[2] In turn, the delegate members of the corporation shall have the authority to elect sixty percent (60%) of the voting members of the Board of Trustees of Fresno Pacific University.[3]

The bylaws of Fresno Pacific University state that the Confession of Faith of the Pacific District Conference of Mennonite Brethren Churches shall be the Confession of Faith of Fresno Pacific University[4] and that no amendment to the Articles of Incorporation or Bylaws of Fresno Pacific University may be made which would conflict with the Confession of Faith of the Pacific District Conference of Mennonite Brethren Churches.[5] The Pacific District Conference of Mennonite Brethren Churches as a branch of the United States Conference of Mennonite Brethren Churches adheres to the Confession of Faith United States Conference of Mennonite Brethren Churches.

Fresno Pacific University has established its campus culture around its stated mission that "Fresno Pacific University develops students for leadership and service through excellence in Christian higher education." This statement which is set forth on the Fresno Pacific University website[6] also includes additional statements regarding the vision and values of Fresno Pacific University, including its presence as an Anabaptist, evangelical, ecumenical and Christian community.

In addition to and amplification of the Confession of Faith, Fresno Pacific University is guided by its statement known as the "Fresno Pacific Idea." For your reference, a copy of this statement is included herewith. All activities and programs flow out of this statement and are evaluated in reference to it. The Fresno Pacific Idea is set forth on the University's website, in the annual course catalog and various Fresno Pacific University publications.

The Confession of Faith of the United States Conference of Mennonite Brethren Churches can be accessed at both the U.S. Conference's website[7] in its full detail version and on the website of Fresno Pacific University in the accepted condensed version.[8] The Confession of Faith maintains a strong belief in the distinctiveness of the genders:

> Humans, the crowning act of creation, were designed to live in fellowship with God and in mutually helpful relationships with each other. God created them male and female in the image of God. (Article 3: Creation and Humanity; Humanity).
>
> The church is one body of believers, male and female, from every nation, race and class. (Article 6: The Nature of the Church; Body of Christ).
>
> Disciples maintain sexual purity and marital faithfulness and reject immoral premarital and extramarital relationships and all homosexual practices. (Article

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[2] Section 2.2 of Bylaws of Fresno Pacific University
[3] Section 2.3 of Bylaws
[4] Section 2.1 Bylaws
[5] Section 6.1 Bylaws
[6] www.fresno.edu/about/mission_and_values
[7] http://www.usmb.org/menus/confession-of-faith-detailed-version.html
[8] http://www.fresno.edu/about/our-mission/confession-faith

10: Discipleship; Demonstrating True Faith).

Marriage is a covenant relationship intended to unite a man and a woman for life. At creation, God designed marriage for companionship, sexual union and the birth and nurture of children. Sexual intimacy rightfully takes place only within marriage. (Article 11: Marriage, Singleness and Family; Marriage).

As a supplement to the Confession of Faith, the Board of Faith and Life of the United States Conference of the Mennonite Brethren Churches has prepared pamphlets discussing the denomination's beliefs regarding various contemporary topics. The pamphlet entitled "Human Sexuality"[9] states, in pertinent parts as follows:

"Sexuality was God's idea. God created humanity as male and female with sexual desires. Intimate sexual expression is one of God's good gifts and an essential aspect of propagating the human race (Gen. 1:27-28). Along with the gift of sexuality, God gave guidelines and instructions designed to safeguard it as a good gift so that sexuality can be practiced according to God's will."

...

"God created men and women in his image. God declares both male and female persons to be "very good" (Gen. 1:31). By creating humans as sexual beings, God designed more than a physiological process by which the earth may be filled through procreation. Likewise, while Creator-God has designed sexual intimacy to be a pleasurable and mutually satisfying experience, the significance of sexual expression goes beyond mere physical pleasure. Sexual oneness between a husband and wife united in a marriage covenant is intended to be symbolic of the oneness union that God intends to last for a lifetime."

...

"The Bible declares that expressions of sexual intimacy outside the bounds of marriage between a man and a woman are sin. Pre-marital, extra-marital, group, adult/child, animal and same-sex sexual intimacy are all out of bounds for the follower of Jesus Christ (Rom. 1:26-32). Yet God's wonderful grace and forgiveness are extended to those who have placed their faith in him. God's plan is that repentance frees his forgiveness to flow and then life change follows."

This distinction between the genders is also assumed in Fresno Pacific University's statements made within its student handbook. The Values and Behavioral Standards statement, which all students are required to abide by, states, in part:

"Scripture and the Confession of Faith of the United States Conference of Mennonite Brethren Churches (the University's sponsoring denomination) affirm

[9] http://www.usmb.org/departments/Board-of-Faith-and-Life/page/Human-Sexuality.html

the marital covenant as existing only between a man and a woman. Physical intimacy is reserved for individuals within a marriage covenant. Cohabitation with a boyfriend/girlfriend, or members of the opposite sex, outside of the marriage relationship is prohibited. Certain sexual behaviors are prohibited. These include but are not limited to: fornication, adultery, and same-sex romantic relations."[10]

Fresno Pacific University maintains gender-specific housing and allows members of one gender to be present in residence halls of the other only during specified hours and then only with the door to the room remaining open.

Consistent with the Confession of Faith, Fresno Pacific University believes that "(e)ach person is created in the image of God and ought to be celebrated and nurtured." (Article 14: The Sanctity of Human Life). As such, Fresno Pacific University affirms the dignity of all human beings regardless of gender and separates the value of individuals from the behavioral choices they make. Furthermore, Fresno Pacific University has admitted openly gay students who are willing and choose to live in accordance with the Confession of Faith and the Fresno Pacific Idea. However, in keeping with our biblical beliefs regarding the morality of actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles in any area, including gender and gender identity.

Fresno Pacific University therefore respectfully requests that your office acknowledge that Fresno Pacific University is exempt from Title IX and the following regulations (in their current or future forms) to the extent that they are interpreted to address gender identity discrimination and to the extent that they restrict the University's freedom to enforce its Values and Behavioral Standards statement and otherwise conduct Fresno Pacific University in accordance with the Confession of Faith:

34 C.F.R. § 106.21 (Admission)
34 C.F.R. § 106.22 (Preference in admission)
34 C.F.R. § 106.23 (Recruitment)
34 C.F.R. § 106.31 (Education programs or activities)
34 C.F.R. § 106.32 (Housing)
34 C.F.R. § 106.33 (Comparable facilities)
34 C.F.R. § 106.34 (Access to classes and schools)
34 C.F.R. § 106.35 (Access to institutions of vocational education)
34 C.F.R. § 106.36 (Counseling and use of appraisal and counseling materials)
34 C.F.R. § 106.37 (Financial assistance)
34 C.F.R. § 106.38 (Employment assistance to students)
34 C.F.R. § 106.39 (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 (Standard for measuring skill or progress in physical education classes)
34 C.F.R. § 106.51-61 (relating to employment)

[10] Fresno Pacific University Student Handbook, 2015 page 9, found at http://www.fresno.edu/sites/default/files/Studenr-Handbook-3-111-15.pdf

Thank you in advance for your consideration. If you should require any additional information, please do not hesitate to contact me.

Very truly yours,

Richard Kriegbaum, Ph.D.
President

Enclosure

GENEVA COLLEGE

August 12, 2015

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

Re: Geneva College's Request for Title IX Religious Exemption

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 Geneva College is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the College's freedom to respond to homosexual behaviors, abortion, and gender identity issues in accordance with its religious convictions. As President of the College, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

Geneva College was established in 1848 by the Reformed Presbyterian Church of North America (RPCNA). The College continues to be owned and controlled by the church through a Board of Corporators, all of the members thereof are members of the denomination appointed by the Synod of the RPCNA. Trustees of the College are elected by the Board of Corporators on condition that they support the mission of the College and its continuing relationship with the church.

The College's mission statement is: "**Geneva College is a Christ-centered academic community that provides a comprehensive education to equip students for faithful and fruitful service to God and neighbor**." Founded in the tradition of the Reformed Christian faith, Geneva prepares students to serve Christ in all areas of society: work, family and the church. Geneva College's philosophy of education is based on the Foundational Concepts of Christian Education.[1] Central to the mission of Geneva College is its desire to glorify God. Likewise, the College believes that the Bible teaches that the lives of all people (especially followers of Jesus Christ) should glorify God.

[1] Geneva College, Foundational Concepts of Christian Education http://www.geneva.edu/about-geneva/foundational_concepts

3200 College Avenue, Beaver Falls, PA 15010 | 724.846.5100 | Geneva.edu

The College adheres to the confessional standards of the Westminster Confession of Faith and its catechisms. Geneva holds that intimate sexual behavior outside of male-female marriage, whether with a same-sex or opposite-sex partner, is wrong. The College expressly forbids this behavior on campus and will deal with this in the context of the College's student conduct policy (which includes discipline up to and including suspension from the College) or within the context of the College's Employee Handbook (which includes discipline up to and including termination of employment). When the College becomes aware that a Geneva student or employee is engaging in this behavior, the College will take steps to counsel, and perhaps discipline, the responsible person or persons. With respect to student discipline matters, the College's amnesty policy for self-reported behavior violations applies in this context as well. Additionally, with respect to matters of gender identity, the College believes that behaviors such as becoming or pursuing transgendered/trans-sexual status, identification as something other than that of one's sex at birth, living as the opposite sex to that which one was born, , cross-dressing, and other related gender identity issues" are violations of the seventh commandment. These behaviors are also subject to disciplinary action under the applicable student and employee policies.

Further, the College adheres to belief that the intent of the Catechism is to speak to the entire inner and external life of the one whose sexuality is contrary to nature as God designed it. Genesis 1:27 states, "So God created man in his own image, in the image of God he created him; male and female he created them." God's creation, the sexual differences between man and woman are pronounced "very good" (Genesis 1:31). In the New Testament, Jesus confirms the heterosexual creation of human beings: "God made them male and female" (Matthew 19:4). The College's governing denomination (RPCNA) states in its Constitution, "When men [and women] understand the message of the Bible, they must earnestly seek to obey that message in all that they think and do.[2]"

The Constitution of the RPCNA states in its section on marriage and divorce that: "Premarital sex relations or promiscuous sex practices as well as homosexuality and other perversions of the natural order are violations of God's law and purpose. All should strive to discipline their sexual desires, maintain purity of thought and practice, and avoid situations which lead to sexual temptation. 1 Cor. 6:9, 15-20; 1 Cor. 5:1-5, 9-11; 1 Cor. 7:8-9; Rom. 1:26-28; Phil. 4:8; Prov. 5." The College understands that matters related to practice of homosexuality and unnatural gender identity are forbidden by the Constitution of the RPCNA and by scripture.

Further, the College believes that God created man, male and female, in two distinct natures. The Westminster Confession of Faith states: "*After God had made all other creatures, He created man, male and female, with reasonable and immortal souls, endued with knowledge, righteousness, and true holiness, after His own image;*"

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[2] Constitution of the Reformed Presbyterian Church of North America, pg. A-11 http://reformedpresbyterian.org/downloads/constitution2010.pdf

Likewise, the College's Foundational Concepts of Christian Education state:

> *"Standards of moral discipline must be maintained according to the moral law of God, which He has set forth in Scripture. Therefore, discipline is to be exercised on the basis of God's Word. Discipline exercised in Christian love and firmness not only deters licentiousness, but also teaches in principle how to live under Christ's Lordship and how to live with other people on the basis of righteousness."*

This distinction between men and women is described in the Synod of the College's controlling denomination approved a document in 2011 entitled "Contemporary perspectives on sexual orientation: A theological and pastoral analysis."[3]. This document says that "Sexual identity is included in the 'all parts and faculties of soul and body'[4] which have been disordered by original sin. Genesis teaches us that the created sexual order (which God pronounced objectively "very good;" Gen. 1:31) involves two genders, sexually designed for one another. "God created man ... male and female," The document later states "We confess, biblically, that God created mankind as male or female, with sexual orientation and gender identity being one and the same as that individual's biological sex."

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

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[5] And as you also know, the resolution agreement[6] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker

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[3]The Synod of the College's controlling denomination approved a document in 2011 entitled "*Contemporary perspectives on sexual orientation: A theological and pastoral analysis.*" (See the Minutes of the 2011 Synod of the Reformed Presbyterian Church of North America, pp. 84-131. Pittsburgh, PA: Crown and Covenant Publications.)

[4] Westminster Confession of Faith, Chapter 6

[5] 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.")

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

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.[7] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach gender identity, would be inconsistent with the religious tenets of Geneva College.

Additionally, recently the EEOC has begun openly declaring that the ban on "sex" discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of "sexual orientation."[8] It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 religious tenets of Geneva College, and the College therefore seeks exemption on this basis as well out of an abundance of caution.

Geneva College also believes in the sanctity of human life, and accordingly views abortion as the unlawful taking of human life. The College's governing denomination has stated the following with respect to human life:

> Unborn children are living creatures in the image of God. From the moment of conception to birth they are objects of God's providence as they are being prepared by Him for the responsibilities and privileges of postnatal life. Unborn children are to be treated as human persons in all decisions and actions involving them. Deliberately induced abortion, except possibly to save the mother's life, is murder.[9]

Geneva's policies for student and employee conduct reflect this belief as well, and require students and employees to conduct themselves in a manner consistent with this belief.[10] Geneva's health insurance plans exclude abortions, abortifacient drugs, or abortion-inducing drugs.

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

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[7] *Id.*

[8] See http://www.macon.com/2015/03/30/3668458_eeoc-issues-determination-letter.html?rh=1

[9] See http://reformedpresbyterian.org/downloads/constitution2013.pdf at Ch. 24.

[10] See http://www.geneva.edu/student-life/dean/student-handbook at 15; Geneva College Employee Handbook (select pages enclosed)

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.

Sincerely,

William J. Edgar

William J. Edgar
Interim President, Geneva College

GEORGE FOX UNIVERSITY
414 N. Meridian St., Newberg, OR 97132
503.538.8383

March 31, 2014

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

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

Dear Ms. Lhamon:

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

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

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

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

[1] Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf
[2] George Fox University, *About George Fox- Statement of Faith*, http://www.georgefox.edu/about/mission_vision_values/faith_statement.html (last visited Mar. 17, 2014).

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

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

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

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

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

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

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[3] See *supra* note 1.

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

Very truly yours,

Dr. Robin Baker
President
George Fox University

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

Hannibal-LaGrange
UNIVERSITY

To: Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

From: Dr. Anthony Allen

Date: August 27, 2015

Re: Claim of Title IX Religious Tenet Exemption

I am President of Hannibal-LaGrange University. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Hannibal-LaGrange University is a Southern Baptist institution of higher education. It is a Missouri nonprofit corporation. The University's address is 2800 Palmyra Road, Hannibal, Missouri 63401. I enclose the Charter of the University.

The University is controlled by a religious organization. That organization is the Missouri Baptist Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Missouri. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Charter, the Missouri Baptist Convention controls the University in part by exercising its right to elect the entire membership of the board of directors of the University, the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), (§703(e)(2)) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Alabama Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, and gender identity.

I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 and §106.22 including but not limited to 106.21(b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).
Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).
Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. §106.37 (governing financial assistance);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);
Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquires).

Our University holds itself out to be a Christian university.

Our Mission

> The mission of Hannibal-LaGrange University is to provide an excellent education in both liberal arts and professional disciplines in a distinctively Christian environment that integrates Christian faith and learning in preparing graduates for personal and career effectiveness.

Our Purposes

- To exercise a stewardship of learning that embraces all of its constituents, including students, prospective students and their families, faculty, staff, administrators, trustees, alumni, donors, churches, and the local community.
- To provide a strong educational experience, built upon a core of general education courses, offering baccalaureate and associate degrees in liberal arts and professional areas, for both traditional and non-traditional students.

To maintain high standards of academic and personal excellence in a biblically-based Christian environment, thus encouraging the highest development of the total person - intellectually, physically, socially, and spiritually.

To regard all persons as beings created in God's image and therefore equal in value and worthy of respect.

To promote the life of service in keeping with the example of Jesus Christ and with the University motto Scientia ad Serviendum (Knowledge for Service) by challenging students to participate in service-learning and mission projects.

To serve additional needs of the community through continuing education, community education, cultural enrichment, activities for young learners, and participation in community endeavors.

Southern Baptist religious tenets have been described most extensively and most recently in the *Baptist Faith and Message 2000.* The messengers constituting the Missouri Baptist Convention have adopted that statement of faith. The *Baptist Faith and Message 2000* is attached.

In regard to marriage, sex outside of marriage, sexual orientation, and gender identity, the following statements are illustrative:

> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. XVII The Family, The *Baptist Faith and Message* 2000.
>
> Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. III Man, *The Baptist Faith and Message* 2000.
>
> Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. XV The Christian and the Social Order, *The Baptist Faith and Message* 2000.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

From engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices

regarding marriage, and sex outside marriage (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; and prohibition of sex outside of marriage between a man and a woman;

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, and gender identity that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Dr. Anthony W. Allen

President

HARDIN-SIMMONS
UNIVERSITY

Office of the President

To: Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

From: Dr. Lanny Hall

Date: October 20, 2015

Re: Claim of Title IX Religious Tenet Exemption

I am President of Hardin-Simmons University. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, 1682, and which is the subject of 34 C.F.R. 106.12.

Hardin-Simmons University is a Baptist institution of higher education. It is a Texas nonprofit corporation whose principal office address is 2200 Hickory, Abilene, Texas 79698.

Hardin-Simmons University is controlled by a religious organization, the Baptist General Convention of Texas. This Convention is a Baptist general body whose constituency is the cooperating Baptist churches of Texas. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Articles of Incorporation, which I enclose, the Baptist General Convention of Texas controls the University in part by exercising its right to select a majority of the board of trustees of the University, the governing body of the University. I enclose the Articles of Incorporation and Bylaws of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, §703(e)(3) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Baptist university in *Killinger v. Samford University, 113 F. 3d 196 (1997)).*

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion. I identify those provisions to be:

Box 16000 / Abilene, Texas 79698-6000 / (325) 670-1227 / Fax (325) 670-1267 / lhall@hsutx.edu

Admissions:

34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:

34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:

34 C.F.R. § 106.31(b) (4) (governing different rules of behavior or sanctions), and (b) (7) (otherwise limiting any person in the enjoyment of any right, etc.);

34 C.F.R. § 106.32 (governing housing);

34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);

34 C.F.R. §106.37 (governing financial assistance);

34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and

34 C.F.R. § 106.41 (governing athletics);

Employment:

34 C.F.R. § 106.51 (governing employment);

34 C.F.R. § 106.52 (employment criteria);

34 C.F.R. § 106.53 (recruitment);

34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and

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

The mission of the University is stated as follows:

> To be a community dedicated to providing excellence in education enlightened by Christian faith and values.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the Convention has repeatedly spoken. For example, in 2009, the Convention adopted the attached resolution *On Sexual Ethics.* The Convention has declared ". . . the Bible teaches that the ideal for sexual behavior is the marital union between husband and wife and that all other sexual relations - whether premarital, extramarital, or homosexual - are contrary to God's purposes and thus sinful." Since 1980, the Convention has declared on six occasions its religious beliefs opposing abortion. The Convention has declared its religious belief that "gender is based on biological attributes and is seen as a gift from God and immutable." That declaration is also attached.

In 1988 the Convention adopted an addition to its previously adopted statement of Baptist Faith and Message which includes the following expression of religious tenets of the Convention:

> XVIII. THE FAMILY
>
> God has ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption.
>
> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is Gods unique gift to reveal the union between Christ and His church, and to provide for the man and the woman in marriage the framework for intimate companionship, the channel for sexual expression according to biblical standards, and the means for procreation of the human race.

Children, from the moment of conception, are a blessing and heritage from the Lord. Parents are to demonstrate to their children Gods pattern for marriage. Parents are to teach their children spiritual and moral values and to lead them, through consistent lifestyle example and loving discipline, to make choices based on biblical truth. Children are to honor and obey their parents.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is if the regulation prohibited the University:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Lanny Hall, Ph.D.
President

Attachments:

Hardin-Simmons University Bylaws

Hardin-Simmons University Articles of Incorporation

BGCT Resolution III On Sexual Ethics, 2009

BGCT Executive Board Resolution on Transgender Issues, 2015

HOWARD PAYNE
UNIVERSITY

OFFICE OF THE PRESIDENT

March 25, 2015

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Dear Assistant Secretary Lhamon:

As the president and highest-ranking officer of Howard Payne University's administration, I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the religious tenets of the Baptist General Convention of Texas (hereinafter "the Convention") regarding marriage, sex outside of marriage, sexual orientation, gender identity (including but not limited to transgender status), pregnancy, and abortion. I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).
Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).
Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc.);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);
Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);

1000 Fisk Street Brownwood, Texas 76801-2715 Office 325-649-8000 Fax 325-649-8975 E-mail president@hputx.edu

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

Howard Payne University (hereinafter "the University") is controlled by Baptists. Every member of the board of trustees must be a member of a Baptist church. The majority of the members of the board of trustees are elected by the Convention. I enclose a copy of the University's Bylaws evidencing these facts.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, §703(e)(2) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

Purpose

The charter of the University contains the following statement: "The purpose of said corporation is the encouragement, support, maintenance, and promotion of education under Christian influence and auspices, with the view to the development of the best type of character, and to the advancement of the gospel of our Lord and Savior, Jesus Christ, and the extension of the Kingdom of God among men."

Mission Statement

Howard Payne University is a Christ-centered academic community dedicated to excellence by developing and equipping the whole person for intellectual inquiry, personal and professional integrity, and service to God and humanity.

Baptist General Convention of Texas

The Convention encourages, facilitates and connects churches in their work to fulfill God's mission of reconciling the world to himself. The Convention's values include:

Bible-God's Written Word – We value the Bible as the divinely inspired record of God's revelation of himself to us. It serves as the authoritative guide for life and ministry.

Baptist Distinctives – We value those Biblical truths that shape Baptist life and history, including the soul's competency before God, the priesthood of each believer and all believers, the autonomy of the local church, and a free church in a free state.

Integrity – We value integrity in our lives and in our churches, demonstrated by Christ-like attitudes and actions that are consistent and evident in all we think and do. Integrity is the foundation for the mutual trust, accountability, excellence in ministry, and teamwork that marks our work together.

Messengers to the Convention's annual meetings have reaffirmed the view of Scripture on the sacredness and dignity of all human life, both born and unborn, and supported legislation prohibiting abortion except to save the life of the mother or in cases of incest or rape.

Messengers to the Convention's annual meetings have adopted resolutions stating:

"Abortion is tragic. Even when exceptions are mentioned, abortion is viewed as a lesser of two evils, not as a good thing to be done."

"The homosexual lifestyle is not normal or acceptable in God's sight and is indeed called sin."

On February 23, 2015, the Executive Board of the Convention adopted a Resolution on Transgender Issues as follows:

WHEREAS, the Bible is the authority for faith and practice by Texas Baptists, the Baptist General Convention of Texas, and BGCT institutions; and

WHEREAS, the Bible states that God created humanity as two genders, male and female, and this includes Jesus' own affirmation (Genesis 1:27; Matthew 19:4; Mark 10:6); and

WHEREAS, in the Bible gender is based on biological attributes and is seen as a gift from God and immutable; and

WHEREAS, some people today are expressing a desire to identify themselves with the gender which differs from their biological gender; and

WHEREAS, some of these persons are seeking to function in the broader society as if they are members of the gender that differs from their biological gender; therefore

BE IT RESOLVED that the Executive Board of the Baptist General Convention of Texas express great concern with the emergence of the transgender agenda and the notion that one's gender is determined psychologically, not biologically; and

BE IT FURTHER RESOLVED that we affirm that in creation God made male and female as biological gender assignment; and

BE IT FURTHER RESOLVED that we desire for all people, including those who consider themselves transgender, to be treated with love and respect but that such love and respect not be construed as approval for every behavior, and

BE IT FINALLY RESOLVED that we seek to minister to all persons, including those who consider themselves transgender.

In 1988, the Convention adopted an addition to its previously adopted statement of Baptist Faith and Message which includes the following expression of religious tenets of the Convention:

XVIII. THE FAMILY

God has ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption. Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is Gods unique gift to reveal the union between Christ and His church, and to provide for the man and the woman in marriage the framework for intimate companionship, the channel for sexual expression according to biblical standards, and the means for procreation of the human race.

The University's policies are rooted in the Convention's religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

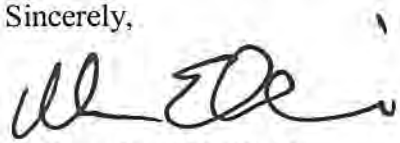
From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration; From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

If you have any questions, or if additional information is required, please do not hesitate to contact me.

Sincerely,



William N. Ellis, Ph.D.
President and CEO
Howard Payne University

Enclosure

March 18, 2016

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 Indiana Wesleyan University (IWU) 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 IWU, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

IWU was founded by The Wesleyan Church to provide higher education within a Christian environment for Wesleyan youth, and remains an institution of The Wesleyan Church to this day.[1] The Wesleyan Church has issued a statement entitled, "A Wesleyan View of Gender Identity and Expression," a copy of which is attached for your convenience. Among other things, the statement declares that "all humans have the same responsibility for stewarding physical attributes and abilities" and that "[g]ender assignment is a divine prerogative."

The statement invokes *The Discipline of The Wesleyan Church*, observing that the "article of religion" on "Marriage and the Family" asserts the binary nature of human sexual identity and expression. The statement sets forth the Church's specific religious convictions about gender identity expression:

1. Gender differentiation is sacred.
2. The Church is an advocate for social holiness for all persons.
3. Gender identity reflects God's sovereignty.
4. Gender non-conformity that disrupts marriage and adult family relationships violates the law of love and the sanctity of the family.
5. Reconciliation with God is the foundation for reconciliation with oneself and with others.
6. Those who are navigating gender identity issues deserve the Church's compassion and ministry.

[1] Indiana Wesleyan University, http://www.indwes.edu/About/IWU-Profile/; The Wesleyan Church, Wesleyan Colleges and Universities, http://www.wesleyan.org/144/wesleyan-colleges-and-universities.

DR. DAVID WRIGHT
Indiana Wesleyan University · 4201 South Washington Street · Marion, IN · 46953 · 765.677.2100 · indwes.edu

7. When necessary, church discipline of gender non-conforming individuals must be administered in holy love.

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations. As you also know, however, the resolution agreement[2] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and overnight accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[3] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of IWU and The Wesleyan Church.

The Wesleyan Church has also issued a statement entitled, "A Wesleyan View of Homosexuality," a copy of which is attached for your convenience.[4] Among other things, the statement declares that "[i]t is the historic and sustained conviction of The Wesleyan Church that homosexual activity is contrary to the known will of God as revealed to us in the Bible." The statement sets forth a detailed Scriptural basis for the Church's view, invoking both the Old and New Testaments of Holy Scripture. The statement quotes *The Discipline of The Wesleyan Church*, declaring that "[s]exual relationships outside of marriage and sexual relationships between persons of the same sex are immoral and sinful. The depth of the sinfulness of homosexual practice is recognized, and yet we believe the grace of God sufficient to overcome both the practice of such activity and the perversion leading to its practice." (*Discipline* 410:5).

Significantly, the statement, which is consistent with IWU's practices, sets forth not just the Church's views on homosexual behavior but also mandates a loving and compassion response to members of the gay community:

> [W]e call on Wesleyans to respond to the homosexual community with **both** boundless compassion **and** a call to biblical standards of sexual morality. We do not, cannot, and will not endorse homosexual activity as a lifestyle; just as we cannot, do not, and will not endorse all other kinds of behaviors that displease God. But we also do not, cannot, and will not endorse condemning, hate-filled, self-righteous attitudes toward those in the gay community.[5]

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[2] Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.nclrights.org/wp-content/uploads/2013/09/Arcadia_Resolution_agreement_07.24.2013.pdf.
[3] *Id.*
[4] The statement is also available on the web at https://www.wesleyan.org/235/a-wesleyan-view-of-homosexuality (last visited Mar. 4, 2016)
[5] *Id.*

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 forbids discrimination on the basis of sexual orientation.[6] It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. To the extent this supposition is correct, it appears as though compliance with Title IX, if interpreted by ED OCR to reach sexual orientation discrimination, would also be inconsistent with IWU's theological commitments. IWU therefore also seeks exemption on this basis out of an abundance of caution.

IWU has also adopted The Wesleyan Church's *Church and Culture* statement, which contains a chapter entitled Sanctity of Life, which reads in pertinent part as follows:

> We believe that life is a gift from God and must always be regarded as sacred. Because God created human beings in His image, all people share in the divine dignity. Abortion, euthanasia, and unethical human experimentation violate the God-given dignity of human beings…
>
> The Wesleyan Church seeks to recognize and preserve the sanctity of human life from conception to natural death and is opposed to the use of induced abortion. Scripture seems to indicates [sic] that God sees each unborn as a person being formed in the womb with a purpose and a future in mind (Ps. 139). It also instructs us to be fervent in protecting those who cannot protect themselves (Prov. 31:8–9).

IWU accordingly requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity and/or sexual orientation discrimination, and to the extent they restrict the University's freedom to apply and enforce the Wesleyan Church's statement on the sanctity of life):

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)

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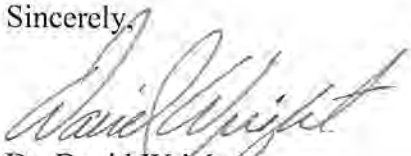
[6] *See* http://www.eeoc.gov/decisions/0120133080.pdf (last visited Mar. 4, 2016)

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.

Sincerely,



Dr. David Wright
President, Indiana Wesleyan University

JOHN PAUL THE GREAT
CATHOLIC UNIVERSITY

August 25, 2015

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

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

Dear Ms. Lhamon:

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

JPCatholic is a non-profit institution of higher education with its main campus in Escondido, California. John Paul the Great Catholic University was founded in 2003 as a visionary teaching institution focused on molding students into future media innovators and leaders who have a deep, personal knowledge of Jesus Christ.[1] JPCatholic is a university that is dedicated both to creativity, leadership, and entrepreneurship and to being faithfully Catholic – living the Gospel of Jesus.[2]

JPCatholic has a truly Catholic identity rooted in the purpose of proclaiming the Gospel, overcoming every separation between faith and life, and being a witness to the world on the Church's teaching on the sanctity of human life, marriage, family, and the right ordering of public life.[3] The University exists to impact culture for Christ by forming students as creators and innovators in the intersections of media, business, and theology.[4] This purpose is accomplished through senior, seasoned faculty teaching degree programs in communications media, business, and theology on the frontiers of applied learning.

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[1] *See* http://www.jpcatholic.com/about/about.php.
[2] *Id.*
[3] *See* http://www.jpcatholic.com/about/cathu.php.
[4] *See* http://www.jpcatholic.com/about/vision.php.

JPCatholic's educational philosophy is grounded in the Catholic Church's teachings, sacred traditions, and Scripture.[5] Every faculty member commits to harmony with Catholic Church teachings in speech and action, and the University expects all trustees, faculty, and staff to "celebrate the positive spiritual and entrepreneurial components of its mission and to eschew betraying or obstructing what the institution is striving to build."[6]

JPCatholic's vision is as follows: "[t]o graduate innovative and determined students who know and love Jesus, and boldly proclaim His Gospel in culture impacting fields."[7] It articulates its mission as follows: JPCatholic's mission is "[t]o impact culture for Christ by forming students as creators and innovators, leaders and entrepreneurs at the intersections of media, business and theology, guided by the teachings of Jesus Christ as preserved by His Catholic Church."[8]

JPCatholic is founded on three core values that help shape University's mission and vision, which are stated, in relevant part below. JPCatholic strives to:

- **Put into action in our lives the teachings of Jesus Christ, being faithful to his word.** The Catholic commitment at JPCatholic is organically embedded in a total, active, and joyous life of faith. It aspires to dynamically develop the student's personal knowledge of and relationship with God through an ongoing and active prayer life, both personal and communal, and a thorough knowledge of scripture, thus leading to an active living of God's commandments.

- **Develop all students and staff spiritually, personally and intellectually.** JPCatholic recognizes that the student's vocation is intellectual development with the ultimate purpose of becoming a mature, productive, creative, and responsible citizen.

- **Put into practice within the university what we teach, by being innovative with our curriculum development, pioneering in our educational niche, and entrepreneurial in defining our future.** JPCatholic provides an education that emphasizes the integration of theory with practice, enhances the professional competence and ethical judgment of the student, and has a particular focus on innovation and entrepreneurship. JPCatholic, in its internal business processes and procedure, practices the very principles it teaches.[9]

On May 15, 2015, JPCatholic adopted a policy on human sexuality (enclosed). It reads in pertinent part as follows:

> In accordance with the teachings of Jesus Christ as preserved by His Catholic Church, the JPCatholic community believes that God created all humans - male and female in His image and likeness and with equal

[5] *See* http://www.jpcatholic.com/about/fidelity.php.
[6] *See* http://www.jpcatholic.com/about/fidelity.php.
[7] *See* http://www.jpcatholic.com/about/vision.php.
[8] *Id.*
[9] *Id.*

> dignity, and that due to sin and human brokenness, our experience of our sex and gender is not always as God designed. In hope, we affirm God's capacity to heal and transform our brokenness. The JPCatholic policy on gender identity affirms that one's gender identity is based upon one's biological sex as defined by natural law, a naturally knowable and universally binding law of right and wrong, and holds firmly that any tension between one's biological sex and experience of gender identity should not be resolved through medical intervention or adoption of dress or practices of the opposite biological sex. Gender confusion, although not a new experience, is a human confusion in need of God's healing. Any policy in opposition to and betraying our mission and the teachings of the Catholic Church would harm the JPCatholic community. When individuals have questions about their gender identity, they are encouraged to approach any Priest on campus or in local parishes.[10]
>
> All institutional decisions are made consistent with institutional policies, including this policy, and include student admissions and retention, housing, employment hiring and retention and all other matters.

In the employment context, both applicants and existing faculty are required to affirm their commitment to live in harmony with JPCatholic's fidelity to the Catholic Church's teachings in speech and action.[11]

As you know, the Office for Civil Rights (OCR) has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[12] And as you also know, the resolution agreement[13] between the Arcadia Unified School District and OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[14]

It is thus reasonable to suppose that OCR believes that Title IX requires such responses. It is also reasonable to presume that OCR interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent

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[10] *See* John Paul the Great Catholic University Policy on Human Sexuality at 1-2.
[11] *See* http://www.jpcatholic.com/about/fidelity.php.
[12] 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.")
[13] Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.nclrights.org/wp-content/uploads/2013/09/Arcadia_Resolution_agreement_07.24.2013.pdf.
[14] *Id.*

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 JPCatholic.

For that reason, I request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that OCR acknowledge that JPCatholic 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 JPCatholic's freedom to respond to transgender individuals in accordance with its theologically-grounded convictions.

Additionally, JPCatholic affirms the following with respect to marriage and sexual conduct:

> In accordance with the teachings of Jesus Christ as preserved by His Catholic Church, the JPCatholic community believes that marriage is between one man and one woman for life. Chastity is required of all individuals not joined in a sacramental marriage between one man and one woman. When individuals have questions about their sexual orientation, they are encouraged to approach any Priest on campus or in local parishes.[15]

As you are aware, the EEOC has begun openly declaring that the ban on "sex" discrimination in Title VII of the Civil Rights Act of 1964 also forbids sexual orientation discrimination.[16] 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 OCR to reach sexual orientation "discrimination," would also be inconsistent with the theological commitment of JPCatholic. JPCatholic, therefore, also seeks exemption on this basis out of an abundance of caution.

Lastly, JPCatholic affirms Catholic teachings on the sanctity of life as articulated in the Catechism of the Catholic Church. Consistent with these teachings, JPCatholic's Policy on Human Sexuality provides the following summary of our beliefs regarding the sanctity of human life:

> In accordance with the teachings of Jesus Christ as preserved by His Catholic Church, the JPCatholic community acknowledges God's call to love all persons in the context of God's revealed truth, and is committed to being a community that values human dignity. In agreement with the Catechism of the Catholic Church, we affirm that "human life must be respected and protected absolutely from the moment of conception. From the first moment of his existence, a human being must be recognized as having the rights of a person – among which is the inviolable right of every innocent being to life" (Catechism of the Catholic Church 2270). Those who have had an abortion, aided in an abortion or used

[15] *See* Policy on Human Sexuality at 2.
[16] *See* http://www.macon.com/2015/03/30/3668458_eeoc-issues-determination-letter.html?rh=1.

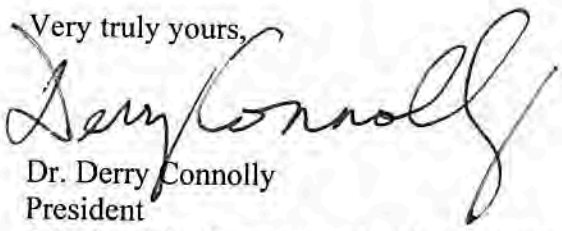
> contraceptive devices, all of which are grave offenses, are encouraged to obtain forgiveness and be reconciled with God and the Catholic Church through the Sacrament of Reconciliation which is readily available on and off-campus.[17]

JPCatholic accordingly requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict JPCatholic's freedom to apply and enforce its Policy on Human Sexuality):

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

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

Very truly yours,



Dr. Derry Connolly
President
John Paul the Great Catholic University

[17] *See* Policy on Human Sexuality at 1.

JUDSON COLLEGE
Knowledge and Faith for a Purposeful Life

February 17, 2015

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear Ms. Lhaman:

I am President of Judson College. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the College the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Judson College is a Southern Baptist institution of higher education. It is an Alabama nonprofit corporation whose address is 302 Bibb Street, Marion, Alabama 36756. I enclose the Charter and Bylaws of the College.

Judson College is controlled by a religious organization. That organization is the Alabama Baptist State Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Alabama. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the College's Charter and Bylaws, the Alabama Baptist State Convention controls the College in part by exercising its right to select the entire membership of the board of directors of the College, the governing body of the College.

The Convention's authority over the College constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), § 703(e)(2) an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Alabama Southern Baptist university in Killinger v. Samford University, 113 F. 3d 196 (1997)).

Office of the President
302 Bibb Street, Marion, Alabama 36756 Phone: (334) 683-5102 Fax: (334) 683-5147 E-mail: dpotts@judson.edu

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.

I identify those provisions to be:

Admissions:

34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:

34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:

34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc.);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);

Employment:

34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquires).

Our College's Purpose begins: "Judson College is a distinctly Christian Liberal Arts College for Women. As an entity of the Alabama Baptist State Convention, Judson affirms its denominational loyalty, and accepts its responsibility to its Baptist constituency and to the total community and state. Emphasis is placed on development of intellectual, spiritual, cultural, physical, and social maturity of young women."

Judson College's Vision includes this statement: "The institution will endeavor to become the finest Christian college of arts, sciences, and professional studies for women in America. Twenty-first century students must be academically prepared for life and learning, always ready to exemplify the light and teachings of Christ."

The College's Core Values include these statements: "Judson College is a purposeful, caring community of students and employees who live, work, serve, and learn together, and who are united by faith in God and adherence to Christian traditions. Based upon the character and teaching of Christ, the Judson community commits itself to Principles of Light and Truth that frame our common concerns and core values. . . . As a Christian community, the College embraces: Faith in God, adherence to Christian traditions, commitment to the ministry and mission of the Christian church; . . . The making of ethical choices based on the life of Christ, the teachings of the Bible, the well-being of others, and an informed conscience; . . . ."

Southern Baptist religious tenets have been described most extensively and most recently in the *Baptist Faith and Message* 2000. The messengers constituting the Alabama Baptist State Convention adopted the following resolution: "That the Alabama Baptist State Convention approve of the *Baptist Faith and Message* 2000 as an expression of our unity in doctrine and practice, and recommend the same to all of the trustees elected by the Alabama Baptist State Convention."

The *Baptist Faith and Message* 2000 is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

"Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord." XVII, The Family, The *Baptist Faith and Message* 2000.

"Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation." III Man, The *Baptist Faith and Message* 2000.

"Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV, The Christian and the Social Order, The *Baptist Faith and Message* 2000.

The College's policies are rooted in these religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the College:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

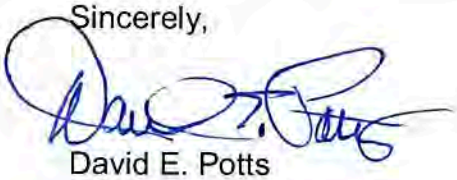
From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; and sanctions as the result of pregnancy and abortion;

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,



David E. Potts

enclosures

September 15, 2015

Catherine E. 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: Statement of exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12

Dear Ms. Lhamon:

It has come to LABI College's attention that the Department of Education has recently taken the position that 20 U.S.C. § 1681(a), Title IX's rule against discrimination on the basis of sex, now bars differential treatment based on "gender identity." The Department's new interpretation of Section 1681(a) conflicts with LABI College's religious tenets and our ability to carry out our religious mission. In the course of our review, LABI College has identified other potential interpretations or applications of Section 1681(a) that likewise conflict with our religious mission. Therefore, as the highest-ranking official of LABI College's administration, I write to inform the Department of Education that LAI College qualifies for the religious exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 because of its affiliation with the Assemblies of God. I also write to explain how certain provisions, as they may be interpreted by the Department, conflict with specific tenets of LABI College and the Assemblies of God.

LABI College qualifies for Title IX's religious exemption.

LABI College is an educational institution affiliated with the Assemblies of God, a religious organization. The following explains why LABI College qualifies for the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 as these provisions have been interpreted and applied by the Department of Education.[1]

The General Council of the Assemblies of God ("General Council"), the highest governing body of the church, has established the Alliance for Assemblies of God Higher Education ("Alliance") and tasked the Alliance with developing educational, spiritual, and theological standards for schools that wish to be affiliated with the church.[2] To fulfill this mandate, the Alliance developed Endorsement Criteria that are intended to facilitate the development of educational institutions

[1] *See* U.S. Dep't of Ed., *Explanation of HEW Form 639 A* (March 1977) at 3-4, available at http://freepdfhosting.com/88b629f888.pdf.

[2] *See* The Alliance for Assemblies of God Higher Education, *Our Purpose*, http://colleges.ag.org/about/mission.cfm.

that are committed to the Assemblies of God's mission, to the integration of faith and learning in the Pentecostal tradition, and to academic excellence.[3] The purpose of the Endorsement Criteria is to insure doctrinal fidelity and institutional conformity to Assemblies of God standards of morality.

LABI College is endorsed by the Alliance and is committed to maintaining this status by carefully following the Alliance's Endorsement Criteria.

Consistent with the Alliance's Endorsement Criteria, LABI College's mission documents commit LABI College to the formation of mature Christian character and spiritual life, the development of loyalty to the doctrines and principles of the Assemblies of God, and the preparation of leaders for the Kingdom of God and the Assemblies of God.

The Alliance's Endorsement Criteria also shape how LABI College selects its leadership, faculty, administrators, and students. At least 90% of LABI College's board members are affiliated with the Assemblies of God and the remaining board members affiliated with another Pentecostal church. Under the Endorsement Criteria, LABI College may not deviate from these standards without permission from the Alliance.

Additionally, the Alliance's Endorsement Criteria require LABI College's faculty, administrators, and students to be members of an Assemblies of God church or otherwise espouse a personal belief in the basic tenets of the Christian faith as understood by the Assemblies of God. As required by the Endorsement Criteria, all of LABI College's administrators and faculty annually sign a statement affirming loyalty to the Statement of Fundamental Truths of the Assemblies of God, a personal experience of Holy Spirit baptism, and a willingness to influence others with regard to loyalty to the Assemblies of God church and theology.

Consistent with Alliance standards, LABI College asks all applicants for on-campus programs to affirm that they are born-again Christians, that they desire to be involved in Christian service, and that they agree with the accepted essentials of the Christian faith as held by the Assemblies of God. Applicants must also provide a letter of recommendation from a pastor.

Student life at LABI College is also shaped by our commitment to Alliance standards. LABI College shares the Assemblies of God's conviction that Christian colleges and universities should form their students both academically and spiritually. Faithful to the Endorsement Criteria, LABI College helps stimulate students' appreciation for the Word of God and encourages students to pursue spiritual maturity and excellence. LABI College is dedicated to strengthening our students' appreciation of and attachment to the Christian Church, especially the Pentecostal tradition and the Assemblies of God. Each student is required to be involved in a ministry for at least two semesters, with more expected of students in ministry-related majors.

As part of our commitment to developing a robust Christian community, and consistent with the Alliance's standards, LABI College holds at least three chapel services each week, which are mandatory for students. LABI College also has enforceable church and chapel attendance policies for administrators and faculty.

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[3] *See* The Alliance for Assemblies of God Higher Education, *Endorsement Criteria*, Rev. 2010, available at http://colleges.ag.org/pdfs/Final%20Criteria.pdf.

Because LABI College adheres to the Endorsement Criteria, it is eligible for financial support from the Assemblies of God. The Alliance develops financial resources for endorsed colleges in cooperation with the Assemblies of God Trust. The Alliance also develops educational resources and runs conferences to help affiliated schools better serve their mission and their students.

In light of all the above, LABI College is entitled to the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12.

Certain applications of 20 U.S.C. § 1681(a) and 34 C.F.R. 106 conflict with Assemblies of God doctrine and practice.

LABI College is compelled to submit this statement because it believes that its religious convictions, informed by its relationship with the Assemblies of God, conflict with some of the ways that the Department of Education may interpret or may seek to enforce 20 U.S.C. § 1681(a). Specifically, LABI College is concerned with the Departments' assertion that Section 1681(a) prohibits distinctions on the basis of sexual orientation, gender identity, or more generally on the basis of the Assemblies of God's teachings about marriage and biblical standards for sexual conduct.[4]

As a Christian institution, LABI College believes that all matters of faith and conduct must be evaluated on the basis of Holy Scripture, which is our infallible guide (2 Timothy 3:16-17). As a school founded in and inspired by the Assemblies of God tradition and endorsed by the Alliance, LABI College looks to the General Council and the General Presbytery of the Assemblies of God to help us interpret Scripture.

Human Dignity: The Assemblies of God believes that God created humankind in His image and that people receive their essential dignity from the fact that they are created in God's image and are loved by Him (Genesis 1:27). This dignity does not depend on whether someone is single or married or on whether someone suffers from any particular temptation to sin (1 Corinthians 7; Romans 5:8).

Abortion: The Assemblies of God believes that human beings bear the image of God and receive their essential identity and dignity before we are born (Luke 1:31-44; Acts 7:19; Job 31:15; Psalm 139:13-16). As such, the Assemblies of God believes that abortion is the killing of innocent human life and is therefore prohibited by the Ten Commandments and elsewhere throughout Scripture (Exodus 20:13, 21:22-24; Matthew 19:18; Romans 13:9).

Marriage: The Assemblies of God defines marriage as the permanent, exclusive, comprehensive, and conjugal "one flesh" union of one man and one woman, intrinsically ordered to procreation and biological family, and in furtherance of the moral, spiritual, and public good of binding father, mother, and child. The Assemblies of God teaches that the purpose of Christian marriage is to reflect the love, purity, and permanence between Christ and the Church (Ephesians 5:23-33).

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[4] The religious convictions set forth below are established by the Assemblies of God in its Constitution and Bylaws, available at http://ag.org/top/about/constitution_bylaws.cfm, and in Position Papers approved by the General Presbytery of the Assemblies of God, available at http://ag.org/top/Beliefs/position_papers/.

Sexual Conduct: The Assemblies of God believes that God has designed sexual intimacy for marriage and that sexual acts outside of marriage are sinful. Such acts include but are not limited to adultery, fornication, incest, bestiality, pornography, prostitution, voyeurism, pedophilia, exhibitionism, sodomy, polygamy, polyamory, or same-sex sexual acts. (Exodus 20:14; Leviticus 18:7–23; 20:10–21; Deuteronomy 5:18; Matthew 5:27–28; 15:19; Romans 1:26–27; 1 Corinthians 6:9–13; Galatians 5:19; Ephesians 4:17–19; Colossians 3:5; 1 Thessalonians 4:3; Hebrews 13:4).

Sexual Orientation: The Assemblies of God affirms the sexual complementarity of man and woman and teaches that same-sex sexual attractions are temptations to sin and should therefore be resisted. (Genesis 1:27; 2:24; Matthew 19:4–6; Mark 10:5–9; Romans 1:26–27; 1 Corinthians 6:9–11).

Sexual Identity: The Assemblies of God believes that God created humankind in His image, male and female, sexually different but with equal personal dignity. The church supports the dignity of individual persons affirming their biological sex and discouraging any and all attempts to physically change, alter, or disagree with their predominant biological sex—including but not limited to elective sex-reassignment, transvestite, transgender, or nonbinary "genderqueer" acts or conduct. (Genesis 1:26–28; Romans 1:26–32; 1 Corinthians 6:9–11).

Sexual Equality: The Assemblies of God believes that men and women have equal dignity before God and does not make any distinction between the sexes when selecting people for ministry or spiritual leadership positions. Having observed that God pours out His Spirit upon both men and women, the Assemblies of God concludes that God gifts both sexes for ministry in His Church.

LABI College believes and embraces these teachings and has integrated them into its standards for its administrators, faculty, and students. In order to help foster these standards and to help ensure that LABI College is a place of nourishment, LABI College has adopted a student policy manual that clearly outlines policies regarding expectations for student behavior, accountability, rules and disciplinary actions, and other general expectations for student life on campus.

None of this to say that LABI College or the Assemblies of God excludes anyone based on their sins or based on their temptations. The Assemblies of God believes that all have sinned and fall short of the glory of God and should seek redemption through confession, repentance, baptism, and faith in Jesus Christ. We welcome and treat with respect, compassion, and sensitivity all who experience same-sex attractions or confess sexually immoral acts and are committed to resisting sexual temptation, refraining from sexual immorality, and transforming their behavior in the light of biblical teachings. (Matthew 11:28–30; Romans 3:23; 1 Corinthians 10:13; Ephesians 2:1–10; Hebrews 2:17–18; 4:14–16). However, in keeping with our biblical beliefs about sexual morality, LABI College cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Any individual who violates campus standards for biblical living is subject to discipline, including expulsion.

LABI College believes that its policies and practices, informed by Assemblies of God teachings, do not discriminate on the basis of sex—that is, between men and women—and therefore do not violate Title IX. However, at the same time, I understand that LABI College's faithful application of the religious tenets set forth above may conflict with the way that the Department may interpret or seek to apply certain provisions of 34 C.F.R. 106. Those potential conflicts are set forth below.

ADMISSIONS AND STUDENT DISCIPLINE:

Based on the convictions listed above, LABI College believes that it cannot fulfill its God-given mission and build an intentional Christian community if it cannot require students to embrace and do their best to follow the Assemblies of God's teachings about sexual morality and sexual identity. These convictions shape LABI College's admissions policies and student discipline policies. I understand that the Department may contend that LABI College's faithful application of the religious tenets set forth above violates Sections 106.21 and 106.31(b)(4). To the extent that is so, LABI College is exempt from these provisions.

HOUSING, RESTROOMS, AND LOCKER ROOMS.

Based on the convictions listed above, LABI College expects all students to embrace their God-given biological sex. This expectation shapes LABI College's policies regarding student housing, restroom and locker room use, and participation in athletic programs. I understand that the Department may contend that LABI College's faithful application of the religious tenets set forth above violates Sections 106.32, 106.33, and 106.41. To the extent that is so, LABI College is exempt from these provisions.

MARRIAGE, SEXUAL CONDUCT, AND ABORTION:

Based on the convictions listed above, LABI College expects all students, faculty, and administrators to honor the Assemblies of God's teachings on marriage, sexual conduct, and abortion. I understand that the Department may contend that LABI College's faithful application of these doctrines may conflict with Sections 106.40, 106.51, and 106.57. To the extent that is so, LABI College is exempt from these provisions.

Thank you for your attention to this matter.

Sincerely,

Marty Harris, PhD

Dr. Marty Harris, PhD
President
LABI College

Office of the President

LANCASTER BIBLE COLLEGE
YOUR JOURNEY. OUR FOCUS.

June 1, 2015

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

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

Dear Ms. Lhamon:

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

LBC is a non-profit institution of higher education with its main campus in Lancaster, Pennsylvania. Henry J. Heydt founded LBC in 1933, and LBC's mission has remained constant since that time.[1] LBC focuses on students fulfilling God's purpose in their lives by educating Christian students to proclaim Christ by thinking and living a biblical worldview.[2] LBC is committed to developing ministry leaders in a top-notch learning community with an intentional biblical and spiritual foundation.[3] As a school, LBC has maintained an unqualified commitment to historic, orthodox positions on essential doctrines of Christian faith—forming the center of the institution's identity.[4] The College exists to produce graduates who are prepared heart, mind, and body for servant ministry on a global scale.[5] Joining in the College's mission and vision, the LBC faculty is a dedicated group of qualified individuals, guided by a commitment to Jesus Christ and the Bible, coming together to train students for global, servant ministry.[6]

At its core, LBC is guided by its Statement of Faith, which is embraced by all faculty and staff. The Statement[7] stands as a stalwart commitment to the key positions of orthodox Christian faith, serving as a unifying and clarifying document in an age of theological shifting and confusion.[8] From this foundation, LBC develops students for ministry and service by preparing them academically in a premier learning community to serve Christ in the church and in society.[9]

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[1] http://www.lbc.edu/about/
[2] http://www.lbc.edu/about/
[3] http://www.lbc.edu/about/core-values-and-goals/index
[4] http://www.lbc.edu/about/statement-of-faith/index
[5] http://www.lbc.edu/about/core-values-and-goals/index
[6] *Id.*
[7] http://www.lbc.edu/about/statement-of-faith/index
[8] *Id.*
[9] http://www.lbc.edu/about/core-values-and-goals/index

901 Eden Road | Lancaster, PA 17601-5036 | 717.560.8278 www.lbc.edu

LBC has adopted seven core values and goals that direct the implementation of the College's consistent mission and vision in the context of an unqualified commitment to historic, orthodox positions on the essential doctrines of the Christian faith.[10] These strategic objectives include commitments to the following:

- Premier biblical education as evidenced by the encouragement of a Christ-centered learning community.
- Institutional excellence as evidenced by providing and maintaining God-honoring resources.
- Institutional distinctiveness as evidenced by preserving the integrity of our mission and legacy while planning for the future of the college.
- Biblical foundation as evidenced by the teaching of sound doctrine and the proper interpretation of Scripture in accordance with the LBC statement of faith.
- Spiritual formation as evidenced by providing an environment which encourages spiritual life and growth.
- Developing students for a ministry and service mindset as evidenced by preparing them both academically and experientially to serve Christ in the Church and society.
- Exemplifying a ministry and service mindset as evidenced by exerting a positive Christian influence both locally and globally.[11]

LBC states its vision as follows: "LBC will be a premier learning community that intentionally develops the head, heart, and hands of servant ministry leaders for global impact."[12] It articulates its mission as follows: "Lancaster Bible College exists to educate Christian students to think and live a biblical worldview and to proclaim Christ by serving Him in the Church and society."[13]

On November 18, 2014, LBC's Board of Trustees adopted a policy on gender identity and sexual orientation. It reads in pertinent part as follows:

> We believe God created humanity, male and female, reflecting the image and likeness of God. Each person's biological sex has been sovereignly appointed by God and is an irreversible aspect of his or her nature. The first human, Adam, sinned and thereby incurred the judgment of both physical death and spiritual death which is eternal separation from God. Therefore, all human beings, with the exception of Christ Jesus, are born with a fallen nature, are accountable for their sin, and need to be born again. Rejection of one's God-ordained biological sexuality reflects a rejection of God's plans and purposes. God has established and revealed in Scripture a divine order to regulate humanity. Human institutions reflecting that order are marriage of a man and a woman, family, and human government.[14]

LBC has also adopted the following lifestyle standards:

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[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] http://www.lbc.edu/about/quick-facts/index
[14] Genesis 1:1,26,27; Psalm 51:5; Jeremiah 17:9; John 3:3-7; Romans 1:21-32; 3:10-12; 5:12; 1 Thessalonians 4:3; Ephesians 2:1-10; 1 John 1:8-10; Genesis 2:18-25; Colossians 3:13-21; Romans 13:1-7

> We believe in the dignity of every human who is made in the image and likeness of God. An individual's biological sex, either male or female, is sovereignly and irreversibly appointed by God and is an irreversible aspect of his or her nature.
>
> Human sexuality is regulated by Scripture which declares that marriage is the union between one man and one woman and that sexual intimacy is reserved for marriage only. Therefore, any sexual expressions outside of that realm (sex before marriage, homosexuality, adultery, fornication, etc.) are immoral and against God's design. We also are to abstain from the promotion and advocacy of the aforementioned activities.

In the employment context, both applicants and existing employees are required to affirm their commitment to LBC's Statement of Faith and Lifestyle Standards.[15] Those expectations include the following: "All acts of sexual immorality are sinful perversions of God's gift of sex, i.e., homosexuality, lesbianism, incest, fornication, and adultery. Therefore, engaging in, living a lifestyle characterized by, or promoting a lifestyle that is in contradiction to this Biblical position is prohibited."[16]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[17] And as you also know, the resolution agreement[18] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[19] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of LBC.

Additionally, recently the EEOC has begun openly declaring that the ban on "sex" discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of "sexual orientation."[20] It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 religious tenets of Lancaster Bible College, and the College therefore seeks exemption on this basis as well out of an abundance of caution.

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[15] http://gateway.lbc.edu/about/employment/

[16] Lancaster Bible College Handbook

[17] 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.")

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

[19] *Id.*

[20] *See* http://www.macon.com/2015/03/30/3668458_eeoc-issues-determination-letter.html?rh=1

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

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

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

Very truly yours,

Peter W. Teague

Dr. Peter W. Teague
President

LIBERTY UNIVERSITY.
OFFICE *of the* PRESIDENT

January 16, 2014

Via FedEx Delivery

Ms. Robin C. Murphy
Team Leader
Office for Civil Rights, District of Columbia Office
U.S. Department of Education
Lyndon Baines Johnson Building
Room 4E214
400 Maryland Avenue, SW
Washington, DC 20202-1475

Re: OCR Complaint No. 11-14-2014

Dear Ms. Murphy:

This letter continues our discussion that grew out of the November 8, 2013 letter Liberty University received from the District of Columbia Office of Civil Rights (OCR), within the U.S. Department of Education. In the November 8th letter, OCR informed Liberty that a complaint had been filed against the University alleging that Liberty's Student Honor Code discriminates against female students because the policy allows the University to discipline students who have abortions.

As we stated in our December 6th response letter, Liberty has no record of imposing any discipline under the abortion provision of its Honor Code. In addition, Liberty has never viewed the violation, identified in the Honor Code simply as "Abortion," to be applicable only to females, and since learning of the complaint, Liberty has elected to revise the code to clarify that it applies equally to both male and female students. Therefore, Liberty maintains that its Honor Code is nondiscriminatory, and does not treat students differently on the basis of gender.

Nevertheless, the Department has asked Liberty to formally claim a religious exemption under 34 C.F.R. § 106.12, by providing (1) the names the religious entity that oversees the University; (2) a description of the specific religious tenets that the University believes are inconsistent with Title IX; and (3) the provisions of the Title IX regulation from which the University claims an exemption.

In the spirit of continuing the discussion, Liberty is pleased to submit the following information:

1. Liberty University, the largest Christian university in the world, was founded in 1971 as a ministry of the Thomas Road Baptist Church ("TRBC"). The University's Articles of Incorporation provide the TRBC Board of Directors with the power to remove any University trustee the Board finds to be "undermining the mission of the [University] as reflected in the Liberty University Doctrinal Position," with the trustee having notice and opportunity to appear before the TRBC board prior to such determination. (*See* Arts. of Inc., art. v, § 7.) The Doctrinal Position of the University may only be amended by the Board of Trustees with the consent of the Board of Directors of TRBC. This ongoing oversight ensures that TRBC's mission-oriented intentions in founding Liberty University continue to be implemented. Thus, the TRBC Board of Directors maintains this continuing oversight of the University's board of trustees and has the power to make its own interpretations on important issues related to the religious doctrine of the University.

2. Since 1971, the mission of the University has been to develop Christ-centered men and women with the values, knowledge, and skills essential for impacting tomorrow's world. Liberty University is synonymous with "Training Champions for Christ," a motto it continues to proudly proclaim. The teachings of the Christian faith are central to the University's purpose, mission, and the holistic development that it seeks to foster in its students. The University's purpose, as stated in its Articles of Incorporation, is to glorify God by "equipping men and women in higher education in fidelity to the Christian faith expressed through the Holy Scriptures, the orthodox religious and moral foundations of that education being a central and perpetual purpose and mission ..." (*See* Arts. Of Inc., art. iii.) The University's mission statement provides that "[e]ducation as the process of teaching and learning, involves the whole person, by developing the knowledge, values, and skills which enable each individual to change freely. Thus it occurs most effectively when both instructor and student are properly related to God and each other through Christ." (*See* Liberty University, Mission Stmt., (Nov. 2, 2010).)

The University has sought to accomplish its purpose and mission in several ways. First, all subjects, both religious and non-religious, are taught from a biblical worldview. Second, the faculty members at the University must affirm the University's Doctrinal Position before instructing students. Third, undergraduate residential students are required to attend convocation services three times a week, and faculty and staff are required to attend services once a week. Collectively, these efforts ensure that the tenets and teachings of the Christian faith anchor each student's education and growth at Liberty.

Liberty takes pride in its Christian form of education, and its unwavering commitment to the faith-based principles that it instills in each student that attends the University. Like many of Liberty's disciplinary policies, the policy regarding student abortions reflects a bona fide and sincerely-held religious conviction, maintained in accordance with the established religious tenets upon which Liberty University was founded. The genuine religious and historic Biblical basis for opposing abortion, as derived from Holy Scripture, is clear and widely recognized in the United States, and is held out unequivocally as TRBC doctrine. That doctrine is proclaimed in numerous books, sermons and public statements by the late Rev. Dr. Jerry Falwell, Sr., the founder of both TRBC and the University.

3. As we have repeatedly stated, Liberty believes that its disciplinary policy is nondiscriminatory. However, to the extent that the Department is concerned that Liberty's policy may run counter to the prohibitions on discrimination under Title IX, the University contends that its policy regarding abortion is founded on religious tenets that must be exempt under Title IX as a permissible exercise under the First Amendment. Specifically, in this context, Liberty claims exemption from the provisions of 34 C.F.R. 106.31(b) on the basis that Liberty's policy is founded on and consistent with its religious tenets and those of TRBC.

Please do not hesitate to contact us if you require further information or clarification regarding Liberty's position on this matter.

Sincerely,

Jerry L. Falwell, Jr.
Chancellor and President

cc: Mark Hine, Senior Vice President for Student Affairs
Ronald S. Godwin, Senior Vice President for Academic Affairs and Provost
David Corry, Esq., General Counsel
Kay Bhagat, Esq., Kay.Bhagat@ed.gov
Jane Ehrenfeld, Esq., Jane.Ehrenfeld@ed.gov
Martha Russo, Esq., Martha.Russo@ed.gov

LOUISIANA
COLLEGE
Unchanging foundations since 1906

April 22, 2015

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Request for Title IX Religious Exemption.

Dear Assistant Secretary Lhamon:

As the highest-ranking official of Louisiana College, a private, Christian liberal arts college in Louisiana, I hereby request exemption from compliance with certain Title IX regulations, under the religious exemption provided in 20 CFR 1681(a)(3). The particular regulations for exemptions requested are:

34 CFR §106.21(b1)(iii) – admissions; regarding prohibitions on the basis of sex
34 CFR §106.21(c) – admissions; regarding prohibitions based on marital and parental status
34 CFR §106.31(b)(4) – regarding different rules of behavior, sanctions, or other treatment
34 CFR §106.57 – pregnancy; regarding marital or parental status of employees
34 CFR §106.40 – pregnancy; regarding marital or parental status of students
34 CFR §§106.51(a) and 106.51(b)(6) – regarding discrimination in employment in leaves for pregnancy, childbirth, and termination of pregnancy, based on sex, including in regard to gender identity issues
34 CFR §106.32 – regarding housing
34 CFR §106.33 – regarding restrooms and locker rooms
34 CFR §106.41 – regarding athletics

Founded in 1906, Louisiana College is located in Pineville, Louisiana, and is the only Baptist college affiliated with the Louisiana Baptist Convention. The college is guided by the following mission statement:

The mission of Louisiana College is to provide liberal arts, professional, and graduate programs characterized by devotion to the preeminence of the Lord Jesus, allegiance to the authority of the Holy Scriptures, dedication to academic excellence for the glory of God, and commitment to change the world for Christ by the power of the Holy Spirit.

Office of the President • 1140 College Drive • Box 583 • Pineville, LA 71359 • OFFICE 318-487-7401 • FAX 318-487-7400 • president@lacollege.edu

The mission statement summarizes the integration of the Christian faith through Louisiana College's core curriculum as taught to the approximately 1,200 students enrolled in the school.[1]

Our **Institutional Goals** are:

- Louisiana College seeks to allow willing faculty, staff, students, and friends to use their God-given talents and skills in promoting the preeminence of Jesus Christ on the college campus.
- Louisiana College seeks to share the institution's belief in the preeminence of Jesus Christ by providing for general community, convention, and campus enjoyment events, which further the institution's accomplishment of this aspect of the mission.
- Louisiana College will enable students to develop a biblical worldview to engage the culture for Christ.
- Louisiana College will help students to apply their biblical worldview in their perspective disciplines of study.
- Louisiana College seeks to provide academic programs, which qualitatively meet or exceed comparable programs offered by peer institutions in areas of: faculty terminal degree percentage, retention rate, and graduation rate.
- Louisiana College provides academically excellent programs of study characterized by highly trained faculty members, measurable achievement of learning outcomes, and graduates working within their chosen field.
- Students who matriculate at Louisiana College will nurture a commitment to change the world for Christ by the power of the Holy Spirit.
- Louisiana College alumni will express a commitment to change the world for Christ by the power of the Holy Spirit.

The college is governed and controlled by its Board of Trustees, which consists of thirty-three members, who are elected by the Louisiana Baptist Convention as indicated in the Louisiana College Articles of Incorporation. These elected members of the Board are members in good standing of a Baptist church in Louisiana cooperating with the Louisiana Baptist Convention and a resident of the state of Louisiana. The President and Executive Director of the Louisiana Baptist Convention and the President of Louisiana College also serve as trustees.

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[1] For the college's statement of faith, see *The Baptist Faith and Message (BF&M)*. For Scripture references in the mission statement concerning the Preeminence of Christ, see Rom. 10:9; Col. 2:3; Jn. 14:6, 18:37, and 21:17; Matt. 22:37. For Scripture references in the mission statement concerning the authority of the Holy Scriptures, see *BF&M*, Exod. 24:4; Deut. 4:1-2; 17:19; Josh. 8:34; Psa. 19:7-10; 119:11,89,105,140; Isa. 34:16; 40:8; Jer. 15:16; 36:1-32; Matt. 5:17-18; 22:29; Lk. 21:33; 24:44-46; Jn. 5:39; 16:13-15; 17:17; Acts 2:16ff.; 17:11; Rom. 15:4; 16:25-26; 2 Tim. 3:15-17; Heb. 1:1-2; 4:12; 1 Pt. 1:25; 2 Pt. 1:19-21; For Scriptures referencing academic excellence, see Col. 3:17, 23; Eph. 3:20; 1 Cor. 1:24-25; 2 Cor. 12:9-10. For Scripture referencing changing the world for Christ, see Matt. 28:19-20.

The Administrative Council has identified the following five core values that naturally emanate from the mission statement and are vitally important to the identity of Louisiana College: (1) Accessibility, (2) Continuous Improvement, (3) Honesty and Integrity, (4) Quality, and (5) Transparency. These core values are held in high regard as they pertain to a vertical relationship with God as Creator, Redeemer, and Sustainer of life. They relate in a horizontal relationship as administration, faculty, staff, and students interact with God through the person of Jesus Christ through the empowerment of His Holy Spirit and with each other and in the broader context of the community.

The college follows biblical principles in its policies and practices applicable to Christian education, and to its students and employees. Louisiana College holds the following beliefs:

- **Scripture**. 2 Tim. 3:16 "All Scripture is given by inspiration of God and is profitable for doctrine, for reproof, for correction, for instruction in righteousness." The Bible is the inerrant and infallible record of God's revelation to humanity, and it is the only sufficient source of appeal on matters relating to the Christian faith.
- **God**. Gen. 1:1 "In the beginning, God created the heavens and the earth" reveals God as Creator of the universe. The historical account of Genesis decrees that He is the personal and direct Creator of all that exists, including the first human beings Adam and Eve. Jn. 1:3 "All things were made by him; and without him was not anything made that was made," reveals that as Creator, God made everything for His ultimate glory. There is one and only one living and true God. To Him we owe the highest love, reverence, and obedience.
- **Jesus Christ**. Jn. 14:6 "Jesus saith unto them, I am the way, the truth, and the life: no man cometh unto the Father, but by me." God made provision through Christ for the redemption of sinful humanity by His substitutionary atonement on the cross and His glorious resurrection from the dead, and He alone is sufficient as Savior.
- **Salvation**. Jn. 3:16 "For God so loved the world, that he gave his only begotten Son, that whosoever believeth in him should not perish, but have everlasting life." Salvation involves God's gracious redemption of individuals and is offered freely to all who accept Jesus Christ as personal Lord and Savior by repentance and faith.
- **Life of the Believer**. Rom. 12:2 "And do not be conformed to this world, but be transformed by the renewing of your mind, that you may prove what is that good and acceptable and perfect will of God." Christians are to be consistent with Scripture in their character and conduct.
- **Evangelism and Missions**. Acts 1:8 "But ye shall receive power, after that the Holy Ghost is come upon you; and ye shall be witnesses unto me both in Jerusalem, and in all Judea, and in Samaria, and unto the uttermost part of the earth." It is the privilege and duty of every Christian to share the Gospel of Christ personally and by all other methods in harmony with the Gospel.

Because of our commitment to the Holy Scriptures, Louisiana College implements Faith Integration on campus to students and employees in a number of ways:

- **Chapel**. Our corporate integration starts with our chapel. The purpose of LC chapel is to provide the college with a corporate worship experience connecting the campus community with the thoughts and heart of Jesus Christ, creating a generation to live for HIS Name. Ten chapel requirements must be met during a student's tenure each semester for graduation.

- **Faith Integration for Faculty**. Each year, a facilitator leads staff and faculty through one workshop designed to encourage and equip employees with the knowledge and application of how to integrate faith in the workplace. Intentionality on purpose and praxis are highlighted.

- **Faith Integration for Students**. All students, including non-traditional, are required to complete the following courses: College Connection (CC100), Introduction to Natural Science: Environmental Studies (ES103), Survey of British Literature (EN200), Survey of American Literature (EN201), Civilization I (HI101), Civilization II (HI102), Survey of the Old Testament (RL101), Survey of the New Testament (RL102), and either Christian Faith and Values-Religion (RL300) or Christian Faith and Values-Philosophy (PI300) during their time as a student. Additionally, students must take the Belief Assessment of Spiritual Essentials (BASE) exam three times. The student will take the BASE exam for the first time when entering the college in the course College Connection (CC100). The student will take the BASE exam for the second time when he/she enters either RL300 or PI300, and then finally take the exam at the conclusion of the Christian Faith and Values-Religion (RL300) or Christian Faith and Values-Philosophy (PI300) course.

- **Campus Ministries**. Louisiana College intentionally provides a network of resources to connect students with opportunities to serve the local community, to minister throughout the United States and even to be a part of international missions. To allow students the opportunity to grow in the Holy Word of God, we have organized ministries that lead small groups, worship services and provide access to spiritual growth through residence life, commuter Bible studies, and conferences.

Regarding human sexuality, the teachings of the Bible and the beliefs of the Baptist Church, both of which are followed by the college, are that God created two sexes, male and female; that marriage is between one man and one woman for a lifetime; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and therefore prohibited. (Gen. 2:27; Exod. 22:16-17; Deut. 22:23-28; Lev. 20:10-16.)

Louisiana College affirms that a person cannot change his/her birth gender and so must be treated as such; rather than a self-identified gender, which would be inconsistent with the college's religious beliefs. Furthermore, our affiliation with The Southern Baptist Convention, via Louisiana Baptist Convention, confirms Louisiana College's core beliefs in alignment with the National Convention. Notwithstanding, we agree and support the Southern Baptist Convention's statement on transgender, which, in summary, is as follows:

- We "affirm God's good design that gender identity is determined by biological sex and not by one's self-perception—a perception which is often influenced by fallen human nature in ways contrary to God's design (Eph. 4:17–18)....
- That we grieve the reality of human depravity, which can result in such biological manifestations as intersexuality or psychological manifestations as gender identity confusion and point all to the hope of the redemption of our bodies in Christ (Rom. 8:23....
- That we extend love and compassion to those whose sexual self-understanding is shaped by a distressing conflict between their biological sex and their gender identity....
- That we invite all transgender persons to trust in Christ and to experience renewal in the Gospel (1 Tim. 1:15–16)...."

Application within the context of the student culture at Louisiana College, guided by the understanding of the scriptures, soul-competency and support of The Southern Baptist Convention's biblical position, is clearly outlined in the Student Handbook.

- **Biblical Design for Human Sexuality**. We believe that all people should be treated with dignity, grace, and holy love, whatever their sexual beliefs.
    - Sexuality is one of the ways by which the marriage covenant between a husband and a wife is sealed and expressed. Marriage is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. It is important to note that Christian teaching on marriage and sexuality is in the narrative of all Scripture – from Genesis to Revelation. Marriage, gender and sexuality aren't just appendages tacked onto Scripture, but are icons of the Gospel and human flourishing (Matt. 19:4-6; Eph. 5:22-33; Heb. 13:4).
    - Sexual union and activity misses their purpose when treated as an end in itself or when cheapened by using another person to satisfy pornographic and sinful sexual interests. We view all forms of sexual intimacy that occur outside the covenant of heterosexual marriage, even when consensual, as distortions of the holiness and beauty that God intended for it.

- **Sexual Impropriety**. Premarital or extramarital sexual activity on or off campus is forbidden. The promotion, advocacy, defense or ongoing practice of a homosexual lifestyle (including same-sex dating behaviors) is also contrary to our community values. We seek to help students who face all types of sexual temptation, encouraging single students to live chaste, celibate lives, and encouraging married students to be faithful to their marriage and their spouse.

Therefore, in accordance with the college's non-faculty and faculty handbook, employees are expected to conduct themselves in a manner consistent with Louisiana College's Christian values. As such, employment of someone who identifies as being of the opposite sex from their birth gender and who expresses that identification either through behavior and/or dress is against the college's religious beliefs. Therefore, the college requests an exemption from 34 CFR §106.31(b)(4) and 34 CFR § 106.51(a).

The college's religious beliefs prohibit pre-marital sex and elective abortion. An exemption from CFR § 106.57 is therefore requested in order that the College not be required to violate its religious beliefs in order to retain pregnant unmarried employees or employees who elect to terminate their pregnancy.

If students and/or employees exhibit behavior, which is not in keeping with the College's mission and vision, then the College may impose sanctions up to, and including, expulsion from the college or termination of employment.

Enforcing the above noted regulations would be consistent with the religious beliefs and practices of the Louisiana Baptist Convention and Louisiana College. As such, and in keeping with its religious beliefs, Louisiana College requests an exemption for the specific Title IX regulations referenced in this letter in order that the College may make decisions consistent with its religious beliefs and principles in regard to its students and employees.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Rick Brewer, Ph.D.
President

Ens.
LC's Articles of Incorporation

LOUISIANA
COLLEGE
Unchanging foundations since 1906

July 17, 2015

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Request for Title IX Religious Exemption.

Dear Assistant Secretary Lhamon:

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Office of the President • 1140 College Drive • Box 583 • Pineville, LA 71359 • OFFICE 318-487-7401 • FAX 318-487-7400 • president@lacollege.edu

The mission statement summarizes the integration of the Christian faith through Louisiana College's core curriculum as taught to the approximately 1,200 students enrolled in the school.[1]

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- Louisiana College seeks to share the institution's belief in the preeminence of Jesus Christ by providing for general community, convention, and campus enjoyment events, which further the institution's accomplishment of this aspect of the mission.
- Louisiana College will enable students to develop a biblical worldview to engage the culture for Christ.
- Louisiana College will help students to apply their biblical worldview in their perspective disciplines of study.
- Louisiana College seeks to provide academic programs, which qualitatively meet or exceed comparable programs offered by peer institutions in areas of: faculty terminal degree percentage, retention rate, and graduation rate.
- Louisiana College provides academically excellent programs of study characterized by highly trained faculty members, measurable achievement of learning outcomes, and graduates working within their chosen field.
- Students who matriculate at Louisiana College will nurture a commitment to change the world for Christ by the power of the Holy Spirit.
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[1] For the college's statement of faith, see *The Baptist Faith and Message (BF&M)*. For Scripture references in the mission statement concerning the Preeminence of Christ, see Rom. 10:9; Col. 2:3; Jn. 14:6, 18:37, and 21:17; Matt. 22:37. For Scripture references in the mission statement concerning the authority of the Holy Scriptures, see *BF&M,* Exod. 24:4; Deut. 4:1-2; 17:19; Josh. 8:34; Psa. 19:7-10; 119:11,89,105,140; Isa. 34:16; 40:8; Jer. 15:16; 36:1-32; Matt. 5:17-18; 22:29; Lk. 21:33; 24:44-46; Jn. 5:39; 16:13-15; 17:17; Acts 2:16ff.; 17:11; Rom. 15:4; 16:25-26; 2 Tim. 3:15-17; Heb. 1:1-2; 4:12; 1 Pt. 1:25; 2 Pt. 1:19-21; For Scriptures referencing academic excellence, see Col. 3:17, 23; Eph. 3:20; 1 Cor. 1:24-25; 2 Cor. 12:9-10. For Scripture referencing changing the world for Christ, see Matt. 28:19-20.

Director of the Louisiana Baptist Convention and the President of Louisiana College also serve as trustees.

The Administrative Council has identified the following five core values that naturally emanate from the mission statement and are vitally important to the identity of Louisiana College: (1) Accessibility, (2) Continuous Improvement, (3) Honesty and Integrity, (4) Quality, and (5) Transparency. These core values are held in high regard as they pertain to a vertical relationship with God as Creator, Redeemer, and Sustainer of life. They relate in a horizontal relationship as administration, faculty, staff, and students interact with God through the person of Jesus Christ through the empowerment of His Holy Spirit and with each other and in the broader context of the community.

The college follows biblical principles in its policies and practices applicable to Christian education, and to its students and employees. Louisiana College holds the following beliefs:

- **Scripture**. 2 Tim. 3:16 "All Scripture is given by inspiration of God and is profitable for doctrine, for reproof, for correction, for instruction in righteousness." The Bible is the inerrant and infallible record of God's revelation to humanity, and it is the only sufficient source of appeal on matters relating to the Christian faith.
- **God**. Gen. 1:1 "In the beginning, God created the heavens and the earth" reveals God as Creator of the universe. The historical account of Genesis decrees that He is the personal and direct Creator of all that exists, including the first human beings Adam and Eve. Jn. 1:3 "All things were made by him; and without him was not anything made that was made," reveals that as Creator, God made everything for His ultimate glory. There is one and only one living and true God.. To Him we owe the highest love, reverence, and obedience.
- **Jesus Christ**. Jn. 14:6 "Jesus saith unto them, I am the way, the truth, and the life: no man cometh unto the Father, but by me." God made provision through Christ for the redemption of sinful humanity by His substitutionary atonement on the cross and His glorious resurrection from the dead, and He alone is sufficient as Savior.
- **Salvation**. Jn. 3:16 "For God so loved the world, that he gave his only begotten Son, that whosoever believeth in him should not perish, but have everlasting life." Salvation involves God's gracious redemption of individuals and is offered freely to all who accept Jesus Christ as personal Lord and Savior by repentance and faith.
- **Life of the Believer**. Rom. 12:2 "And do not be conformed to this world, but be transformed by the renewing of your mind, that you may prove what is that good and acceptable and perfect will of God." Christians are to be consistent with Scripture in their character and conduct.
- **Evangelism and Missions**. Acts 1:8 "But ye shall receive power, after that the Holy Ghost is come upon you; and ye shall be witnesses unto me both in Jerusalem, and in all Judea, and in Samaria, and unto the uttermost part of the earth." It is the privilege and duty of every Christian to share the Gospel of Christ personally and by all other methods in harmony with the Gospel.

Because of our commitment to the Holy Scriptures, Louisiana College implements Faith Integration on campus to students and employees in a number of ways:

- **Chapel**. Our corporate integration starts with our chapel. The purpose of LC chapel is to provide the college with a corporate worship experience connecting the campus community with the thoughts and heart of Jesus Christ, creating a generation to live for HIS Name. Ten chapel requirements must be met during a student's tenure each semester for graduation.

- **Faith Integration for Faculty**. Each year, a facilitator leads staff and faculty through one workshop designed to encourage and equip employees with the knowledge and application of how to integrate faith in the workplace. Intentionality on purpose and praxis are highlighted.

- **Faith Integration for Students**. All students, including non-traditional, are required to complete the following courses: CC100, ES103, EN200, EN201, HI101, HI102, RL101, RL102, and either RL300 or PI300 during their time as a student. Additionally, students must take the Belief Assessment of Spiritual Essentials (BASE) exam three times. The student will take the BASE exam for the first time when entering the college in the course CC100. The student will take the BASE exam for the second time when he/she enters either RL300 or PI300, and then finally take the exam at the conclusion of the RL300 or PI300 course.

- **Campus Ministries**. Louisiana College intentionally provides a network of resources to connect students with opportunities to serve the local community, to minister throughout the United States and even to be a part of international missions. To allow students the opportunity to grow in the Holy Word of God, we have organized ministries that lead small groups, worship services and provide access to spiritual growth through residence life, commuter Bible studies, and conferences.

Regarding human sexuality, the teachings of the Bible and the beliefs of the Baptist Church, both of which are followed by the college, are that God created two sexes, male and female; that marriage is between one man and one woman for a lifetime; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and therefore prohibited. (Gen. 2:27; Exod. 22:16-17; Deut. 22:23-28; Lev. 20:10-16.)

Louisiana College affirms that a person cannot change his/her birth gender and so must be treated as such; rather than a self-identified gender, which would be inconsistent with the college's religious beliefs. Furthermore, our affiliation with The Southern Baptist Convention, via Louisiana Baptist Convention, confirms Louisiana College's core beliefs in alignment with the National Convention. Notwithstanding, we agree and support the Southern Baptist Convention's statement on transgender, which, in summary, is as follows:

- We "affirm God's good design that gender identity is determined by biological sex and not by one's self-perception—a perception which is often influenced by fallen human nature in ways contrary to God's design (Eph. 4:17–18)....
- That we grieve the reality of human depravity, which can result in such biological manifestations as intersexuality or psychological manifestations as gender identity confusion and point all to the hope of the redemption of our bodies in Christ (Rom. 8:23....
- That we extend love and compassion to those whose sexual self-understanding is shaped by a distressing conflict between their biological sex and their gender identity....
- That we invite all transgender persons to trust in Christ and to experience renewal in the Gospel (1 Tim. 1:15–16)...."

Application within the context of the student culture at Louisiana College, guided by the understanding of the scriptures, soul-competency and support of The Southern Baptist Convention's biblical position, is clearly outlined in the Student Handbook.

- **Biblical Design for Human Sexuality**. We believe that all people should be treated with dignity, grace, and holy love, whatever their sexual beliefs.
    - Sexuality is one of the ways by which the marriage covenant between a husband and a wife is sealed and expressed. Marriage is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. It is important to note that Christian teaching on marriage and sexuality is in the narrative of all Scripture – from Genesis to Revelation. Marriage, gender and sexuality aren't just appendages tacked onto Scripture, but are icons of the Gospel and human flourishing (Matt. 19:4-6; Eph. 5:22-33; Heb. 13:4).
    - Sexual union and activity misses their purpose when treated as an end in itself or when cheapened by using another person to satisfy pornographic and sinful sexual interests. We view all forms of sexual intimacy that occur outside the covenant of heterosexual marriage, even when consensual, as distortions of the holiness and beauty that God intended for it.

- **Sexual Impropriety**. Premarital or extramarital sexual activity on or off campus is forbidden. The promotion, advocacy, defense or ongoing practice of a homosexual lifestyle (including same-sex dating behaviors) is also contrary to our community values. We seek to help students who face all types of sexual temptation, encouraging single students to live chaste, celibate lives, and encouraging married students to be faithful to their marriage and their spouse.

Therefore, in accordance with the college's non-faculty and faculty handbook, employees are expected to conduct themselves in a manner consistent with Louisiana College's

Christian values. As such, employment of someone who identifies as being of the opposite sex from their birth gender and who expresses that identification either through behavior and/or dress is against the college's religious beliefs. Therefore, the college requests an exemption from 34 CFR §106.31(b)(4) and 34 CFR § 106.51(a).

The college's religious beliefs prohibit pre-marital sex and elective abortion. An exemption from CFR § 106.57 is therefore requested in order that the College not be required to violate its religious beliefs in order to retain pregnant unmarried employees or employees who elect to terminate their pregnancy.

If students and/or employees exhibit behavior, which is not in keeping with the College's mission and vision, then the College may impose sanctions up to, and including, expulsion from the college or termination of employment.

Enforcing the above noted regulations would be inconsistent with the religious beliefs and practices of the Louisiana Baptist Convention and Louisiana College. As such, and in keeping with its religious beliefs, Louisiana College requests an exemption for the specific Title IX regulations referenced in this letter in order that the College may make decisions consistent with its religious beliefs and principles in regard to its students and employees.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Rick Brewer, Ph.D.
President

Encs.
1. CSU BOT By-Laws

LOYOLA
UNIVERSITY
NEW ORLEANS

OFFICE OF THE PRESIDENT

Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

RE: Loyola University New Orleans' Title IX Exemption

Dear Ms. Lhamon:

Please accept this letter as Loyola University New Orleans' official request to disclaim Loyola's 1986 Title IX religious exemption.

At the time of the requested exemption Loyola University offered our student body health insurance policies. Provisions of Title IX contained various references to benefits of health policies relating to 'termination of pregnancy, or recovery there from,' These provisions were in direct conflict and inconsistent with the beliefs, tenets and policies of Loyola University New Orleans and the Roman Catholic Church of which we are directly affiliated with. Thus, the university sought and was granted a religious exemption to these provisions of Title IX in 1986.

While Loyola University is still affiliated with the Roman Catholic Church, the university no longer offers health insurance policies to our students. Thus, the exemption that was granted in 1986 is no longer needed and we ask that this exemption be withdrawn.

We are thankful for the Office of Civil Right's respect for the religious freedom of our institution and their granting this exemption when requested. However, Loyola University New Orleans would ask that OCR remove it from any list of universities holding a Title IX exemption.

Sincerely,

Kevin Wm. Wildes, S.J.
President

19 May 2016

6363 St. Charles Avenue, Campus Box 009, New Orleans, LA 70118-6143, 504.865.3847, FAX: 865.3851, www.loyno.edu

MANHATTAN
CHRISTIAN COLLEGE

29 April 2016

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 write with respect to Manhattan Christian College's letter dated November 17, 2015 (enclosed), seeking an acknowledgment of religious exemption from Title IX of the Education Amendments of 1972 and its accompanying regulations under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12.

The College has yet to receive any response from the Department of Education, and would like to confirm the Department's receipt of our request, as well as when we may expect a reply. If you require anything further, please do not hesitate to contact me. Thank you for your consideration, and I look forward to hearing from you soon.

Sincerely,

J. Kevin Ingram
President
Manhattan Christian College

MANHATTAN
CHRISTIAN COLLEGE

November 17, 2015

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

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

Dear Ms. Lhamon:

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

Manhattan Christian College ("the College") is a non-profit institution of higher education with its main campus in Manhattan, Kansas. Founded in 1927 as the Christian Workers' University, the College exists in part to fulfill the following purpose:

> To secure, teach, train and send out consecrated men and women of all nationalities to preach and practice the pure New Testament Gospel among all nations, at home and abroad, and in harmony with the Divine Commission recorded in Matthew 28:19-20; Mark 16:15-16; Luke 24: 46-47; as exemplified on the First Pentecost after Christ's Resurrection and Ascension and as elsewhere recorded in the New Testament.[1]

The College is "historically affiliated with nondenominational, independent Christian Churches and Churches of Christ of the Restoration Movement."[2] The College also

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[1] Articles of Incorporation and Bylaws, Section 1, as stated in the Board of Trustees Handbook, page V-1.
[2] See *Who We Are*, http://www.mccks.edu/partners/about-mcc.

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requires that officers of the College, such as the Vice Presidents of Academic Affairs and Student Life, and faculty teaching "Biblical studies, doctrine, theology, practical ministries and church history," be "grounded in the history of the Campbell-Stone Restoration Movement."[3] Moreover, the College prefers (but does not require) the President of the College to be a member of an Independent Christian Church/Churches of Christ, and focuses its recruiting on students from Christian Churches/Churches of Christ.[4]

The College is governed by a Board of Trustees whose members must be "dedicated Christians who evidence Christian commitment," who affirm the College's doctrinal statement, and who are committed to the mission of the College.[5] The Board of Trustees and the College understand the Bible to be the infallible, written Word of God: "We stand for the Divine Inspiration and Supreme Authority of the Holy Scriptures and are committed to a Christian Theistic worldview that seeks to glorify God, recognizing and affirming Christ as King in every aspect of the created order and in every sphere of human endeavor."[6]

Acknowledging Christ as the creator of all things, as the redeemer of people fallen into sin, as the touchstone of all truth, and as the sovereign ruler over all areas of life, the College strives to discern and to unfold the implications of His preeminence in all things. In attempting to make such a biblically-grounded frame of reference explicit and operative, the College is committed to excellence in academic inquiry and seeks to define the College's educational philosophy and all areas of the College's structure and program according to this understanding of its purpose.[7]

The College relies on and requires all Board Members, officers of the College, and faculty to affirm the following doctrines, as foundational to all that it does, including what is taught in its classes:

A. We believe that there is one God, creator of the universe, eternally existing in three persons, Father, Son, and Holy Spirit, and that we are called to live to the praise of His glory.

B. We believe the Bible to be the inspired, the only infallible, authoritative word of God.

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[3] Board of Trustees Handbook, pages I-4.
[4] Board of Trustees Handbook, pages I-5, II-10.
[5] Articles of Incorporation and Bylaws, Section 4, as stated in the Board of Trustees Handbook, page V-5.
[6] Board of Trustees Handbook, page I-7.
[7] See *Who We Are*, http://www.mccks.edu/partners/about-mcc.

C. We believe in the deity of our Lord Jesus Christ, in His virgin birth, in His sinless life, in His miracles, in His vicarious death and atonement through His shed blood, in His bodily resurrection, in His ascension to the right hand of the Father, and in His personal and visible return in power and glory.

D. We believe the only terms of salvation that we may proclaim are those expressed in the New Testament: faith, repentance, confession of faith in Jesus Christ, and baptism by immersion in water for the remission of past sins and for the promised presence of the Holy Spirit.

E. We believe in the present ministry of the Holy Spirit by whose indwelling the Christian is enabled to live a godly life, and by whom the church is empowered to carry out Christ's Great Commission.

F. We believe in the bodily resurrection of both the saved and the lost; those who are saved unto the resurrection of life and those who are lost unto the resurrection of damnation.[8]

The Board of Trustees and the College submit themselves to the Bible and to these historic expressions of its doctrine and seek to express positions that are in accord with those standards. Therefore, consistent with these theological standards, the College has developed the following position addressing gender identity:

> We affirm that God's original and ongoing intent and action is the creation of humanity manifest as two distinct sexes, male and female. With this foundational understanding of God's teaching revealed in the Bible, we do not affirm the resolution of tension between one's biological sex and one's experience of gender by the adoption of a psychological identity discordant with one's birth sex. Similarly we do not affirm attempts to change one's given biological birth sex via medical intervention in favor of the identity of the opposite sex or of an indeterminate identity.
>
> While we believe it is important to articulate the college's stance on these issues it is also important to note that MCC recognizes there are those who have very real feelings and opinions that stand in contrast to the college's stated policy. We recognize that every person has struggles of some type and that all of us fall short of God's glory. With that understanding in mind, all who read this policy need to know that the intent is to outline a Christian

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[8] Board of Trustees Handbook, page I-7.

> Theistic worldview in relationship to these issues. We also acknowledge that uninformed and harsh actions by Christians have inflicted unnecessary pain on those who struggle in these areas. We recognize our obligation before God to love all persons, understanding such love in the context of God's revealed truth. We also recognize that due to sin and human brokenness, our experiences in these areas is not always that which God the Creator originally designed, and yet affirm further God's capacity to heal and transform our brokenness. We aspire to be a community that lives by both grace and truth for all, and all are expected to treat others with respect and Christ-like compassion. Hateful, bigoted, or destructive interactions will not be tolerated.
>
> In keeping with our mission and our commitment to the Bible, all members of the College's community are to follow the teachings of Scripture and live their lives in accordance with those principles. As a Christian residential institution of higher learning we will respect those whose moral views diverge from ours, and seek to embody the gentle and patient love of Christ for all. We will make institutional decisions in light of this policy regarding student admission, housing and retention, employment hiring and retention, and other matters.[9]

As you know, the Office for Civil Rights ("OCR") has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[10]

And as you also know, the resolution agreement[11] 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

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[9] *See* Statement on Doctrine, pages 2-3.

[10] 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.").

[11] 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.

of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.[12]

It is thus reasonable to suppose that OCR believes 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 College.

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

Additionally, consistent with historic understanding of the Holy Scriptures and our doctrinal standards,[13] the College affirms the following regarding sexual conduct:

> [S]exual intimacy is designed by God to be expressed solely within a heterosexual marriage relationship between one man and one woman. These views are maintained consistently throughout Scripture and have been understood and upheld by Christian churches throughout history. We cannot affirm any sexual intimacy between a man and a woman in a pre-marital or an extra-marital relationship, any sexual intimacy between two persons of the same sex, and marriage to be anything other than a union between one man and one woman in the context of a Biblical marriage covenant. In dealing with sexual sins outside of marriage, we must be attentive to Scripture and therefore consistent in applying campus policies to both heterosexual and homosexual situations.[14]

The College, in service to the Church, welcomes those of professed Christian faith who experience same sex attraction. But, the College also, consistent with Church 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

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[12] *Id.*
[13] *See* Statement on Doctrine, pages 1-2.
[14] *See* Statement on Doctrine, page 2.

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.[15]

It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 the College. The College, therefore, also seeks exemption on this basis out of an abundance of caution.

Lastly, consistent with a biblical interpretation of the value of life, the College in its Statement of Doctrine provided the following summary of its beliefs regarding the sanctity of human life:

> We believe that all human life is sacred and created by God in His image. Human life is of inestimable worth in all its dimensions, including pre-born babies, the aged, the physically or mentally challenged, and every other stage or condition from conception through natural death. We are therefore called to defend, protect, and value all human life.[16]

Manhattan Christian College accordingly requests that your office acknowledge that the College is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College's freedom to apply and enforce its Statement on Human Life):

34 C.F.R. § 106.21 (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)

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[15] *See* http://www.eeoc.gov/decisions/0120133080.pdf.
[16] *See* Statement on Doctrine, page 2.

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,

J. Kevin Ingram
President, Manhattan Christian College

MARANATHA BAPTIST BIBLE COLLEGE
"To the Praise of His Glory"

February 29, 2012

Honorable Eduardo M. Ochoa
Assistant Secretary for Postsecondary Education
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave, SW
Washington, DC 20202

RE: §106.12 Exemption of Maranatha Baptist Bible College

Dear Sir:

Pursuant to Section 106.12 of Subpart B of Title 34 of the federal regulations implementing Title IX, religious organizations such as Maranatha Baptist Bible College are exempt from enforcement to the extent application is inconsistent with the religious tenets of the organization.

Maranatha is a non-profit, religious organization founded in 1968. Because Maranatha has as its primary purpose the training of Christian leaders in the local church and the world, and because of biblical teaching concerning the requirements of church leaders, Maranatha claims exemption under §106.12 from the specific prohibition on discrimination in admission based on marital status and termination of pregnancy contained in §106.21(c).

Thank you for your attention to this matter.

Sincerely,
Maranatha Baptist Bible College

Dr. Marty Marriott
President

smm:cms

Office of the President
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920-261-9300 • FAX 920-261-9109
WEBSITE WWW.MBBC.EDU • E-MAIL ADMINISTRATION@MBBC.EDU

OFFICE OF THE PRESIDENT
Jason K. Allen, Ph.D.

March 31, 2016

Via UPS Overnight

Catherine E. Lhamon
Assistant Secretary for Civil Rights
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Re: Midwestern Baptist Theological Seminary (OPEID 00248500)
Application for Recognition of Exemption from Title IX

Dear Assistant Secretary Lhamon:

The purpose of this letter is to request a religious exemption for Midwestern Baptist Theological Seminary (the "Seminary") from certain aspects of Title IX of the Education Amendments of 1972 ("Title IX").[1] I make this request in my capacity as the Seminary's President, and as an ordained minister of the Southern Baptist Church ("SBC" or the "Church").

As you know, Title IX generally prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of federal financial assistance. Title IX does not apply, however, to educational institutions controlled by religious organizations, to the extent application of Title IX would be inconsistent with such institutions' religious tenets.[2] In keeping with this limitation, qualifying institutions are permitted to apply to the U.S. Department of Education, Office of Civil Rights ("OCR") for an exemption from the provisions of Title IX that conflict with the religious tenets upheld by the organization.

The law directs an educational institution desiring to claim an exemption to submit "in writing to the Assistant Secretary a statement by the highest ranking official of the institution, identifying the provisions of this part which conflict with a specific tenet of the religious organization."[3] Historically, OCR has advised institutions that any such letter should (1) identify the religious organization that controls the educational institution and (2) specify the tenets of that organization and the provisions of the law or regulation that conflict. Consistent with this guidance, we hereby submit our request for exemption, organized to address each of these points in turn.

[1] 20 U.S.C. § 1681 *et seq.*
[2] 20 U.S.C. § 1681(a)(3); 34 C.F.R. § 106.12(a).
[3] 34 C.F.R. § 106.12(b).

5001 North Oak Trafficway, Kansas City, Missouri 64118 • (816) 414-3703 • president@mbts.edu • www.mbts.edu

The Seminary and the Baptist Church

OCR has long taken the position that, for purposes of granting an exemption from the provisions of Title IX, an institution is considered to be controlled by a religious organization if one or more of the following conditions is true:[4]

1. It is a school or department of divinity, defined as an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects; or

2. It requires its faculty, students or employees to be members of, or otherwise espouse a personal belief in, the religion of the organization by which it claims to be controlled; or

3. Its charter and catalog, or other official publication, contains an explicit statement that it is controlled by a religious organization or an organ thereof or is committed to the doctrines of a particular religion, and the members of its governing body are appointed by the controlling religious organization or an organ thereof, and it receives a significant amount of financial support from the controlling religious organization or an organ thereof.

The Seminary fully satisfies each of the conditions set out above.

The Seminary's mission, as stated in its *Academic Catalog*, *Employee Handbook*, and on its website, is to serve the Church "by Biblically educating God-called men and women to be and make disciples of Jesus Christ."[5] A school of divinity, the Seminary's control and governance structure, and financial relationship to the Church, all are discussed at length in the institution's *Academic Catalog*, which provides in relevant part:

> Midwestern Baptist Theological Seminary is an entity of the Southern Baptist Convention, serving as a community of learning for persons called to ministry. The Seminary's primary source of support is the Southern Baptist Cooperative Program. The Seminary is governed by a board of 35 trustees elected by the Southern Baptist Convention with 7 trustees elected on a rotating basis each year. In accordance with the Program Statement for seminaries adopted by the Southern Baptist Convention in 1979, Midwestern is primarily a graduate professional school. It is accredited by the Association of Theological Schools and the Higher Learning Commission. It provides academic programs leading to the Master of Divinity, Master of Arts, Master of Theological Studies, Doctor of Ministry, Doctor of Counseling, Doctor of Educational Ministry, and Doctor of Philosophy in Biblical Studies, as well as undergraduate studies.[6]

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[4] *See* U.S. Department of Education, Office of Civil Rights, Religious Exemption (available online at http://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/rel-exempt-pr.html).
[5] Midwestern Baptist Theological Seminary website, *What We Believe* (available online at http://www.mbts.edu/about/what-we-believe/).
[6] Midwestern Baptist Theological Seminary *2015-2016 Academic Catalog*, pg. 1 (available online at http://www.mbts.edu/news-resources/current-students/catalogs-and-forms/).

As a pre-requisite to admission, students must "[b]e able to enunciate a clear testimony of conversion to faith in Jesus Christ."[7] Accepted students of the Seminary are "expected to participate actively and regularly in a local church," and "are classified as 'Southern Baptist,' 'other (non-SBC) Baptist,' or 'non-Baptist' based on the church membership information they provide the seminary at the time of their admission."[8]

Upon election to the faculty, the Seminary's faculty members are required to subscribe to the *Baptist Faith and Message, 2000* statement of faith adopted by SBC in 2000 and discussed in more detail below.[9] Each faculty member also is required to participate in a local Southern Baptist church, teaching classes, serving as a deacon, or leading a congregation as an interim pastor.[10] The Seminary does not require that all non-faculty employees be members of the Church. However, every employee must "accept The Baptist Faith and Message as the standard of faith by which MBTS operates."[11] The institution also expressly reserves the right afforded it under the law to "give preference in the hiring of persons who are Christian, and/or members in good standing of the Southern Baptist Convention."[12]

Baptist Theology and Title IX

The Seminary accepts the Scriptures as the inspired and inerrant Word of God, and is compelled by the Scriptures to be faithful to the religious tenets articulated therein. These religious tenets are illuminated by the *Baptist Faith and Message, 2000*, a statement of faith that serves as a witness to the beliefs of the Church and a pledge of its members' faithfulness to the doctrines revealed in Holy Scripture. As noted in the Seminary's *Academic Catalog*, the school's Trustees, upon founding the Seminary in 1957, expressly adopted *The Baptist Faith and Message* as the Seminary's own confession.[13]

In addition to the *Baptist Faith and Message, 2000*, the "*Danvers Statement on Biblical Manhood and Womanhood*, the *Chicago Statement on Biblical Inerrancy*, and Midwestern Seminary's own statement on *Sex, Sexuality, and Gender Identity*, function as guiding institutional documents."[14] The Seminary notes in its *Academic Catalog* that these various statements, like the *Baptist Faith and Message, 2000*, "function as instruments of confessional accountability to the churches of the Southern Baptist Convention."[15] Faculty and instructional staff are required "to believe and teach in accordance with and not contrary to them."[16] Emphasizing the importance of these statements of faith, the Seminary includes the entire text of each in its *Academic Catalog*.

To the extent that the Church's religious tenets permit, the Seminary remains committed to complying with the spirit and letter of federal laws affording equal educational opportunity and nondiscrimination

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[7] *Id.* at 40.
[8] *Id.* at 22.
[9] *See* Midwestern Baptist Theological Seminary website, *What We Believe* (available online at http://www.mbts.edu/about/what-we-believe/).
[10] *Id.*
[11] Midwestern Baptist Theological Seminary *2012 Employee Handbook*, pg. 13.
[12] *Id.* at 25.
[13] Midwestern Baptist Theological Seminary *2015-2016 Academic Catalog*, pg. 2 (available online at http://www.mbts.edu/news-resources/current-students/catalogs-and-forms/).
[14] *Id.* at 7.
[15] *Id.*
[16] *Id.*

in admission to and participation in the Seminary's programs and activities. However, in some instances, Scripture, as understood by the Church and articulated in the statements of faith detailed above, requires the institution to act in ways that may conflict with certain of the regulations implementing Title IX, as interpreted by OCR.

Premarital, Extramarital, and Homosexual Sexual Activities

The *Baptist Faith and Message, 2000*, articulates the Church's position regarding marriage and family as follows:

> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to Biblical standards, and the means for procreation of the human race.[17]

Flowing from this conviction in the sanctity of marriage is the Church's belief that "Christians should oppose… all forms of sexual immorality, including adultery, homosexuality, and pornography."[18] Indeed, the SBC will not seat messengers from churches that "act to affirm, approve, or endorse homosexual behavior."[19]

Reflecting this religious doctrine, the Seminary strictly prohibits students from engaging in sexual impropriety, which is defined as "participation in premarital sex, extramarital sex, homosexual activities or any form of deviant sexual behavior or cohabitation."[20] The Seminary's *Employee Handbook* also requires employees to act in accordance with the Church's beliefs regarding the sanctity of marriage, emphasizing that employees and volunteers must "conduct themselves in a professional and Biblical manner at all times."[21]

Gender Identity

The Seminary adheres to the belief, fundamental to Scripture and observed by most Christian churches today, that our embodiment as male and female is understood as an aspect of our creation by God. On this point, the *Baptist Faith and Message, 2000*, observes that "[m]an is the special creation of God, made in His own image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation."[22] Concomitant with this belief is the understanding that our God-given gender is instructive regarding the moral behavior and lifestyles that are good and pleasing to Him.

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[17] *Baptist Faith and Message, 2000,* Art. XVIII, The Family (available online at http://www.sbc.net/bfm2000/bfm2000.asp).
[18] *Id.* at Art. XV, The Christian and the Social Order.
[19] *Southern Baptist Convention Constitution*, Article III.1. (available online at http://www.sbc.net/aboutus/legal/constitution.asp).
[20] Midwestern Baptist Theological Seminary *2015-2016 Academic Catalog*, pg. 19 (available online at http://www.mbts.edu/news-resources/current-students/catalogs-and-forms/).
[21] Midwestern Baptist Theological Seminary *2012 Employee Handbook*, pg. 13-14.
[22] *Baptist Faith and Message, 2000,* Art. III, Man (available online at http://www.sbc.net/bfm2000/bfm2000.asp).

In 2014, the SBC passed a series of resolutions that further articulates the Church's views with regard to transgender identity. Among the specific resolutions were the following:

- That gender identity is determined by biological sex and not by one's self-perception—a perception which is often influenced by fallen human nature in ways contrary to God's design (Ephesians 4:17–18).
- That we love our transgender neighbors, seek their good always, welcome them to our churches and, as they repent and believe in Christ, receive them into church membership (2 Corinthians 5:18–20; Galatians 5:14).
- That we regard our transgender neighbors as image-bearers of Almighty God and therefore condemn acts of abuse or bullying committed against them.
- That we oppose efforts to alter one's bodily identity (*e.g.*, cross-sex hormone therapy, gender reassignment surgery) to refashion it to conform with one's perceived gender identity.
- That we continue to oppose steadfastly all efforts by any governing official or body to validate transgender identity as morally praiseworthy (Isaiah 5:20).[23]

In its *Academic Catalog*, the Seminary discusses at length the institution's views regarding sex, sexuality, and gender identity:

> We affirm that God's original and ongoing intent and action is the creation of humanity manifest as two distinct sexes, male and female. We also recognize that due to sin and human brokenness, our experiential perception of our sex and gender is not always that which God the Creator originally designed, and yet affirm further God's capacity to heal and transform our brokenness in keeping with His purposes and will. With this foundational understanding of creation, fall, and redemption, we do not support or affirm the resolution of tension between one's biological sex and one's experiential perception of gender by the adoption of a psychological identity discordant with one's birth sex. Similarly we do not support or affirm attempts to change one's given biological birth sex via medical intervention in favor of the identity of the opposite sex or of an indeterminate identity. Although as a Christian residential institution of higher learning we will respect those whose moral views diverge from ours, we will make institutional decisions in light of this policy regarding housing, student admission and retention, employment hiring and retention, and other matters.[24]

In the preamble to this policy, the Seminary notes that the policy is "grounded in the teachings of the Bible as understood in the Seminary's confessional commitment—the Baptist Faith & Message 2000" and "intended to address transsexualism, transgenderism, and related gender identity issues."[25]

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[23] *On Transgender Identity* (Baltimore, MD 2014) (available online at http://www.sbc.net/resolutions/2250/on-transgender-identity).
[24] Midwestern Baptist Theological Seminary *2015-2016 Academic Catalog*, pg. 10 (available online at http://www.mbts.edu/news-resources/current-students/catalogs-and-forms/).
[25] *Id.*

Inconsistency with Title IX

As noted above, the Seminary is dedicated to "educating God-called men and women to be and make disciples of Jesus Christ." To this end, the faculty, staff, and students of the Seminary are expected to conduct themselves in a manner consistent with the tenets of the Church and, as much as humanly possible, to model Christ in every area of their lives, including sexual conduct and gender identity. The policies and practices of the Seminary, which are informed by the Holy Scripture, the *Baptist Faith and Message 2000*, and the other statements of faith referenced above, are designed to encourage, facilitate, and protect this Christ-like conduct.

Application of Title IX and its implementing regulations would not be consistent with the religious tenets described above, or with the Seminary policies and practices that reflect those tenets, if the law prohibited the Seminary from, among other things:

- Engaging in recruiting, admissions, and financial assistance under a policy that called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgender status), marital status, or past and present practices regarding marriage, sex outside marriage, or pregnancy (these considerations collectively referred to hereafter as "Individual Characteristics"), and prohibited the Seminary from treating that person differently as a result of that consideration;

- From subjecting students to rules of behavior, sanctions, or other treatment based on their Individual Characteristics. Examples would be the Seminary's rules regarding the assignment of housing, restrooms, and locker rooms; restrictions to extracurricular activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; and prohibition of sex outside of marriage between a man and a woman; or

- From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner that takes into consideration the employee's Individual Characteristics.

Request for Exemption

In light of the forgoing, the Seminary formally requests exemption from Title IX, to include the following, implementing regulations, where the law would prohibit discrimination on the basis of sexual orientation, gender identity (including but not limited to transgender status), marital status, or past and present practices regarding marriage, sex outside marriage, or pregnancy, and compliance would conflict with the Church's religious tenets:[26]

Subpart C—Discrimination of the Basis of Sex in Admission and Recruitment Prohibited

[26] Each section of the regulations listed below is located in Title 34, Subtitle B, Chapter I of the U.S. Code of Federal Regulations.

106.21 Admission.
106.22 Preference in admission.
106.23 Recruitment.

Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

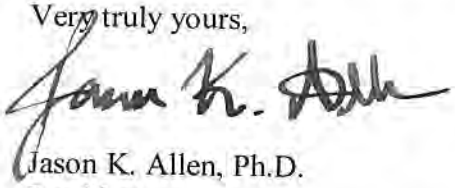
106.31 Education programs or activities.
106.32 Housing.
106.33 Comparable Facilities.
106.34 Access to classes and schools.
106.36 Counseling and use of appraisal and counseling materials.
106.37 Financial Assistance.
106.38 Employment Assistance to Students.
106.39 Health and insurance benefits and services.
106.40 Marital or parental status.
106.41 Athletics.
106.43 Standards for measuring skill or progress in physical education classes.

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

106.51 Employment.
106.52 Employment Criteria.
106.53 Recruitment.
106.54 Compensation.
106.55 Job classification and structure.
106.56 Fringe Benefits.
106.57 Marital or parental status.
106.58 Effect of State or local law or other requirements.
106.59 Advertising.
106.60 Pre-employment Inquiries.
106.61 Sex as a bona-fide occupational qualification.

Thank you for your attention to this request. If you have any questions, or if additional information is required, please do not hesitate to contact me.

Very truly yours,



Jason K. Allen, Ph.D.
President
Midwestern Baptist Theological Seminary

Mississippi College
A CHRISTIAN UNIVERSITY

Office of the President

To: Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

From: Dr. Lee Royce

Date: September 11, 2015

Re: Claim of Title IX Religious Tenet Exemption

I am President of Mississippi College. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the College the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Mississippi College is a Southern Baptist institution of higher education. It is a Mississippi nonprofit corporation. I enclose the Articles of Incorporation of the College.

The College is controlled by a religious organization. That organization is the Mississippi Baptist Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Mississippi. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the College's Charter, the Mississippi Baptist Convention controls the College by electing the College's board of trustees.

The Convention's authority over the College constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), (§703(e)(2)) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Alabama Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion.

I identify those provisions to be:

Admissions:
34 C.F.R. §106.21 and § 106.22 including but not limited to 106.21(b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Box 4001 Clinton, Mississippi 39058 • 101 Nelson Hall • 601.925.3200 • FAX 601.925.3276 • president@mc.edu

Recruitment:
34 C.F.R. §106.23 (governing nondiscriminatory recruitment).
Education Programs or Activities:
34 C.F.R. §106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. §106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. §106.37 (governing financial assistance);
34 C.F.R. §106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. §106.41 (governing athletics);
Employment:
34 C.F.R. §106.51 (governing employment);
34 C.F.R. §106.52 (employment criteria);
34 C.F.R. §106.53 (recruitment);
34 C.F.R. §106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. §106.60 (governing pre-employment inquires).

The College holds itself out to be a Christian college. The College's Vision, Values, and the introductory paragraph of the College's Mission statement are attached.

The Convention's religious authority is the Bible.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the Bible teaches:

> The family is the basic unit of human society, established by the creational decrees of God. The family is rooted in God's gift of marriage, which the Creator defines as the lifelong union of one man and one woman. God has ordained the family as the foundational institution of human society.
>
> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race.
>
> Children, from the moment of conception, are a blessing and heritage from the Lord.

The Convention has declared:

> The union of one man and one woman is the only form of marriage prescribed in the Bible as God's perfect design for the family.
>
> The Bible affirms that all human life, both born and preborn, is a person bearing the image of God.
>
> God's design was the creation of two distinct and complementary sexes, male and female which designate the fundamental distinction that God has embedded in the very biology of the human race.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the College:

> From engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, pregnancy, abortion, and sex outside marriage (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;
>
> From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would include the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; and prohibition of sex outside of marriage between a man and a woman;
>
> From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, pregnancy, abortion, and gender identity in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Lee Royce

Lee Royce, President

Enclosures: Articles of Incorporation
MC Mission, Values, Vision Statements

Missouri Baptist UNIVERSITY

OFFICE OF THE PRESIDENT

March 10, 2016

Ms. Catherine Lhamon
Assistant Secretary for Civil Rights
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Re: Missouri Baptist University Request for Religious Exemption

Dear Assistant Secretary Lhamon:

This letter is to supplement and restate the request of Missouri Baptist University for an exemption from compliance with certain Title IX regulations as authorized by 20 U.S.C. §1681(a)(3) and 34 C.F.R. Section 106.12.[1] The particular regulations for which exemption is requested are, as follows:

34 CFR §106.31(a)(b) – education programs or activities, regarding prohibitions on the basis of sex, including different rules of behavior, sanctions, or other treatment
34 CFR §106.21(a)(b) – admissions; regarding prohibitions on the basis of sex
34 CFR §106.21(c) – admissions; regarding prohibitions based on marital and parental status
34 CFR §106.57 – pregnancy; regarding marital or parental status of employees
34 CFR §106.40 – pregnancy; regarding marital or parental status of students
34 CFR §§106.51(a) and 106.51(b)(6)(7) – regarding discrimination in employment in leaves for pregnancy, childbirth, termination of pregnancy, and benefits based on sex, including in regard to gender identity issues
34 CFR §106.32 – regarding housing
34 CFR §106.33 – regarding restrooms and locker rooms
34 CFR §106.41 – regarding athletics

I am the President of Missouri Baptist University, its highest ranking officer. I am also a licensed Baptist minister, and currently am a member and serve as a deacon of Kirkwood Baptist Church in Kirkwood, Missouri. As President of Missouri Baptist University and a licensed Baptist minister, I am uniquely qualified to speak to the tenets of the Baptist denomination and Missouri Baptist churches pertaining to the matters addressed in this letter and the religious tenets held by the University which are reflected in its policies and practices.

[1] Also see letter of Seth Galanter, Principal Deputy Assistant Secretary, dated January 4, 2016.

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Admissions mobap.edu
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Missouri Baptist University is a private, evangelical Christian University located in St. Louis, Missouri. The University has as its mission the offering of programs of study leading to professional certificates, undergraduate degrees, and graduate degrees in an environment where academic excellence is emphasized and a Biblically based Christian perspective is maintained. The University seeks to prepare students who are motivated by ideals of service for effective performance in careers, including Christian ministry, which are appropriate to its Christian commitment. As stated in the University's Mission and Values,[2] we at Missouri Baptist University are serious and intentional about our Christian faith.

Section 901(a)(3) of Title IX, 20 U.S.C. §1681(a)(3), and the Department of Education's implementing regulation at 34 C.F.R. §106.12 provide that Title IX and its regulations do not apply to an educational institution controlled by a religious organization to the extent that application of Title IX would not be consistent with the controlling organization's religious tenets.[3] An education institutional will normally be considered to be controlled by a religious organization under Title IX if one or more of the following conditions prevail:

(1) It is a school or department of divinity defined as an institution or a department or a branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects; or

(2) It requires its faculty, students or employees to be members of, or otherwise espouse a personal belief in, the religion of the organization by which it claims to be controlled; or

(3) Its charter and catalog, or other official publication, contains an explicit statement that it is controlled by a religious organization or an organ thereof or is committed to the doctrines of a particular religion, and the members of its governing body are appointed by the controlling religious organization or an organ thereof, and it receives a significant amount of financial support from the controlling organization or an organ thereof.

Missouri Baptist University submits that it qualifies for a religious exemption on each of the above bases. First, Missouri Baptist University, through its Christian Ministry faculty, offers major and minor programs of study in the disciplines of Christian Ministry, Ministry and Leadership, and Religion. Missouri Baptist University also offers scholarships to students studying for the Christian ministry. These programs of study, which include, by way of example, such required courses as Biblical Hermeneutics, Worship History and Leadership, Discipleship and Evangelism, Foundations of Christian Theology, Man and Sin, Redemption and Reconciliation, Introduction to Church Planting, Church Administration, Basics of Biblical Counseling, Expository Biblical Ministry and Christian Ministry Internship, are designed to

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[2] A copy of the University's Mission and Values, also available online, is enclosed with this letter.

[3] The term "organization" is not itself defined by regulation. Google defines "organization" as an "organized body of people with a particular purpose." The definition includes more formal corporate entities, but it also includes unincorporated associations, such as churches and church members who call themselves "Baptists," who hold to certain commonly shared views of the Bible and the Christian faith.

prepare students for work in Christian ministry as pastors, chaplains, missionaries and evangelists, as worship leaders in churches, for work in Christian not for profit organizations, teaching in Christian schools and for additional theological training in graduate schools and seminaries.

Although Missouri Baptist University also offers degrees in secular major and minors like business, psychology, English, political science and many others, its programs in Christian Ministry, Ministry and Leadership and Religion offer courses of study from an evangelical Christian perspective that only a private Christian institution can provide. A copy of the University's Course Catalog can be accessed online at the following link: https://www.mobap.edu/about-mbu/publications/undergraduate-catalog/. Regardless of major, full-time students are required to attend chapel, and must take and pass Old Testament History and New Testament History in order to graduate from the University. Given these academic offerings and requirements, uniquely tailored to the education of students to prepare them to become ministers of the Christian religion or other Christian vocations, including the teaching of theology, Missouri Baptist University fulfills the first condition of the exemption.

Second, Missouri Baptist University meets the requirement for religious exemption in that it requires its faculty to espouse a personal belief in Christianity, the religion of the organization by which it claims to be controlled, that is, the association of persons and churches in Missouri called Baptists. In this regard, the Bylaws[4] of the University provide, in Article VI, that:

> "All faculty members shall be actively committed to individual Christian faith and conduct, openly accepting Jesus Christ as Lord and Savior and the New Testament as their rule of faith and conduct."

This belief requirement is also implemented in the University's hiring policies and practices, as evidenced by Policy 2.001, "Spiritual Qualities Sought in Full-Time Faculty and Professional Staff Members." By its terms the policy is intended to "guide those who conduct searches for new faculty and staff and to inform prospective and current employees about University expectations in this vital area." The policy provides that:

"Any person recommended as a continuing full-time faculty and/or professional staff member at Missouri Baptist University should be one who:

1. Is actively committed to individual Christian faith and conduct, openly accepting Jesus as Lord and Savior and the New Testament as their rule of faith and conduct;
2. Has demonstrated faithfulness in worship and in service through a church;
3. Exemplifies a Christian lifestyle;
4. Is aware of and can teach or perform professionally in harmony with the doctrines and principles commonly held by Baptists including but not limited to the necessity of uncoerced faith grounded in the freedom of conscience, the right to

[4] A copy of the University's Bylaws is enclosed with this letter.

worship God, practice faith in liberty, and receive equal treatment in all phases of church and leadership; and

5. Understands and believes in the concept of Christian education and will undergird the primary purpose of Missouri Baptist University by teaching and working from a Biblically based Christian perspective."

Each faculty member is required to provide a written "statement of faith" at the time he or she is hired by the University. That is, each faculty member seeking a position with the University is required to tell us how they came to a saving faith in Christ and what they believe about the essential doctrines of the Christian faith. This is requested in order that the University can be assured that each faculty member is a committed Christian and is able to articulate each of the above principles, as well as being able to articulate and defend the Christian faith to students when called upon to do so.

Clearly, the University's Bylaws and foregoing policy require that its faculty and professional staff be actively committed to and espouse a personal belief in the Christian faith that Missouri Baptists adhere to. As President of the University, I can attest that the hiring of faculty and professional staff is always done with these requirements in mind, and is consistently followed. On this basis Missouri Baptist University also meets the second condition for the religious exemption.

Third, the University is governed by and controlled by its Board of Trustees, seventy-five percent (75%) of whom must be members of Baptist Churches located in Missouri, as dictated by the University's Articles of Incorporation.[5] The Trustees govern the University under the directives of Article II, Paragraph 5 of the Articles, which provide:

> "The purpose of this corporation is to establish and maintain in perpetuity a college to educate students in the liberal arts tradition from a Christian perspective, emphasizing excellence in academic performance and dedicated to the highest standards of honesty, integrity, diligence, and service in the various fields of human endeavor and Christian commitment."

The requirement that at least 75% of the Board of Trustees be members of Baptist churches in Missouri results in members of churches of the Baptist denomination having a super-majority in the direction, operation and control of the University.[6]

In addition, as a consequence of the University's Baptist heritage, mission and values, Missouri Baptist University receives a significant amount of financial support from the Baptist community, including such Baptist organizations as the Baptist General Convention of Missouri and Cooperative Baptist Fellowship, from numerous Missouri Baptist churches which participate in scholarships with the University by matching funds provided to students who are members of those churches, and through the payment of tuition paid by students and families who attend

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[5] A copy of the University's Articles of Incorporation is included with this letter.

[6] The Articles of Incorporation were amended and restated on August 23, 2001, among other reasons, to eliminate appointment of the board of trustees by the Missouri Baptist Convention as a result of concerns that assets of the University might be subjected to claims of third parties on theories of ascending and/or descending liability attributable to its relationship to the Missouri Baptist Convention.

Baptist churches located in Missouri and other Christian donors who support Missouri Baptist University, where a Biblically based Christian perspective is stressed in all areas of campus life. Taken together with the University's Charter and Bylaws, the University's Mission and Values, and other explicit statements and pronouncements that the University is fully committed to the Christian faith and to a Biblically-based Christian perspective in all things, this fulfills the requirement that the University be controlled by a "religious organization or an organ thereof or is committed to the doctrines of a particular religion." Thus, in the University's view, Missouri Baptist University meets all three of the conditions required for an educational institution to be considered controlled by a "religious organization" under the Department's Title IX regulations.

In the Baptist tradition and polity, the evangelical Christian doctrines and tenets which Baptist churches and institutions follow is not established or enunciated by a hierarchical or ecclesiastical body. However, Baptists commonly agree upon certain religious tenets that reflect an evangelical Christian understanding and view of the Scriptures that is shared in common with the University. Among these tenets is that the Bible is the true and reliable word of God, and that we as Christians ought to live our daily lives in a way that is representative of and consistent with Biblical truths. Consequently, the University has sought to apply Biblical truths in its policies and practices, and to its faculty, students and employees.

These tenets are consistently applied throughout campus life. Students and employees are required to conduct themselves in accordance with Christian tenets both on and off campus. As stated in the Student Handbook,[7] "personal misconduct either on or off the campus by anyone connected with the University detracts from the Christian witness the University strives to present to the world and hinders full accomplishment of the University program." These principles are also modeled in the University's standards for student conduct. Most forms of dancing are prohibited. Students are required to dress modestly, consistent with the standards that "set Missouri Baptist University apart as a distinctively Christian institution." In addition, students are prohibited from drinking, smoking, and using tobacco and illegal drugs.

The University also believes, and so states in the Student Handbook, that sexual intercourse and other forms of intensely personal sexual behavior are understood to be derived from a setting solely within the context of marriage—that is, between males and females—and as an expression of their love under the Lordship of Jesus Christ. Thus, cohabitation, engaging in pre-marital or extra-marital sexual relations, and homosexual activity is viewed as inconsistent with the Bible and University tenets. The Student Handbook and, for employees, the Personnel Handbook each contain provisions regarding expected Christian behavioral standards. The University may impose sanctions for behavior which is not in keeping with these standards, including dismissal from the University or termination of employment.

Among the specific tenets of the University and Missouri Baptist churches that conflict with the Department's recent interpretations of Title IX are that God created two sexes, male and female; that marriage is between one man and one woman; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and therefore prohibited. (Genesis 2:27; Exodus 22:16-17; Deuteronomy 22:23-28; Leviticus 20:10-16.) On these bases the

[7] The Student Handbook can be found online at the following link: https://www.mobap.edu/about-mbu/publications/student-handbook/.

University regards homosexuality, bisexuality and transgendered identity and desire as inconsistent with the truth of Scripture and in conflict with Christian behavior, even though it may be in conflict with changing societal opinions and/or OCR's interpretation of Title IX.[8]

In keeping with the religious tenets of the University and Baptist denomination which prohibit cohabitation, and the University's religious principles and practices upholding that prohibition, students residing at Missouri Baptist University are separated on the basis of sex in regard to housing, living arrangements, restrooms, and locker rooms. The University has male-only and female-only residence halls, with rules in place which regulate access to residence halls and housing by members of the opposite sex. To the extent Title IX regulations would require the University to allow males and females to reside in the same housing, to visit within the housing of the opposite sex without restrictions, to allow an unmarried male and female to live together, or to allow a person with gender identity issues to be treated as a member of the sex which they have assigned to themselves in regard to the above categories, such behavior would be against the religious tenets of the University and the commonly held tenets of the Baptist churches in Missouri, as it is cohabitation and considered a sin.

The tenets of the University and Baptist denomination also prohibit homosexual activity, and adhere to the requirement of heterosexuality. The University has deeply-held religious beliefs, based upon Biblical principles and commonly held views of Baptist churches and denominations, which do not allow for any sexuality, other than heterosexuality. The University also believes, based upon Biblical principles, that a person cannot change their birth gender. Based upon its religious beliefs, it is the University's position that a person who self-identifies as the opposite sex cannot reside with individuals who are of the sex with which that person identifies. This is true whether or not the person has undergone surgery or hormonal treatment to assume the physical characteristics of the opposite sex. Such a living arrangement would be deemed to be cohabitation, and under the religious tenets of the Baptist denomination and the University's Christian religious principles and practices, it would be sinful behavior.

Similarly, a person who self-identifies as the opposite sex, but who has expressed an attraction to members of their birth sex, would not be permitted to engage in dating or sexual activity with a person of their birth sex, because this behavior is considered to be homosexual in nature. Based upon these religious beliefs, the University is requesting that the Office for Civil Rights recognize an exemption for the University from 34 CFR 106.31(b)(4), so that the University may apply different rules of behavior, sanctions, or other treatment in matters involving gender identity issues.

An individual who identifies as being of the opposite sex from their birth gender also would not be permitted to play on the athletic teams of the sex which was opposite from their birth gender. Therefore, an exemption is also requested in reference to 34 CFR 106.41. A requirement that individuals be treated in keeping with their self-identified gender, rather than their birth gender, would be inconsistent with the tenets of the University and Missouri Baptist churches.

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[8] See *Southern Baptist Convention Resolution on Homosexuality*, Dallas, TX 1985; *Southern Baptist Convention Resolution on Same-Sex Marriage and Civil Rights Rhetoric*, New Orleans, LA 2012; and *Southern Baptist Convention Resolution on Transgender Identity*, Baltimore, MD 2014.

Employment of an individual who identifies as being of the opposite sex from their birth gender, and who expresses that identification through behavior and/or dress is against the religious beliefs of the University, on the same basis and for the same religious reasons as set forth above, regarding students with gender identity issues. Employees are considered to be representatives of the University, and are required to model appropriate Christian behavior. A male employee who announced himself to be female, or who adopted the appearance of a female, would not be modeling appropriate Christian behavior acceptable to the religious beliefs of the University, nor would a female employee who announced herself to be a male, or who adopted the appearance of a male.

It is the University's position, based upon its religious beliefs taken from Biblical principles and the commonly held views of the Baptist denomination of churches, that a person cannot change his or her birth sex. Although they may undergo surgery or hormone treatments to alter their physical characteristics, only the outward appearance is changed. Thus a student identifying as the opposite sex, rather than their birth sex, would not be permitted to live in University housing with individuals of the self-assigned sexual identity of that person, or to play on athletic teams, share restrooms, or use locker rooms with individuals of the self-assigned sexual identity of that person. That person also would not be eligible for employment with the University.

Based upon the Christian religious beliefs of the University and the tenets of the Baptist denomination, the University is requesting exemption on religious grounds from Title IX regulations §§106.32 (housing), 106.33 (restrooms and locker rooms) and 106.41 (regarding athletics), to allow the University religious freedom to discriminate on the basis of sex, including gender identity, and sexual orientation, in regard to housing and living arrangements, restrooms, locker rooms, and athletics, and from §106.31(b)(4), regarding different treatment and sanctions. In regard to employment and gender identity, the University is requesting exemption on religious grounds from §§106.51(a), which prohibits discrimination in employment and employment decisions on the basis of sex as including claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity.

The University's Christian religious beliefs, which are based upon the Bible and the tenets of the Baptist denomination, also prohibit elective abortion, pre-marital sex, extra-marital sex, and homosexual behavior, for students and employees. Application of the OCR's interpretation of Title IX regulations §§106.21(b)(iii), 106.21(c), 106.40, 106.51(a), 106.51(b)(6), 106.57, 106.31(b)(4) and 106.32 to the University, might result in the University being required to retain pregnant unmarried employees or employees who elect to terminate their pregnancy, to admit pregnant unmarried students, to retain unmarried students who elect to terminate their pregnancy, to allow unmarried students of the opposite sex to live together, to retain pregnant, unmarried students and to allow them to live in University housing, and to allow homosexual students to live together, all of which the University cannot do, because it would be inconsistent with the religious beliefs, policies, and values of the University, and the religious tenets of the Baptist denomination.

Enforcement of the above regulations in respect to Missouri Baptist University would require that the University not discriminate in discipline, admissions, hiring, and employment decisions, in matters such as employment leaves for pregnancy, childbirth, and elective termination of pregnancy, or on the basis of pre-marital sex, unmarried pregnancy, extra-marital sex, or homosexual activity. As with the other regulations for which exemption is sought, requiring Missouri Baptist University to allow such situations to exist at the University would be inconsistent with the religious tenets of Missouri Baptists and the evangelical Christian religious beliefs, policies, and values adhered to and practiced by the University.[9]

Therefore, Missouri Baptist University is requesting an exemption from the specific Title IX regulations referenced in this letter, so that the University may discriminate on religious grounds in regard to its students and employees, in keeping with its religious beliefs and the tenets of Missouri Baptist churches, as set forth in this request. If you have any questions, or if additional information is required, please do not hesitate to contact me.

Sincerely,

R. Alton Lacey

R. Alton Lacey, Ph.D.
President

[9] The Office for Civil Rights has previously granted a religious exemption to Missouri Baptist University from application of certain provisions of Title IX, dated April 19, 1996, a copy of which is enclosed with this letter.

Missouri Baptist UNIVERSITY

OFFICE OF THE PRESIDENT

June 18, 2015

Catherine Lhamon
Assistant Secretary for Civil Rights
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Re: Missouri Baptist University Request for Religious Exemption

Dear Assistant Secretary Lhamon:

This letter shall serve as the request of Missouri Baptist University for an exemption from certain provisions of Title IX of the Education Amendments Act of 1973, as authorized by 20 U.S.C. §1681(a)(3) and 34 C.F.R. Section 106.12.[1] I am the President of Missouri Baptist University, its highest ranking officer.

Missouri Baptist University is a non-profit, evangelical Christian liberal arts institution that has as its purpose the offering of programs of study leading to professional certificates, undergraduate degrees and graduate degrees, including Christian Ministry, Ministry and Leadership and Religion, in an environment where academic excellence is emphasized and a Biblically based Christian perspective is maintained in all facets of the college experience. The academic and student life at Missouri Baptist University is unapologetically Christian in all of its programs and activities and is grounded in the traditions of the Baptist denomination. For example, students are required to take Old Testament History and New Testament History in order to attain a degree in most undergraduate degree programs. Full-time undergraduate students studying at the main campus are also required to attend all chapel and convocation programs as a component of their undergraduate program.

Since its foundation the University has a maintained a close, symbiotic relationship with the Baptist community of believers and is governed by trustees who are members of Baptist churches in Missouri. The board of trustees of Missouri Baptist University consists of twenty-seven persons, seventy-five percent (75%) of whom are required by the University's Articles of Incorporation to be members of Baptist churches located in Missouri. The Articles of Incorporation also provide that in the event of the dissolution of the University, its assets are required to be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code to Baptist institutions selected by the board of trustees which are consistent

[1] Please note that the Office for Civil Rights has previously granted a religious exemption to Missouri Baptist University from application of certain provisions of Title IX. A copy of that exemption letter, dated April 19, 1996, is enclosed with this letter. Said exemption remains in effect.

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Main 314.434.1115
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with and in furtherance of the purposes of Missouri Baptist University and which are also exempt institutions within the meaning of Section 501(c)(3) of the Internal Revenue Code.

In the Baptist tradition and polity, the Christian doctrine and beliefs which Baptist institutions like the University follows is not established or enunciated by a hierarchical or ecclesiastical body in the way that one might find, for example, in the Roman Catholic Church. Baptists are free to determine for themselves the Biblical tenets that govern their faith and practice in light of their understanding of the Scriptures. However, the University and the Baptist community of believers commonly agree upon certain religious tenets that reflect an evangelical Christian understanding and view of the Scriptures.

The University is compelled by Scripture to be faithful to these religious tenets of the Christian faith. To the extent that these tenets permit, Missouri Baptist University remains committed to complying with the spirit and letter of federal laws affording equal educational opportunity and nondiscrimination in admission to and participation in the University's programs and activities, including Title IX. However, in some instances, Scripture, as understood by the University and the Baptist denomination of believers, requires the University to act in ways which may conflict with certain regulations implementing Title IX in light of OCR's determination that "Title IX's sex discrimination provisions extend to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity" or otherwise form a basis for the protection from discrimination against lesbian, gay, bisexual and transgender persons.[2]

Missouri Baptist University adheres to the religious tenets of Scripture that our embodiment as male and female is understood as an aspect of our creation by God and, therefore, instructive regarding behavior and lifestyles that are good and pleasing to Him. Human embodiment as male or female also simply and eloquently evidences God's intention for sexual relationship—that is, it is rightly between men and women within the context of marriage. Homosexual or bisexual desire and sexual activity is viewed as inconsistent with the meaning and purpose of one's embodiment as male or female, and is regarded by Scripture as sin.[3]

The same tenets of Scripture apply to one who is embodied as a man but feels persistent discomfort with his maleness or for a person with a female body who believes she is male. From the standpoint of our gender—the only objective means of determining who is male or female—we have a God-given identity that is either masculine or feminine. One is a man or woman because that is what God intended them to be. Gender is part of the goodness of his creation. The body of Scripture indicates that gender dysphoria and transgender identity represents a part of our fallen human nature, is contrary to Scripture and should be opposed rather than given free reign.[4] On this basis the University regards homosexuality, bisexuality and transgendered identity and desire as inconsistent with the truth of Scripture, even though it may be in conflict with changing societal opinions and/or OCR's interpretation of Title IX.

The faculty, employees and students of the University are expected to conduct themselves in a

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[2] See OCR Questions and Answers on Title IX and Sexual Violence, dated April 29, 2014.
[3] See Southern Baptist Convention Resolution on Homosexuality, Dallas, TX 1985; and Southern Baptist Convention Resolution On Same-Sex Marriage and Civil Rights Rhetoric, New Orleans, LA 2012.
[4] See Southern Baptist Convention Resolution on Transgender Identity, Baltimore, MD 2014.

manner consistent with the tenets of the Christian faith and, as much as humanly possible, to model Christ in every area of their lives, including sexual conduct and gender identity. It would be entirely inconsistent with the sincerely held tenets of faith and practice of Missouri Baptist University to require it to treat Title IX regulations prohibiting discrimination on the basis of sex as including claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity, the very antithesis of the University's religious views. The exemption sought by Missouri Baptist University would reserve to the University the right to discriminate on such bases since they are directly in conflict with its religious viewpoint and sincerely held tenets and practices. Missouri Baptist University respectfully seek exemption on religious grounds from the following regulations, found in 34 C.F.R Part 106:

Subpart C—Discrimination of the Basis of Sex in Admission and Recruitment Prohibited

106.21 Admission.
106.22 Preference in admission.
106.23 Recruitment;

Subpart D—Discrimination on the basis of Sex in Education Programs or Activities Prohibited

106.31 Education programs or activities.
106.32 Housing.
106.33 Comparable Facilities.
106.34 Access to classes and schools.
106.36 Counseling and use of appraisal and counseling materials.
106.37 Financial Assistance.
106.38 Employment Assistance to Students.
106.39 Health and insurance benefits and services.
106.40 Marital or parental status;

and

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

106.51 Employment.
106.52 Employment Criteria.
106.53 Recruitment.
106.54 Compensation.
106.55 Job classification and structure.
106.56 Fringe Benefits.
106.57 Marital or parental status.
106.58 Effect of State or local law or other requirements.
106.59 Advertising.
106.60 Pre-employment Inquiries.
106.61 Sex as a bona-fide occupational qualification.

Accordingly, Missouri Baptist University seeks religious exemption from the above regulations implementing Title IX insofar as such regulations treat or regard discrimination on the basis of "sex" as including claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity, or otherwise form any basis for protection from discrimination against lesbian, gay, bisexual and transgender persons.

Thank you for your attention to this request. Please do not hesitate contact me if you have any questions concerning the same.

Sincerely,

R. Alton Lacey

R. Alton Lacey, Ph.D.
President

MULTNOMAH

UNIVERSITY

FROM THE OFFICE OF THE PRESIDENT
G. CRAIG WILLIFORD, PH.D.

February 11, 2015

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

Re: Multnomah University's Request for Title IX Religious Exemption

Dear Ms. Lhamon:

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

As described in its articles of incorporation and bylaws (enclosed), Multnomah University is a faith-based, higher education institution built upon the historic, Christian, protestant, evangelical tradition. Since our beginning in 1936, our mission has been to serve churches and society by providing biblically and spiritually formed clergy and leaders for the church and public arena. Our core religious convictions are central to our educational experience and learning community as demonstrated in numerous ways including our requirement that all undergraduate students earn a Bible degree in addition to any other degree they seek.

Multnomah University is completely controlled by the Board of Trustees.[2] Every member of the Board is required to be a Christian and subscribe to the beliefs outlined in our doctrinal and values statements.[3] As a religious corporation with a specific educational mission, Multnomah University is committed to an evangelical theology that arises from its Christian Protestant tradition. Therefore, as stipulated in its articles of incorporation and bylaws[4],

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[1] *See* 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."); *see also* Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf

[2] Bylaws, Art. I, Section 1A.

[3] Bylaws, Art. I, Section 1B.

[4] *See* Second Restated Articles of Incorporation, Art. IV—Doctrine and Values and Restated Bylaws, Art. I, Section 1.B.2.

Multnomah University's theological and ethical tradition is articulated in its doctrinal and values statements; both of which are signed annually by all trustees, faculty, and staff. A copy of the doctrinal and values statements are enclosed. A nondenominational institution, Multnomah University's doctrinal heritage defines its mission, guides the development of its academic programs, shapes strategic planning and decision-making, and also determines the ethical values embraced by the trustees, faculty, and staff. As further evidence of its historic identity as a religious organization, Multnomah University also has a Seminary, which offers seven different graduate degrees in theology, divinity, ministry, and Biblical studies. Multnomah has also helped found and support numerous other ministries in the Pacific Northwest, including the Church Ministries Institute, Multnomah Press, International Renewal Ministries, and the "Know Your Bible Hour" radio broadcast.

Multnomah University's "Human Sexuality and Purity Policies" (enclosed) reaffirms our longstanding belief in the authority of the Bible; the care and compassion we want to characterize our community; and our understanding of the Bible's teaching on human sexuality.

In keeping with Multnomah University's mission and commitment to evangelical Christianity, all members of the University community are expected to live and support the teachings of Scripture. Multnomah affirms that sexual relationships are designed by God to be expressed solely within a marriage between husband and wife. This view of sexuality and marriage is rooted in the Genesis account of creation and is maintained consistently throughout Scripture.

The University believes that sexual relations of any kind outside these confines of heterosexual marriage are inconsistent with the teaching of Scripture, as understood by Christian churches throughout history. Sexual misconduct, depending on the facts and circumstances of each case, may result in disciplinary action. In all disciplinary matters, we will seek to be redemptive in the lives of the individuals involved. Consequently, the University will offer counsel and assistance to support and strengthen the individual's resolve to live consistently with Christian teaching on sexuality.

Multnomah University emphasizes Christian principles of religion in its community and campus life. Multnomah University's community standards, expressed in its student handbook and employee handbook, requires students and employees to follow the code of conduct established by the University.[5] As the framework for this code of conduct, Multnomah University has incorporated the Christian standards of behavior directed by biblical principles and the tenets of the historic, Christian, protestant, evangelical tradition.

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

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[5] 2014-15 Multnomah University Student Handbook, *available at* http://www.multnomah.edu/student-life/student-services/student-handbooks/

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[6] And as you also know, the resolution agreement[7] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of sex to which they believe they belong.[8] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of Multnomah University.

Because the requirement to treat transgender students consistent with their "gender identity" would conflict with our aforementioned religious tenets, Multnomah accordingly requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity discrimination):

- 34 C.F.R. § 106.21 (admission)
- 34 C.F.R. § 106.22 (preference in admission)
- 34 C.F.R. § 106.23 (recruitment)
- 34 C.F.R. § 106.31 (education programs or activities)
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 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(governing athletics); and
- 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)

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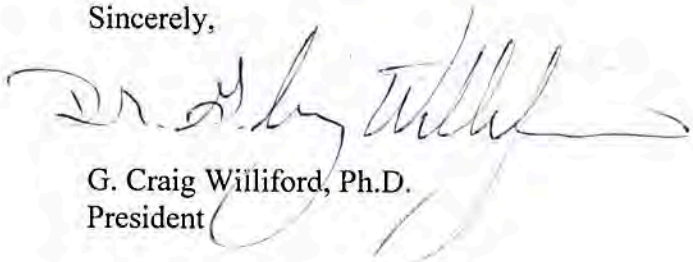
[6] U.S. Department of Education, Questions and Answers on Title IX and Sexual Violence, *available at* http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf at 5 ("Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform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

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

[8] *Id.*

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.

Sincerely,



G. Craig Williford, Ph.D.
President

Enclosures: (a) Multnomah University articles of incorporation and bylaws
(b) Multnomah University doctrinal and values statements
(c) Multnomah University's "Human Sexuality and Purity Policies"

NORTH GREENVILLE UNIVERSITY • P.O. BOX 1892 • TIGERVILLE, SC 29688 • (864) 977-7000

December 10, 2014

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office of Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Request for Title IX Religious Exemption

Dear Assistant Secretary Lhamon:

As the highest-ranking official of North Greenville University, a private, Christian liberal arts university in South Carolina, I hereby request exemption from compliance with certain Title IX regulations, under the religious exemption provided in 20 CFR 1681(a)(3). The particular regulations for which exemption is requested are:

34 CFR §106.21 (b)(iii) – admissions; regarding prohibitions on the basis of sex
34 CFR §106, 21(c) – admissions; regarding prohibitions based on marital and parental status
34 CFR §106.31(b)(4) – regarding different rules of behavior, sanctions, or other treatment
34 CFR §106.57 – pregnancy; regarding marital or parental status of employees
34 CFR §106.40 – pregnancy; regarding marital or parental status of students
34 CFR §§106.51(a) and 106.51(b)(6) – regarding discrimination in employment in leaves for pregnancy, childbirth, and termination of pregnancy, based on sex, including in regard to gender identity issues
34 CFR §106.32 – regarding housing
34 CFR §106.33 – regarding restrooms and locker rooms
34 CFR §106.41 – regarding athletics

North Greenville University is a private, Christian liberal arts university located in Tigerville, South Carolina. The University was established in 1892 and is one of South Carolina's largest accredited, independent universities, enrolling approximately 2,600 students. The University's purpose, as an institution affiliated with and committed to the South Carolina Baptist Convention, is to provide opportunities for higher education in a Christian atmosphere, and to strive to prepare students to become better contributing members of society by educating the whole person through an integration of academic discipline, a Christian lifestyle, and an enriched cultural experience while offering students the best opportunities for spiritual growth, academic training, and Christian service. Christ must be the center of the campus for the purpose of Christian education and Christian character building.

North Greenville operates under a philosophy of Christian Education that supports the school's mission and statement of purpose. This philosophy, as stated in the 2014-2015 catalog says,

"As a Christian school, North Greenville University must keep the emphasis upon the person and work of Jesus Christ, the Son of God, who was begotten by the Holy Spirit, born of the virgin Mary, true God and true man who died as the substitutionary atonement for the forgiveness of sin, was resurrected from the dead, and now reigns as the living Lord. The University is Christian when this Christ is the head and center of all its thinking and conduct.

An education at North Greenville University is regarded as preparation for effective Christian service and witness. The Bible, as the inspired and infallible Word of God, is the solid foundation of the curriculum and the basis of the philosophy of education and of life.

We care about the spiritual wellbeing of our students as well as their academic achievements.

Attendance at North Greenville University is a privilege, and not a right, which may be forfeited by any student who does not conform to the standards and regulations of the institution. The University may request the withdrawal at any time of any student, who, in the opinion of the university, does not fit into the spirit of the institution, regardless of whether that student conforms to its specific rules and regulations."

North Greenville University endeavors to serve its stated purpose and support its philosophy of Christian education, which permeates all functions of the University, by following these institutional objectives:

1. Offering basic liberal arts curricula that lead to the baccalaureate, masters and doctoral degrees.
2. Strengthening opportunities to meet the needs of advanced and gifted students while continuing to maintain the university's heritage of providing quality education for all students.
3. Presenting distinctive, innovative programs that attract and meet the needs of non-traditional students.
4. Achieving high academic standards through the employment of qualified professionals and through furnishing appropriate educational support services.
5. Providing an environment in which students can realize their fullest potential as complete persons, developing intellectually, physically, socially, culturally, morally, and spiritually.
6. Affording a special sense of community through the development of close, personal relationships and the nurturing efforts of a caring, Christian, dedicated faculty, staff, and administration.

A copy of the sections referenced in the *2014-2015 Catalogue* is attached as Item 1.

The University is governed and controlled by its Board of Trustees, which consists of twenty-five members who are elected by the South Carolina Baptist Convention, as dictated in the North Greenville University Restated Articles of Incorporation. A copy of these Articles of Incorporation is attached as Item 2.

We agree with and support the Biblical Core Values as presented in *THE BAPTIST FAITH AND MESSAGE*, Southern Baptist Convention, 2000 and read:

* Scripture. The Holy Bible was written by men divinely inspired and is God's revelation of Himself to man. It is a perfect treasure of divine instruction. It has God or its author, salvation for its end, and truth, without any mixture of error, for its matter. Therefore, all Scripture is totally true and trustworthy. It reveals the principles by which God judges us, and therefore is, and will remain to the end of the world, the true center of Christian union, and the supreme standard by which all human conduct, creeds, and religious opinions should be tried. All Scripture is a testimony to Christ, who is Himself the focus of divine revelation.

* God. There is one and only one living and true God. He is an intelligent, spiritual, and personal Being. God is infinite in holiness and all other perfections. God is all powerful and all knowing; and His perfect knowledge extends to all things, past, present, and future, including the future decisions of His free creatures. To Him we owe the highest love, reverence, and obedience. The eternal triune God reveals Himself to us a Father, Son and Holy Spirit, with distinct personal attributes, but without division of nature, Essence, or being.

* Jesus Christ. Christ is the eternal Son of God. In His incarnation as Jesus Christ He was conceived of the Holy Spirit and born of the Virgin Mary. Jesus perfectly revealed and did the will of God, taking upon Himself Human nature with its demands and necessities and identifying Himself completely with mankind yet without sin. He honored the divine law by His personal obedience, and in His substitutionary death on the cross He made provision for the redemption of men from sin. He was raised from the dead with a glorified body and appeared to His disciples as the person who was with them before His crucifixion. He ascended into heaven and is now exalted at the right hand of God where He is the One Mediator, fully God, fully man, in whose Person is effected the reconciliation between God and man. He will return in power and glory to judge the world and to consummate His redemptive mission. He now dwells in all believers as the living and ever present Lord.

* Salvation. Salvation involves the redemption of the whole man, and is offered freely to all who accept Jesus Christ as Lord and Savior, who by His own blood obtained eternal redemption for the believer. In its broadest sense salvation includes regeneration, justification, sanctification, and glorification. There is no salvation apart from personal faith in Jesus Christ as Lord.

* The Christian and Social Order. All Christians are under obligation to seek to make the will of Christ supreme in our own lives and in society. Means and methods used for the

improvement of society and the establishment of righteousness among men can be truly and permanently helpful only when they are rooted in the regeneration of the individual by the saving grace of God in Jesus Christ. In the spirit of Christ, Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality including adultery, homosexuality, and pornography. We should work to provide for the orphaned, the needy, the abused, the aged, the helpless, and the sick. We should speak on behalf of the unborn and contend for the sanctity of all human life from conception until natural death. Every Christian should seek to bring industry, government, and society as a whole under the sway of the principles of righteousness, truth, and brotherly love. In order to promote these ends Christians should be ready to work with all men of good will in any good cause, always being careful to act in the spirit of love without compromising their loyalty to Christ and His truth.

* Evangelism and Missions. It is the duty and privilege of every follower of Christ and of every church of the Lord Jesus Christ to endeavor to make disciples of all nations. The new birth on man's spirit by God's Holy Spirit means the birth of love for others. Missionary effort on the part of all rests thus upon a spiritual necessity of the regenerate life, and is expressly and repeatedly commanded in the teachings of Christ. The Lord Jesus Christ has commanded the preaching of the gospel to all nations. It is the duty of every child of God to seek constantly to win the lost to Christ by verbal witness undergirded by a Christian lifestyle, and by other methods in harmony with the gospel of Christ.

The University believes that the Bible is the true and reliable word of God, and follows Biblical principles in its policies and practices applicable to Christian education and its students and employees.

Because of our commitment to the Holy Scriptures, North Greenville University implements Faith Integration on campus to students and employees in a number of ways:

- Chapel. Our corporate integration begins with our chapel. Chapel presentations address the imperatives of the Christian message related to worship, evangelism, discipleship, fellowship, and ministry. Some sessions will also be utilized for special university emphases. In keeping with the philosophy of campus community and the importance of Christian values, chapel meets twice weekly. Chapel is required each fall and spring semester for all full-time students. Students must successfully complete the chapel requirement for each semester of full-time attendance in order to graduate at North Greenville University. In addition, students must pass a minimum of two semesters of chapel to earn a bachelor's degree from the university.

- Campus Ministry. There are many ways to plug in to Campus Ministries at the University. On campus, students have opportunities to grow as believers. Discipleship opportunities include leading/attending Bible studies, prayer groups, worship experiences, and service ministries. Life Transformation Groups consist of three

students of the same sex who meet weekly for one hour to discuss Scripture, pray for those who do not know Christ, and hold each other accountable. Campus Ministry interns and chaplains assist with ministries in the residence halls, giving attention to the needs of the university family. Athletic Ministries seek to minister to the spiritual needs of our athletes through evangelism, discipleship, and mission and ministry opportunities. Through Women's Ministries, we seek to minister to the needs of our female students through mentoring, fellowship, Bible study, and accountability.

- The Craft/Hemphill Center for Missions, Evangelism, and Christian Worldview. The University is committed to being a strategic partner in fulfilling the Great Commission given to us by our Lord Jesus Christ. Through an integrated program of academic discipline, spiritual preparation and hands-on field experience, students are being prepared to fill strategic roles in the great task of world evangelism. Short-term missions teams (L.I.G.H.T. Teams) and field practicum experiences allow students to put their classroom training to work in "real world" environments among people groups and population segments from every region of the world. The Christian Worldview Center provides opportunities for students to connect the dots between the world they live and the faith they live by. Our Life Answers Team trains students in the discipline of possessing and professing the truth of Christianity in variety of worship and marketplace settings. The national Truth for a New Generation Conference brings the best and brightest apologetic speakers and leaders to the Upstate for an annual gathering and teaching opportunity. The annual Christian Worldview Conference brings speakers to the university campus for three days of teaching on the integration of faith and learning. The Center for Church Planting and Revitalization helps to plant churches in areas where no church exists and reaches out to churches that are struggling, offering resources and ideas for revitalization.

- BSU. The Baptist Student Union gathers for fellowship and worship each Thursday evening at 7:00pm in Turner Chapel. BSU sponsored IMPACT teams visit churches, assist in mission projects, and participate in ministries through the year and during the summer between terms. BSU ministries sponsor annual campus-wide student events including "Converge," "Reveal," and our campus wide student revival know as IGNITE. BSU music and drama teams minister throughout the southeast. Joyful Sound has three vocal ministry teams that travel three weeks out of every month each semester. The Campus Band is a praise and worship band that leads worship during campus chapel services and in local churches. The BSU drama team known as ACT II leads worship through drama in churches all over the Southeast.

Regarding human sexuality, the teachings of the Bible and the beliefs of the Baptist Church, both of which are followed by the University, are that God created two sexes, male and female; that marriage is between one man and one woman; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and are therefore prohibited. (Genesis 2:27;

Exodus 22:16-17; Deuteronomy 22:23-28; Leviticus 20:10-16; I Corinthians 6:9-11; Romans 1:20-27).

North Greenville University, based upon Biblical principles, affirms that a person cannot change their birth gender and therefore, must be treated as such, rather than a self-identified gender, which would be inconsistent with the University's fundamental religious beliefs. Furthermore, our affiliation with The Southern Baptist Convention, via the South Carolina Baptist Convention, confirms North Greenville University's core beliefs in alignment with the national Convention. We agree with and support the Southern Baptist Convention's statement on transgender which, in summary, is as follows:

- We "affirm God's good design that gender identity is determined by biological sex and not by one's self-perception----a perception which is often influenced by fallen human nature in ways contrary to God's design (Ephesians 4:17-18)
- That we grieve the reality of human fallenness, which can result in such biological manifestations as intersexuality or psychological manifestations, such as gender identity confusion and point all to the hope of the redemption of our bodies in Christ (Romans 8:23).
- That we extend love and compassion to those whose sexual self-understanding is shaped by a distressing conflict between their biological sex and their gender identity.
- That we invite all transgender persons to trust in Christ and to experience renewal in the Gospel (I Timothy 1:15-16).

Application within the context of the student culture at North Greenville University, guided by the understanding of the scriptures, soul-competency and support of the Southern Baptist Convention's biblical position, is clearly outlined in the Student Handbook.

- Any individual, or group, who is obscene, lewd, indecent, or participates, in any sexual activity outside the bonds of marriage violates Christian principles and practices. Sexual misconduct by North Greenville University students is harmful to the image and reputation of the individual and the University and therefore will not be tolerated. Students should be careful at all times not to place themselves in situations or activities that may lead to action that could be interpreted as sexual misconduct. Immoral conduct or action such as, but not limited to, adultery, fornication, pre-marital sex, fondling, inappropriate touching, homosexual activity or an open declaration identifying oneself as lesbian, gay, bi-sexual or trans-gendered are deemed to be in violation of the policy concerning sexual misconduct. In addition, the University will not allow persistent or conspicuous examples of cross-dressing or other expressions or actions that are deliberately discordant with birth gender and will consider those expressions or actions to be in violation of the policy concerning sexual misconduct. Sexual misconduct is considered a major violation of University policy and; as such, any violation warrants the individual's immediate loss of privilege to attend NGU. Whenever University officials/representatives have reason to believe individual students are engaging in any

> actions or conduct, whether on or off campus, which constitutes sexual misconduct, and when a question of responsibility is involved, those guidelines listed under Disciplinary Procedures shall be exercised.

Likewise, the North Greenville University *Employee Handbook* requires all employees of the University to comply with a standard of behavior that is in keeping with the Holy Scripture.

> North Greenville University prides itself in its institutional commitment to the Christian faith and Christian values. Employees of the University are assumed to be persons of high moral character and are expected to exemplify the highest moral standards and good judgment, having made declarations of same in the interview process. Because of the nature of the relationship between students, staff, and faculty, it is imperative that the staff serve as exemplary role models to the students and conduct themselves as Christian women and men in their relationship to one another.
>
> However, to clarify certain minimum standards of conduct, immorality shall be considered to be evidenced by any of the following:
>
> a. Use of alcoholic beverages including public drunkenness.
> b. Use of addictive drugs and hallucinogens that are not prescribed by a physician.
> c. Any explicit sexual behavior such as, but not limited to, adultery, fornication, pre-marital sex, homosexual activity or an open declaration identifying oneself as lesbian, gay, bi-sexual, or transgendered.
> d. Indictment or conviction of a felony.
> e. Willful failure to pay debts.
> f. Unlawful act of violence.
> g. Unlawful act resulting in destruction of property.
> h. Fraud...any act willfully done to deceive or circumvent another to his injury.
> i. Disloyalty....faithlessness to state institutional purposes.
> j. Faculty and staff are prohibited from entering into any form of dating relationship with a student.
> k. Public slanderous remarks made against students, faculty, staff, or administration.
> l. Any other conduct that is "not of the Lord" and reflects negatively on and impedes the accomplishment of the goals of the institution.

Therefore, in accordance with relevant provisions of the University's *Employee Handbook*, employees are expected to conduct themselves in a manner consistent with North Greenville University's Christian values. As such, employment of someone who identifies as being of the opposite sex from their birth gender and who expresses that identification either through behavior and/or dress is plainly contrary to the University's religious beliefs. Therefore, the

University requests an exemption from the provisions of 34 CFR§ 106.31(b)(4) and 34 CFR § 106.51(a).

The University's religious beliefs prohibit pre-marital sex and elective abortion. An exemption from the provisions of CFR § 106.57 is therefore requested in order that the University not be required to violate or override its religious beliefs in order to retain pregnant unmarried employees or employees who elect to terminate their pregnancy.

If students and/or employees exhibit behavior, which is not in keeping with the University's mission and vision, then the University may impose sanctions up to, and including, expulsion from the University or termination of employment.

Requiring the University to adhere to and/or enforce the above noted regulations would be inconsistent with the deeply held religious beliefs and practices of the South Carolina Baptist Convention and North Greenville University. As such, and in keeping with its religious beliefs, North Greenville University requests an exemption from the specific Title IX regulations referenced in this letter in order that the University may appropriately make decisions in accordance with its religious beliefs and principles in regard to matters involving its students and employees.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Randall J. Pannell, Ph.D.
Acting CEO; Vice President of Academic Affairs
North Greenville University

NORTHPOINT
BIBLE COLLEGE

DR. J. DAVID ARNETT, President

Monday, September 28, 2015

Catherine E. 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: Statement of exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12

Dear Ms. Lhamon:

It has come to Northpoint Bible College's attention that the Department of Education has recently taken the position that 20 U.S.C. § 1681(a), Title IX's rule against discrimination on the basis of sex, now bars differential treatment based on "gender identity." The Department's new interpretation of Section 1681(a) conflicts with Northpoint Bible College's religious tenets and our ability to carry out our religious mission. In the course of our review, Northpoint Bible College has identified other potential interpretations or applications of Section 1681(a) that likewise conflict with our religious mission. Therefore, as the highest-ranking official of Northpoint Bible College's administration, I write to inform the Department of Education that Northpoint Bible College qualifies for the religious exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 because of its affiliation with the Assemblies of God. I also write to explain how certain provisions, as they may interpreted by the Department, conflict with specific tenets of Northpoint Bible College and the Assemblies of God.

Northpoint Bible College qualifies for Title IX's religious exemption.

Northpoint Bible College is an educational institution affiliated with the Assemblies of God, a religious organization. The following explains why Northpoint Bible College qualifies for the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R.

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§ 106.12 as these provisions have been interpreted and applied by the Department of Education.[1]

The General Council of the Assemblies of God ("General Council"), the highest governing body of the church, has established the Alliance for Assemblies of God Higher Education ("Alliance") and tasked the Alliance with developing educational, spiritual, and theological standards for schools that wish to be affiliated with the church.[2] To fulfill this mandate, the Alliance developed Endorsement Criteria that are intended to facilitate the development of educational institutions that are committed to the Assemblies of God's mission, to the integration of faith and learning in the Pentecostal tradition, and to academic excellence.[3] The purpose of the Endorsement Criteria is to insure doctrinal fidelity and institutional conformity to Assemblies of God standards of morality.

Northpoint Bible College is endorsed by the Alliance and is committed to maintaining this status by carefully following the Alliance's Endorsement Criteria.

Consistent with the Alliance's Endorsement Criteria, Northpoint Bible College's mission documents commit Northpoint Bible College to the formation of mature Christian character and spiritual life, the development of loyalty to the doctrines and principles of the Assemblies of God, and the preparation of leaders for the Kingdom of God and the Assemblies of God.

The Alliance's Endorsement Criteria also shape how Northpoint Bible College selects its leadership, faculty, administrators, and students. At least 90% of Northpoint Bible College's board members are affiliated with the Assemblies of God and the remaining board members affiliated with another Pentecostal church.

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[1] *See* U.S. Dep't of Ed., *Explanation of HEW Form 639 A* (March 1977) at 3-4, available at http://freepdfhosting.com/88b629f888.pdf.

[2] *See* The Alliance for Assemblies of God Higher Education, *Our Purpose*, http://colleges.ag.org/about/mission.cfm.

[3] *See* The Alliance for Assemblies of God Higher Education, *Endorsement Criteria*, Rev. 2010, available at http://colleges.ag.org/pdfs/Final%20Criteria.pdf.

Under the Endorsement Criteria, Northpoint Bible College may not deviate from these standards without permission from the Alliance.

Additionally, the Alliance's Endorsement Criteria require Northpoint Bible College's faculty, administrators, and students to be members of an Assemblies of God church or otherwise espouse a personal belief in the basic tenets of the Christian faith as understood by the Assemblies of God. As required by the Endorsement Criteria, all of Northpoint Bible College's administrators and faculty annually sign a statement affirming loyalty to the Statement of Fundamental Truths of the Assemblies of God, a personal experience of Holy Spirit baptism, and a willingness to influence others with regard to loyalty to the Assemblies of God church and theology.

Consistent with Alliance standards, Northpoint Bible College asks all applicants for on-campus programs to affirm that they are born-again Christians, that they desire to be involved in Christian service, and that they agree with the accepted essentials of the Christian faith as held by the Assemblies of God. Applicants must also provide a letter of recommendation from a pastor.

Student life at Northpoint Bible College is also shaped by our commitment to Alliance standards. Northpoint Bible College shares the Assemblies of God's conviction that Christian colleges and universities should form their students both academically and spiritually. Faithful to the Endorsement Criteria, Northpoint Bible College helps stimulate students' appreciation for the Word of God and encourages students to pursue spiritual maturity and excellence. Northpoint Bible College is dedicated to strengthening our students' appreciation of and attachment to the Christian Church, especially the Pentecostal tradition and the Assemblies of God. Each student is required to be involved in a ministry for at least two semesters, with more expected of students in ministry-related majors.

As part our commitment to developing a robust Christian community, and consistent with the Alliance's standards, Northpoint Bible College holds at least four chapel services each week, which are mandatory for students. Northpoint Bible College also has enforceable church and chapel attendance policies for administrators and faculty.

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Because Northpoint Bible College adheres to the Endorsement Criteria, it is eligible for financial support from the Assemblies of God. The Alliance develops financial resources for endorsed colleges in cooperation with the Assemblies of God Trust. The Alliance also develops educational resources and runs conferences to help affiliated schools better serve their mission and their students.

In light of all the above, Northpoint Bible College is entitled to the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12.

Certain applications of 20 U.S.C. § 1681(a) and 34 C.F.R. 106 conflict with Assemblies of God doctrine and practice.

Northpoint Bible College is compelled to submit this statement because it believes that its religious convictions, informed by its relationship with the Assemblies of God, conflict with some of the ways that the Department of Education may interpret or may seek to enforce 20 U.S.C. § 1681(a). Specifically, Northpoint Bible College is concerned with the Departments' assertion that Section 1681(a) prohibits distinctions on the basis of sexual orientation, gender identity, or more generally on the basis of the Assemblies of God's teachings about marriage and biblical standards for sexual conduct.[4]

As a Christian institution, Northpoint Bible College believes that all matters of faith and conduct must be evaluated on the basis of Holy Scripture, which is our infallible guide (2 Timothy 3:16-17). As a school founded in and inspired by the Assemblies of God tradition and endorsed by the Alliance, Northpoint Bible College looks to the General Council and the General Presbytery of the Assemblies of God to help us interpret Scripture.

Human Dignity: The Assemblies of God believes that God created humankind in His image and that people receive their essential dignity from the fact that they are created in the God's image and are loved by Him (Genesis 1:27). This dignity does

[4] The religious convictions set forth below are established by the Assemblies of God in its Constitution and Bylaws, available at http://ag.org/top/about/constitution_bylaws.cfm, and in Position Papers approved by the General Presbytery of the Assemblies of God, available at http://ag.org/top/Beliefs/position_papers/.

not depend on whether someone is single or married or on whether someone suffers from any particular temptation to sin (1 Corinthians 7; Romans 5:8).

Abortion: The Assemblies of God believes that human beings bear the image of God and receive their essential identity and dignity before we are born (Luke 1:31-44; Acts 7:19; Job 31:15; Psalm 139:13-16). As such, the Assemblies of God believes that abortion is the killing of innocent human life and is therefore prohibited by the Ten Commandments and elsewhere throughout Scripture (Exodus 20:13, 21:22-24; Matthew 19:18; Romans 13:9).

Marriage: The Assemblies of God defines marriage as the permanent, exclusive, comprehensive, and conjugal "one flesh" union of one man and one woman, intrinsically ordered to procreation and biological family, and in furtherance of the moral, spiritual, and public good of binding father, mother, and child. The Assemblies of God teaches that the purpose of Christian marriage is to reflect the love, purity, and permanence between Christ and the Church (Ephesians 5:23-33).

Sexual Conduct: The Assemblies of God believes that God has designed sexual intimacy for marriage and that sexual acts outside of marriage are sinful. Such acts include but are not limited to adultery, fornication, incest, bestiality, pornography, prostitution, voyeurism, pedophilia, exhibitionism, sodomy, polygamy, polyamory, or same-sex sexual acts. (Exodus 20:14; Leviticus 18:7–23; 20:10–21; Deuteronomy 5:18; Matthew 5:27–28; 15:19; Romans 1:26–27; 1 Corinthians 6:9–13; Galatians 5:19; Ephesians 4:17–19; Colossians 3:5; 1 Thessalonians 4:3; Hebrews 13:4).

Sexual Orientation: The Assemblies of God affirms the sexual complementarity of man and woman and teaches that same-sex sexual attractions are temptations to sin and should therefore be resisted. (Genesis 1:27; 2:24; Matthew 19:4–6; Mark 10:5–9; Romans 1:26–27; 1 Corinthians 6:9–11).

Sexual Identity: The Assemblies of God believes that God created humankind in His image, male and female, sexually different but with equal personal dignity. The church supports the dignity of individual persons affirming their biological sex and discouraging any and all attempts to physically change, alter, or disagree with their predominant biological sex—including but not limited to elective sex-reassignment,

transvestite, transgender, or nonbinary "genderqueer" acts or conduct. (Genesis 1:26–28; Romans 1:26–32; 1 Corinthians 6:9–11).

Sexual Equality: The Assemblies of God believes that men and women have equal dignity before God and does not make any distinction between the sexes when selecting people for ministry or spiritual leadership positions. Having observed that God pours out His Spirit upon both men and women, the Assemblies of God concludes that God gifts both sexes for ministry in His Church.

Northpoint Bible College believes and embraces these teachings and has integrated them into its standards for its administrators, faculty, and students. In order to help foster these standards and to help ensure that Northpoint Bible College is a place of nourishment, Northpoint Bible College has adopted a student policy manual that clearly outlines policies regarding expectations for student behavior, accountability, rules and disciplinary actions, and other general expectations for student life on campus.

None of this to say that Northpoint Bible College or the Assemblies of God excludes anyone based on their sins or based on their temptations. The Assemblies of God believes that all have sinned and fall short of the glory of God and should seek redemption through confession, repentance, baptism, and faith in Jesus Christ. We welcome and treat with respect, compassion, and sensitivity all who experience same-sex attractions or confess sexually immoral acts and are committed to resisting sexual temptation, refraining from sexual immorality, and transforming their behavior in the light of biblical teachings. (Matthew 11:28–30; Romans 3:23; 1 Corinthians 10:13; Ephesians 2:1–10; Hebrews 2:17–18; 4:14–16). However, in keeping with our biblical beliefs about sexual morality, Northpoint Bible College cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Any individual who violates campus standards for biblical living is subject to discipline, including expulsion.

Northpoint Bible College believes that its policies and practices, informed by Assemblies of God teachings, do not discriminate on the basis of sex—that is, between men and women—and therefore do not violate Title IX. However, at the same time, I understand that Northpoint Bible College's faithful application of the religious tenets set forth above may conflict with the way that the Department may

interpret or seek to apply certain provisions of 34 C.F.R. 106. Those potential conflicts are set forth below.

ADMISSIONS AND STUDENT DISCIPLINE:

Based on the convictions listed above, Northpoint Bible College believes that it cannot fulfill its God-given mission and build an intentional Christian community if it cannot require students to embrace and do their best to follow the Assemblies of God's teachings about sexual morality and sexual identity. These convictions shape Northpoint Bible College's admissions policies and student discipline policies. I understand that the Department may contend that Northpoint Bible College's faithful application of the religious tenets set forth above violates Sections 106.21 and 106.31(b)(4). To the extent that is so, Northpoint Bible College is exempt from these provisions.

HOUSING, RESTROOMS, AND LOCKER ROOMS.

Based on the convictions listed above, Northpoint Bible College expects all students to embrace their God-given biological sex. This expectation shapes Northpoint Bible College's policies regarding student housing, restroom and locker room use, and participation in athletic programs. I understand that the Department may contend that Northpoint Bible College's faithful application of the religious tenets set forth above violates Sections 106.32, 106.33, and 106.41. To the extent that is so, Northpoint Bible College is exempt from these provisions.

MARRIAGE, SEXUAL CONDUCT, AND ABORTION:

Based on the convictions listed above, Northpoint Bible College expects all students, faculty, and administrators to honor the Assemblies of God's teachings on marriage, sexual conduct, and abortion. I understand that the Department may contend that Northpoint Bible College's faithful application of these doctrines may conflict with Sections 106.40, 106.51, and 106.57. To the extent that is so, Northpoint Bible College is exempt from these provisions.

NORTHPOINT
BIBLE COLLEGE

DR. J. DAVID ARNETT, President

Thank you for your attention to this matter.

Sincerely,

Dr. J. David Arnett
President
Northpoint Bible College

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NORTHWEST NAZARENE
UNIVERSITY

July 29, 2014

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

Re: Northwest Nazarene University Request for Title IX Religious Exemption

Dear Ms. Lhamon:

It is our understanding that the Department of Education and the Department of Justice have recently interpreted Title IX's ban on sex discrimination to include discrimination based on gender identity.[1] As President of Northwest Nazarene University, ("NNU") a private, religious liberal arts University in Nampa, Idaho, I hereby request pursuant to 34 C.F.R. §106.12, an exemption for Northwest Nazarene University from this interpretation of Title IX, due to the deeply-held and inherent religious beliefs of our University.

Background

Northwest Nazarene University is a Christian university located in Nampa, Idaho. Last year, we celebrated our Centennial year and we now enter into our second century. Our identity as a Christian university is central to all that we do. From our beginning as the Idaho Holiness School in 1913, we have never wavered from this important truth: that we exist to help students learn to serve Christ. Our official Mission, Values and Vision[2], adopted by the Board of Directors, are as follows:

> **Mission**
> The mission of Northwest Nazarene University is the transformation of the whole person. Centered in Jesus Christ, the NNU education instills habits of heart, soul, mind and strength to enable each student to become God's creative and redemptive agent in the world.

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[1] Resolution Agreement between Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf; and Questions and Answers on Title IX and Sexual Violence, April 29, 2014, *available at* http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf which contains the following: "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."

[2] http://www.nnu.edu/about/mission-values-vision/.

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Northwest Nazarene University is a Christian university of the liberal arts, professional and graduate studies. The University is grounded in the Wesleyan-Holiness tradition and is an educational expression of the Northwest region of the Church of the Nazarene.

Northwest Nazarene University is founded upon belief in and relationship with the One Triune God—Father, Son and Holy Spirit. Therefore, we seek to build our lives and the practices of the University upon the Kingdom of God as revealed in Jesus.

Values

Transformation—We believe education fosters transformation. NNU engages and affects all domains of life—intellectual, social, physical and spiritual—thereby advancing the transformation of the individual, the church and the world.

Truth—We believe education pursues truth. NNU explores knowledge, the wonder of God's creative activity, the story of human civilization and the achievements in the arts, sciences and professions. Ultimately, we believe Jesus is the truth incarnate; therefore, we pursue Christ.

Community—We believe education flourishes in community. NNU provides a learning and faith community that teaches, challenges and encourages each other through intellectual and spiritual practices. Within covenantal relationships we express our love for God and others.

Service—We believe education cultivates service. NNU teaches the importance of a life of servanthood as modeled by Jesus Christ. We learn to lead by giving of ourselves to God and humankind.

Vision 2025 - A More Excellent Way

Guided by a vision of the Kingdom of God, Northwest Nazarene University seeks a more excellent way, to be a transformative learning community expressing the love of Jesus by forming scholars, nurturing disciples, serving the Church, shaping the culture, redeeming the world. Five vision imperatives give focus to NNU VISION 2025:

1. Forming Scholars—Pursuing Truth, Seeking Wisdom
2. Nurturing Disciples—Living in the Great Commandments
3. Serving the Church—Covenant Partners in the Great Commission
4. Shaping the Culture—God's Creative Agents
5. Redeeming the World—God's Redemptive Agents

Control by a Religious Organization

NNU is an Idaho Nonprofit Corporation[3], with Amended and Restated Articles of Incorporation date November 7, 2002. Pursuant to the Articles of Incorporation, the purpose of the University is described in terms of a Christian mission as follows:

> Without limiting the former, the specific purposes of the Corporation, as an institution of higher education, shall be to serve the Church of the Nazarene and the greater Christian community by providing an educated laity and ministry, loyal to Christ and emphasizing the Wesleyan doctrine of perfect love. The Corporations curriculum shall be consistent with the doctrines set forth in the Manual of the Church of the Nazarene, and shall conserve, maintain, advocate and promulgate the New Testament Doctrine of Entire Sanctification or

[3] Created pursuant to the Idaho Nonprofit Corporation Act, Idaho Code §30-3-94.

Christian Holiness. The basic mission of the University is the development of Christian character within the philosophy and framework of genuine scholarship.[4]

It is assigned by the Church of the Nazarene to serve seven districts of the denomination. Upon hypothetical dissolution, assets are to be distributed for purposes associated with the Church of the Nazarene. The Board of Trustees is elected from the members of the seven districts and at least half of the Board membership is comprised of clergy ordained in the Church.[5] Our faculty and staff are required to profess faith[6] and are prohibited from professing views not in harmony with the Articles of Faith[7] of the Church of the Nazarene. Students are required to behave in accordance with lifestyle expectations consistent with the Church of the Nazarene.[8]

The University and the denomination believe that the Bible is authoritative and inerrant with regard to matters of salvation and we are committed to lives in harmony with the truth as set forth in Scripture. We believe that the Bible speaks to many contemporary issues with mandatory perspective; matters of human sexuality are included in that authority and as such, the Bible regulates morally acceptable behavior and behavior coincident with the requirements of salvation.

Additional indices of control of NNU by the Church of the Nazarene are included in discussions below.

Bible-Based Sexual Identity and Other Sexual Morality Policies

The University and its denomination believe that human beings are fashioned by God in His own image, and are created male and female (Genesis 1:27). In the New Testament, Jesus confirms the heterosexual creation of human beings: God made them male and female (Matthew 19:4). Like the rest of God's creation, the sexual differences between man and woman are pronounced "very good" (Genesis 1:31). Sexual practices that are divorced from loving, conventional relationships between man and woman conflict with God's intentions and result in sinful behavior that separates man from God and threatens Salvation. Humanity's failure to ground sexual identity in God's creative intent and holy

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[4] Amended and Restated Articles of Incorporation, adopted November 7, 2002, Article V.

[5] Amended and Restated Articles of Incorporation, adopted November 7, 2002, Article VIII provide: " District Assemblies of the Northwest USA Region of the Church of the Nazarene shall elect, consistent with these Articles of Incorporation and the Bylaws of the Corporation, the Board of Trustees. The Board of Trustees shall consist of the President and members elected thereto by the various district assemblies, all of whom shall be members of the Church of the Nazarene and shall be in the experience of Entire Sanctification and in full agreement and sympathy with the Bible doctrines and usages held by the Church of the Nazarene as set forth in the Manual of said church."

[6] The Statement of Faith of the University can be found at http://www.nnu.edu/about/statements-of-faith-belief/.

[7] The Articles of Faith of the Church of the Nazarene can be found at http://www.nnu.edu/about/articles-of-faith/.

[8] "As an institution of the Church of the Nazarene, the University follows the directives and guidelines established by the General Assemblies of the Church and published in the Church Manual, which serve as a guide for the Lifestyle Expectations of the University." Student Handbook, Lifestyle Expectations, *available at* http://www.nnu.edu/campus-life/student-handbook/lifestyle-expectations/.

character violates biblical standards of sexual purity and morality. We reject all attempts at construing sexuality or sexual identity by medically altering the human body, cross dressing, or similarly practicing behaviors characteristic of the opposite sex as morally objectionable and sinful (Deuteronomy 22:5)

NNU's Board Policy Manual, Faculty Policy Manual, and University Staff Policy Manual each identifies as a grounds for termination for cause (or other discipline) "Sexual Conduct outside of heterosexual marriage" and "Practice or promotion of transgender or transvestite conduct." Such disciplinary policy is consistent with the Covenant of Christian Character of the Church of the Nazarene set forth in the Manual of the Church of the Nazarene 2013-2017.[9] Further, it is consistent with and mandated by the Pastoral Perspectives on Homosexuality, issued by the General Superintendents of the Church of the Nazarene as an official policy of the Church of the Nazarene on the topic.[10]

Students are also required by doctrinally-mandated policy to abide by requirements relating to gender identity and sexual propriety. Such policies are set forth for students in the Student Handbook, Lifestyle Expectations.[11]

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[9] **D. Human Sexuality**

32. The Church of the Nazarene views human sexuality as one expression of the holiness and beauty that God the Creator intended for His creation. It is one of the ways by which the covenant between a husband and a wife is sealed and expressed. Christians are to understand that in marriage human sexuality can and ought to be sanctified by God. Human sexuality achieves fulfillment only as a sign of comprehensive love and loyalty. Christian husbands and wives should view sexuality as a part of their much larger commitment to one another and to Christ from whom the meaning of life is drawn.

The Christian home should serve as a setting for teaching children the sacred character of human sexuality and for showing them how its meaning is fulfilled in the context of love, fidelity, and patience. Our ministers and Christian educators should state clearly the Christian understanding of human sexuality, urging Christians to celebrate its rightful excellence, and rigorously to guard against its betrayal and distortion. Sexuality misses its purpose when treated as an end in itself or when cheapened by using another person to satisfy pornographic and perverted sexual interests. We view all forms of sexual intimacy that occur outside the covenant of heterosexual marriage as sinful distortions of the holiness and beauty God intended for it.

Homosexuality is one means by which human sexuality is perverted. We recognize the depth of the perversion that leads to homosexual acts but affirm the biblical position that such acts are sinful and subject to the wrath of God. We believe the grace of God sufficient to overcome the practice of homosexuality (1 Corinthians 6:9-11). We deplore any action or statement that would seem to imply compatibility between Christian morality and the practice of homosexuality. We urge clear preaching and teaching concerning Bible standards of sexual morality. (Genesis 1:27; 19:1-25; Leviticus 20:13; Romans 1:26-27; 1 Corinthians 6:9-11; 1 Timothy 1:8-10) http://nazarene.org/files/docs/Manual2013-17.pdf.

[10] http://nazarene.org/files/docs/Perspectives_Homosexuality.pdf.

[11] "The following are categories of behavior which are not permissible or acceptable for an NNU student and may result in action by the University: ...2. Sexual immorality and pornography. The University accepts the Biblical standards that prohibit all sexual immorality. Because there are many social and emotional forces that challenge this standard, the University believes that the power of God and the wisdom of the Holy Spirit combine to provide the means to live victoriously with respect to sexual purity. Examples of unacceptable behavior by students include the following: (a) Student commission of or attempt to commit a sexual act that, if proven in court, would be a criminal act. (b) Student involvement in the use or distribution of pornography (whether web-based or otherwise). (c) Unmarried student involvement in a sexually active heterosexual, incestuous, or homosexual relationship. (d) Married student involvement in a sexually active adulterous, incestuous, or homosexual relationship. (e) Student cohabitation with a member of the opposite sex, including but not limited to spending the night together and/or

The University and the denomination also believe in the sanctity of life and by doctrine and policy strongly oppose intentional termination of a pregnancy absent a very few compelling circumstances.[12] This belief, expressed in the Manual of the Church of the Nazarene, is integrated into the policy of the University by virtue of repeated references to compliance with Church of the Nazarene doctrine and beliefs.

Affirmation of Human Dignity and Christian Love

We affirm the dignity of all human beings. We also separate the value of each person from the behavioral choices one makes. We believe that, as Christians, we are called to treat all people, including those who practice sexual behavior in conflict with the Bible, with compassion and to extend the gospel of repentance, forgiveness and transformation through Jesus Christ to such persons without reservation. However, in keeping with our biblical beliefs surrounding the morality of such actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Moreover, an individual who violates campus standards for biblical living is subject to discipline, including termination or expulsion.

Request for Religious Exemption

Based on the resolution recently entered into by the Department and the Arcadia Unified School District and the April 2014 Guidance document, it appears that the Department is now interpreting Title IX's ban on discrimination in education based on sex to also mean that educational institutions may not "discriminate" on the basis of gender identity. Specifically, the school district in that dispute was ordered to allow a female student presenting herself as a male to use the restroom, locker room and living accommodations of her choice, and to participate in boy's athletic programs.

We would not be able to make similar accommodations consistent with our religious beliefs and convictions. In addition, we would not be able to make similar accommodations for employees and applicants for employment. Because of our scripture-based beliefs regarding gender and sexual morality, our practices might be deemed in violation of the Department's current interpretation of Title IX. However, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12(a), this interpretation must not be applied to Northwest Nazarene University. "This part does not apply to an educational institution controlled by a religious

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living together. (f) Students of the opposite sex meeting in residence halls, other than places and times set aside by the University for such activities. (g) Inappropriate public displays of affection not in keeping with the Christian Life Perspective and Lifestyle Expectations." Student Handbook, Lifestyle Expectations, available at http://www.nnu.edu/campus-life/student-handbook/lifestyle-expectations/.

[12] The Manual of the Church of the Nazarene, Covenant of Christian Conduct, provides: "C. Sanctity of Human Life: The Church of the Nazarene believes in the sanctity of human life and strives to protect against abortion, embryonic stem cell research, euthanasia, and the withholding of reasonable medical care to handicapped or elderly." *available at* http://nazarene.org/files/docs/Manual2013-17.pdf.

organization to the extent application of this part would not be consistent with the religious tenets of such organization."

Thus, on behalf of Northwest Nazarene University, I hereby request an official exemption from compliance with that interpretation of Title IX. NNU specifically requests a religious exemption from the following requirements insofar as they prohibit discrimination based on gender identity: 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), 34 C.F.R. § 106.32 (governing housing), 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms), 34 C.F.R. § 106.41 (governing athletics), and 34 C.F.R. § 106.51 (governing employment), and any other requirement inconsistent with NNU's biblically-based beliefs as described herein. NNU also requests a religious exemption from any regulation prohibiting discrimination against a student on account of termination of pregnancy[13].

NNU gladly complies with Title IX with respect to the granting of equal opportunities in educational programs or employment to members of both sexes; our request for exemption is limited to the recent interpretation that "sex" under Title IX also includes gender identity and to any requirement that is inconsistent with NNU's policies regarding sanctity of life and any NNU policy which reserves the right to take adverse action against a student or employee who violates that policy.

Please feel free to contact me if more information is needed. Thank you for your consideration.

Sincerely,

Dr. David Alexander
President
Northwest Nazarene University

[13] 34 C.F.R. §106

OHIO CHRISTIAN
UNIVERSITY

May 14, 2015

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

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

Dear Ms. Lhamon:

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

OCU is a non-profit institution of higher education located in Circleville, Ohio. Ohio Christian University was founded in 1948, by an act of the Churches of Christ in Christian Union (CCCU), as Circleville Bible College with the purpose of training and educating clergy for the CCCU denomination.[1] With an on-going commitment to its founders' vision, Ohio Christian University, is preparing students to be world-impacting Christian servant leaders.[2] OCU prepares students to serve effectively in the Church and society through biblically-integrated education in the Wesleyan tradition that fosters critical and creative thinking, academic excellence, and professional competence. The University exists to develop in Christians a life-long love of learning, a passion for the Bible as the only infallible guide for Christian faith and practice, and a desire to demonstrate God's love to the world through selfless living.[3] OCU faculty members are not only leaders in their fields, but have dedicated their lives to Christ and the pursuit of a Biblical worldview. Their commitment to students provides an excellent academic environment for the acquisition of both knowledge and wisdom.

An OCU education is guided by the school's Statement of Faith,[4] which affirms the elements of the historic, Wesleyan-Holiness Christian faith and its relationship with the CCCU

[1] https://www.ohiochristian.edu/about; http://www.cccuhq.org/ministries/what-we-do/ocu ("Higher education is a key element of the ministry of The Churches of Christ in Christian Union.") The Churches of Christ in Christian Union continue to recognize OCU for ministerial training.
[2] https://www.ohiochristian.edu/about/mission
[3] *Id.*
[4] https://www.ohiochristian.edu/about/faith

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denomination. CCCU doctrine is the bedrock of OCU's Statement of Faith. CCCU appoints at least one half of the University's governing board, plays a role in selecting the president and trustees, and provides the University financial support.

OCU is committed to developing students for leadership and service by following the University's core values: to be Christ-centered, biblically-based, student-oriented, ministry-motivated, leadership-focused, and academically excellent.[5] From those values, OCU has adopted five University objectives that direct the implementation of the University's mission and vision.[6] OCU students will be prepared to:

- Articulate a Christian worldview supported by a working knowledge of contrasting philosophies and religions.
- Confirm an understanding of a saving and sanctifying knowledge of God through Jesus Christ as Savior and Lord.
- Affirm the Bible as the only infallible guide for Christian faith and practice.
- Demonstrate God's love for humanity through a selfless life that seeks to reconcile the world to Christ.
- Demonstrate academic scholarship that creates a foundation for lifelong intellectual and professional development.
- Apply Bible-based moral values in their daily life.
- Practice a range of leadership skills and abilities.[7]

OCU states its vision is "[p]reparing world-impacting Christian servant leaders." It articulates its mission as follows: "Ohio Christian University prepares students to serve effectively in the church and society by providing a holistic, Christ-centered, biblically integrated education in the Wesleyan tradition."[8]

On August 28, 2014, OCU's Board of Trustees adopted a policy on sexuality and gender identity. It reads in pertinent part as follows:

> Ohio Christian University's policy regarding sex, sexuality, and gender identity is grounded in the teachings of the Bible as understood in the University's doctrine and long-standing religious affiliation and status with the Churches of Christ in Christian Union which was established in the Wesleyan theological tradition. This policy is intended to address transsexualism, transgenderism, and broader related gender identity issues.
>
> We recognize our obligation before God to love all persons, understanding such love in the context of the Bible, God's revealed truth. We affirm that God's original and ongoing intent and action is the creation of humanity

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[5] https://www.ohiochristian.edu/about/mission
[6] *Id.*
[7] *Id.*
[8] *Id.*

> manifest as two distinct sexes: male and female. We also recognize that due to sin and human brokenness, our experiential perception of our gender is not always that which God the Creator originally designed, and yet affirm further God's capacity to heal and transform our brokenness in keeping with His purposes and will.

OCU has also adopted the following lifestyle standards within the aforementioned policy:

> Within the Biblical understanding of the act of mankind's creation, the Biblical description of the fall of mankind, and God's act of redemption, we do not support or affirm the resolution of a psychological identity discordant with one's birth sex. Similarly, we do not support or affirm attempts to change one's given biological birth sex via medical intervention in favor of the identity of the opposite sex or of an indeterminate identity. As a Christian residential institution of higher learning we will respect those whose moral views diverge from ours, and seek to embody the gentle and patient love of Christ for all. We will, however, make institutional decisions in light of this policy regarding housing, student admission and retention, employment hiring and retention, and other matters.

In the employment context, OCU requires that all full-time employees must be active members of a local church and lead personal lives that reflect the teachings, example, and love of Jesus Christ.[9]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[10] And as you also know, the resolution agreement[11] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[12] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though

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[9] http://www.ohiochristian.edu/sites/default/files/OCU_Employment_Application_1.pdf

[10] 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.")

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

[12] *Id.*

compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of OCU.

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

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

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

Very truly yours,

Dr. Mark A. Smith
President
Ohio Christian University

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BAPTIST
UNIVERSITY
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David Wesley Whitlock
President
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November 24, 2014

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear Ms. Lhaman,

As President of Oklahoma Baptist University, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, 1682, and which is the subject of 34 C.F.R. 106.12.

Oklahoma Baptist University is a Southern Baptist institution of higher education. It is an Oklahoma nonprofit corporation whose principal office address is 500 West University, Shawnee, Oklahoma 74804. I enclose the Charter and Bylaws of the University.

Oklahoma Baptist University is controlled by a religious organization. That organization is the Baptist General Convention of the State of Oklahoma. (See the University's Charter.) This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Oklahoma. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Charter and Bylaws, the Baptist General Convention of the State of Oklahoma controls the University in part by exercising its right to select the entire membership of the board of directors of the University, the governing body of the University. (See the University's Bylaws, especially Articles I and II.)

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, § 703(e)(3) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious

corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in Killinger v. Samford University, 113 F. 3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion. I identify those provisions to be:

Admissions:

34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:

34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:

34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);

Employment:

34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquiries).

The mission of the University is stated as follows:

> As a Christian liberal arts university, Oklahoma Baptist University transforms lives by equipping students to pursue academic excellence, integrate faith with all areas of knowledge, engage a diverse world, and live worthy of the high calling of God in Christ

The purpose of the University is declared in its Charter, to wit:

> The purpose of this corporation is to encourage, support, provide, and maintain Christian education and to engage in Christian undertakings which are in keeping with the purpose of the Baptist General Convention of the State of Oklahoma.

Southern Baptist religious tenets have been described most extensively and most recently in The Baptist Faith and Message 2000, a statement of faith adopted by the Convention. That statement is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

> "Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord." *XVII The Family, The Baptist Faith and Message 2000.*
>
> "Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation." *III Man, The Baptist Faith and Message 2000.* (The Southern Baptist Convention elaborated on this tenet most recently in 2014 by the adoption of a resolution "On Transgender Identity." It is attached.)
>
> "Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." *XV The Christian and the Social Order, The Baptist Faith and Message 2000.*

The University's policies are rooted in these religious tenets. (See, for example, the University's Policy on Sex, Sexuality and Gender Identity which is attached.)

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is if the regulation prohibited the University:

> From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as

"student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

David W. Whitlock
President

cc: James P. Guenther, Esq.

OKLAHOMA CHRISTIAN UNIVERSITY

September 5, 2014

Ms. Catherine E. Lhamon,
Assistant Secretary for Civil Rights
Office of Civil Rights
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: **Request for exemption from certain aspects of Title IX of the Education Amendments of 1972, 20 U.S.C. §1681, on the basis of religion.**

Dear Assistant Secretary Lhamon:

Oklahoma Christian University respectfully requests an exemption from certain aspects of Title IX of the Education Amendments of 1972, 20 U.S.C §1681 *et. seq.* (Title IX), based on the sincerely held religious beliefs of its Board of Trustees and its founding fellowship, the Churches of Christ. Recent declarations of Title IX enforcement intentions by the Department of Education's Office of Civil Rights, if applied to Oklahoma Christian University, will violate the religious tenets of Oklahoma Christian University, and its controlling religious body, the Churches of Christ. Specifically, Oklahoma Christian University (OC) requests an exemption, on religious grounds, from Title IX, and its implementing regulations, as such apply to students, prospective students, employees, or prospective employees and issues involving gender identity and sexual orientation.

Title IX provides a religious exemption for educational institutions controlled by a religious organization, if application of Title IX would violate the religious tenets of the educational institution or the controlling religious organization. The exemption is found at 20 U.S.C. §1681 (a)(3), "*this section shall not apply to an educational institution which is controlled by a religious organization if application of this subsection would not be consistent with the religious tenets of such organization.*"

OC was founded in 1950 by members of the Churches of Christ. OC's mission is to transform lives for Christian faith, scholarship and service. OC is founded and operates upon a hierarchy of governing documents which detail the formation, operation, and maintenance of the corporation, and ensure its faithfulness to its founding religious educational purpose, and founding religious body, the Churches of Christ. In order of authority, these documents are the (1) Articles of Incorporation, (2) Bylaws, (3) Board of Trustees' Policy Manual, (4) Employee Policy Manual and (5)Student Handbook. Together, these documents provide the framework through which OC exists, operates, and is governed.

John deSteiguer
PRESIDENT

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1. **OKLAHOMA CHRISTIAN UNIVERSITY IS GOVERNED BY A BOARD OF TRUSTEES "ALL OF WHOM MUST BE FAITHFUL MEMBERS OF THE CHURCH OF CHRIST, IN GOOD STANDING."**

The Articles of Incorporation, Bylaws, and Board of Trustees Policy Manual require that OC's governing board, the Board of Trustees, be completely comprised of members of the Church of Christ. Control of Oklahoma Christian University is vested in a Board that must be one hundred percent (100%) comprised of members of the Churches of Christ.

ARTICLES OF INCORPORATION:

The Articles of Incorporation forming and governing OC, states OC's purpose as follows:

> 6. To establish, maintain and operate, a nonprofit institution for general educational purposes in which the arts, sciences, and Holy Scriptures, shall always be taught, together with such courses of instruction and such extracurricular programs as shall be deemed advisable by the Board of Trustees.

This governing document further limits membership on the Board of Trustees ***solely*** to members of the Churches of Christ:

> 8. The powers of the corporation shall be exercised by, and the corporation shall be managed and controlled by a Board of Trustees to be selected as provided in the Bylaws of the corporation. Each Trustee shall be an active, faithful member, in good standing, of a local congregation of the Church of Christ and shall be a person of responsibility, integrity and high standing in the community in which he or she resides and works. The number of Trustees shall be set forth in the Bylaws of the corporation.

The Articles of Incorporation further define the term Church of Christ as follows:

> 7. As used throughout this instrument, the term "Church of Christ" shall mean that body of Christians described below. Said description is provided as a means to assist in the interpretation of the intent and purposes of this corporation and not as a statement of creed or doctrine.
>
> "Church of Christ" shall mean the individual and aggregate autonomous congregations of Christians whose creed and doctrine are the Word of God, comprised of the canon of the Old Testament and New Testament without the apocryphal writings or other noncanonical writings. There is voluntary cooperation among most congregations, but no vertical human structure or hierarchy beyond the individual congregation. The churches of Christ teach salvation through grace, which comes through faith in Jesus Christ as the Son of God and baptism by immersion for the forgiveness of sin. Sunday assemblies of the Churches of

> Christ are characterized by the Lord's Supper, proclamation of the Word of God, prayers, a cappella singing, and the collection of donations for the work of the Church. The Churches of Christ in America trace their heritage from the establishment of the Church on the Day of Pentecost, as recorded in Acts 2, through the Restoration Movement of the 1800s, and are committed to the restoration of the Church as found in the inspired writings of the New Testament.

BYLAWS:

The Bylaws of Oklahoma Christian University, in Article Two, Section 2.02 *Number and Qualifications*, further requires membership in a Church of Christ as a condition of membership on the Board of Trustees:

> §2.02 Each Trustee shall be of legal adult age, a person of responsibility, integrity, and high standing in the community in which he or she resides, and a member of the Church of Christ in good standing, who adheres to the beliefs set forth in the Articles of Incorporation.

BOARD OF TRUSTEES POLICY MANUAL:

> **D. Performance Standards.**
>
> As the governing Board for the University it has the legal and fiduciary duty to make policy decisions which will guide the University in fulfilling the great purposes for which it was established and is continued. To this end, each Trustee must be an active member of the Church of Christ in good standing with a local congregation. … (*Board of Trustees Policy Manual Section 2.2 Board Process and Structure D. Performance Standards*)

Through these governing documents, the Board of Trustees communicates its directive that the governing Board of Oklahoma Christian University shall only be comprised of members of the Churches of Christ. This directive ensures that Oklahoma Christian University is and will continue to be controlled by members of the Church of Christ.

2. ALL FULL TIME OKLAHOMA CHRISTIAN UNIVERSITY EMPLOYEES MUST BE MEMBERS OF THE CHURCH OF CHRIST.

The Board of Trustee's Policy Manual is the statement of the governing Board's policy expectations and the parameters of operation conferred on the President and his or her corporate officers. The following excerpts from the Board of Trustee's Policy Manual indicate the importance of Oklahoma Christian University's association with and control by our founding fellowship, the Churches of Christ.

A. **The Oklahoma Christian University President must be a faithful member in good standing of a local Church of Christ congregation.**

> ***Board of Trustee's Policy Manual §2.3.6*: *Presidential Succession and Leadership Development Policy.*** Among the most important traits for the president of OC are: (A.) A deep and pervasive faith in God and Christ. (B.) A strong engagement and loyalty to the Church of Christ.

B. **The Board's Nondiscrimination and Equal Opportunity in Employment Statement acknowledges and reiterates the Christian mission focus and reserves its legal rights to limit employment to coreligionists.**

> ***Board of Trustee's Policy Manual §3.4.5*: *Non-discrimination/Equal Opportunity*.** ...The University shall not discriminate on the basis of race, color, age, sex, disability, or national or ethnic origin in employment opportunities, in employment, admissions, or the provision of services, in keeping with applicable state and federal laws. Accordingly, subject to the provisions of the following paragraph, the University shall actively seek to diversify its employee and student base. In applying this policy, the Board recognizes that Oklahoma Christian University is affiliated with the fellowship of the Church of Christ and that the University is controlled by a Board of Trustees all of whom are members of the Church of Christ, and is operated within the Christian-oriented aims and ideals and religious tenets of the Church of Christ as taught in Holy Scripture. Thus, as a religiously-controlled institution of higher education, Oklahoma Christian University is exempt from compliance with some provisions of certain civil rights laws, including some provisions of Title IX of the Education Amendments of 1972. The University very intentionally claims and protects its rights to hire co-religionists and individuals who share and support the mission of the University, and who follow the doctrines and practices of its founding fellowship, and to exclude from employment individuals who do not meet these criteria.

C. **Each full time faculty member must be a member of the Churches of Christ, in good standing.**

> ***Board of Trustee's Policy Manual §3.7.2*: *Faculty Hiring and Tenure Policy.*** ...Prior to hiring a new faculty member, the President, the Chief Academic Officer, and the Dean of the appropriate college will interview each prospective faculty member to determine his or her compatibility and commitment to the spiritual and academic mission and purposes of the University. Among the factors to be evaluated should be the prospect's **active membership**

in the Church of Christ, basic Biblical views, integration of faith and learning, and commitment to going beyond the call of duty to teach and mentor students and promote the spiritual and academic mission and purposes of the University. The prospect may be asked to write a statement addressing these matters. Commitment to and compatibility with the spiritual and academic mission and purposes of the University shall be required for employment.

Prior to forwarding the names of tenure candidates to the Board of Trustees, the President, Chief Academic Officer, and the Dean of the appropriate college will review each faculty member applying for tenure to determine his or her compatibility and commitment to the spiritual and academic mission and purposes of the University. Among the factors to be evaluated should the prospect's **active membership in the Church of Christ**, basic Biblical views, integration of faith and learning, and commitment to going beyond the call of duty to teach and mentor students and promote the spiritual and academic mission and purposes of the University. The candidate will be required to write a statement addressing these matters. Commitment to and compatibility with the spiritual and academic mission and purposes of the University shall be required for employment and tenure.

D. **The Employee Policy Manual requires Church of Christ membership for tenure, lists inactive or token membership as a means for dismissal of a tenured faculty member, and in its nondiscrimination statement reserves the right to hire coreligionists.**

EPM §5.9 Qualification for Tenure.
...(b) The Faculty member shall be an active member of a local congregation of the Churches of Christ, as attested by a letter from the Faculty member describing his or her membership and participation and by a letter from the elders of the congregation (or by other church leaders, in the absence of elders). (Pg. 161)

EPM §5.14.2 Dismissal for Personal Circumstances. ... Inactive membership or token attendance at a congregation of the Church of Christ.

EPM §12.1 Non-Discrimination Policy. Oklahoma Christian University does not unlawfully discriminate on the basis of age, sex, national origin, race, color, or disability. The University is religiously affiliated with the Churches of Christ and reserves the right to seek, hire, and promote persons who support the goals and mission of the institution, including the right to prefer co-religionists.

3. THE CHURCHES OF CHRIST ARE CONGREGATIONAL RATHER THAN HIERARCHICAL.

"The largest of the three principal bodies of the American restoration movement, Churches of Christ are located throughout the nation but concentrated in the South and Southwest. Because this is not a denomination but a brotherhood with no central headquarters, activities such as record keeping are very difficult. Recent efforts show the membership to be about 1,250,000 in nearly 13,000 churches.

A distinctive plea for unity – a unity that is bible-based – lies at the heart of the Churches of Christ. It is believed that the Bible is "the beginning place," in and through which God-fearing people can achieve spiritual oneness – to "speak where the Bible speaks and to be silent where the Bible is silent" in all matters pertaining to faith and morals. Consequently, members recognize no other written creed or confession of faith. In all religious matters, there must be a "thus said the Lord."

...

The leaders among the Churches of Christ in the nineteenth century were more conservative than their counterparts among the Disciples of Christ. Stressing strict adherence to the New Testament pattern of worship and church organization, they refused to join any intercongregational organization such as a missionary society. Worship was simple, they opposed the addition of instrumental music on the grounds that the New Testament did not authorize it, and the early church did not use it.

...

Today, one of the outstanding features of the Churches of Christ lies in the acceptance of the Bible as a true completely adequate revelation. The basic concept has resulted in such practices as weekly observance of the Lord's Supper, baptism by immersion, a cappella singing, a vigorous prayer life, support of church needs through voluntary giving, and a program of preaching and teaching the Bible. This concept also explains the autonomy of local churches governed by elders and deacons appointed under New Testament qualifications; dignified worship services; enthusiastic mission campaigns; and far-flung benevolence, all financed by local churches.

The scriptural doctrines usually classified as conservative are found in Churches of Christ; belief in the Father, the Son, and the Holy Ghost as members of the Godhead; the incarnation, Virgin birth, and bodily resurrection of Christ; the universality of sin after the age of accountability, its only remedy the vicarious atonement of the Lord Jesus Christ. A figurative rather than a literal view is prevalent with reference to the book of Revelation. Membership is contingent upon an individual's faith in Jesus Christ as the only begotten son of God, repentance, confession of faith, and baptism by immersion for the remission of sins. Church attendance is stressed.

...

Properties owned by the group probably exceed $2.5 billion in value. There are 21 colleges, including one in Japan and several in Europe; 70 secondary and elementary schools; 83 child-care facilities 46 senior citizen facilities; and 117 periodicals, newspapers, and magazines published throughout the country." (Handbook of denominations in the United States; Mead, Frank Spencer, 1898-1982. Abingdon Press, 1995, Pgs. 91-93. ISBN: 0687014786)

4. UNIVERSALLY, CHURCHES OF CHRIST BELIEVE THAT ALL SEXUAL RELATIONS OUTSIDE OF A HETEROSEXUAL MARRIAGE COVENANT ARE SIN.

Since Churches of Christ seek to base what they both believe and practice about marriage and sexual relations upon the Old and New Testament Scriptures, Churches of Christ point to such passages of Holy Scripture as those listed below as providing the Scriptural position which they should hold.

A. **Hebrews 13:4**, "Marriage should be honored by all, and the marriage bed kept pure, for God will judge the adulterer and all the sexually immoral."

B. **Leviticus 18:22,** "Do not have sexual relations with a man as one does with a woman; that is detestable."

C. **1 Corinthians 6:9-10,** "or do you not know that wrongdoers will not inherit the kingdom of God? Do not be deceived: Neither the sexually immoral nor idolaters nor adulterers nor men who have sex with men nor thieves nor the greedy nor drunkards nor slanderers nor swindlers will inherit the kingdom of God."

D. **Romans 1:24-28**, "Therefore God gave them over in the sinful desires of their hearts to sexual impurity for the degrading of their bodies with one another. They exchanged the truth about God for a lie, and worshiped and served created things rather than the Creator—who is forever praised. Amen. Because of this, God gave them over to shameful lusts. Even their women exchanged natural sexual relations for unnatural ones. In the same way the men also abandoned natural relations with women and were inflamed with lust for one another. Men committed shameful acts with other men, and received in themselves the due penalty for their error. Furthermore, just as they did not think it worthwhile to retain the knowledge of God, so God gave them over to a depraved mind, so that they do what ought not to be done."

From such passages, those in Churches of Christ believe it is not God's intention for people to engage in homosexual behavior. In order for Oklahoma Christian University to be true to its founding documents and the sincerely held religious beliefs of its controlling church constituency, it must continue with the view that homosexual practice is sinful, a view which has characterized the University from its beginning.

5. GENERALLY, THE CHURCHES OF CHRIST BELIEVE GENDER IDENTITY IS GIVEN BY GOD AND IS REVEALED IN ONE'S BIRTH SEX, REGARDLESS OF ONE'S GENDER CONFUSION.

This view also comes from Holy Scripture and is based upon certain scriptures like, but not limited to, those below:

A. In **Deuteronomy 22:5,** God gives laws about a person's attempt to show himself or herself as of a sex different from the sex assigned by God at birth. "A woman must not wear men's clothing, nor a man wear women's clothing …"

B. **Genesis 1: 27,** "So God created mankind in his own image, in the image of God he created them; male and female he created them." The original account of the creation of human beings shows God's original intention of creating two and only two distinct sexes.

C. **I Corinthians 11:14-15**, "Does not the very nature of things teach you that if a man has long hair, it is a disgrace to him, but that if a woman has long hair, it is her glory? For long hair is given to her as a covering." In this passage, Paul describes his personal attitudes toward a culturally relevant distinction between the sexes and how confusion of these culturally relevant distinctions is divisive for the Kingdom of God. Paul's personal teaching about a specific cultural problem in the church in Corinth indicated that clear distinction between the sexes is necessary to prevent division in the church in Corinth.

Based on passages such as these, Churches of Christ would oppose a person's attempt to modify his or her birth sex, and present as a sex other than his or her original birth sex, and would consider one who does so, misguided and a disruptive presence.

SPECIFIC EXEMPTION REQUEST:

Based upon the religious control, religious heritage, and the sincerely held religious beliefs of Oklahoma Christian University, and the Churches of Christ, Oklahoma Christian University specifically requests a religious exemption from Title IX of the Education Amendments of 1972, and all implementing regulations related thereto, which would violate the sincerely held religious beliefs of Oklahoma Christian University and the Churches of Christ.

This request for religious exemption includes but may not be limited to, the following specific regulations, growing out of Title IX, as such regulations may be amended hereafter; 34 CFR §106.21 Admission; 34 CFR §106.23 Recruitment; 34 CFR §106.31 Education programs or activities; 34 CFR §106.32 Housing; 34 CFR §106.33 Separate Facilities; 34 CFR §106.34 Access to classes and schools; 34 CFR §106.37 Financial Assistance; 34 CFR §106.38 Employment Assistance to Students; 34 CFR §106.39 Health Insurance Benefits and Services; 34 CFR §106.41 Athletics; 34 CFR §106.51 Employment; 34 CFR §106.53 Recruitment of Employees; 34 CFR §106.55 Job Classification and Structure; 34 CFR §106.57 Marital or Parental Status; and 34 CFR §106.60 Pre-employment inquires.

Thank you for your consideration of this request for exemption. If you need further clarification do not hesitate to contact me.

Cordially,

John deSteiguer

John deSteiguer
President

Cc: Don Millican, Chair, Board of Trustees
Stephen Eck, Vice President and General Counsel

OKLAHOMA WESLEYAN UNIVERSITY

CHRIST • SCRIPTURE • TRUTH • WISDOM

November 14, 2014

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

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

Dear Ms. Lhamon:

I hereby request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights acknowledge that Oklahoma Wesleyan University (OKWU) is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the University's freedom to respond to transgender individuals in accordance with its religious convictions and those of The Wesleyan Church. OKWU also is exempt from those regulations that might be interpreted to curtail its freedom to enforce its prohibition on the taking of innocent human life. As President of OKWU, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

OKWU was founded by The Wesleyan Church to provide higher education within a Christian environment for Wesleyan youth, and is owned and operated by The Wesleyan Church to this day.[1] OKWU's mission statement provides that "As an evangelical Christian university of The Wesleyan Church, Oklahoma Wesleyan University models a way of thought, a way of life, and a way of faith. It is a place of serious study, honest questions, and critical engagement, all in the context of a liberal arts community that honors the Primacy of Jesus Christ, the Priority of Scripture, the Pursuit of Truth, and the Practice of Wisdom." All aspects of the college's life, from its curricula to its athletic endeavors to its code of conduct are guided by this evangelical Christian mission statement.

OKWU's Statement on Human Sexuality, a copy of which is attached for your convenience, provides in pertinent part as follows:

> OKWU holds to the Biblical norm that all human beings are "fearfully and wonderfully made" with a clear and distinct biological gender that identifies them as male and female. Therefore, the university does not permit any members of its community (faculty, staff or student) to choose behaviors that disregard or discourage such gender distinctions. Behaving in ways that compromise or confuse one's biological gender identity as given by God at birth

[1] Oklahoma Wesleyan University, http://www.okwu.edu/about/; The Wesleyan Church, Wesleyan Colleges and Universities, http://www.wesleyan.org/144/wesleyan-colleges-and-universities.

> is considered a personal choice that is beyond the bounds of the Christian community.

OKWU's denomination, The Wesleyan Church, has issued a statement entitled, "A Wesleyan View of Gender Identity and Expression," a copy of which is also attached for your convenience. Among other things, the statement declares that "all humans have the same responsibility for stewarding physical attributes and abilities" and that "[g]ender assignment is a divine prerogative." The statement invokes *The Discipline of The Wesleyan Church*, observing that the "article of religion" on "Marriage and the Family" asserts the binary nature of human sexual identity and expression. The statement sets forth the Church's specific religious convictions about gender expression:

1. Gender differentiation is sacred.
2. The Church is an advocate for social holiness for all persons.
3. Gender identity reflects God's sovereignty.
4. Gender non-conformity that disrupts marriage and adult family relationships violates the law of love and the sanctity of the family.
5. Reconciliation with God is the foundation for reconciliation with oneself and with others.
6. Those who are struggling with gender identity issues deserve the Church's compassion and ministry.
7. When necessary, church discipline of gender non-conforming individuals must be administered in holy love.

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations. As you also know, however, the resolution agreement[2] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[3] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of OKWU and The Wesleyan Church.

OKWU has also adopted a Statement on Human Life, which reads in pertinent part as follows:

> Oklahoma Wesleyan University holds that all human life is sacred and is God's greatest blessing and, therefore, must be respected and protected from its conception to its completion. The taking of a human life through any means (including but not limited to abortion, homicide or suicide) is considered abhorrent and contrary to the University's missional core and that of The

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

[3] *Id.*

> Wesleyan Church.[4] We, therefore, prohibit all members of the OKWU community from promoting or participating in any act of, or related to, aborting a child whether such a child is pre-birth or post-birth. In addition to surgical abortions, Oklahoma Wesleyan University considers the use of abortifacients and chemically induced abortions as the commission of an act wrongfully terminating human life. The University therefore reserves the right to discharge any member of the faculty or staff and dismiss any student from the community for violating this basic understanding of human life. OKWU understands that in cases where a pregnancy may put at risk the very life of a mother, triage decisions must be made within the private context of the woman, her doctor, her pastor and her family.

OKWU accordingly requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity discrimination, and to the extent they restrict the University's freedom to apply and enforce its Statement on Human Life):

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.

Sincerely,

Everett Piper
President, Oklahoma Wesleyan University

[4] http://www.wesleyan.org/475/sanctity-of-life; http://www.wesleyan.org/475/sanctity-of-life

OZARK
CHRISTIAN COLLEGE

Matt Proctor
President
Tel: 417-626-1234
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November 16, 2015

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

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

Dear Ms. Lhamon:

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

Historically associated with the Stone-Campbell tradition, also known as the Restoration Movement,[1] Ozark Christian College was founded in 1942 to train "men and women for Christian service by teaching the Word of Christ in the Spirit of Christ."[2] Known for its emphasis on Christian unity, the Restoration Movement sought to "unite believers and evangelize the world by teaching and practicing the Christianity of the New Testament," and the following religious groups trace their roots to the Restoration Movement: Christian Churches/Churches of Christ, the Church of Christ, and the Disciples of Christ.[3]

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[1] *See*, for example, listing of Ozark Christian College as an educational institution under the entry entitled "Christian Churches/Churches of Christ" in J. Gordon Melton, *The Encyclopedia of American Religions*, 3rd ed., pages 619-620.
[2] *See* http://occ.edu/Events/default.aspx?id=885.
[3] Sam E. Stone, "Introduction," *Simply Christians: New Testament Christianity in the 21st Century*, pages 9-10.

The College's relationships with local churches and other Christian ministries reflect its Restoration Movement heritage.[4] Within this historical and theological context, OCC's immediate mission is to "train men and women for Christian service as a degree-granting institution of biblical higher education."[5] OCC gives particular emphasis to "vocational preparation for preaching ministers, missionaries, Christian educators, ministers of music, youth ministers, day-care directors and ministers to the deaf."[6] Only the following degrees are offered by Ozark Christian College: Bachelor of Theology, BA in Christian Ministry, BA in Bible and Ministry, BA in Bible and Intercultural Studies, BA in Bi-Vocational Christian Ministry, BA in Biblical Studies, AA in Christian Ministry, AA in Intercultural Studies, and AA in Church Music.

Acknowledging Christ as the creator of all things, as the redeemer of people fallen into sin, as the touchstone of all truth, and as the sovereign ruler over all areas of life, OCC strives to discern and to unfold the implications of His preeminence in all things. To serve this end, the College seeks to appropriate the mind of Christ as the biblical perspective from which it characterizes and responds to reality. In attempting to make such a biblically grounded frame of reference explicit and operative, the College is committed to excellence in academic inquiry, and seeks to define its structure and programs according to this purpose.[7]

The College is governed by a Board of Trustees whose members are subject to explicit religious requirements; specifically, they must "believe in the full and final inspiration of the Bible to the extent that it is to him or her the infallible Word of God, and therefore the all-sufficient rule of faith and life; in the deity and supreme authority of Jesus Christ and in the divine origin and character of the Church and the necessity for the restoration of its unity on the New Testament basis."[8] Consistent with the College's Restoration Movement-based theology, OCC board members, administrators, and faculty must also be Christians.[9]

Moreover, all directors, officers, and teachers must subscribe to the beliefs described above as well as "the virgin birth of Christ, the bodily resurrection, and the reality of final judgment and heaven and hell as taught in the Bible."[10] Additionally, "to perpetuate sound doctrine and non-sectarian teaching, the Bible shall be taught as a textbook, and all work and study shall be conducted in harmony with the spirit and letter of the Word of God."[11] The Board of Trustees and the College thus submit themselves to the

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[4] *See*, for example, listing of Ozark Christian College in the 2012 Directory of the Ministry for the Christian Churches/Churches of Christ, pages 212-215.
[5] *See* Ozark Christian College Articles of Amendment, Article II, page 1.
[6] *See* http://occ.edu/Events/default.aspx?id=1716.
[7] *See* Bylaws of Ozark Christian College, Article IV, page 6; Objectives of Ozark Christian College, http://occ.edu/Events/default.aspx?id=1890.
[8] Bylaws of Ozark Christian College, Article IV, page 6.
[9] *Id.*
[10] *Id.*
[11] *Id.*

Bible and to these expressions of its doctrine and seek to express positions that are in accord with those standards.

Therefore, consistent with these theological standards, the College has developed a Statement of Religious Beliefs on Human Life, Gender, Marriage and Sexuality (enclosed). That statement provides in pertinent part as follows:

> **Statement of Religious Belief on Gender**
>
> - We believe that man and woman were created by God to be two distinct, complementary genders—male and female—possessing equal value, made to glorify Him and who together reflect the image of God.
> - However, as a result of living in a fallen world, we understand that some people experience gender confusion (i.e. perceived gender identity that is different from their biological birth gender).
> - We affirm that those who experience gender confusion are image-bearers of God, and we are called to extend to them our compassion and care.
> - We believe that God's design for all people is to live out their biological birth gender, and we are opposed to any efforts to alter one's identity to conform with a perceived gender (e.g., cross-dressing, hormone therapy, gender reassignment surgery). (Gen 1:26-27; Matt 19:4).
>
> **Conclusion**
>
> Ozark Christian College will make institutional decisions consistent with these positions for employment, hiring, retention, student admissions, discipline and all other matters. [12]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[13]

And as you also know, the resolution agreement[14] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations

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[12] *See* The Ozark Christian College Statement of Religious Beliefs on Human Life, Gender, Marriage and Sexuality, page 1.

[13] 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.").

[14] 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.

of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.[15] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX.

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

For that reason, I 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 OCC is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the College's freedom to respond to transgender individuals in accordance with its theologically grounded convictions.

Additionally, consistent with historic understanding of the Holy Scriptures and our doctrinal standards,[16] the College affirms the following regarding sexual conduct:

- We believe that God has ordained marriage as a covenant relationship to bring Him glory.
- We believe that the Bible teaches that the term "marriage" has only one meaning: the uniting of one man and one woman in a single, exclusive, permanent union as taught in Scripture. (Gen 2:18-24.) By "man" and "woman," we believe the Bible is referring to each individual's biological birth gender.
- We believe that God intends intimate sexual activity to occur only between a man and a woman who are married to each other. (1 Cor 6:18; 7:2-5; Heb 13:4.)
- We believe that God has commanded that no intimate sexual activity be engaged in outside of such a marriage, and therefore that any form of sexual immorality (including sexual activity outside of biblical marriage, homosexual practice, bestiality, incest, and use of pornography) is prohibited. (Matt 15:18-20; 1 Cor 6:9-10; Gen 2:24; Ex 20:14, 17; Lev 18:22-23; Matt 19:4-6; Rom. 1:18-31; 1 Cor 6:15-20; 1 Tim 1:8-11; Jude 7).
- We desire Ozark Christian College to be an atmosphere of grace, trust and freedom, and we encourage those who struggle with same-sex attraction, as well as those who struggle with other sexual temptations, to share this

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[15] *Id.*

[16] *See* OCC Statement of Religious Beliefs, page 1; "Doctrinal Statement," Bylaws of Ozark Christian College, Article IV, page 6.

with trusted spiritual mentors for encouragement, counsel and prayer. (James 5:16)

- We believe that God's standard for sexual activity outside of biblical marriage is celibacy. We believe that celibacy is a gift from God, possible through the power of the indwelling Holy Spirit, which allows the unmarried to live a life of sexual purity. (1 Cor 7:7-9)[17]

The College, in service to the Church, welcomes those of professed Christian faith even as they experience same-sex attraction. But, the College, also consistent with Church teaching, affirms that sexual activities with members of the same sex are sinful and are not to 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.[18]

It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 OCC. The College, therefore, also seeks exemption on this basis out of an abundance of caution.

Lastly, consistent with a biblical interpretation of the value of life, the College in its Statement on the Sanctity of Human Life provides the following summary of its beliefs regarding the sanctity of human life:

- We believe that all human life is sacred and created by God in His image. Human life is of inestimable worth in all its dimensions, including pre-born babies, the aged, and those with special needs.
- We are called to defend, protect, and value all human life. (Psalm 139)[19]

OCC accordingly requests that your office acknowledge that the College is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College's freedom to apply and enforce its Statement on the Sanctity of Human Life):

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)

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[17] *See* "Statement of Religious Belief on Marriage and Sexuality," OCC Statement of Religious Beliefs, page 2.
[18] *See* http://www.eeoc.gov/decisions/0120133080.pdf.
[19] *See* "Statement on the Sanctity of Human Life," OCC Statement of Religious Beliefs, page 1.

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,

Matt Proctor

Matt Proctor
President, Ozark Christian College

PEPPERDINE UNIVERSITY

OFFICE OF THE PRESIDENT

January 27, 2016

Catherine E. Lhamon
Assistant Secretary for Civil Rights
Office for Civil Rights
Department of Education
400 Maryland Avenue SW
Washington, DC 20202

RE: Pepperdine University's Title IX Exemption

Dear Ms. Lhamon:

Please accept this letter as Pepperdine University's withdrawal of its 1976 request for an exemption from certain provisions of Title IX of the Education Amendments of 1972.

The 1976 exemption request was granted by the Office for Civil Rights ("OCR"). Since that time, the University has not asserted its exemption. While the University continues to be controlled, within the meaning contemplated by Title IX, through its affiliation with the Churches of Christ, the University is committed to complying with Title IX.

We are thankful for OCR's respect for the religious freedoms of religious and religiously-affiliated organizations. The University would appreciate OCR removing it from any list of universities holding a Title IX exemption or, alternatively, including this withdrawal in any public disclosure of its Title IX exemption materials.

Sincerely,

Andrew K. Benton

Andrew K. Benton
President & CEO

Malibu, California 90263-4451 • 310-506-4451

PONTIFICAL CATHOLIC UNIVERSITY OF PUERTO RICO
2250 BOULEVARD LUIS A. FERRÉ-AGUAYO, SUITE 564
PONCE, PUERTO RICO 00717-9997

Tel. (787) 841-2000
Ext. 1300, 1305
Fax. (787) 651-2034

PRESIDENCY

May 25, 2016

VIA: OCR@ed.gov
Certified mail - 7015 1520 0003 5733 1977

Hon. Catherine E. Lhamon,
Assistant Secretary, Office for Civil Rights
U.S. Department of Education
400 Maryland Ave. SW,
Washington D.C. 20202

RE: 34 CFR 106.12, Title IX exemption.

Honorable Assistant Secretary Lhamon:

The Pontifical Catholic University of Puerto Rico (PCUPR) has been serving the Island of Puerto Rico since 1948[1]. The PCUPR was granted an absolute charter of incorporation by The Board of Regents of the State of New York on February 27, 1959. Established as a teacher-training college, the university has grown to become a comprehensive institution with 157 academic programs that offers 13 associate, 73 bachelor's, 36 master's, 8 doctoral degrees, 10 professional certificates, and a degree in law as well as 9 binary and 6 combined programs.

The mission of Pontifical Catholic University is to honor and promote the life and dignity of the human being as well as to educate him/her in accordance with the values of the Gospel and the disciplines of current scientific knowledge in order to build a better local and global community. The PCUPR was canonically established in 1972 and granted the title of Pontifical in 1991. This distinction officially ratified the authenticity of the university as a genuine Catholic institution of the Church. As a pontifical university, the institution must adhere to the dogmas and teachings of the Holy Roman Catholic Church as expressed by the Holy See and the Sacred Congregation for Catholic Education.

PCUPR has a two-tiered governance structure: a Corporation and a Board of Trustees. The Corporation is comprised of de jure members, who are the Apostolic delegate to Puerto Rico and the members of the Puerto Rican Conference of Catholic Bishops.

---

[1]Accredited in 1948 by the Council of Higher Education of Puerto Rico.

In light of the aforementioned background and governance structure, under 34 C.F.R. 106.12, an institution that is controlled by a religious organization is exempt from those sections of the Title IX regulations that are inconsistent with the religious tenets of the organization.

Please accept this letter as our formal claim of exemption as PCUPR is an institution that conforms to the following:

- PCUPR has a department of divinity, whose program is specifically for the education of students to prepare them for a religious vocation.
- PCUPR requires its faculty, and employees to espouse and or respect the doctrine of the Catholic Church.
- PCUPR is controlled by the Catholic Church, and the members of its governing body are appointed by the Church.

Therefore, as a genuine Catholic institution of the Church the following sections and or doctrines of the Title IX regulations are inconsistent with the religious tenets of the PCUPR:

I. **34 C.F.R. 106.15 Admissions.**
PCUPR has a department of divinity, whose program is specifically for the education of students to prepare them for religious vocation.
34 C.F.R. 106.40 Marital or parental status

II. **34 C.F.R. 106.21 Admissions.**

III. **34 C.F.R. 106.22 Preference in Admissions.**
A recipient to which this subpart applies shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity which admits as students only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of this subpart.

IV. **34 C.F.R. 106.23 Recruitment (of students).**

V. **34 C.F.R. 106.31 Education programs or activities.**

VI. **34 C.F.R. 106.32 Housing.**

VII. **34 C.F.R. 106.33 Comparable Facilities.**

VIII. **34 C.F.R. 106.34 Access to classes and schools.**

IX. **34 C.F.R. 106.36 Counseling and use of appraisal and counseling materials.**

X. **34 C.F.R. 106.37 Financial assistance.**

XI. **34 C.F.R. 106.38 Employment assistance to students.**

XII. **34 C.F.R. 106.39** ***Health and insurance benefits and services.***

XIII. ***34 C.F.R. 106.40 Marital or parental status.***
(b) Pregnancy and related conditions.
(1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any ***class or extracurricular activity,*** *on the basis of such student's pregnancy, childbirth, false pregnancy,* ***termination of pregnancy*** *or recovery therefrom, unless the student requests*

voluntarily to participate in a separate portion of the program or activity of the recipient.

Termination of pregnancy is inconsistent with the Catholic doctrine. Therefore we respectfully request exemption from 34 C.F.R. 106.40(b)2 to exclude any material and or information contrary to the Catholic doctrine in any class or extracurricular activity.

XIV. **34 C.F.R. 106.41Athletics.**

XV. **34 C.F.R. 106.43 Standards for measuring skill or progress in physical education classes.**

XVI. **34 C.F.R. 106.51-61 Employment.**
PCUPR requires its faculty, and employees to espouse and-or respect the doctrine of the Catholic Church.

We affirm the dignity of all human beings and distinguish the inalienable dignity of each person from the behavioral choices a person makes. We believe that, as Catholics, we are called to treat all people with charity and respect, including those whose beliefs and behaviors differ from the teachings of the Catholic Church. We are not able, however, in good conscience to support or affirm choices and behaviors that conflict with our identity as Pontifical Catholic Institution.

Thus, on behalf Pontifical Catholic University of Puerto Rico, please accept this letter as our formal claim to exemption as per 34 CFR 106.12. Feel free to contact us if you need any additional information in order to fulfill our petition regarding this exemption.

Sincerely,

Jorge Iván Vélez Arocho
President

rcd

WINTERS & KING, INC.
ATTORNEYS AND COUNSELORS AT LAW

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TED J. NELSON
DANIEL L. SHERMAN

January 12, 2016

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

Re: Rhema Bible Church, Inc. Request for Title IX Religious Exemption

Dear Ms. Lhamon:

My firm represents Rhema Bible Church, Inc., a non-profit church organization, which operates Rhema Bible Training College. Please find enclosed a letter from my client requesting a religious exemption under 34 C.F.R. § 106.12 from certain regulations under Title IX.

Please direct any inquiries, correspondence, determinations, or other communications related to this matter to me using the contact information listed above or by email to wcarter@wintersking.com.

Thank you for your prompt consideration of this request.

Kindest regards,

Wesley R. Carter

Rhema Bible Training College
P.O. Box 50126, Tulsa, Oklahoma 74150-0126

January 6, 2016

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

Re: Rhema Bible Church, Inc. Request for Title IX Religious Exemption

Dear Mrs. Lhamon:

I am the highest ranking official at Rhema Bible Church, Inc. doing business as Rhema Bible Training College. As Senior Pastor of Rhema Bible Church, a non-profit church organization, which operates Rhema Bible Training College as a seminary for the training of ministers of the Gospel, I am writing this letter to apply to the Office of Civil Rights of the Department of Education under 34 C.F.R. § 106.12 for a religious exemption from certain regulations under Title IX. The particular regulations for which exemption is requested are:

34 C.F.R. § 106.21 regarding prohibitions against denial of admission or discrimination in admission on the basis of sex, marital, or parental status to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or same sex marriage.

34 C.F.R. § 106.23 regarding prohibitions against discrimination in recruitment and admission on the basis of sex to the extent that such prohibition has or may be interpreted to include discrimination on the basis of gender identity or sexual orientation.

34 C.F.R. § 106.31 regarding prohibitions against discrimination related to education programs and activities on the basis of sex to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or sexual orientation.

34 C.F.R. § 106.32 regarding prohibitions against discrimination related to housing on the basis of sex to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or sexual orientation.

If this letter acknowledges an offering, it can be used for income tax purposes. No goods or services were provided in consideration for donations and contributions.

34 C.F.R. § 106.33 regarding prohibitions against discrimination related to restrooms and locker rooms on the basis of sex to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or sexual orientation.

34 C.F.R. § 106.34 regarding prohibitions against discrimination related to access to classes and schools on the basis of sex to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or sexual orientation.

34 C.F.R. § 106.40 regarding prohibitions against discrimination related to marital or parental status of employees on the basis of sex to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or sexual orientation.

34 C.F.R. § 106.41 regarding prohibitions against discrimination related to athletics on the basis of sex to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or sexual orientation.

34 C.F.R. § 106.51 regarding discrimination in employment, to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or same sexual orientation.

34 C.F.R. § 106.53 regarding prohibitions against discrimination related to recruitment and hiring on the basis of sex to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or sexual orientation.

34 C.F.R. § 106.57 regarding prohibitions against discrimination related to marital or parental status of employees to the extent that such prohibitions have been or may be interpreted to include discrimination on the basis of gender identity or sexual orientation.

Rhema Bible College is under the corporate umbrella of and is fully controlled by Rhema Bible Church, which is recognized as a tax exempt church by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code. Application of the regulations listed above as they pertain or may pertain to prohibitions against discrimination on the basis of gender identity or sexual orientation, would not be consistent with the religious beliefs of Rhema Bible Church.

Rhema Bible Church (which also does business as Kenneth Hagin Ministries) is a worldwide ministry based on faith, prayer, and the healing truths in God's Word. Founded in 1963 by my father Rev. Kenneth E. Hagin, and currently led by myself Rev. Kenneth W. Hagin with the help of my wife, Lynette Hagin, my son, Craig W. Hagin, and my daughter, Denise Burns, we are dedicated to reaching people with the Good News of Jesus Christ.

We accomplish this mission through various ministries which include:

- Rhema Bible Training College;
- The Word of Faith magazine;

- Faith Library Publications;
- Rhema Praise television broadcast;
- Rhema for Today radio program;
- Rhema Prayer and Healing Center;
- Rhema Prison Ministry;
- Rhema Correspondence Bible School;
- Living Faith Crusades; and
- Various a (Campmeeting, Winter Bible Seminar, Kindle the Flame Women's Conference, A Call to Arms Men's Conference).

At *Campmeeting* 1974, my father announced that the school would open in the fall. However, the ministry did not have enough money to start the program. My father told the Lord, "This is Your school, not mine. You finance it, because I can't. Now, I'm not going to worry a bit about it. You take care of it." Thousands of dollars in offerings came in that year at *Campmeeting*, providing the funds to begin the school. In the fall of 1974, 73 students enrolled. Of those, 58 graduated in May 1975. Since then over 26,000 have graduated from Rhema Bible Training College in the United States, and nearly 60,000 have graduated worldwide.

The statement of beliefs of Rhema Bible Church[1] states:

"The Bible is the inspired Word of God, the product of holy men of old who spoke and wrote as they were moved by the Holy Spirit. The New Covenant, as recorded in the New Testament, we accept as our infallible guide in matters pertaining to conduct and doctrine."

Rhema Bible Church believes in the inerrancy and truth of Scripture as presented in the Holy Bible. We believe God instituted marriage between male and female as the foundation of the family, the basic structure of human society. (Genesis 2:24) We believe God has commanded that no intimate sexual activity be engaged other than in the context of marriage between a man and a woman. (Genesis 19:5, 26:8-11; Leviticus 18:1-30; Romans 1:26-29: 1 Corinthians 5:1, 6:9; 1 Thessalonians 4:1-8; Hebrews 13:4).

We further believe that a person cannot change their birth gender. All persons are created in God's image and are made to glorify Him. (Genesis 1:27; Isaiah 43:7) God's design was the creation of two distinct and complementary sexes, male and female. (Genesis 1:27; Matthew 19:4; Mark 10:6) We reject all attempts at defining or altering one's sexual identity or gender in any manner. (Matthew 19:4; Deuteronomy 22:5)

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[1] Rhema Bible Church, *About Us – What We Believe*, http://www.rhema.org/index.php?option=com_content&view=article&id=5&Itemid=138

Based upon our religious beliefs, I am requesting on behalf of Rhema Bible Church and Rhema Bible Training College an exemption from the specific Title IX regulations listed herein to the extent they are interpreted to reach sexual orientation and gender identity issues.

If you require anything further, please feel free to contact me.

Kenneth W. Hagin

Kenneth W. Hagin
Senior Pastor and President

CERTIFIED MAIL™

WINTERS & KING, INC.
ATTORNEYS AND COUNSELORS AT L

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7011 3500 0000 6278 7155

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CATHERINE E. LHAMON ASSISTANT SECRETARY
FOR CIVIL RIGHTS
U.S. DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1100

20202-1100

SHORTER UNIVERSITY
Transforming Lives through Christ

Office of the President
315 Shorter Avenue · Rome, Georgia 30165
706-233-7201 · Fax: 706-233-7374
www.shorter.edu

January 14, 2016

Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious-Tenet Exemption

I am President of Shorter University. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim, on behalf of the University, the religious-tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Shorter University is a Southern Baptist institution of higher education. It is a Georgia nonprofit corporation whose address is 315 Shorter Avenue, Rome, Georgia. The University's Articles of Incorporation and Bylaws are Attachment 1 and Attachment 2, respectively, to this letter.

Shorter University is owned and controlled by a religious organization. That organization is the Georgia Baptist Convention. This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Georgia. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Articles of Incorporation and Bylaws, the Georgia Baptist Convention controls the University in part by exercising its right to select the entire membership of the Board of Trustees of the University. The Board of Trustees is the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment, under § 703(e)(2) of the Act and 42 U.S.C. 2000e-2(e)(2)m, as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion

or by a particular religious corporation, association or society." See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v. Samford University*, 113 F.3d 196 (1997)), *see also Seigel v. Truett-McConnell College, Inc.*, 13 F.Supp.2d 1335 (N.D. Ga. 1994)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's and the University's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion. I identify those provisions to be:

- Admissions:
  34 C.F.R. § 106.21 including but not limited to (b)(1)(iii) (governing differential treatment on the basis of sex in admissions) and (c) (governing admissions prohibition on the basis of marital or parental status).
- Recruitment:
  34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).
- Education Programs or Activities:
  34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc.);
  34 C.F.R. § 106.32 (governing housing);
  34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
  34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
  34 C.F.R. § 106.41 (governing athletics);
- Employment:
  34 C.F.R. § 106.51 (governing employment); 34 C.F.R. § 106.52 (employment criteria);
  34 C.F.R. § 106.53 (recruitment);
  34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
  34 C.F.R. § 106.60 (governing pre-employment inquires).

Our University holds itself out to be a Christian University. Shorter University's Mission and Philosophy is "to advance God's Kingdom through a commitment to academic excellence, spiritual growth, Christian leadership, and global service within the context of a biblical worldview." *See* http://su.shorter.edu/. Our motto, *Transforming Lives through Christ*, "guides Shorter's exceptional academic

programs, vibrant campus atmosphere, and Christ-centered community that sets us apart from the rest." *Id.*

One of the University's core values is "Christ-Centered." *See* http://su.shorter.edu/mission/. This core value states: "Jesus Christ should not only be the foundation of our faith (1 Corinthians 3:11), but the very heart of our existence both as an institution and as individuals (Galatians 2:20; Philippians 1:21). Our desire is to build a thriving academic community where all can gain a greater appreciation of God's grace, a more profound understanding of His principles and priorities, and a clearer vision of our place and purpose in the world (Matthew 28:19-20; Ephesians 1:18-23;1 Peter 2:9). Apart from Christ we have "no hope" either in this world or the world to come (Ephesians 2:12); however, it is Christ in us which is the 'hope of glory' (Colossians 1:27). It can only be Christ in us that enables us to prepare the next generation to become agents of reconciliation in a world that so desperately needs Him (2 Corinthians 5:17-19)." *See id.*

Another of the University's core values is "Biblically-Based," *see id.*, which states: "Our ultimate source of authority is the Holy Bible, the written Word of God (2 Timothy 3:16-17). Since all truth emanates from God, we should indeed "examine everything carefully" (1 Thessalonians 5:21) and measure all philosophies and perspectives (Colossians 2:8) from a biblical worldview. While truth in varying forms and degrees can be found in every academic discipline and every culture, all information and knowledge must be analyzed in the light of the Truth (Jesus Christ- John 14:6) and His Word. Hence, we can fulfill the biblical mandate to make our 'every thought captive to the obedience of Christ' (2 Corinthians 10:5)." *See id.*

The University's website includes an "Employment Opportunities" page, which states: "Shorter University is a Christ centered University affiliated with the Georgia Baptist Convention and requires employees to be committed Christians. All employees are expected to sign and adhere to the *Personal Lifestyle Statement* prior to hire." http://su.shorter.edu/employment-opportunities/. A copy of the Personal Lifestyle Statement is Attachment 3 to this letter. Among other things, the Personal Lifestyle Statement states: "I reject as acceptable all sexual activity not in agreement with the Bible, including, but not limited to, premarital sex, adultery, and homosexuality." *See* Attachment 3.

Southern Baptist religious tenets have been described most extensively and most recently in the Baptist Faith and Message 2000. The messengers constituting the Georgia Baptist Convention approved the Baptist Faith and Message 2000 as an

expression of our unity in doctrine and practice. The Baptist Faith and Message 2000 is Attachment 4.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

"Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord." XVII The Family, The Baptist Faith and Message 2000.

"Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation." III Man, The Baptist Faith and Message 2000.

"Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, The Baptist Faith and Message 2000.

With respect to transgender identity, the Southern Baptist Convention issued a resolution in 2014, which is Attachment 5. In part, that resolution states this tenet: "That the messengers to the Southern Baptist Convention meeting in Baltimore, Maryland, June 10–11, 2014, affirm God's good design that gender identity is determined by biological sex and not by one's self-perception—a perception which is often influenced by fallen human nature in ways contrary to God's design (Ephesians 4:17–18)." *See* Attachment 5.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

- From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage,

pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

- From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms, and locker rooms; restrictions to athletic or other University activities and extracurricular events by birth sex; rules prohibiting homosexual or heterosexual conduct, including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; and sanctions as the result of pregnancy and abortion;

- From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention and the University.

I trust this letter sufficiently defines our exemption requests, but if you have any questions, please let me know. Thank you for your attention to this matter and we look forward to hearing from you.

Sincerely,

Dr. Don Dowless
President

SIMPSON
UNIVERSITY

October 7, 2013

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: Simpson University's Request for Title IX Religious Exemption

Dear Ms. Lhamon:

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

Simpson University is a Christ-centered learning community committed to developing each student in mind, faith and character for a lifetime of meaningful work and service in a constantly changing world. Our identity as a Christian institution is central to all that we do and teach at Simpson.

Simpson is owned by and affiliated with the Christian and Missionary Alliance denomination.[2] The denomination, and the University itself, believe in the inerrancy and truth of Scripture as presented in the Holy Bible.[3] We believe the Bible speaks to many social issues of our time, including human sexuality, and provides guidelines for morally acceptable behavior.

The University and its denomination believe that human beings, fashioned by God in His own image, are created male and female (Genesis 1:27).[4] In the New Testament, Jesus confirms the heterosexual creation of human beings: God made them male and female (Matthew 19:4).[5] Like the rest of God's creation, the sexual differences between man and woman are pronounced "very good" (Genesis 1:31).[6] However, sexual practices that are divorced from loving, covenantal relationships between men and women pervert God's intentions and result in sinful behavior that ruptures relationships between men and women, and erodes the relationship between human beings and their Creator.[7] Humanity's failure to ground sexual identity in God's creative intent and holy character violates biblical standards of sexual purity.[8] We reject all attempts at constructing one's own sexual identity by medically

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

[2] Simpson University, *About Simpson- Institutional Identity,* http://simpsonu.edu/Pages/About/Simpson/ChristianIdentity.htm (last visited Sept. 27, 2013).

[3] Simpson University, *Christian Identity- Statement of Faith,* http://simpsonu.edu/Pages/About/Simpson/FaithStatement.htm (last visited Sept. 27, 2013).

[4] Christian and Missionary Alliance, *Human Sexuality,* http://www.cmalliance.org/about/beliefs/perspectives/human-sexuality (last visited Sept. 27, 2013).

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

altering the human body, cross dressing, or similarly practicing behaviors characteristic of the opposite sex as morally objectionable and sinful (Deuteronomy 22:5).[9]

We affirm the dignity of all human beings. We also separate the value of each person from the behavioral choices one makes. We believe that, as Christians, we are called to treat all people, including those who practice sexual behavior in conflict with the Bible, with compassion, and to extend the gospel of repentance, forgiveness, and transformation through Jesus Christ to such persons without reservation. However, in keeping with our biblical beliefs surrounding the morality of such actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Moreover, any individual who violates campus standards for biblical living is subject to discipline, including expulsion.

Based on the resolution recently entered into by the Department and a California school district,10 it appears that the Department is now interpreting Title IX's ban on discrimination in education because of sex to also mean that educational institutions may not "discriminate" on the basis of "gender identity." Specifically, the school district in that dispute was ordered to allow a female student presenting herself as male to use the restroom, locker room, and living accommodations of her choice, and to participate in boys' athletic programs.

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

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

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

Very truly yours,

Robin Keith Dummer, Ed.D.
Interim President

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

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1.888.9.SIMPSON
www.simpsonu.edu

[9] *Id.*
[10] See *supra* note 1.

Southeastern
Baptist Theological Seminary

December 18, 2015

Ms. Catherine F. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear Ms. Lhaman:

I am President of Southeastern Baptist Theological Seminary. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the Seminary the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Southeastern Baptist Theological Seminary is a Southern Baptist institution of higher education. It is a North Carolina nonprofit corporation whose principal office address is 120 South Wingate Street, Wake Forest, North Carolina, 27587. I attach the Articles of Incorporation and Bylaws of the Seminary.

Southeastern Baptist Theological Seminary is controlled by a religious organization. That organization is the Southern Baptist Convention. This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of North America. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the Seminary's Charter and Bylaws, the Southern Baptist Convention controls the Seminary in part by exercising its right to select the entire membership of the board of directors of the Seminary, the governing body of the Seminary.

The Convention's authority over the Seminary constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from the Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, §703(e)(2), as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in Killinger v. Sanford University, 113 F. 3d 196 (1997)).

Daniel L. Akin
President

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sebts.edu | P.O. Box 1889 | Wake Forest, NC 27588

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.

I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:
34 C.F.R. § 106.31 (b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc.);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);

Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquiries).

The Seminary's Mission Statement reads as follows, "Southeastern Baptist Theological Seminary seeks to glorify the Lord Jesus Christ by equipping students to serve the Church and fulfill the Great Commission." In fulfilling the Seminary's mission, the Faculty teach our students in accordance with and not contrary to the Southern Baptist Convention's Statement of Faith, *The Baptist Faith & Message 2000*.

Southern Baptist religious tenets have been described most extensively and most recently in *The Baptist Faith and Message 2000*, a statement of faith adopted by the Southern Baptist Convention. That statement is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means of procreation of the human race… Children, from the moment of conception, are a blessing and heritage from the Lord. XVIII The Family, *The Baptist Faith and Message 2000.*
>
> Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. III Man, *The Baptist Faith and Message 2000.* (The Southern Baptist Convention elaborated on this tenet most recently in 2014 by the adoption of a resolution "On Transgender Identity." It is attached.)
>
> Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography… We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, *The Baptist Faith and Message 2000.*

The Seminary's policies are rooted in these religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the Seminary:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside of marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of the students characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from those specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you kindly for your attention to this matter.

Sincerely,

Daniel L. Akin
President

NOTE: Southeastern Baptist Theological Seminary, 120 South Wingate Street, Wake Forest, North Carolina **is not** affiliated with any other institution of higher education by the same name.

Enclosures: Articles of Incorporation for Southeastern Baptist Theological Seminary
Bylaws of Southeastern Baptist Theological Seminary
The Baptist Faith and Message 2000
2014 Resolution of the Southern Baptist Convention "On Transgender Identity"

SOUTHEASTERN
UNIVERSITY

26 October, 2015

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

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

Dear Ms. Lhamon:

I hereby request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights acknowledge that Southeastern 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 Southeastern University's freedom to act in accordance with its religious convictions. As President of Southeastern University, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

Southeastern University ("Southeastern" or "the University") was founded in 1935, and is a Christ-centered institution of higher education, "committed to equipping the next generation of leaders so that they can go into the world as influential servants in their careers and their communities."[1] Southeastern's mission is to equip students "to discover and develop their divine design to serve Christ and the world through Spirit-empowered life, learning and leadership."[2]

Southeastern is affiliated with the Assemblies of God denomination, affiliated with and sponsored by several Assemblies of God districts, and governed by a board that must include either an ordained Assemblies of God minister or a member in good standing of an

[1] *See* http://www.seu.edu/about/.
[2] *See* http://www.seu.edu/about/.

1000 Longfellow Blvd. Lakeland, FL 33801-6034 863.667.5000 toll free 800.500.8760 fax 863.667.5200 SEU.edu

Assemblies of God church from each sponsoring district.[3] Additionally, Southeastern requires that its President be either credentialed by the Assemblies of God or a member in good standing of an Assemblies of God church.[4]

Acknowledging Christ preeminent as the creator of all things, as the redeemer of people fallen into sin, as the touchstone of all truth, and as the sovereign ruler over all areas of life, Southeastern strives to discern and to unfold the implications of His preeminence in all things. To serve this end, we seek to appropriate the mind of Christ as the biblical perspective from which we characterize and respond to reality. In doing so, the University seeks to embody the following vision:

> Southeastern University is anchored by Spirit-empowered education in a Christ-centered, student-focused learning community. Southeastern's global impact is marked by a deep commitment to transforming minds and engaging culture through the integration of faith, learning and service. Each student's divine design is nurtured and unleashed through the investment of faculty and staff, relationships within the community, the rigor of scholarship, diverse learning experiences and the discipline of spiritual formation, which propels students into a lifetime of serving the world in the Spirit of Christ.[5]

The Assemblies of God and Southeastern understand the Bible to be the infallible, written Word of God. In addition, both the Assemblies of God and the University[6] affirm that the Statement of Fundamental Truths of the General Council of the Assemblies of God provide the most adequate and comprehensive expression of the system of doctrine taught in the Bible. The Assemblies of God and the University submit themselves to the Bible and to these historic expressions of its doctrine and affirm positions that are in accord with those standards.

Therefore, consistent with these standards, Southeastern has developed a Human Sexuality Policy (enclosed). That statement provides in pertinent part as follows:

> **Biblical Foundations**
>
> Our understanding of Human Sexuality is derived from the following biblical principles:

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[3] Southeastern University Bylaws, Article II, Section 1, and Article VII, Section 3.
[4] Southeastern University Bylaws, Article XII, Section 1.
[5] *See* http://www.seu.edu/about/.
[6] Southeastern University Bylaws, Article IV.

1. God created humans with an immutable gender of either male or female, in a purposeful and complementary design that together reflects God's own image and nature, and as relational beings—the only part of creation that God explicitly designed to have community with himself (Genesis 1:26). All other forms of community are designed to reflect this relationship between divinity and humanity (Hebrews 10:24-25; 1 Corinthians 12:14, Ephesians 5:25).
2. As a direct result of sin, the community between divinity and humanity was broken (Genesis 3:23-24). This brokenness has permeated all other relationships (Genesis 4:15). Human sexuality is not exempt from the marring effects of separation from the divine (Romans 1:21-23).
3. God's intention for human sexuality is for sexual intimacy to occur between one genetic male and one genetic female within the covenant of marriage (Genesis 2:18, 21-24; Hebrews 13:4).
4. All forms of sexuality outside of God's intention are a result of separation from God (1 Corinthians 6:13, 18-20) and are illegitimate moral options. In Scripture, several sexual behaviors are expressly forbidden, which include but are not limited to: fornication, adultery, incest, unnatural sexual intercourse, and homosexual acts (Exodus 20:14; Leviticus 18:7-23, 20:10-21; Matthew 5:27-28; Romans 1:20-27; 1 Corinthians 6:9; Galatians 5:19; Ephesians 4:17-19; Colossians 3:5).

Into this broken world, God sent himself in the form of his only begotten son, Jesus the Christ (John 1:1-3,14). Through his sacrifice, Jesus became the Way to restoration of the divine/human community (John 3:16). Until one has restored their relationship with God through his son Jesus, all other relationships—including human sexuality—will remain broken (John 14:6-7).

Southeastern Human Sexuality

In addition, Southeastern University supports the dignity of individual persons affirming their biological sex—understanding that any attempts to change one's God-given sexuality through elective sex-reassignment, transvestite, transgender, or nonbinary "genderqueer" acts or conduct is at odds with our biblical standards, denominational affiliation and consequently our code of conduct.

Our Commitment

Therefore, we as a community commit to the following:

a) We will make institutional decisions in light of the beliefs expressed in this policy, including but not limited to decisions regarding recruitment of faculty, staff, administrators and students, admissions and financial aid, terms and conditions of employment, curriculum and course offerings, and all student services.
b) Because of our values surrounding modesty, sexual purity and safety, the university has had a single-sex housing and restroom policy for undergraduates since its inception, and we will continue to maintain this tradition.
c) In regards to athletics, we will continue to support our biblical understanding of affirming an individual's biological sex as the basis for athletic competition.[7]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[8]

And as you also know, the resolution agreement[9] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.[10]

It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though

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[7] *See* Human Sexuality Policy.
[8] 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.").
[9] 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.
[10] *Id.*

compliance with Title IX, as interpreted by ED 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 the Department of Education's Office for Civil Rights acknowledge that Southeastern is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the University's freedom to respond to transgender individuals in accordance with its theologically-grounded convictions.

Additionally, the Assemblies of God, consistent with the historic understanding of the Holy Scriptures and our doctrinal standards have affirmed the following regarding homosexual conduct:

- The Assemblies of God defines marriage as the permanent, exclusive, comprehensive, and conjugal "one flesh" union of one man and one woman, intrinsically ordered to procreation and biological family, and in furtherance of the moral, spiritual, and public good of binding father, mother, and child. (Genesis 1:27–28; 2:18–24; Matthew 19:4–9; Mark 10:5–9; Ephesians 5:31–33).; and

- The Assemblies of God affirms the sexual complementarity of man and woman and teaches that any and all same-sex sexual attractions are to be resisted. Consequently, believers are to refrain from any and all same-sex sexual acts or conduct, which are intrinsically disordered. (Genesis 1:27; 2:24; Matthew 19:4–6; Mark 10:5–9; Romans 1:26–27; 1 Corinthians 6:9–11).3. In light of the Biblical view of its sinfulness, a practicing homosexual continuing in this sin would not be a fit candidate for ordination or membership in the Assemblies of God.[11]

The University, in service to the Church, welcomes those of professed Christian faith even as they experience same sex attraction. But, it also affirms with the Assemblies of God that sexual activities with members of the same sex are sinful and are not to be condoned as acceptable expressions of one's sexuality.[12] 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.[13]

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[11] *See* Assemblies of God August 2014 Statement on Homosexuality, Marriage, and Sexual Identity, *available at* http://ag.org/top/Beliefs/position_papers/pp_downloads/pp_4181_homosexuality.pdf.
[12] *See* Human Sexuality Policy.
[13] *See* http://www.eeoc.gov/decisions/0120133080.pdf.

It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 Southeastern. The University, therefore, also seeks exemption on this basis out of an abundance of caution.

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

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

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

Yours sincerely,

Kent Ingle, D.Min.
President
Southeastern University

Southern Nazarene University

CHARACTER | CULTURE | CHRIST

November 12, 2015

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

Re: Southern Nazarene University Request for Title IX Religious Exemption

Dear Ms. Lhamon:

It is our understanding that the Department of Education and the Department of Justice have recently interpreted Title IX's ban on sex discrimination to include discrimination based on gender identity.[1] As President of Southern Nazarene University, ("SNU") a private, religious liberal arts University in Bethany, Oklahoma, I hereby request pursuant to 34 C.F.R. §106.12, an exemption for Southern Nazarene University from this interpretation of Title IX, due to the deeply-held and inherent religious beliefs of our University.

Background

Southern Nazarene University is a Christian liberal arts university located in Bethany, Oklahoma grounded in the Wesleyan-Holiness tradition of the South Central Region of Church of the Nazarene. We are celebrating 116 years as a higher education institution. Our identity as a Christian university is central to all that we do. Our official Mission Statement, adopted by the Board of Trustees is as follows:

> The mission of Southern Nazarene University is to make Christ-like disciples through higher education in Christ-centered community. This is accomplished within the contexts of the liberal arts, selected professional and graduate studies, a Wesleyan-holiness theological perspective, and a cross-cultural community life. As an institution of the Church, the University shall operate within the framework of the Manual of the Church and in cooperation with the denomination's International Board of Education. The University is the Church at work in higher education, integrating faith, learning, and life.

[1] Resolution Agreement between Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf; and Questions and Answers on Title IX and Sexual Violence, April 29, 2014, *available at* http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf which contains the following: "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."

We transform lives in higher education by boldly proclaiming the following values:

We are Christian

We are united with all believers in proclaiming the Lordship of Jesus Christ. We believe that in divine love God offers to all people forgiveness of sins and restored relationship. In being reconciled to God, we believe that we are also to be reconciled to one another, loving each other as we have been loved by God and forgiving each other as we have been forgiven by God. We believe that our life together is to exemplify the character of Christ. We look to Scripture as the primary source of spiritual truth confirmed by reason, tradition, and experience. We value our Wesleyan-Holiness heritage and believe it to be a way of understanding the faith that is true to Scripture, reason, tradition, and experience.

We are Missional

We are a sent people, responding to the call of Christ and empowered by the Holy Spirit to go into all the world, witnessing to the Lordship of Christ and participating with God in the building of the Church and the extension of His kingdom. Our mission begins in worship, ministers to the world in evangelism and compassion, encourages believers toward Christian maturity through discipleship, and prepares women and men for Christian service through Christian higher education.

We are Holiness

The Church of the Nazarene is a Protestant Christian church in the Wesleyan-Holiness tradition, tracing its roots to an anniversary date of 1908. It was founded to spread the message of scriptural holiness (Christlike living) across the lands. Today the Church of the Nazarene is located in 156 world areas.

The Church of the Nazarene is committed to Christian higher education, through which women and men are equipped for lives of Christian service. In its seminaries, Bible colleges, colleges, and universities, it is committed to the pursuit of knowledge, the development of Christian character, and the equipping of leaders to accomplish their God-given calling of serving in the Church and in the world. This continued commitment to Christian higher education through the years has produced a worldwide network of seminaries, Bible schools, colleges, and universities, such as Southern Nazarene University.[2]

Control by a Religious Organization

SNU is an Oklahoma Nonprofit Corporation[3], with Amended and Restated Articles of Incorporation dated March, 19, 1986. Pursuant to the Articles of Incorporation, the purpose of the University is described in terms of a Christian mission as follows in part:

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[2] http://snu.edu/the-nazarene-denomination/

[3] Created pursuant to the Oklahoma General Corporation Act ("GCA"), Title 18, Section 1001).

> To establish and maintain a college for the teaching and instruction of Christian education;...[4]

It is assigned by the Church of the Nazarene to serve ten districts of the denomination. Upon hypothetical dissolution, assets are to be distributed for purposes associated with the Church of the Nazarene. The Board of Trustees is elected from the members of the ten districts and at least half of the Board membership is comprised of clergy ordained in the Church.[5] Our faculty are required to be in full accord with the doctrines, practices and Christian objectives of the University. Further, faculty are prohibited from professing views not in harmony with the Manual of the Church of the Nazarene or the Policies adopted by the Board of Trustees. Students are required to behave in accordance with lifestyle expectations consistent with the Church of the Nazarene.[6]

The University and the denomination believe that the Bible is authoritative and inerrant with regard to matters of salvation and we are committed to lives in harmony with the truth as set forth in Scripture. We believe that the Bible speaks to many contemporary issues with mandatory perspective; matters of human sexuality are included in that authority and as such, the Bible regulates morally acceptable behavior and behavior coincident with the requirements of salvation.

Additional indications of control of SNU by the Church of the Nazarene are included in discussions below.

Bible-Based Sexual Identity and Other Sexual Morality Policies

The University and its denomination believe that human beings are fashioned by God in His own image, and are created male and female (Genesis 1:27). In the New Testament, Jesus confirms the heterosexual creation of human beings: God made them male and female (Matthew 19:4). Like the rest of God's creation, the sexual differences between man and woman are pronounced "very good" (Genesis 1:31). Sexual practices that are divorced from loving, conventional relationships between man and woman conflict with God's intentions and result in sinful behavior that separates man from God and threatens Salvation. Humanity's failure to ground sexual identity in God's creative intent and holy character violates biblical standards of sexual purity and morality. We reject all attempts at construing sexuality or sexual identity by medically altering the human body, cross dressing, or similarly practicing behaviors characteristic of the opposite sex as morally objectionable and sinful (Deuteronomy 22:5).

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[4] Amended and Restated Articles of Incorporation, adopted March 19, 1986.

[5] Southern Nazarene University Bylaws, amended and adopted May 8, 2015. Article IV provides in part: " Trustees shall be members of the Church who embrace the doctrine and the policy of the Church. The provisions of this Section reflect the intent of this Board for its membership to include approximately equal number of clergy and laypersons."

[6] See Faculty Handbook at http://snu.edu/faculty-handbook

SNU's Board of Trustees affirmatively state in the policy manual the following:

> "Christian marriage as being exclusively between one genetic man and one genetic woman: "For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh" (Gen. 2:24; Matthew 19:5)."

Further the policy considers:

> "Gender identity, as described in scripture: "He created them male and female" (Gen. 5:2) (Manual 903.8). We regard gender nonconformity as a violation of God's plan, recognizing, however, rare cases of persons who are physiologically, genetically or hormonally proven to be the victims of a mistaken gender assignment in childhood over which they had no control and gave no informed consent."

This policy on marriage and gender identity is consistent with the Covenant of Christian Character of the Church of the Nazarene set forth in the Manual of the Church of the Nazarene 2013-2017.[7] Further, it is consistent with and mandated by the Pastoral Perspectives on Homosexuality, issued by the General Superintendents of the Church of the Nazarene as an official policy of the Church of the Nazarene on the topic.[8]

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[7] **D. Human Sexuality**

32. The Church of the Nazarene views human sexuality as one expression of the holiness and beauty that God the Creator intended for His creation. It is one of the ways by which the covenant between a husband and a wife is sealed and expressed. Christians are to understand that in marriage human sexuality can and ought to be sanctified by God. Human sexuality achieves fulfillment only as a sign of comprehensive love and loyalty. Christian husbands and wives should view sexuality as a part of their much larger commitment to one another and to Christ from whom the meaning of life is drawn.

The Christian home should serve as a setting for teaching children the sacred character of human sexuality and for showing them how its meaning is fulfilled in the context of love, fidelity, and patience. Our ministers and Christian educators should state clearly the Christian understanding of human sexuality, urging Christians to celebrate its rightful excellence, and rigorously to guard against its betrayal and distortion. Sexuality misses its purpose when treated as an end in itself or when cheapened by using another person to satisfy pornographic and perverted sexual interests. We view all forms of sexual intimacy that occur outside the covenant of heterosexual marriage as sinful distortions of the holiness and beauty God intended for it.

Homosexuality is one means by which human sexuality is perverted. We recognize the depth of the perversion that leads to homosexual acts but affirm the biblical position that such acts are sinful and subject to the wrath of God. We believe the grace of God sufficient to overcome the practice of homosexuality (1 Corinthians 6:9-11). We deplore any action or statement that would seem to imply compatibility between Christian morality and the practice of homosexuality. We urge clear preaching and teaching concerning Bible standards of sexual morality. (Genesis 1:27; 19:1-25; Leviticus 20:13; Romans 1:26-27; 1 Corinthians 6:9-11; 1 Timothy 1:8-10) http://nazarene.org/files/docs/Manual2013-17.pdf.

[8] http://nazarene.org/files/docs/Perspectives_Homosexuality.pdf.

Students are also required by doctrinally-mandated policy to abide by requirements relating to sexual propriety. Such policies are set forth for students in the Student Handbook, Lifestyle Covenant.[9]

The University and the denomination also believe in the sanctity of life and by doctrine and policy strongly oppose intentional termination of a pregnancy absent a very few compelling circumstances.[10] This belief, expressed in the Manual of the Church of the Nazarene, is integrated into the policy of the University by virtue of repeated references to compliance with Church of the Nazarene doctrine and beliefs.

Affirmation of Human Dignity and Christian Love

We affirm the dignity of all human beings. We also separate the value of each person from the behavioral choices one makes. We believe that, as Christians, we are called to treat all people, including those who practice sexual behavior in conflict with the Bible, with compassion and to extend the gospel of repentance, forgiveness and transformation through Jesus Christ to such persons without reservation. However, in keeping with our biblical beliefs surrounding the morality of such actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Moreover, an individual who violates campus standards for biblical living is subject to discipline, including termination or expulsion.

Request for Religious Exemption

Based on the resolution recently entered into by the Department and the Arcadia Unified School District and the April 2014 Guidance document, it appears that the Department is now interpreting Title IX's ban on discrimination in education based on sex to also mean that educational institutions may not "discriminate" on the basis of gender identity. Specifically, the school district in that dispute was ordered to allow a female student presenting herself as a male to use the restroom, locker room and living accommodations of her choice, and to participate in boy's athletic programs.

We would not be able to make similar accommodations consistent with our religious beliefs and convictions. In addition, we would not be able to make similar accommodations for employees and applicants for employment. Because of our scripture-based beliefs

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1. [9] "We value sexual purity and the sanctity of Christian marriage; therefore, abstaining from sexual immorality (including, but not limited to, premarital or extramarital sex, other immoral sexual activity, and homosexual behavior) is expected; for the same reason, abstaining from viewing or possessing pornography is expected. " See Student Handbook http://snu.edu/handbook.

[10] The Manual of the Church of the Nazarene, Covenant of Christian Conduct, provides: "C. Sanctity of Human Life: The Church of the Nazarene believes in the sanctity of human life and strives to protect against abortion, embryonic stem cell research, euthanasia, and the withholding of reasonable medical care to handicapped or elderly." *available at* http://nazarene.org/files/docs/Manual2013-17.pdf.

regarding gender and sexual morality, our practices might be deemed in violation of the Department's current interpretation of Title IX. However, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12(a), this interpretation must not be applied to Southern Nazarene University. "This part does not apply to an educational institution controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization."

Thus, on behalf of Southern Nazarene University, I hereby request an official exemption from compliance with that interpretation of Title IX. SNU specifically requests a religious exemption from the following requirements insofar as they prohibit discrimination based on gender identity: 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), 34 C.F.R. § 106.32 (governing housing), 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms), 34 C.F.R. § 106.41 (governing athletics), and 34 C.F.R. § 106.51 (governing employment), and any other requirement inconsistent with SNU's biblically-based beliefs as described herein. SNU also requests a religious exemption from any regulation prohibiting discrimination against a student on account of termination of pregnancy[11].

SNU gladly complies with Title IX with respect to the granting of equal opportunities in educational programs or employment to members of both sexes; our request for exemption is limited to the recent interpretation that "sex" under Title IX also includes gender identity and to any requirement that is inconsistent with SNU's policies regarding sanctity of life and any SNU policy which reserves the right to take adverse action against a student or employee who violates that policy.

Please feel free to contact me if more information is needed. Thank you for your consideration.

Sincerely,

Dr. Loren Gresham
President
Southern Nazarene University

[11] 34 C.F.R. §106

SOUTHERN
WESLEYAN
UNIVERSITY
OFFICE OF THE PRESIDENT

January 20, 2015

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

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

Dear Ms. Lhamon:

I hereby request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights acknowledge that Southern Wesleyan University (SWU) is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the University's freedom to respond to transgender individuals in accordance with its religious convictions and those of The Wesleyan Church. SWU also is exempt from those regulations that might be interpreted to curtail its freedom to enforce its prohibition on the taking of innocent human life. As President of SWU, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

SWU was founded by The Wesleyan Church to provide higher education within a Christian environment for Wesleyan youth, and is owned and operated by The Wesleyan Church to this day.[1] SWU's mission statement provides that "Southern Wesleyan University is a Christ-centered, student-focused learning community devoted to transforming lives by challenging students to be dedicated scholars and servant leaders who impact the world for Christ." All aspects of the college's life, from its curricula to its athletic endeavors to its code of conduct are guided by this evangelical Christian mission statement.

SWU's Statement on Human Sexuality, a copy of which is attached for your convenience, provides in pertinent part as follows:

> SWU holds to the Biblical norm that all human beings are "fearfully and wonderfully made" with a clear and distinct biological gender that identifies them as male and female. Therefore, the university does not permit any members of its community (faculty, staff or student) to choose behaviors that disregard or discourage such gender distinctions. Behaving

[1] Southern Wesleyan University, http://www.swu.edu/about-swu/; The Wesleyan Church, Wesleyan Colleges and Universities, http://www.wesleyan.org/college.

907 Wesleyan Drive, PO Box 1020, Central, South Carolina 29630 864.644.5011 864.644.5981 fax tvoss@swu.edu

> in ways that compromise or confuse one's biological gender identity as given by God at birth is considered a personal choice that is beyond the bounds of the Christian community.

SWU's denomination, The Wesleyan Church, has issued a statement entitled, "A Wesleyan View of Gender Identity and Expression," a copy of which is also attached for your convenience. Among other things, the statement declares that "all humans have the same responsibility for stewarding physical attributes and abilities" and that "[g]ender assignment is a divine prerogative." The statement invokes *The Discipline of The Wesleyan Church*, observing that the "article of religion" on "Marriage and the Family" asserts the binary nature of human sexual identity and expression. The statement sets forth the Church's specific religious convictions about gender expression:

1. Gender differentiation is sacred.
2. The Church is an advocate for social holiness for all persons.
3. Gender identity reflects God's sovereignty.
4. Gender non-conformity that disrupts marriage and adult family relationships violates the law of love and the sanctity of the family.
5. Reconciliation with God is the foundation for reconciliation with oneself and with others.
6. Those who are struggling with gender identity issues deserve the Church's compassion and ministry.
7. When necessary, church discipline of gender non-conforming individuals must be administered in holy love.

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations. As you also know, however, the resolution agreement[2] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[3] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of SWU and The Wesleyan Church.

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

[3] *Id.*

SWU has also adopted a Statement on Human Life, which reads in pertinent part as follows:

> Southern Wesleyan University holds that all human life is sacred and is God's greatest blessing and, therefore, must be respected and protected from its conception to its completion. The taking of a human life through any means (including but not limited to abortion, homicide or suicide) is considered abhorrent and contrary to the University's missional core and that of The Wesleyan Church.[4] We, therefore, prohibit all members of the SWU community from promoting or participating in any act of, or related to, aborting a child whether such a child is pre-birth or post-birth. In addition to surgical abortions, Southern Wesleyan University considers the use of abortifacients and chemically induced abortions as the commission of an act wrongfully terminating human life. The University therefore reserves the right to discharge any member of the faculty or staff and dismiss any student from the community for violating this basic understanding of human life. SWU understands that in cases where a pregnancy may put at risk the very life of a mother, triage decisions must be made within the private context of the woman, her doctor, her pastor and her family.

SWU accordingly requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity discrimination, and to the extent they restrict the University's freedom to apply and enforce its Statement on Human Life):

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)

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[4] The Wesleyan Church Statement on the Sanctity of Life; http://www.wesleyan.org/475/sanctity-of-life

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.

Sincerely,

Todd S. Voss
President, Southern Wesleyan University

Southwest Baptist University

July 8, 2015

Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Dear Ms. Lhamon:

I am President of Southwest Baptist University. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Southwest Baptist University is a Southern Baptist institution of higher education. It is a Missouri nonprofit corporation. The address is 1600 University Avenue, Bolivar, Missouri 65613. The Charter of the University is enclosed.

The University is controlled by the Missouri Baptist Convention which is a religious organization. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Missouri. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Charter, the Missouri Baptist Convention controls the University in part by exercising its right to elect the entire membership of the board of directors of the University, the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), (§703(e)(2)) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Alabama Southern Baptist university in Killinger v. Samford University, 113 F. 3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, and gender identity.

I identify those provisions to be:

Admissions: 34 C.F.R. § 106.21 and §106.22 including but not limited to 106.21(b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).
Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).
Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. §106.37 (governing financial assistance);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students);
34 C.F.R. § 106.41 (governing athletics).
Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions);
34 C.F.R. § 106.60 (governing pre-employment inquires).

Our University holds itself out to be a Christian University. I have enclosed the University's Pathways for Success adopted by the board of directors in April, 2015. It reflects the ongoing grounding of the Mission, Vision and Strategic Plan on Biblical principles, and the University's commitment to the integration of faith in all aspects of university life.

Southern Baptist religious tenets have been described most extensively and most recently in the Baptist Faith and Message 2000. The messengers constituting the Missouri Baptist Convention have adopted that statement of faith. The Baptist Faith and Message 2000 is attached.

In regard to marriage, sex outside of marriage, sexual orientation, and gender identity, the following statements are illustrative:

> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. XVII The Family, The Baptist Faith and Message 2000.
>
> Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. III Man, The Baptist Faith and Message 2000.

> Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. XV The Christian and the Social Order, The Baptist Faith and Message 2000.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

> From engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, and sex outside marriage (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;
>
> From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; and prohibition of sex outside of marriage between a man and a woman;
>
> From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, and gender identity that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

C. Pat Taylor

C. Pat Taylor
President

Enclosures: Southwest Baptist University Charter
Pathways for Success (strategic plan)
Baptist Faith and Message 2000

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President Kermit S. Bridges, D.Min.

SOUTHWESTERN ASSEMBLIES OF GOD UNIVERSITY

January 8, 2016

Catherine E. 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: Statement of exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12

Dear Ms. Lhamon:

It has come to Southwestern Assemblies of God University's attention that the Department of Education has recently taken the position that 20 U.S.C. § 1681(a), Title IX's rule against discrimination on the basis of sex, now bars differential treatment based on "gender identity." The Department's new interpretation of Section 1681(a) conflicts with Southwestern Assemblies of God University's religious tenets and our ability to carry out our religious mission. In the course of our review, Southwestern Assemblies of God University has identified other potential interpretations or applications of Section 1681(a) that likewise conflict with our religious mission. Therefore, as the highest-ranking official of Southwestern Assemblies of God University's administration, I write to inform the Department of Education that Southwestern Assemblies of God University qualifies for the religious exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 because of its affiliation with the Assemblies of God. I also write to explain how certain provisions, as they may be interpreted by the Department, conflict with specific tenets of Southwestern Assemblies of God University and the Assemblies of God.

Southwestern Assemblies of God University qualifies for Title IX's religious exemption.

Southwestern Assemblies of God University is an educational institution affiliated with the Assemblies of God, a religious organization. The following explains why Southwestern Assemblies of God University qualifies for the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 as these provisions have been interpreted and applied by the Department of Education.[1]

[1] *See* U.S. Dep't of Ed., *Explanation of HEW Form 639 A* (March 1977) at 3-4, available at http://freepdfhosting.com/88b629f888.pdf.

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The General Council of the Assemblies of God ("General Council"), the highest governing body of the church, has established the Alliance for Assemblies of God Higher Education ("Alliance") and tasked the Alliance with developing educational, spiritual, and theological standards for schools that wish to be affiliated with the church.[2] To fulfill this mandate, the Alliance developed Endorsement Criteria that are intended to facilitate the development of educational institutions that are committed to the Assemblies of God's mission, to the integration of faith and learning in the Pentecostal tradition, and to academic excellence.[3] The purpose of the Endorsement Criteria is to insure doctrinal fidelity and institutional conformity to Assemblies of God standards of morality.

Southwestern Assemblies of God University is endorsed by the Alliance and is committed to maintaining this status by carefully following the Alliance's Endorsement Criteria.

Consistent with the Alliance's Endorsement Criteria, Southwestern Assemblies of God University's mission documents commit Southwestern Assemblies of God University to the formation of mature Christian character and spiritual life, the development of loyalty to the doctrines and principles of the Assemblies of God, and the preparation of leaders for the Kingdom of God and the Assemblies of God.

The Alliance's Endorsement Criteria also shape how Southwestern Assemblies of God University selects its leadership, faculty, administrators, and students. At least 90% of Southwestern Assemblies of God University's board members are affiliated with the Assemblies of God and the remaining board members affiliated with another Pentecostal church. Under the Endorsement Criteria, Southwestern Assemblies of God University may not deviate from these standards without permission from the Alliance.

Additionally, the Alliance's Endorsement Criteria require Southwestern Assemblies of God University's faculty, administrators, and students to be members of an Assemblies of God church or otherwise espouse a personal belief in the basic tenets of the Christian faith as understood by the Assemblies of God.

Consistent with Alliance standards, Southwestern Assemblies of God University asks all applicants for on-campus programs to affirm that they are born-again Christians, that they desire to be involved in Christian service, and that they agree with the accepted essentials of the Christian faith as held by the Assemblies of God. Applicants must also provide a letter of recommendation from a pastor.

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[2] *See* The Alliance for Assemblies of God Higher Education, *Our Purpose*, http://colleges.ag.org/about/mission.cfm.

[3] *See* The Alliance for Assemblies of God Higher Education, *Endorsement Criteria*, Rev. 2010, available at http://colleges.ag.org/pdfs/Final%20Criteria.pdf.

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Student life at Southwestern Assemblies of God University is also shaped by our commitment to Alliance standards. Southwestern Assemblies of God University shares the Assemblies of God's conviction that Christian colleges and universities should form their students both academically and spiritually. Faithful to the Endorsement Criteria, Southwestern Assemblies of God University helps stimulate students' appreciation for the Word of God and encourages students to pursue spiritual maturity and excellence. Southwestern Assemblies of God University is dedicated to strengthening our students' appreciation of and attachment to the Christian Church, especially the Pentecostal tradition and the Assemblies of God. Each student is required to be involved in a ministry for at least two semesters, with more expected of students in ministry-related majors.

As part of our commitment to developing a robust Christian community, and consistent with the Alliance's standards, Southwestern Assemblies of God University holds at least three chapel services each week, which are mandatory for students. Southwestern Assemblies of God University also has enforceable church and chapel attendance policies for administrators and faculty.

Because Southwestern Assemblies of God University adheres to the Endorsement Criteria, it is eligible for financial support from the Assemblies of God. The Alliance develops financial resources for endorsed colleges in cooperation with the Assemblies of God Trust. The Alliance also develops educational resources and runs conferences to help affiliated schools better serve their mission and their students.

In light of all the above, Southwestern Assemblies of God University is entitled to the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12.

Certain applications of 20 U.S.C. § 1681(a) and 34 C.F.R. 106 conflict with Assemblies of God doctrine and practice.

Southwestern Assemblies of God University is compelled to submit this statement because it believes that its religious convictions, informed by its relationship with the Assemblies of God, conflict with some of the ways that the Department of Education may interpret or may seek to enforce 20 U.S.C. § 1681(a). Specifically, Southwestern Assemblies of God University is concerned with the Department's assertion that Section 1681(a) prohibits distinctions on the basis of sexual orientation, gender identity, or more generally on the basis of the Assemblies of God's teachings about marriage and biblical standards for sexual conduct.[4]

As a Christian institution, Southwestern Assemblies of God University believes that all matters of faith and conduct must be evaluated on the basis of Holy Scripture,

[4] The religious convictions set forth below are established by the Assemblies of God in its Constitution and Bylaws, available at http://ag.org/top/about/constitution_bylaws.cfm, and in Position Papers approved by the General Presbytery of the Assemblies of God, available at http://ag.org/top/Beliefs/position_papers/.

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which is our infallible guide (2 Timothy 3:16-17). As a school founded in and inspired by the Assemblies of God tradition and endorsed by the Alliance, Southwestern Assemblies of God University looks to the General Council and the General Presbytery of the Assemblies of God to help us interpret Scripture.

Human Dignity: The Assemblies of God believes that God created humankind in His image and that people receive their essential dignity from the fact that they are created in God's image and are loved by Him (Genesis 1:27). This dignity does not depend on whether someone is single or married or on whether someone suffers from any particular temptation to sin (1 Corinthians 7; Romans 5:8).

Abortion: The Assemblies of God believes that human beings bear the image of God and receive their essential identity and dignity before we are born (Luke 1:31-44; Acts 7:19; Job 31:15; Psalm 139:13-16). As such, the Assemblies of God believes that abortion is the killing of innocent human life and is therefore prohibited by the Ten Commandments and elsewhere throughout Scripture (Exodus 20:13, 21:22-24; Matthew 19:18; Romans 13:9).

Marriage: The Assemblies of God defines marriage as the permanent, exclusive, comprehensive, and conjugal "one flesh" union of one man and one woman, intrinsically ordered to procreation and biological family, and in furtherance of the moral, spiritual, and public good of binding father, mother, and child. The Assemblies of God teaches that the purpose of Christian marriage is to reflect the love, purity, and permanence between Christ and the Church (Ephesians 5:23-33).

Sexual Conduct: The Assemblies of God believes that God has designed sexual intimacy for marriage and that sexual acts outside of marriage are sinful. Such acts include but are not limited to adultery, fornication, incest, bestiality, pornography, prostitution, voyeurism, pedophilia, exhibitionism, sodomy, polygamy, polyamory, or same-sex sexual acts. (Exodus 20:14; Leviticus 18:7–23; 20:10–21; Deuteronomy 5:18; Matthew 5:27–28; 15:19; Romans 1:26–27; 1 Corinthians 6:9–13; Galatians 5:19; Ephesians 4:17–19; Colossians 3:5; 1 Thessalonians 4:3; Hebrews 13:4).

Sexual Orientation: The Assemblies of God affirms the sexual complementarity of man and woman and teaches that same-sex sexual attractions are temptations to sin and should therefore be resisted. (Genesis 1:27; 2:24; Matthew 19:4–6; Mark 10:5–9; Romans 1:26–27; 1 Corinthians 6:9–11).

Sexual Identity: The Assemblies of God believes that God created humankind in His image, male and female, sexually different but with equal personal dignity. The church supports the dignity of individual persons affirming their biological sex and discouraging any and all attempts to physically change, alter, or disagree with their predominant biological sex—including but not limited to elective sex-reassignment, transvestite, transgender, or nonbinary "genderqueer" acts or conduct. (Genesis 1:26–28; Romans 1:26–32; 1 Corinthians 6:9–11).

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Sexual Equality: The Assemblies of God believes that men and women have equal dignity before God and does not make any distinction between the sexes when selecting people for ministry or spiritual leadership positions. Having observed that God pours out His Spirit upon both men and women, the Assemblies of God concludes that God gifts both sexes for ministry in His Church.

Southwestern Assemblies of God University believes and embraces these teachings and has integrated them into its standards for its administrators, faculty, and students. In order to help foster these standards and to help ensure that Southwestern Assemblies of God University is a place of nourishment, Southwestern Assemblies of God University has adopted a student policy manual that clearly outlines policies regarding expectations for student behavior, accountability, rules and disciplinary actions, and other general expectations for student life on campus.

None of this to say that Southwestern Assemblies of God University or the Assemblies of God excludes anyone based on their past sins or based on their temptations. The Assemblies of God believes that all have sinned and fall short of the glory of God and should seek redemption through confession, repentance, baptism, and faith in Jesus Christ. We welcome and treat with respect, compassion, and sensitivity all who experience same-sex attractions or confess sexually immoral acts and are committed to resisting sexual temptation, refraining from sexual immorality, and transforming their behavior in the light of biblical teachings. (Matthew 11:28–30; Romans 3:23; 1 Corinthians 10:13; Ephesians 2:1–10; Hebrews 2:17–18; 4:14–16). However, in keeping with our biblical beliefs about sexual morality, Southwestern Assemblies of God University cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Any individual who violates campus standards for biblical living is subject to discipline, including expulsion.

Southwestern Assemblies of God University believes that its policies and practices, informed by Assemblies of God teachings, do not discriminate on the basis of sex—that is, between men and women—and therefore do not violate Title IX. However, at the same time, I understand that Southwestern Assemblies of God University's faithful application of the religious tenets set forth above may conflict with the way that the Department may interpret or seek to apply certain provisions of 34 C.F.R. 106. Those potential conflicts are set forth below.

ADMISSIONS AND STUDENT DISCIPLINE:

Based on the convictions listed above, Southwestern Assemblies of God University believes that it cannot fulfill its God-given mission and build an intentional Christian community if it cannot require students to embrace and do their best to follow the Assemblies of God's teachings about sexual morality and sexual identity. These convictions shape Southwestern Assemblies of God University's admissions policies and student discipline policies. I understand that the Department may

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contend that Southwestern Assemblies of God University's faithful application of the religious tenets set forth above violates Sections 106.21 and 106.31(b)(4). To the extent that is so, Southwestern Assemblies of God University is exempt from these provisions.

HOUSING, RESTROOMS, AND LOCKER ROOMS.

Based on the convictions listed above, Southwestern Assemblies of God University expects all students to embrace their God-given biological sex. This expectation shapes Southwestern Assemblies of God University's policies regarding student housing, restroom and locker room use, and participation in athletic programs. I understand that the Department may contend that Southwestern Assemblies of God University's faithful application of the religious tenets set forth above violates Sections 106.32, 106.33, and 106.41. To the extent that is so, Southwestern Assemblies of God University is exempt from these provisions.

MARRIAGE, SEXUAL CONDUCT, AND ABORTION:

Based on the convictions listed above, Southwestern Assemblies of God University expects all students, faculty, and administrators to honor the Assemblies of God's teachings on marriage, sexual conduct, and abortion. I understand that the Department may contend that Southwestern Assemblies of God University's faithful application of these doctrines may conflict with Sections 106.40, 106.51, and 106.57. To the extent that is so, Southwestern Assemblies of God University is exempt from these provisions.

Thank you for your attention to this matter.

Sincerely,

Kermit S. Bridges, D.Min.
President
Southwestern Assemblies of God University

KSB/pb

Copies:
Rev. Rick DuBose, Chairman, Southwestern Assemblies of God University Board of Regents
Dr. George O. Wood, General Superintendent, General Council of the Assemblies of God
Dr. Marilyn Abplanalp, President, Alliance for Assemblies of God Higher Education

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June 3, 2014

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Re: Application for Recognition of Exemption from certain Title IX Regulations.

Dear Assistant Secretary Lhamon:

Enclosed is a letter from President Brent Ellis, the highest-ranking official at Spring Arbor University, requesting Title IX exemptions as explained in the letter. A copy of the letter is also being sent to the Cleveland OCR office, to the attention of Mr. Ted Wammes.

Please let me know if there is a need for anyone from the OCR to contact the Free Methodist Church during the course of reviewing Spring Arbor University's request, and I will provide the contact information for the Bishop who will respond on behalf of the Church.

Very truly yours,

Diane Y. Bower

DYB/mc
Enc.

SPRING ARBOR
UNIVERSITY

June 2, 2014

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Re: Application for Recognition of Exemption from certain Title IX Regulations.

Dear Assistant Secretary Lhamon:

As the highest-ranking official of Spring Arbor University's administration, I am making this application for recognition by the Office for Civil Rights of the Department of Education, that the University is exempt from compliance with certain Title IX regulations, under the religious exemption provided in 20 CFR 1681(a)(3). The particular regulations for which exemption is requested are:

34 CFR §106.31(b)(4) – regarding different rules of behavior, sanctions, or other treatment
34 CFR §106.21(b)(iii) – admissions; regarding prohibitions on the basis of sex
34 CFR §106.21(c) – admissions; regarding prohibitions based on marital and parental status
34 CFR §106.57 – pregnancy; regarding marital or parental status of employees
34 CFR §106.40 – pregnancy; regarding marital or parental status of students
34 CFR §§106.51(a) and 106.51(b)(6) – regarding discrimination in employment in leaves for pregnancy, childbirth, and termination of pregnancy, based on sex, including in regard to gender identity issues
34 CFR §106.32 – regarding housing
34 CFR §106.33 – regarding restrooms and locker rooms
34 CFR §106.41 – regarding athletics

In addition to being the President of Spring Arbor University, I am an ordained Free Methodist minister and former Pastor of a Free Methodist Church congregation. As a minister of

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In addition to being the President of Spring Arbor University, I am an ordained Free Methodist minister and former Pastor of a Free Methodist Church congregation. As a minister of the Free Methodist Church, I am qualified to present the tenets of the Free Methodist Church which pertain to the matters addressed in this letter, and the religious beliefs of the University, which are reflected in its policies and practices.

Spring Arbor University is located in Spring Arbor, Michigan, and is the largest private, Christian evangelical University in the State of Michigan. A copy of the University's Statement of Faith is enclosed with this letter, as Item 1. The University was established in 1873, as 'Spring Arbor Seminary', and has been in continuous existence in Spring Arbor, Michigan, for more than one hundred and forty years. Over the course of its history, the University has evolved from Spring Arbor Seminary, to Spring Arbor Junior College, to Spring Arbor College, and in 2000, to Spring Arbor University.

The University is governed by and controlled by its Board of Trustees, the majority of whom must be members of the Free Methodist Church, as dictated by the University's Articles of Incorporation. A copy of the Articles is included with this letter as Item 2. The Trustees govern the University under the directives of Article II of the Articles, which provide in part:

> "The object and purpose of the corporation hereby created, shall be to maintain, manage and carry on the aforesaid Institution of Learning under the patronage of the Free Methodist Church, and of persons supporting the same and the faith thereof...with a Board of Trustees of not more than thirty-five in number, fifty percent plus one of whom, at least, shall at all times, be members of said church, to receive, hold and manage all the property...in trust for the use and benefit of said University...and in trust for the interest and maintenance of said Church and its principles..."

For over one hundred years, the University's Articles have required that the controlling majority of the Trustees governing the University must be members of the Free Methodist Church. This results in the Free Methodist Church, through its members, having majority control over the University. The Bylaws of the University require, in Section 2, that of the fifty-percent plus one of the Trustees who must be members of the Free Methodist denomination, eight (two each) must be from the following four Free Methodist conferences: the Eastern Michigan Conference, the North Michigan Conference, the Southern Michigan Conference, and the Ohio Conference. The bylaws also require, in Section 8, that the President of Spring Arbor University must be a member of the Free Methodist Church. A copy of the University's Bylaws is enclosed with this letter, as Item 3.

In regard to the tenets of the Free Methodist Church, most of these tenets are codified in the Free Methodist Book of Discipline, which contains the doctrinal positions of the Church. The Book of Discipline is used by the University as a reference for behavioral and doctrinal standards expected of the University, its students, faculty, and other employees. The University also believes that the Bible is the true and reliable word of God, and follows Biblical principles in its policies and practices applicable to Christian education, and to its students and employees.

Among the teachings of the Bible and the tenets of the Free Methodist Church followed by the University, are that God created two sexes, male and female; that marriage is between one man and one woman; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and therefore prohibited. (Book of Discipline, ¶3215; Genesis 2:27; Exodus 22:16-17; Deuteronomy 22:23-28; Leviticus 20:10-16.)

Spring Arbor University is dedicated to the promotion of the Christian religion not only locally, but throughout the world. In 2008, during the presidency of Dr. Charles Webb, the University began a global outreach program. The emphasis of the program is "globalization through the eyes of faith". A copy of the Jackson Magazine article in which that program is featured, is enclosed with this letter as Item 4. The goal of Spring Arbor University is to spread the blessings and benefits of a Christ-centered education to individuals throughout the world.

When I became President of the University in 2013, I affirmed the University's continuing dedication to providing our students with a solid Christian foundation as an essential part of their education. In my inaugural address, a copy of which is enclosed with this letter as Item 5, I emphasized that under my presidency, the University will remain committed to providing a Christ-centered evangelical education to our students. As I stated then, the important piece here is that we must take time to remind our students, and remind each other, of who we are in Christ. To speak truth and say this is who you are.

Dedication to the promotion of the Christian religion in its educational programs has always been an integral part of Spring Arbor University. The initial Articles of Incorporation, filed in 1873, state that the educational institution is being established based upon the belief that, "Religion, Morality, and Knowledge are essential to good government and the real happiness of mankind." The University has a guiding concept which is referred to as the 'Spring Arbor Concept'. The Concept evolved from the University's continuing commitment to the integration of the Christian faith with the University's role as an educational institution. The Concept states:

> "Spring Arbor University is a community of learners distinguished by our lifelong involvement in the study and application of the liberal arts, total

commitment to Jesus Christ as the perspective for learning, and critical participation in the contemporary world."

Spring Arbor University also has a mission statement which provides:

> "Spring Arbor, an evangelical Christian university affiliated with the Free Methodist Church, is committed to excel in liberal arts, professional, and graduate studies. Through the influence of an affirming academic community where a faculty of Christian scholars integrates faith with experiential learning, students develop intellectually, grow as persons, and are challenged by the call to vibrant Christian service."

The University also emphasizes Christian principles of religion in its community and campus life. The Community Covenant requires students and employees to follow the Code of Conduct established by the University. The University incorporated the Christian standards of behavior directed by Biblical principles and the tenets of the Free Methodist Church, as the framework for the Code of Conduct. Students are required to attend chapel regularly, and must take and pass Christian Perspective courses such as COR 100 and COR 200, in order to graduate from the University. Among other things, students and employees are prohibited from drinking, smoking, using tobacco and illegal drugs, cohabitation, engaging in pre-marital or extra-marital sex, and homosexual activity. The Student Handbook, the Employee Handbook, and the Faculty Handbook contain provisions regarding expected Christian behavioral standards. The University may impose sanctions for behavior which is not in keeping with these standards, including dismissal from the University or termination of employment.

Based upon the University's Articles of Incorporation and Bylaws, which are followed in practice by the Board of Trustees, the University is under the control of the Free Methodist denomination through the Church members who serve as Trustees and have the majority voice on the Board, and through the President of the University, who must be a member of the Free Methodist Church. In 2004, the University was granted a Bona Fide Occupational Qualification exemption by the State of Michigan's Department of Civil Rights, which recognizes the University as a Christian religious entity. The BFOQ granted to Spring Arbor University provides that the University can require its faculty and administration employees to be Christians, and to adhere to the University's standards of Christian behavior for its employees. A copy of the BFOG received from the Michigan Department of Civil Rights is enclosed with this letter as Item 6.

In keeping with the religious tenets of the Free Methodist Church which prohibit cohabitation, and the University's Christian religious principles and practices in regard to that prohibition, students are separated on the basis of sex in regard to housing, living arrangements,

restrooms, and locker rooms. The University has male-only and female-only residence halls and other housing, with rules in place which regulate access to residence halls and housing by members of the opposite sex. To the extent Title IX regulations would require the University to allow males and females to reside in the same housing, to visit within the housing of the opposite sex without restrictions, to allow an unmarried male and female to live together, or to allow a person with gender identity issues to be treated as a member of the sex which they have assigned to themselves in regard to the above categories, such behavior would be against the religious principles of the University and the tenets of the Free Methodist religion, as it is cohabitation, which is a sin.

The tenets of the Free Methodist religion also prohibit homosexual activity, and adhere to the requirement of heterosexuality. (¶3331, Free Methodist Book of Discipline). The University has deeply-held religious beliefs, based upon Biblical principles and the Book of Discipline, which do not allow for any sexuality, other than heterosexuality. The University also believes, based upon Biblical principles, that a person cannot change their birth gender. Based upon its religious beliefs, it is the University's position that a person who self-identifies as the opposite sex cannot reside with individuals who are of the sex with which that person identifies. This is true whether or not the person has undergone surgery or hormonal treatment to assume the physical characteristics of the opposite sex. Such a living arrangement would be deemed to be cohabitation, and under the religious tenets of the Free Methodist Church and the University's Christian religious principles and practices, it would be sinful behavior.

Similarly, a person who self-identifies as the opposite sex, but who has expressed an attraction to members of their birth sex, would not be permitted to engage in dating or sexual activity with a person of their birth sex, because this behavior is considered to be homosexual in nature, based upon the University's religious beliefs. The University is requesting that the OCR recognize an exemption for the University from 34 CFR 106.31(b)(4), so that the University may apply different rules of behavior, sanctions, or other treatment in matters involving gender identity issues.

An individual who identifies as being of the opposite sex from their birth gender also would not be permitted to play on the athletic teams of the sex which was opposite from their birth gender. An exemption in regard to 34 CFR 106.41 is therefore also being requested. A requirement that individuals be treated in keeping with their self-identified gender, rather than their birth gender, would be inconsistent with the University's religious beliefs and the tenets of the Free Methodist Church.

Employment of an individual who identifies as being of the opposite sex from their birth gender, and who expresses that identification through behavior and/or dress is against the religious beliefs of the University, on the same basis and for the same religious reasons as set

forth above, regarding students with gender identity issues. Employees are considered to be representatives of the University, and are required to model appropriate Christian behavior. A male employee who announced himself to be female, or who adopted the appearance of a female, would not be modeling appropriate Christian behavior acceptable to the religious beliefs of the University, nor would a female employee who announced herself to be a male, or who adopted the appearance of a male.

The Free Methodist Book of Discipline acknowledges the ethical difficulties involved in matters such as gender identity. The Book of Discipline refers to these issues as bioethical dilemmas and directs that Biblical principles should be applied to such issues. In paragraph ¶3215, the Book of Discipline states that such complex bioethical issues "involve religious and moral values, as well as medical and legal realities. Therefore Christians may not determine their rights and privileges only by the permissiveness of the state and the possibilities of safe medical procedures." The Book of Discipline directs that Biblical principles should be applied to such bioethical issues, including gender identity issues. In keeping with the doctrine of the Free Methodist Church and the University's religious beliefs, the University applied Biblical principles and adopted a policy in 2013 in respect to gender identity issues and other issues related to sexuality. A copy of the University's policy on sex, sexuality, and gender identity is enclosed with this letter as Item 7.

It is the University's position, based upon its religious beliefs taken from Biblical principles and the Doctrine of the Free Methodist Church, that a person cannot change his or her birth sex. Although they may undergo surgery or hormone treatments to alter their physical characteristics, only the outward appearance is changed. Thus a student identifying as the opposite sex, rather than their birth sex, would not be permitted to live in University housing with individuals of the self-assigned sexual identity of that person, or to play on athletic teams, share restrooms, or use locker rooms with individuals of the self-assigned sexual identity of that person. That person also would not be eligible for employment with the University.

Based upon the Christian religious beliefs of the University and the tenets of the Free Methodist Church, the University is requesting exemption on religious grounds from Title IX, regulations §§106.32 (housing), 106.33 (restrooms and locker rooms) and 106.41 (regarding athletics), to allow the University religious freedom to discriminate on the basis of sex, including gender identity, and sexual orientation, in regard to housing and living arrangements, restrooms, locker rooms, and athletics, and from §106.31(b)(4), regarding different treatment and sanctions. In regard to employment and gender identity, the University is requesting exemption on religious grounds from §§106.51(a), which prohibits discrimination in employment and employment decisions on the basis of sex.

The University's Christian religious beliefs, which are based upon the Bible and the tenets of the Free Methodist religion, also prohibit elective abortion, pre-marital sex, extra-marital sex, and homosexual behavior, for students and employees. Application of the OCR's interpretation of Title IX regulations §§106.21(b)(iii), 106.21(c), 106.40, 106.51(a), 106.51(b)(6), 106.57, 106.31(b)(4), and 106.32 to the University, would result in such situations as the University being required to retain pregnant unmarried employees or employees who elect to terminate their pregnancy, to admit pregnant unmarried students, to retain unmarried students who elect to terminate their pregnancy, to allow unmarried students of the opposite sex to live together, to retain pregnant, unmarried students and to allow them to live in University housing, and to allow homosexual students to live together, all of which the University cannot do, because it would be inconsistent with the religious beliefs, policies, and values of the University, and the religious tenets of the Free Methodist Church.

Enforcement of the above regulations in respect to Spring Arbor University would require that the University not discriminate in discipline, admissions, hiring, and employment decisions, in matters such as employment leaves for pregnancy, childbirth, and elective termination of pregnancy, or on the basis of pre-marital sex, unmarried pregnancy, extra-marital sex, or homosexual activity. As with the other regulations for which exemption is sought, requiring Spring Arbor University to allow such situations to exist at the University would be inconsistent with the religious tenets of the Free Methodist Church and the Christian religious beliefs, policies, and values adhered to and practiced by the University.

Spring Arbor University is requesting an exemption from the specific Title IX regulations referenced in this letter, so that the University may discriminate on religious grounds in regard to its students and employees, in keeping with its religious beliefs and the tenets of the Free Methodist religion, as set forth in this request. If you have any questions, or if additional information is required, please do not hesitate to contact me.

Very truly yours,

Dr. Brent Ellis, President
Spring Arbor University

DYB/mc
cc. Mr. Ted Wammes
enc.: seven

March 3, 2014

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

Re: St. Gregory's University's Request for Title IX Religious Exemption

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 St. Gregory's 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 respond to transgender individuals in accordance with its religious convictions. As President of the University, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

St. Gregory's University is a Catholic and Benedictine learning community committed to developing each student in mind, faith and character for a lifetime of meaningful work and service in a constantly changing world. Our identity as a Catholic institution is central to all that we do and teach at St. Gregory's.

In union with the teaching of the Catholic Church, St. Gregory's University holds that each person is a precious human being made in God's image and likeness, with a body and a soul. This dignity God bestowed upon our first parents as man and woman, as revealed in the Book of Genesis: "God created man in his image; / in the divine image he created him; / male and female he created them" (1:27).

As a Catholic institution, St. Gregory's University further maintains that the human person consists of a unity between body and soul or spirit. This biblical-based and long-held doctrine is reiterated in the *Catechism of the Catholic Church,* which serves as a compendium of official Catholic teaching. Paragraph 365 of the *Catechism* reads: "The unity of soul and body is so profound that one has to consider the soul to be the 'form' of the body; *i.e.*, it is because of its spiritual soul that the body made of matter becomes a living, human body; spirit and matter, in man, are not two natures united, but rather their union forms a single nature" (365).

The integration of soul and body in the human person described above is manifested in the divinely ordered genders of male and female, both of which share in equal dignity. The *Catechism,* echoing the Book of Genesis, emphasizes this: "Man and woman have been *created,* which is to say, willed by God: on the one hand, in perfect equality as human persons; on the other, in their respective beings as man and woman. 'Being man' or 'being woman' is a reality

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which is good and willed by God: man and woman possess an inalienable dignity which comes to them immediately from God their Creator" (369).

Thus Catholic religious belief holds that human gender identity is established and ordered by God as a unity between soul and body and that it is manifested as male and female. The Catholic faith further teaches that human sexual identity is not determined by subjective individual choice but by objective divine design, and that persons are and remain members of the sex into which they physically were born. The policies of St. Gregory's University as a Catholic institution reflect the above stated religious beliefs.[1]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[2] And as you also know, the resolution agreement[3] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.[4] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of St. Gregory's.

However, under 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12(a), this interpretation does not apply to St. Gregory's: "This part does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization." Since the University is owned by the St. Gregory's Abbey, a community of Catholic Benedictine monks, and since the University adheres to the tenets of Catholic faith and practice as required by *Ex Corde Ecclesiae – The Constitution for Catholic Universities*, St. Gregory's University qualifies for this exemption.

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

---

[1] *See* University Policy Regarding Human Sexuality, Gender Equity and Sexual Activity (enclosed).
[2] 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.")
[3] Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.nclrights.org/wp-content/uploads/2013/09/Arcadia_Resolution_agreement_07.24.2013.pdf.
[4] *Id.*

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)

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

Very truly yours,

D. Gregory Main
President

Tabor College
Office of the President

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December 3, 2014

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

Dear Ms. Lhamon:

As president of Tabor College, a private Christian liberal arts college in Hillsboro, Kansas, I am writing pursuant to 34 C.F.R. § 106.12(b) to request that the College be provided with an official exemption from the recent interpretation by the Departments of Education and Justice that "sex" under Title IX also includes gender identity.

At the outset, let me make clear that Tabor supports and fully complies with the provisions of Title IX that grant equal opportunities in educational programs or employment to members of both sexes. However, we are aware that in the context of a recent Resolution Agreement with Arcadia Unified School District, the Departments of Education and Justice have interpreted Title IX's ban on sex discrimination in education to include discrimination based on an individual's self-declared gender identity, which may differ from their biological sex assigned at birth. As a result, the Arcadia School District was directed to allow a female student presenting herself as male to use the restroom, locker room, and living accommodations of her choice, and to participate in male athletic programs.

Because of its deeply held faith-based convictions regarding the distinctiveness of males and females, Tabor College would not be able to provide the kind of accommodation required in the Arcadia case. The College therefore seeks an exemption from this interpretation, pursuant to 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12(a), which provide that Title IX, "does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization."

Throughout its history Tabor College has been controlled by religious organizations. The College was founded in 1908 by members of the Mennonite Brethren and Krimmer Mennonite Brethren faiths. It has always existed for the purpose of providing education consistent with the beliefs of the Mennonite Brethren denomination, and that remains the case today. The corporate Bylaws of the College state its purpose as follows:

> The purpose of the Corporation shall be to operate the institution known as Tabor College (hereinafter "the College") and, in so doing, provide liberal arts and professional/career education in a Christian context,

> consistent with what Mennonite Brethren understand to be biblical and to help persons achieve their highest potential as servants of Christ and His Church, ministering to the needs of all people.

Consistent with this purpose, the Bylaws provide that the corporate owners of the college are "the church congregations which are members of the Central District Conference, the Southern District Conference, the Latin American District Conference and the North Carolina District Conference of Mennonite Brethren Churches." The bylaws require that a majority of the Board of Directors be elected by these four district conferences.

The 1952 Articles of Incorporation of Tabor College provide that:

> The by-laws of the corporation shall at all times be subject to the constitution and the confession of faith of the General Conference of the Mennonite Brethren Church of North America as held at the present or as these may be amended in the future.

The "General Conference" referred to in the Articles of Incorporation was merged with the United States Conference of the Mennonite Brethren Churches in 2002. Accordingly, the Bylaws of the College now provide that:

> The confession of faith of the United States Conference of the Mennonite Brethren Churches shall also be the confession of faith of the Corporation. Any doctrinal statement or other rules and/or regulations issued by the Corporation or the College shall be in complete harmony with this confession of faith.

And that:

> No revisions or amendments to the Bylaws or Articles of Incorporation may in any way be in conflict with any part of the Confession of Faith of the United States Conference of the Mennonite Brethren Churches.

Tabor College's outward expressions of its identity are consistent with these governing documents. The College's Mission Statement is: "Preparing people for a life of learning, work, and service for Christ and His kingdom." Its Vision Statement is: "To be the college of choice of students who seek a life-transforming, academically excellent, globally relevant and decidedly Christian education." And its primary Core Value is to be Christ-centered:

> The primary value of Tabor College is its desire to be a Christ-centered institution. All activities and programs flow out of this value and are evaluated in reference to it. The Mennonite Brethren Confession of Faith provides the biblical and theological foundation for the institution.

(*See* http://tabor.edu/about/vision-mission-values)

The Confession of Faith of the United States Conference of the Mennonite Brethren Churches may be accessed at both the U.S. Conference's website (http://usmb.iescentral.com/menus/Confession-of-Faith-Detailed-Version.html) and Tabor's website (http://tabor.edu/about/vision-mission-values/mb-confession-faith). That Confession of Faith maintains a strong belief in the distinctiveness of the genders:

> Humans, the crowning act of creation, were designed to live in fellowship with God and in mutually helpful relationships with each other. God created them male and female in the image of God. (Article 3: Creation and Humanity; Humanity).
>
> The church is one body of believers, male and female, from every nation, race and class. (Article 6: The Nature of the Church; Body of Christ).
>
> Disciples maintain sexual purity and marital faithfulness and reject immoral premarital and extramarital relationships and all homosexual practices. (Article 10: Discipleship; Demonstrating True Faith).
>
> "Marriage is a covenant relationship intended to unite a man and a woman for life. At creation God designed marriage for companionship, sexual union and the birth and nurture of children. Sexual intimacy rightfully takes place only within marriage. (Article 11: Marriage, Singleness and Family; Marriage).

As a supplement to the Confession of Faith, the Board of Faith and Life of the United States Conference of the Mennonite Brethren Churches has prepared pamphlets discussing the denomination's beliefs regarding various contemporary topics. The pamphlet entitled "Human Sexuality" (http://www.usmb.org/fileLibrary/file_24.pdf) states, in pertinent part as follows:

> Sexuality was God's idea. God created humanity as male and female with sexual desires. Intimate sexual expression is one of God's good gifts and an essential aspect of propagating the human race (Gen. 1:27-28). Along with the gift of sexuality, God gave guidelines and instructions designed to safeguard it as a good gift so that sexuality can be practiced according to God's will.
>
> * * *
>
> God created men and women in his image. God declares both male and female persons to be "very good" (Gen. 1:31). By creating humans as sexual beings, God designed more than a physiological process by which the earth may be filled through procreation. Likewise, while Creator-God has designed sexual intimacy to be a pleasurable and mutually satisfying experience, the significance of sexual expression goes beyond mere physical pleasure. Sexual oneness between a husband and wife united in a marriage covenant is intended to be symbolic of the oneness union that God intends to last for a lifetime.
>
> * * *
>
> The Bible declares that expressions of sexual intimacy outside the bounds of marriage between a man and a woman are sin. Pre-marital, extra-marital, group, adult/child, animal and same-sex sexual intimacy are all out of bounds for the follower of Jesus Christ (Rom. 1:26-32). Yet God's wonderful grace and forgiveness are extended to those who have placed their faith in him. God's plan is that repentance frees his forgiveness to flow and then life change follows.

This distinction between men and women is also assumed in the College's lifestyle statements with regard to issues of sexual morality. The Community Life Covenant, which all students are required to sign and abide by, states, in part:

> (W)e commit to: Being guided by biblical teaching; Bible reading and reflection; studying the Scriptures in our academic courses; pursuing biblical wisdom in the choice of entertainment; having lifestyles and relationships that are virtuous and honor biblical instruction; and abstaining from premarital, extramarital, homosexual and other immoral sexual relations.

Tabor College maintains gender-specific housing and allows members of one gender to be present in residence halls of the other only during specified open house hours.

Consistent with the Confession of Faith, Tabor College believes that "(e)ach person is created in the image of God and ought to be celebrated and nurtured." (Article 14: The Sanctity of Human Life). As such, the College affirms the dignity of all human beings regardless of gender. We also separate the value of individuals from the behavioral choices they make. However, in keeping with our biblical beliefs regarding the morality of such actions, we cannot in good conscious support or encourage an individual to live in conflict with biblical principles in any area, including gender and gender identity.

Accordingly, on behalf of Tabor College, I respectfully request that the College be granted an official exemption from compliance with the interpretation of Title IX that includes gender identity within the scope of "sex" discrimination.

Should you require any additional information, please do not hesitate to contact me.

Sincerely,

Jules Glanzer
President

JG/sj

cc: Lyndon W. Vix, Esq.
Board Chair

The
Baptist College
of Florida

"Changing the World Through the Unchanging Word"

Office of the President

December 4, 2014

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

As President and the highest ranking official of The Baptist College of Florida, I submit the following statement in order to claim on behalf of the College the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, 1682, and which is the subject of 34 C.F.R. 106.12.

The Baptist College of Florida is a Southern Baptist institution of higher education. It is a Florida nonprofit corporation whose principal office address is 5400 College Drive, Graceville, Florida 32440-1898. I enclose the Charter and Bylaws of the College.

The College is subject to the direction and control of a religious organization. That organization is the Florida Baptist Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Florida. It is an "association of churches" in the terminology of the Internal Revenue Code. The College is an agency of this convention. Pursuant to the College's Charter and Bylaws, the Florida Baptist Convention controls the University in part by exercising its right to select the entire elected membership of the board of directors of the College, the governing body of the College.

The College's Charter provides:

> The corporation in its actions and functions is to be a religious, educational, benevolent and charitable body, medium, institution, trustee and agency, serving and doing the will of the Florida Baptist Convention....

The Convention's authority over the College constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, §

703(e)(2) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v Samford University, 113 F. 3d 196 (1997))*.

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.

I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).
Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).
Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);
Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquires).

The purposes for which the College is organized include:

> ....to promote, provide for, operate and control a program of education and training for ministers and other religious workers, for such period of time as the Florida Baptist Convention shall deem the need for such a program to exist.

The mission of the College is stated as follows:

> The Baptist College of Florida shall operate within the context of a Christian worldview to promote, provide for, operate and control a program of education and training for Christian leaders through awarding certificates and associate, baccalaureate and masters degrees in a co-educational post secondary setting.

To fulfill its mission, the College seeks to develop those qualities in students that contribute to effective ministry. In the area of personal growth, we seek to foster a desire for knowledge; develop cultural awareness by introducing students to a wide range of knowledge; nurture the ability to acquire, evaluate, assimilate, and use information; and promote personal and social maturity.

For spiritual growth, we provide the resources for gaining biblical and religious data; we also assist students in learning and living the Christian life. In terms of professional growth, students are enabled to gain the credentials that enhance opportunities for ministry, and they learn to master a specialized body of knowledge.

At the same time, we encourage positive attitudes toward ministry and foster both an awareness of and a loyalty to the Southern Baptist heritage.

The College's Doctrinal Statement begins with this affirmation:

The Bible is the divinely inspired and revealed Word of God

Southern Baptist religious tenets have been described most extensively and most recently in *The Baptist Faith and Message 2000*, a statement of faith adopted by the Convention. That statement is enclosed.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord. XVII The Family. *The Baptist Faith and Message 2000*.
>
> Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. III Man, *The Baptist Faith and Message 2000*. (The Southern Baptist Convention elaborated on this tenet most recently in 2014 by the adoption of a resolution "On Transgender Identity." It is enclosed.)
>
> Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, *The Baptist Faith and Message 2000*.

The State Board of Missions of the Florida Baptist Convention, the board of directors of the Florida Baptist Convention, has declared the following in its "adherence to The Baptist Faith and Message", to wit:

The State Board of Missions declares its expectations that the students, faculty, staff and trustees of the Baptist College of Florida are to conduct their personal behavior and lifestyle in a pattern that is consistent with Biblical teachings and values, in addition to expressing beliefs and tenets consistent with Southern Baptist theology and practice.
(Resolution is enclosed.)

Thus, the College's policies are rooted in these religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the College:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Thomas A. Kinchen
President

TAK/lt

Enclosures

THE MASTER'S COLLEGE
For Christ & Scripture

February 8, 2016

Catherine Lhamon, Assistant Secretary
U.S. Department of Education, Office of Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-100

RE: The Master's College and Seminary Request for Title IX Religious Exemption

Dear Assistant Secretary Lhamon:

As the highest-ranking officer of The Master's College and Seminary, I am submitting this letter as an official request for exemption from compliance to particular Title IX regulations under the religious exemption clause.[1]

The Master's College and Seminary is a private, Christian, liberal arts college and pastoral seminary that is directly associated with Grace Community Church of Sun Valley. I concurrently serve as the Pastor of Grace Community Church.

The Master's College and Seminary has a doctrinal foundation rooted in biblical fidelity and orthodox Christianity. The Bible is inerrant truth which provides knowledge and direction for all of life, including gender identity and human sexuality.

The Bible states that human beings were formed in the image of God, created as distinctively male and female. Over and over, Scripture confirms this heterosexual creation of human beings. Scripture testifies that God created sex as a gift intended for one man and one woman who have entered into the covenant of marriage. Any pursuit of sexual activity outside the bonds of marriage is considered sinful behavior and is a perversion of God's intended purposes. Therefore, sexual promiscuity and homosexuality exist outside of His design. Any attempt to change or shift God's intention for human sexuality violates the biblical standards set forth.

It is in the Biblical account of creation that gender is firmly established. We reject any belief that attempts to alter gender identity or gender characteristics, which include cross-dressing, transgender, and gender-neutrality.

It is due to our commitment to Scripture as ultimate truth that we can affirm the dignity of all human beings, which have been created in the image of God. We do not condone any form of harassment or harm against any person. Every Christian is called to treat all people, even those living lifestyles in conflict with the law of God, with love and compassion, offering repentance, forgiveness, and transformation through Jesus Christ. However, it would be a violation of our firmly held religious beliefs and our consciences to accept and support a person openly violating biblical principles.

[1] 20 CFR 1681(a)(3); 34 CFR §106.12(a)

These truths set forth by Scripture are affirmed by The Master's College and Seminary and are reflected in our Bylaws and Doctrinal Statement.

Based upon the most recent interpretations of Title IX regarding sexual activity and gender, we cannot give support to every section of Title IX. On behalf of The Master's College and Seminary, I am requesting exemption from the specific regulations found below. These exemptions will allow us to faithfully practice our doctrinal beliefs, while at the same time remain in compliance with the Department of Education and the Office of Civil Rights.

The following is the delineation of the specific regulations we are requesting exemption from based on our deeply held doctrinal beliefs:

34 CFR §106.21– policies regarding admissions prohibitions on the basis of sex
34 CFR §106.23 – policies regarding recruitment of students
34 CFR §106.31(b)(4) – policy regarding rules of behavior, sanctions, or other treatment
34 CFR §106.31(b)(7) – policies regarding limitation of rights, privileges, advantages or opportunities
34 CFR §106.32 – policies regarding room and board/housing
34 CFR §106.33 – policies regarding restrooms and locker rooms
34 CFR §106.40 – policies regarding pregnancy; policies regarding marital and parental status of students
34 CFR §106.41 – policies regarding athletics
34 CFR §106.51– policies regarding discrimination in employment in leaves for pregnancy, childbirth, and termination of pregnancy, based on sex, including those in regards to issues of gender identity
34 CFR §106.53 – policies regarding recruitment of employees
34 CFR §106.57 – policies regarding pregnancy and marital status
34 CFR §106.60 – policies regarding pre-employment inquires

If you require more detailed explanation of our doctrinal stance or other information, please do not hesitate to contact my office.

Sincerely,

John MacArthur
President

Attachments:
Bylaws
Doctrinal Statement

July 08, 2015

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

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

Dear Ms. Lhamon:

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

Toccoa Falls College was chartered in 1939 and is an affiliate college of the Christian and Missionary Alliance (C&MA).[1] The mission of Toccoa Falls College is to "glorify God through seeking and developing Christian servant leaders who will impact their world with the love and message of Jesus Christ."[2]

As an affiliate college of the C&MA, Toccoa Falls adheres doctrinally to the beliefs of the denomination.[3] The College's policy on the Faith Community and Mission of the College (enclosed) which all members of the College community, including students and faculty, are required to adhere to, provides as follows with regard to sexuality and gender:

> The creation of human beings was a special creative act of God. God created human beings, male and female, in His own image and thus they are unique with respect to all other life in the created order. Adam and Eve, equally made in the image of God, belonged to the created order that God himself declared to be very good, serving as God's agents to care for, cultivate, and govern creation, living in holy and devoted fellowship with their Maker. Gender is not a cultural construct, but a divine gift assigned by the Creator at conception. As such, students are not to adopt

[1] http://www.tfc.edu/about-tfc/what-we're-about/history/
[2] http://www.tfc.edu/about-tfc/what-we're-about/
[3] http://www.tfc.edu/about-tfc/what-we're-about/history/; http://www.tfc.edu/about-tfc/what-we're-about/; *see also* Policy on the Faith Community and Mission of Toccoa Falls College (attached).

> a gender identity different from the one gifted them by their Creator. This gendered ordering of creation is to be accepted, honored, and reflected in sexual intimacy.[4]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[5] And as you also know, the resolution agreement[6] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.[7] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It is also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of Toccoa Falls College.

Additionally, recently the EEOC has begun openly declaring that the ban on "sex" discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of "sexual orientation."[8] It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 religious tenets of Toccoa Falls College, and the College therefore seeks exemption on this basis as well out of an abundance of caution.

Toccoa Falls College's policies also contain a summary of our beliefs regarding the sanctity of human life:

> Likewise, Toccoa Falls College subscribes to the biblical belief that all life is sacred from conception to death, and that individuals are known by God from before the foundation of the world, and that human life begins at conception and that death is under the sovereignty of God and not man. The college accordingly believes that no procedures should be performed for the primary objective of terminating a pregnancy and taking the life of an unborn child (such procedures are referred to

---

[4] *See* Policy on the Faith Community and Mission of Toccoa Falls College (attached).

[5] 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.")

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

[7] *Id.*

[8] *See* http://www.macon.com/2015/03/30/3668458_eeoc-issues-determination-letter.html?rh=1

> herein as abortions) except in rarest of circumstances where other biblical, moral principles prevail, such as where it is medically impossible to save the life of both the mother and the child. Similarly, the college believes that no medical procedure should be performed that takes the life of an individual prematurely (such procedures are referred to as euthanasia). The college's beliefs further prohibit paying for or otherwise facilitating such procedures.
>
> As dictated by these beliefs, the college as an organization shall not fund abortions in any manner, including through a health care benefit plan that covers prescription drugs that induce abortions, except in the foregoing extraordinary circumstances unless in a particular situation (i) any such drug is prescribed and used solely for a non-abortive therapeutic treatment of a covered medical condition or for an abortion in the foregoing extraordinary circumstances and (ii) coverage is approved by the plan's governing body or the college's appropriate authority. In addition, the college shall not participate through its health care benefit plan in a program that uses the plan as a means for providing drugs used to induce abortion, except in the foregoing extraordinary circumstances. Any requirement to facilitate abortions or euthanasia by participating in such a program, and any penalty for failing to participate in such a program, would directly and substantially burden and undermine the college's exercise and expression of its biblical beliefs.[9]

Toccoa Falls College accordingly requests that your office acknowledge that the College is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College's freedom to apply and enforce its beliefs and policy regarding human life):

34 C.F.R. § 106.21 (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)

---

[9] *Id.*

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.

Sincerely,

Robert M. Myers
President, Toccoa Falls College

JESSICA C. ANDRADE
RUSSELL A. BADDERS
MARY JANE BASS
J. NIXON DANIEL III
JOHN P. DANIEL
TERRIE L. DIDIER
W. LEE ELEBASH
THOMAS F. GONZALEZ
STEVEN R. GRIFFIN
MARCUS A. HUFF
ROBERT L. JONES III
JACK W. LURTON III
DAVID L. MCGEE
WILLIAM H. MITCHEM
RALPH A. PETERSON
JEFFREY A. STONE
DAVID B. TAYLOR III
RUSSELL F. VAN SICKLE
JAMES M. WEBER
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ATTORNEYS and COUNSELLORS at LAW
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W. SPENCER MITCHEM
GREGORY R. MILLER
OF COUNSEL

E. DIXIE BEGGS
1908 - 2001

BERT H. LANE
1917 - 1981

March 4, 2016

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

Re: Application for Exemption from certain Title IX Regulations

Dear Assistant Secretary Lhamon:

Please find enclosed a letter from Mac Heavener, as President of Trinity Baptist College located in Jacksonville, Florida, requesting exemption from certain Title IX requirements as further explained in the letter. If you have any questions or would like to discuss this matter further, please feel free to contact me.

Sincerely,

Robert L. Jones, III
For the Firm

RLJ/ac
Enclosure
cc: Mac Heavener, Jr.

501 COMMENDENCIA STREET
PENSACOLA, FLORIDA 32502

TRINITY BAPTIST COLLEGE

February 9, 2016

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: Trinity Baptist College, Inc.'s Request for Title IX Religious Exemption

Dear Ms. Lhamon:

As the highest ranking official of Trinity Baptist College, Inc. ("Trinity" or "College"), a private, religious liberal arts college in Jacksonville, Florida, I hereby request, under 20 C.F.R. 1681(a)(3) and 34 C.F.R. §106.12, an exemption for Trinity from certain regulations of Title IX, due to the religious beliefs of our institution. The particular regulations for which an exemption is requested are:

- 34 C.F.R. §§ 106.31(b)(4) (governing different rules of behavior or sanctions);
- 106.32 (governing housing),
- 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 106.41 (governing athletics),
- 34 C.F.R. 106.21(b)(iii)(governing differential treatment on the basis of sex);
- 34 CFR 106.21(c)(Governing admissions prohibitions on the basis of marital or parental status);
- 34 CFR 106.40(governing different rules based on marital or parental status of students;
- 34 CFR 106.51(a)(governing employment);
- 34 CFR 106.51(b)(6)(governing the granting of pregnancy related leave); and
- 34 CFR 106.57(governing the consideration of marital or parental status in employment decisions).

Trinity is a Christ-centered learning community committed to developing each student in mind, faith and character for a lifetime of meaningful work and service in a constantly changing world. Our identity as a Christian institution is central to all that we do and teach at Trinity. Trinity is controlled by and affiliated with the Trinity Baptist Church of Jacksonville, Inc. (the "Church"). The Church, and the College itself, believe in the inerrancy and truth of Scripture as presented in the Holy Bible. We believe the Bible speaks to many social issues of our time, including human sexuality, and provides guidelines for morally acceptable behavior.

We believe that God has commanded that no intimate sexual activity should be engaged in outside of marriage between a man and a woman. We believe that any form of

homosexuality, lesbianism, bisexuality, trans-sexuality, bestiality, incest, fornication, adultery, and pornography are sinful perversions of God's gift of sex (Genesis 2:24; 19:5, 13; 26:8-9, Leviticus 18:1-30; Romans 1:26-29; I Corinthians 5:1; 6:9, I Thessalonians 4:1-8; Hebrews 13:4).

We also believe that marriage was instituted by God to be a permanent union between a man and a woman and therefore we are opposed to same sex marriages. We further believe that God hates divorce and intends marriage to last until one of the spouses dies. Divorce and remarriage is regarded as adultery except on the grounds of fornication. Although divorced and remarried persons or divorced persons may hold positions in the service of the Church and be greatly used of God for Christian service, they may not be considered for the offices of pastor or deacon (Genesis 2:24; Malachi 2:14-17; Matthew 19:3-12; Romans 7:1-3; I Timothy 3:2, 12; Titus 1:6).

We reject all attempts at constructing one's own sexual identity by medically altering the human body, cross dressing, or similar practicing behaviors characteristic of the opposite sex as morally objectionable and sinful (Deuteronomy 22:5).We affirm the dignity of all human beings. We also separate the value of each person from the behavioral choices one makes. We believe that, as Christians, we are called to treat all people, including those who practice sexual behavior in conflict with the Bible, with compassion, and to extend the gospel of repentance, forgiveness, and transformation through Jesus Christ to such persons without reservation. However, in keeping with our biblical beliefs surrounding the morality of such actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Moreover, any, individual who violates campus standards for biblical living is subject to discipline, including expulsion.

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

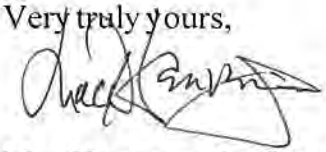
Thus, on behalf of Trinity, I hereby request an exemption from the following provisions of Title IX:

- 34 C.F.R. §§ 106.31(b)(4) (governing different rules of behavior or sanctions);
- 106.32 (governing housing),
- 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 106.41 (governing athletics),
- 34 C.F.R. 106.21(b)(iii)(governing differential treatment on the basis of sex);
- 34 CFR 106.21(c)(Governing admissions prohibitions on the basis of marital or parental status);
- 34 CFR 106.40(governing different rules based on marital or parental status of students;
- 34 CFR 106.51(a)(governing employment);

- 34 CFR 106.51(b)(6)(governing the granting of pregnancy related leave); and
- 34 CFR 106.57(governing the consideration of marital or parental status in employment decisions).

Trinity is making this request in keeping with its religious beliefs and tenets as set forth above. If you require anything further, please do not hesitate to contact me.

Very truly yours,



Mac Heavener, Jr., President

cc: Robert L. Jones, III, Esq.

TRINITY BIBLE COLLEGE

Dr. Paul R. Alexander

President

03 May 2016

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 write with respect to Trinity Bible College's letter dated October 18, 2015 (enclosed), seeking an acknowledgment of religious exemption from Title IX of the Education Amendments of 1972 and its accompanying regulations under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12.

The College has yet to receive any response from the Department of Education, and would like to confirm the Department's receipt of our request, as well as when we may expect a reply. If you require anything further, please do not hesitate to contact me. Thank you for your consideration, and I look forward to hearing from you soon.

Sincerely,

Paul R. Alexander, Ph.D.
President
Trinity Bible College

50 6th Avenue South | Ellendale, ND 58436-7105 | E-mail: president@trinitybiblecollege.edu
Phone 701.349.5444 | Toll Free 1.800.523.1603 | Fax 701.349.5786 | TrinityBibleCollege.edu

TRINITY BIBLE COLLEGE

Dr. Paul R. Alexander
President

Catherine E. 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: Statement of Exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12

Dear Ms. Lhamon:

It has come to Trinity Bible College's attention that the Department of Education has recently taken the position that 20 U.S.C. § 1681(a), Title IX's rule against discrimination on the basis of sex, now bars differential treatment based on "gender identity." The Department's new interpretation of Section 1681(a) conflicts with Trinity Bible College's religious tenets and our ability to carry out our religious mission.

In the course of our review, Trinity Bible College ("the College") has identified other potential interpretations or applications of Section 1681(a) that likewise conflict with our religious mission. Therefore, as the highest-ranking official of Trinity Bible College's administration, I write to inform the Department of Education that Trinity Bible College qualifies for the religious exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 because of its affiliation with the Assemblies of God. I also write to explain how certain provisions, as they may be interpreted by the Department, conflict with specific tenets of the College and the Assemblies of God.

Trinity Bible College qualifies for Title IX's religious exemption.

Trinity Bible College is an educational institution affiliated with the Assemblies of God, a religious organization. The following explains why the College qualifies for the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 as these provisions have been interpreted and applied by the Department of Education.[1]

The General Council of the Assemblies of God ("General Council"), the highest governing body of the church, has established the Alliance for Assemblies of God Higher Education ("Alliance") and tasked the Alliance with developing educational, spiritual, and theological standards for schools that wish to be affiliated with the

[1] *See* U.S. Dep't of Ed., *Explanation of HEW Form 639 A* (March 1977) at 3-4, *available at* http://freepdfhosting.com/88b629f888.pdf.

50 6th Avenue South | Ellendale, ND 58436-7105 | E-mail: president@trinitybiblecollege.edu
Phone 701.349.5444 | Toll Free 1.800.523.1603 | Fax 701.349.5786 | TrinityBibleCollege.edu

church.[2] To fulfill this mandate, the Alliance developed Endorsement Criteria that are intended to facilitate the development of educational institutions that are committed to the Assemblies of God's mission, to the integration of faith and learning in the Pentecostal tradition, and to academic excellence.[3] The purpose of the Endorsement Criteria is to ensure doctrinal fidelity and institutional conformity to Assemblies of God standards of morality.

Trinity Bible College is endorsed by the Alliance and is committed to maintaining this status by carefully following the Alliance's Endorsement Criteria.[4] Consistent with the Alliance's Endorsement Criteria, the College's mission documents commit the College to the formation of mature Christian character and spiritual life, the development of loyalty to the doctrines and principles of the Assemblies of God, and the preparation of leaders for the Kingdom of God and the Assemblies of God.[5]

The Alliance's Endorsement Criteria also shape how the College selects its leadership, faculty, administrators, and students. At least 90% of the College's board members are affiliated with the Assemblies of God and the remaining board members are affiliated with another Pentecostal church. Under the Endorsement Criteria, the College may not deviate from these standards without permission from the Alliance.

Additionally, the Alliance's Endorsement Criteria require the College's faculty, administrators, and students to be members of an Assemblies of God church or otherwise espouse a personal belief in the basic tenets of the Christian faith as understood by the Assemblies of God. As required by the Endorsement Criteria, all of the College's administrators and faculty annually sign a statement affirming loyalty to the Statement of Fundamental Truths of the Assemblies of God, a personal experience of Holy Spirit baptism, and a willingness to influence others with regard to loyalty to the Assemblies of God church and theology.

Consistent with Alliance standards, the College asks all applicants for on-campus programs to affirm that they are born-again Christians, that they desire to be involved in Christian service, and that they agree with the accepted essentials of the Christian faith as held by the Assemblies of God. Applicants must also provide a letter of recommendation from a pastor.

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[2] *See* The Alliance for Assemblies of God Higher Education, *Our Purpose, available at* http://colleges.ag.org/about/mission.cfm.

[3] *See* The Alliance for Assemblies of God Higher Education, *Endorsement Criteria*, Rev. 2010, *available at* http://colleges.ag.org/pdfs/Final%20Criteria.pdf.

[4] *See* Trinity Bible College, *Endorsements*, 2014-2016 Academic Catalogue, page 11.

[5] *See* Trinity Bible College, *Beliefs and Mission Statement*, 2014-2016 Academic Catalogue, pages 9-10.

Student life at the College is also shaped by our commitment to Alliance standards. The College shares the Assemblies of God's conviction that Christian colleges and universities should form their students both academically and spiritually. Faithful to the Endorsement Criteria, the College helps stimulate students' appreciation for the Word of God and encourages students to pursue spiritual maturity and excellence. The College is dedicated to strengthening our students' appreciation of and attachment to the Christian Church, especially the Pentecostal tradition and the Assemblies of God. Each student is required to be involved in a ministry for at least two semesters, with more expected of students in ministry-related majors.

As part of our commitment to developing a robust Christian community, and consistent with the Alliance's standards, the College holds at least three chapel services each week, which are mandatory for students. The College also has enforceable church and chapel attendance policies for administrators and faculty.

Because the College adheres to the Endorsement Criteria, it is eligible for financial support from the Assemblies of God. The Alliance develops financial resources for endorsed colleges in cooperation with the Assemblies of God Trust. The Alliance also develops educational resources and runs conferences to help affiliated schools better serve their mission and their students.

In light of all of the above, Trinity Bible College requests the Department's acknowledgement that the College is entitled to the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12.

Certain applications of 20 U.S.C. § 1681(a) and 34 C.F.R. 106 conflict with Assemblies of God doctrine and practice.

Trinity Bible College is compelled to submit this statement because it believes that its religious convictions, informed by its relationship with the Assemblies of God, conflict with some of the ways that the Department of Education may interpret or may seek to enforce 20 U.S.C. § 1681(a). Specifically, while the Department has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, the Department recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[6]

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[6] 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.").

Moreover, the resolution agreement[7] between the Arcadia Unified School District and the Department (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.[8] It is thus reasonable to suppose that the Department believes that such responses are required by Title IX.

It is also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by the Department to reach transgender discrimination, would be inconsistent with the religious tenets of the College.[9]

Finally, 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.[10] It is conceivable that the Department 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 the Department to reach sexual orientation discrimination, would also be inconsistent with the theological commitment of the College.

As a Christian institution, the College believes that all matters of faith and conduct must be evaluated on the basis of Holy Scripture, which is our infallible guide (2 Timothy 3:16-17). As a school founded in and inspired by the Assemblies of God tradition and endorsed by the Alliance, the College looks to the General Council and the General Presbytery of the Assemblies of God to help us interpret Scripture.

Human Dignity: The Assemblies of God believes that God created humankind in His image and that people receive their essential dignity from the fact that they are created in God's image and are loved by Him (Genesis 1:27). This dignity does not depend on whether someone is single or married or on whether someone suffers from any particular temptation to sin (1 Corinthians 7; Romans 5:8).

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[7] 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.

[8] *Id.*

[9] The religious convictions set forth below are established by the Assemblies of God in its Constitution and Bylaws, *available at* http://ag.org/top/about/constitution_bylaws.cfm, and in Position Papers approved by the General Presbytery of the Assemblies of God, *available at* http://ag.org/top/Beliefs/position_papers/.

[10] *See* http://www.eeoc.gov/decisions/0120133080.pdf.

Abortion: The Assemblies of God believes that human beings bear the image of God and receive their essential identity and dignity before we are born (Luke 1:31-44; Acts 7:19; Job 31:15; Psalm 139:13-16). As such, the Assemblies of God believes that abortion is the killing of innocent human life and is therefore prohibited by the Ten Commandments and elsewhere throughout Scripture (Exodus 20:13, 21:22-24; Matthew 19:18; Romans 13:9).

Marriage: The Assemblies of God defines marriage as the permanent, exclusive, comprehensive, and conjugal "one flesh" union of one man and one woman, intrinsically ordered to procreation and biological family, and in furtherance of the moral, spiritual, and public good of binding father, mother, and child. The Assemblies of God teaches that the purpose of Christian marriage is to reflect the love, purity, and permanence between Christ and the Church (Ephesians 5:23-33).

Sexual Conduct: The Assemblies of God believes that God has designed sexual intimacy for marriage and that sexual acts outside of marriage are sinful. Such acts include but are not limited to adultery, fornication, incest, bestiality, pornography, prostitution, voyeurism, pedophilia, exhibitionism, sodomy, polygamy, polyamory, or same-sex sexual acts. (Exodus 20:14; Leviticus 18:7–23; 20:10–21; Deuteronomy 5:18; Matthew 5:27–28; 15:19; Romans 1:26–27; 1 Corinthians 6:9–13; Galatians 5:19; Ephesians 4:17–19; Colossians 3:5; 1 Thessalonians 4:3; Hebrews 13:4).

Sexual Orientation: The Assemblies of God affirms the sexual complementarity of man and woman and teaches that same-sex sexual attractions are temptations to sin and should therefore be resisted. (Genesis 1:27; 2:24; Matthew 19:4–6; Mark 10:5–9; Romans 1:26–27; 1 Corinthians 6:9–11).

Sexual Identity: The Assemblies of God believes that God created humankind in His image, male and female, sexually different but with equal personal dignity. The church supports the dignity of individual persons affirming their biological sex and discouraging any and all attempts to physically change, alter, or disagree with their predominant biological sex—including but not limited to elective sex-reassignment, transvestite, transgender, or nonbinary "genderqueer" acts or conduct. (Genesis 1:26–28; Romans 1:26–32; 1 Corinthians 6:9–11).

Sexual Equality: The Assemblies of God believes that men and women have equal dignity before God and does not make any distinction between the sexes when selecting people for ministry or spiritual leadership positions. Having observed that God pours out His Spirit upon both men and women, the Assemblies of God concludes that God gifts both sexes for ministry in His Church.

The College believes and embraces these teachings and has integrated them into its standards for its administrators, faculty, and students. In order to help foster these standards and to help ensure that the College is a place of nourishment, the College

has adopted policies regarding expectations for student and employee behavior, accountability, rules and disciplinary actions, and other general expectations for student life on campus.[11]

None of this is to say that the College or the Assemblies of God excludes anyone based on their sins or based on their temptations. The Assemblies of God believes that all have sinned and fall short of the glory of God and should seek redemption through confession, repentance, baptism, and faith in Jesus Christ. We welcome and treat with respect, compassion, and sensitivity all who experience same-sex attractions or confess sexually immoral acts and are committed to resisting sexual temptation, refraining from sexual immorality, and transforming their behavior in the light of biblical teachings (Matthew 11:28–30; Romans 3:23; 1 Corinthians 10:13; Ephesians 2:1–10; Hebrews 2:17–18; 4:14–16).

However, in keeping with our biblical beliefs about sexual morality, the College cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Any individual who violates campus standards for biblical living is subject to discipline, including expulsion.

The College believes that its policies and practices, informed by Assemblies of God teachings, do not discriminate on the basis of sex—that is, between men and women—and therefore do not violate Title IX. However, at the same time, the College understands that faithful application of the religious tenets set forth above may conflict with the way that the Department may interpret or seek to apply Title IX and certain provisions of 34 C.F.R. 106. Those potential conflicts are set forth below.

Based on the convictions listed above, the College believes that it cannot fulfill its God-given mission and build an intentional Christian community if it cannot require students, faculty, and administrators to embrace and do their best to follow the Assemblies of God's teachings about marriage, sexual conduct, sexual identity, and the sanctity of life. These convictions shape the College's admissions, student discipline, and employment policies. Additionally, all College students and other personnel are expected to embrace their God-given biological sex, an expectation which shapes the College's policies regarding student housing, restroom and locker room use, and participation in athletic programs.

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

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[11] *See* Trinity Bible College Policy on Human Sexuality, and 2015-2016 Student Handbook.

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 for your attention to this matter. I look forward to hearing from you soon. If you require anything further, please do not hesitate to contact me.

Sincerely,

Paul Alexander, Ph.D.
President
Trinity Bible College

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Truett McConnell University
Office of the President

May 24, 2016

Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education 400
Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear Ms. Lhamon:

I am President of Truett McConnell University, Inc. (formally Truett-McConnell College, Inc.) As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Truett McConnell University is a Southern Baptist institution of higher education. It is a Georgia nonprofit corporation whose address is 100 Alumni Drive, Cleveland, Georgia 30028. I enclose the Articles of Incorporation and Bylaws of the University.

Truett McConnell University is controlled by a religious organization. That organization is the Georgia Baptist State Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Georgia. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Articles of Incorporation and Bylaws, the Georgia Baptist State Convention controls the University, in part by exercising its right to select the entire membership of the board of directors of the University, the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), § 703(e)(2) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Alabama Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

FROM THE VERY FIRST VERSE TO THE VERY LAST TRIBE.
100 Alumni Drive • Cleveland, GA 30528-1264 • 706-865-2134 • truett.edu • ecaner@truett.edu

Truett McConnell University requires all full-time teaching faculty to sign and affirm the Baptist Faith and Message 2000.

This request for exemption is from provisions of Title IX to the extent application of provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.
I identify those provisions to include:

Admissions: 34 C.F.R. §106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) governing admissions prohibition on the basis of marital or parental status).

Recruitment:
34 C.F.R. §106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:
34 C.F.R. §106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
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. §106.36 (governing counseling and use of appraisal and counseling methods);
34 C.F.R. §106.37 (governing financial assistance);
34 C.F.R. §106.38 (governing employment);
34 C.F.R. §106.39 (governing health and insurance benefits and services);
34 C.F.R. §106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. §106.41 (governing athletics);

Employment:
34 C.F.R. §106.51 (governing employment); 34 C.F.R. §106.52 (employment criteria); 34 C.F.R. §106.53 (recruitment);
34 C.F.R. §106.56 (governing fringe benefits);
34 C.F.R. §106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. §106.60 (governing pre-employment inquiries).

The religious tenets of the Georgia Baptist Convention have been described most extensively

and most recently in the *Baptist Faith and Message 2000*, adopted by the messengers constituting the Georgia Baptist Convention in 2000. The *Baptist Faith and Message 2000* is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

"Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord." XVII The Family, The *Baptist Faith and Message* 2000.

"Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation." III Man, *The Baptist Faith and Message* 2000.

"Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, *The Baptist Faith and Message* 2000.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the College:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; and sanctions as the result of pregnancy and abortion;

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from the regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Emir Caner, President
Truett McConnell University

UNION
UNIVERSITY

January 19, 2015

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear Ms. Lhaman,

I am President of Union University. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

Union University is a Southern Baptist institution of higher education. It is a Tennessee nonprofit corporation whose principal office address is 1050 Union University Drive, Jackson, Tennessee 38305.

Union University is controlled by a religious organization. That organization is the Tennessee Baptist Convention. This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Tennessee. It is an "association of churches" in the terminology of the Internal Revenue Code. By Covenant Agreement with the Convention, the University "affirm(s) that the trustees of Union University are elected by and responsible to the Tennessee Baptist Convention." The University's Bylaws (2.1.1. Control and Management) declare: "The Charter vests the control of the affairs of Union University in its Board of Trustees, which consists of not fewer than eighteen nor more than thirty-six in number, elected by the Tennessee Baptist Convention." I enclose the University's Bylaws.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, §703(e)(2), as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997).

OFFICE *of the* PRESIDENT
JACKSON, TENNESSEE 38305-3697 731.661.5180 fax 731.661.5444 www.uu.edu

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity (including but not limited to transgendered status), pregnancy, and abortion.

I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);

Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquiries).

Union University's purpose is stated as follows:

> Union University provides Christ-centered education that promotes excellence and character development in service to Church and society.

The University's mission statement includes the following:

> A cohering core value of our guiding vision is a call to faith, a call to be Christ centered in all that we are and in all that we do. We will seek to build a Christian liberal arts based community where men and women can be introduced to an understanding and appreciation of God, His creation and grace, and to humanity's place of privilege and responsibility in this world. We will

> seek to establish all aspects of life and learning on the Word of God, leading to a firm commitment to Christ and His Kingdom. To be a Christ-centered institution calls for us to establish the priority of worship and service in the Christian life while seeking to develop a generation of students who can be agents of reconciliation to a factious church in a hurting and broken world. This commitment calls for all faculty and staff to integrate Christian faith in all learning and doing, based on the supposition that all truth is God's truth and that there is no contradiction between God's truth made known to us in Holy Scripture and that which is revealed to us through creation and natural revelation.

The University's statement of faith declares first:

> The Scriptures. The Scriptures of the Old and New Testament were given by inspiration of God, and are the only sufficient, certain and authoritative rule of all saving knowledge, faith, and obedience.

Southern Baptist religious tenets have been described most extensively and most recently in *The Baptist Faith and Message* 2000, a statement of faith affirmed by messengers constituting the Tennessee Baptist Convention. That statement is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord. XVIII The Family, *The Baptist Faith and Message* 2000.

> Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. III Man, *The Baptist Faith and Message* 2000. (The Southern Baptist Convention elaborated on this tenet most recently in 2014 by the adoption of a resolution "On Transgender Identity." It is attached.)

> Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, *The Baptist Faith and Message* 2000.

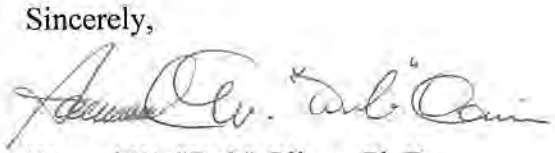
The University's policies are rooted in these religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

> From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;
>
> From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and
>
> From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,



Samuel W. "Dub" Oliver, Ph.D.
President

Enclosures: Union University *Board Guidelines and Policies* containing Bylaws
The Baptist Faith and Message 2000
The 2014 Southern Baptist Convention Resolution "On Transgender Identity"

UNIVERSITY OF DALLAS

OFFICE OF THE PRESIDENT

July 23, 2015

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

Re: University of Dallas Request for Title IX Religious Exemption

Dear Ms. Lhamon:

In enforcing Title IX of the Education Amendments of 1972 ("Title IX") the Departments of Education and Justice recently interpreted the law prohibiting discrimination "on the basis of sex" to include discrimination based on "gender identity." As a recipient of federal funds, the University of Dallas recognizes the implications of this precedent for its own operations as a Catholic institution of higher education which believes that sexual identity is assigned only by God. By this correspondence, the university asserts its exemption from Title IX to the extent that enforcement would prohibit the University of Dallas from acting in a manner consistent with its religious tenets to deny a request for assignment to sex specific housing and other accommodations based on a student's gender identity. As President of the University of Dallas and the highest ranking official of the University, I hereby request an exemption from any interpretation of Title IX which prohibits discrimination based on gender identity in housing (34 C.F.R. §106.32) or comparable facilities (34 C.F.R. §106.33).

The University of Dallas is committed to the study and development of the western tradition of liberal education, and the Catholic intellectual tradition. The Articles of Incorporation confirm that the University of Dallas was formed "in full recognition of the authority of the will of God" as a "Catholic institution of higher learning for the education and training of students." The Bylaws of the University establish "a further purpose of the University to promote the moral, spiritual and religious lives of its students and to be publicly identified as a Catholic University." The mission of the University of Dallas affirms that:

1845 East Northgate Drive • Irving, TX 75062-4736 • (972) 721-5203 • fax (972) 721-4040

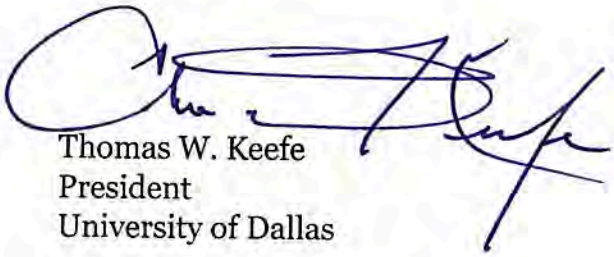
> The University as a whole is shaped by the long tradition of Catholic learning and acknowledges its commitment to the Catholic Church and its teachings. The University is dedicated to the recovery of the Christian intellectual tradition, and to the renewal of Catholic theology in fidelity to the Church and in constructive dialogue with the modern world. It seeks to maintain the dialogue of faith and reason in its curriculum and programs without violating the proper autonomy of each of the arts and sciences. The University is open to faculty and students of all denominations, and it supports their academic and religious freedom. It thus seeks to provide an academic and collegial community which will help students acquire a mature understanding of their faith, develop their spiritual lives, and prepare themselves for their calling as men and women of faith in the world.

The University of Dallas recognizes the Catholic tradition which holds that the basis of morality is found in the natural order which is established by God. The Old Testament confirms that God created human beings in his own image, creating both male and female (Genesis 1:27), and, like the rest of God's creation, the sexual differences between man and woman are pronounced "very good." (Genesis 1:31) As rooted in Catholic teachings, sexual identity is not a social construct but is an objective fact rooted in an individual's very nature as either a female or male person. The Catechism of the Catholic Church confirms that "everyone, man and woman should acknowledge their sexual identity." While the University of Dallas affirms its obligation as a Catholic institution to accept all individuals with respect, compassion and sensitivity, in keeping with the tenets of our Catholic faith, the University cannot encourage individuals to live in conflict with Catholic principles.

In accordance with 34 C.F.R. §106.12, Title IX does not apply to an educational institution to the extent that application of the federal law would be inconsistent with the religious tenets of the University. Recent decisions of the Department which required recipients of Federal funds to allow students to elect their housing accommodations based on gender identity and not based on their sex assigned at birth are inconsistent with the religious tenets of the Catholic Church. Therefore, on behalf of the University of Dallas, I hereby request an official exemption from compliance with that interpretation of the Title IX which prohibits discrimination in regard to housing and comparable accommodations based on gender identity. The University of Dallas will continue to comply with all other requirements related to Title IX with respect to granting equal opportunities in educational programs or employment to members of both sexes.

Please contact me should you have any questions in regard to this request.

Respectfully,



Thomas W. Keefe
President
University of Dallas

cc: Joseph Murphy, Chair University of Dallas Board of Trustees
Karin W. Rilley, General Counsel

UNIVERSITY OF
MARY HARDIN-BAYLOR
Education for Life... Experience of a Lifetime

January 29, 2015

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear Assistant Secretary Lhaman,

I am President of the University of Mary Hardin-Baylor. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

The University is a Southern Baptist institution of higher education. It was originally chartered in 1845 by the Republic of Texas. It is a Texas nonprofit corporation whose principal office address is 900 College Street, Belton, Texas 76513.

The University is controlled by a religious organization, the Baptist General Convention of Texas. This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Texas. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Restated Certificate of Formation, which I enclose, the Baptist General Convention of Texas controls the University in part by exercising its right to select a majority of the board of directors of the University, the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, §703(e)(2) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

Office of the President • UMHB Box 8003
900 College Street • Belton, Texas 76513
(800) 727-8642 (UMHB) • (254) 295-4500
umhb.edu

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity (including but not limited to transgender status), pregnancy, and abortion.

I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).
Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).
Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc.);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);
Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquires).

The mission of the University is stated as follows:

> The University of Mary Hardin-Baylor prepares students for leadership, service, and faith-informed discernment in a global society. Academic excellence, personal attention, broad based scholarship and a commitment to a Baptist vision for education distinguishes our Christ-centered learning community.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the Convention has repeatedly spoken. For example, in 2009, the Convention adopted the attached resolution *On Sexual Ethics*. The Convention has declared ". . . the Bible teaches that the ideal for sexual behavior is the marital union between husband and wife and that all other sexual relations - whether premarital, extramarital, or homosexual - are contrary to God's purposes and thus sinful." Since 1980, the Convention has declared on six occasions its religious beliefs opposing abortion. The Convention holds the religious belief that "gender is based on biological attributes and is seen as a gift from God and immutable." I have attached a declaration on this subject which the Convention is expected to adopt next month.

In 1988 the Convention adopted an addition to its previously adopted statement of Baptist Faith and Message which includes the following expression of religious tenets of the Convention:

XVIII. THE FAMILY

God has ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption.

Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is Gods unique gift to reveal the union between Christ and His church, and to provide for the man and the woman in marriage the framework for intimate companionship, the channel for sexual expression according to biblical standards, and the means for procreation of the human race.

. . .

Children, from the moment of conception, are a blessing and heritage from the Lord. Parents are to demonstrate to their children Gods pattern for marriage. Parents are to teach their children spiritual and moral values and to lead them, through consistent lifestyle example and loving discipline, to make choices based on biblical truth. Children are to honor and obey their parents.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is if the regulation prohibited the University:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity (including but not limited to transgender status), pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Randy O'Rear, Ed.D.
President and CEO

UNIVERSITY OF MOBILE

OFFICE OF THE PRESIDENT

March 18, 2015

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

I am President of University of Mobile. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

University of Mobile is a Southern Baptist institution of higher education. It is an Alabama nonprofit corporation whose address is 5735 College Parkway, Mobile, Alabama 36613. I enclose the Charter and Bylaws of the University.

University of Mobile is controlled by a religious organization. That organization is the Alabama Baptist State Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Alabama. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Charter and Bylaws, the Alabama Baptist State Convention controls the University in part by exercising its right to select the entire membership of the board of directors of the University, the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), § 703(e)(2) an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Alabama Southern Baptist university in Killinger v. Samford University, 113 F. 3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion. I identify those provisions to be:

- Admissions: 34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).
- Recruitment: 34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).
- Education Programs or Activities:
  34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
  34 C.F.R. § 106.32 (governing housing);
  34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
  34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
  34 C.F.R. § 106.41 (governing athletics);
- Employment:
  34 C.F.R. § 106.51 (governing employment);
  34 C.F.R. § 106.52 (employment criteria);
  34 C.F.R. § 106.53 (recruitment);
  34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
  34 C.F.R. § 106.60 (governing pre-employment inquires).

Our University holds itself out to be a Christian University. I have enclosed the University's Statement of Christian Affirmation.

Southern Baptist religious tenets have been described most extensively and most recently in the Baptist Faith and Message 2000. The messengers constituting the Alabama Baptist State Convention adopted the following resolution: "That the Alabama Baptist State Convention approve of the Baptist Faith and Message 2000 as an expression of our unity in doctrine and practice, and recommend the same to all of the trustees elected by the Alabama Baptist State Convention." The Baptist Faith and Message 2000 is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

"Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord." XVII The Family, The Baptist Faith and Message 2000.

"Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation." III Man, The Baptist Faith and Message 2000.

"Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, The Baptist Faith and Message 2000.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

- From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

- From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; and sanctions as the result of pregnancy and abortion;

- From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Mark Foley, Ph.D.
President, University of Mobile

UNIVERSITY OF NORTHWESTERN
ST. PAUL

February 12, 2016

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

Re: University of Northwestern- St. Paul's Request for Title IX Religious Exemption

Dear Ms. Lhamon:

I have become aware that the Department of Education recently interpreted Title IX's ban on sex discrimination in education to include discrimination based on gender identity.[1] As president of the University of Northwestern- St. Paul (UNW), a private, religious college in Minnesota, I hereby request, under 34 C.F.R. §106.12, an exemption for UNW from this interpretation of Title IX due to the religious beliefs of our institution, to the extent we are not covered by our current exemption.

As described in its Bylaws and Board Roles and Responsibilities (enclosed), UNW is a Christ-centered, higher education institution built upon the historic, Christian, Protestant, evangelical tradition. The University was founded in 1902 as Northwestern Bible and Missionary Training School. Though now known as UNW, our mission remains providing Christ-centered higher education equipping students to grow intellectually and spiritually, to serve effectively in their professions, and to give God-honoring leadership in the home, church, community, and world.[2] Our core religious convictions are central to our educational experience and learning community as demonstrated by the fact that all members of the UNW community—all students, faculty, and staff—are required to profess faith in Jesus Christ as Lord and Savior.[3] As further evidence of its identity as a religious organization, UNW also offers undergraduate and graduate degrees in theology, divinity, ministry, and Biblical studies, in addition to traditional liberal arts degrees.

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[1] *See* 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."); *see also* Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf.

[2] https://unwsp.edu/web/about/mission-vision.

[3] https://unwsp.edu/web/about.

ALAN S. CURETON, PH.D. PRESIDENT
3003 SNELLING AVENUE NORTH | ST. PAUL, MN 55113-1598 | P 651-631-5250 | PRESIDENT@UNWSP.EDU | UNWSP.EDU |

In 1989, UNW was previously granted exemption from Title IX by your office, to the extent that Title IX prohibited UNW from making "gender-based distinctions in matters of moral behavior, marriage, and residential living environments and standards," after ED OCR found that UNW is controlled by a religious organization and therefore met the criteria for the exemption.[4] This has not changed. As it was in 1989, UNW is completely controlled by, and receives its financial support from University of Northwestern–St. Paul, Inc., a non-profit religious corporation.[5] Every member of the Board of Trustees of the corporation is required to subscribe to the beliefs outlined in our doctrinal statement.[6] "This relationship between the Corporation and the College adequately establishes that [UNW] is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation."[7]

As a religious corporation with a specific educational mission, UNW is committed to an evangelical theology that arises from its Christian Protestant tradition. UNW's theological and ethical tradition is articulated in its doctrinal statement, which is agreed to by all trustees, students, faculty, and staff. A copy of the doctrinal statement is enclosed. A nondenominational institution, UNW's doctrinal heritage defines its mission, guides the development of its academic programs, shapes strategic planning and decision-making, and also determines the ethical values embraced by the trustees, faculty, and staff. UNW's "Declaration of Christian Community" (also enclosed) reaffirms our longstanding belief in the authority of the Bible; the care and compassion we want to characterize our community; and our understanding of the Bible's teaching on moral issues, including human sexuality. The Declaration of Christian Community must also be agreed to by all trustees, students, faculty and staff.

In keeping with UNW's mission and commitment to evangelical Christianity, all members of the University community are expected to live and support the teachings of Scripture.[8] UNW affirms that sexual relationships are designed by God to be expressed solely within a marriage between husband and wife.[9] This view of sexuality and marriage is rooted in the Genesis account of creation and is maintained consistently throughout Scripture, including in the teachings of Jesus. The University believes that sexual relations of any kind outside these confines of heterosexual marriage are inconsistent with the teaching of Scripture, as understood by Christian churches throughout history.[10] Additionally, UNW believes that we are created by God in His image as two distinct sexes—male and female—and believes that each person glorifies God and affirms His infinite holiness and wisdom by living in alignment with his or her birth sex. While we acknowledge there may be confusion and brokenness for some individuals in this area, we do not affirm or support transgender identity or expression. Instead, we place our faith and trust in God's redemptive plan.[11]

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[4] 1989 Religious Exemption Letter.
[5] Bylaws, Art. III, Section 1; Roles and Responsibilities, Article I; see also Articles of Incorporation (enclosed). The name of the corporation in 1989 was Northwestern College, Inc., but the name was amended to reflect the new name of the college in 2013. It is otherwise the same.
[6] Bylaws, Art. III, Section 2; Roles and Responsibilities, Article I.
[7] 1989 Religious Exemption Letter.
[8] Declaration of Christian Community at 1-2.
[9] *Id.* at 2.
[10] *Id.*
[11] *Id.*

Conduct that violates UNW"s biblical beliefs on sexuality and/or marriage, depending on the facts and circumstances of each case, may result in disciplinary action. In all disciplinary matters, we will seek to be redemptive in the lives of the individuals involved. Consequently, UNW will offer counsel and assistance to support and strengthen the individual's resolve to live consistently with Christian teaching on sexuality. UNW also believes that abortion is morally equivalent to murder based on the teachings of Scripture.[12] Any individual who unrepentantly participates in abortion would also be in violation of our community standards.

UNW affirms the dignity of all human beings. We also separate the value of each person from the behavioral choices one makes. We believe that, as Christians, we are called to treat all people with compassion, and to extend the gospel of repentance, forgiveness, and transformation through Jesus Christ to such persons without reservation. However, in keeping with our biblical beliefs surrounding the morality of such actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Moreover, any individual who violates campus standards for biblical living is subject to discipline, including expulsion.[13]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[14] And as you also know, the resolution agreement[15] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of a sex to which they believe they belong.[16] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of UNW.

Additionally, recently the EEOC has begun openly declaring that the ban on "sex" discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of "sexual orientation."[17] It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 religious

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[12] *Id.*

[13] Declaration of Christian Community at 3.

[14] 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.")

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

[16] *Id.*

[17] *See* http://www.macon.com/2015/03/30/3668458_eeoc-issues-determination-letter.html?rh=1.

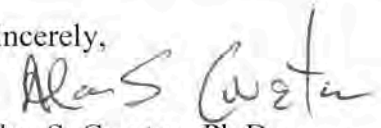
tenets of UNW, and UNW therefore seeks exemption on this basis as well out of an abundance of caution.

UNW accordingly requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict UNW's freedom to apply and enforce its beliefs and policy regarding abortion):

- 34 C.F.R. § 106.21 (admission)[18]
- 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 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 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)[19]
- 34 C.F.R. § 106.41(governing athletics); and
- 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)[20]

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.

Sincerely,



Alan S. Cureton, Ph.D.
President

Enclosures: (a) 1989 Title IX Exemption Letter
(b) UNW Bylaws
(c) UNW Board "Roles and Responsibilities"
(d) University of Northwestern- St. Paul Articles of Incorporation
(e) UNW Doctrinal Statement
(f) UNW Declaration of Christian Community

[18] To the extent we are not covered by our current exemption. See attached 1989 Exemption letter.
[19] See n. 17.
[20] See n. 17.

UNIVERSITY OF
NORTHWESTERN
ST. PAUL

February 12, 2016

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

Re: University of Northwestern- St. Paul's Request for Title IX Religious Exemption

Dear Ms. Lhamon:

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As described in its Bylaws and Board Roles and Responsibilities (enclosed), UNW is a Christ-centered, higher education institution built upon the historic, Christian, Protestant, evangelical tradition. The University was founded in 1902 as Northwestern Bible and Missionary Training School. Though now known as UNW, our mission remains providing Christ-centered higher education equipping students to grow intellectually and spiritually, to serve effectively in their professions, and to give God-honoring leadership in the home, church, community, and world.[2] Our core religious convictions are central to our educational experience and learning community as demonstrated by the fact that all members of the UNW community—all students, faculty, and staff—are required to profess faith in Jesus Christ as Lord and Savior.[3] As further evidence of its identity as a religious organization, UNW also offers undergraduate and graduate degrees in theology, divinity, ministry, and Biblical studies, in addition to traditional liberal arts degrees.

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[1] *See* 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."); *see also* Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf.

[2] https://unwsp.edu/web/about/mission-vision.

[3] https://unwsp.edu/web/about.

ALAN S. CURETON, Ph.D. PRESIDENT
3003 SNELLING AVENUE NORTH | ST. PAUL, MN 55113-1598 | P 651/631-5250 | PRESIDENT@UNWSP.EDU | UNWSP.EDU |

In 1989, UNW was previously granted exemption from Title IX by your office, to the extent that Title IX prohibited UNW from making "gender-based distinctions in matters of moral behavior, marriage, and residential living environments and standards," after ED OCR found that UNW is controlled by a religious organization and therefore met the criteria for the exemption.[4] This has not changed. As it was in 1989, UNW is completely controlled by, and receives its financial support from University of Northwestern–St. Paul, Inc., a non-profit religious corporation.[5] Every member of the Board of Trustees of the corporation is required to subscribe to the beliefs outlined in our doctrinal statement.[6] "This relationship between the Corporation and the College adequately establishes that [UNW] is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation."[7]

As a religious corporation with a specific educational mission, UNW is committed to an evangelical theology that arises from its Christian Protestant tradition. UNW's theological and ethical tradition is articulated in its doctrinal statement, which is agreed to by all trustees, students, faculty, and staff. A copy of the doctrinal statement is enclosed. A nondenominational institution, UNW's doctrinal heritage defines its mission, guides the development of its academic programs, shapes strategic planning and decision-making, and also determines the ethical values embraced by the trustees, faculty, and staff. UNW's "Declaration of Christian Community" (also enclosed) reaffirms our longstanding belief in the authority of the Bible; the care and compassion we want to characterize our community; and our understanding of the Bible's teaching on moral issues, including human sexuality. The Declaration of Christian Community must also be agreed to by all trustees, students, faculty and staff.

In keeping with UNW's mission and commitment to evangelical Christianity, all members of the University community are expected to live and support the teachings of Scripture.[8] UNW affirms that sexual relationships are designed by God to be expressed solely within a marriage between husband and wife.[9] This view of sexuality and marriage is rooted in the Genesis account of creation and is maintained consistently throughout Scripture, including in the teachings of Jesus. The University believes that sexual relations of any kind outside these confines of heterosexual marriage are inconsistent with the teaching of Scripture, as understood by Christian churches throughout history.[10] Additionally, UNW believes that we are created by God in His image as two distinct sexes—male and female—and believes that each person glorifies God and affirms His infinite holiness and wisdom by living in alignment with his or her birth sex. While we acknowledge there may be confusion and brokenness for some individuals in this area, we do not affirm or support transgender identity or expression. Instead, we place our faith and trust in God's redemptive plan.[11]

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[4] 1989 Religious Exemption Letter.
[5] Bylaws, Art. III, Section 1; Roles and Responsibilities, Article I; see also Articles of Incorporation (enclosed). The name of the corporation in 1989 was Northwestern College, Inc., but the name was amended to reflect the new name of the college in 2013. It is otherwise the same.
[6] Bylaws, Art. III, Section 2; Roles and Responsibilities, Article I.
[7] 1989 Religious Exemption Letter.
[8] Declaration of Christian Community at 1-2.
[9] *Id.* at 2.
[10] *Id.*
[11] *Id.*

Conduct that violates UNW"s biblical beliefs on sexuality and/or marriage, depending on the facts and circumstances of each case, may result in disciplinary action. In all disciplinary matters, we will seek to be redemptive in the lives of the individuals involved. Consequently, UNW will offer counsel and assistance to support and strengthen the individual's resolve to live consistently with Christian teaching on sexuality. UNW also believes that abortion is morally equivalent to murder based on the teachings of Scripture.[12] Any individual who unrepentantly participates in abortion would also be in violation of our community standards.

UNW affirms the dignity of all human beings. We also separate the value of each person from the behavioral choices one makes. We believe that, as Christians, we are called to treat all people with compassion, and to extend the gospel of repentance, forgiveness, and transformation through Jesus Christ to such persons without reservation. However, in keeping with our biblical beliefs surrounding the morality of such actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Moreover, any individual who violates campus standards for biblical living is subject to discipline, including expulsion.[13]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[14] And as you also know, the resolution agreement[15] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of a sex to which they believe they belong.[16] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of UNW.

Additionally, recently the EEOC has begun openly declaring that the ban on "sex" discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of "sexual orientation."[17] It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 religious

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[12] *Id.*

[13] Declaration of Christian Community at 3.

[14] 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.")

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

[16] *Id.*

[17] *See* http://www.macon.com/2015/03/30/3668458_eeoc-issues-determination-letter.html?rh=1.

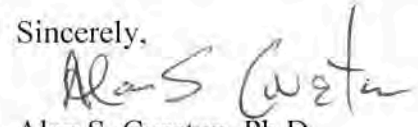
tenets of UNW, and UNW therefore seeks exemption on this basis as well out of an abundance of caution.

UNW accordingly requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict UNW's freedom to apply and enforce its beliefs and policy regarding abortion):

- 34 C.F.R. § 106.21 (admission)[18]
- 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 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 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)[19]
- 34 C.F.R. § 106.41(governing athletics); and
- 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)[20]

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.

Sincerely,



Alan S. Cureton, Ph.D.
President

Enclosures: (a) 1989 Title IX Exemption Letter
(b) UNW Bylaws
(c) UNW Board "Roles and Responsibilities"
(d) University of Northwestern- St. Paul Articles of Incorporation
(e) UNW Doctrinal Statement
(f) UNW Declaration of Christian Community

[18] To the extent we are not covered by our current exemption. See attached 1989 Exemption letter.
[19] See n. 17.
[20] See n. 17.

UNIVERSITY of the CUMBERLANDS
Cumberland College
Since 1888
"Producing Tomorrow's Servant Leaders of Character Today with Warm Hearts, Keen Minds, Helping Hands"

To: Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

From: Dr. Larry L. Cockrum

Date: January 19, 2015

Re: Claim of Title IX Religious Tenet Exemption

I am the Chief Executive Officer and President-Elect of University of the Cumberlands, Inc.. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, 1682, and which is the subject of 34 C.F.R. 106.12.

University of the Cumberlands is a Southern Baptist institution of higher education. It is a Kentucky nonprofit corporation whose principal office address is 6191 College Station Drive, Williamsburg, Kentucky 40769. I enclose the Articles of Incorporation and Bylaws of the University.

University of the Cumberlands is controlled by a religious organization. That organization is the Kentucky Baptist Convention. This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Kentucky. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Charter and Bylaws, the Kentucky Baptist Convention controls the University in part by exercising its right to select the entire elected membership of the board of directors of the University, the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, § 703(e)(2) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v. Samford University, 113 F. 3d 196 (1997))*.

This request for exemption is from provisions of Title IX to the extent application of those

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provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.

I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);

Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquiries).

As a Christian institution of higher learning University of the Cumberlands offers promising students of all backgrounds a broad based liberal arts program enriched with Christian values and Christian influences. The University's impact can be seen in the achievements of its graduates who have assumed roles of leadership in this region and throughout the nation.

Southern Baptist religious tenets have been described most extensively and most recently in *The Baptist Faith and Message* 2000, a statement of faith adopted by the Convention. That statement is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. . . . Children, from the moment of conception, are a blessing and heritage from the Lord. XVII The Family, The *Baptist Faith and Message* 2000.

Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. III Man, *The Baptist Faith and Message* 2000. (The Southern Baptist Convention elaborated on this tenet most recently in 2014 by the adoption of a resolution "On Transgender Identity." It is attached. The Kentucky Baptist Convention followed with its own resolves and those statements are also attached.)

Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death. XV The Christian and the Social Order, *The Baptist Faith and Message* 2000.

The University's policies are rooted in these religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is if the regulation prohibited the University:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

VIRGINIA
BAPTIST COLLEGE

26 February 2016

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 Virginia Baptist College is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the College's freedom to act in accordance with its religious convictions. As President of Virginia Baptist College, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and am thus qualified to seek these exemptions.

Virginia Baptist College ("VBC" or "the College") was established in 1984 as Berean Bible Institute, a ministry of Faith Baptist Church of Fredericksburg, Virginia.[1] Don Forrester, then a pastor of Faith Baptist Church, founded the Institute along with two other local pastors, in order "to further the purposes of their churches, through a combined effort, by providing college-level training for Christian workers."[2]

Renamed Virginia Baptist College in 1994, the school exists "to equip men and women for dynamic Christian service and leadership in Bible-believing churches by providing higher education that emphasizes academic excellence, spiritual development, and preparation for ministry, both lay and professional."[3] VBC exists for the following purposes:

- To train leaders and workers to serve in local churches;
- To train pastors and missionaries to plant and lead local churches; and
- To continue to train pastors and church staff members who are serving in area churches.[4]

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[1] *See* http://www.vbc.edu/general-information-2/history.
[2] *See id.*
[3] Virginia Baptist College Board Manual, Mission Statement, p. vii.
[4] VBC Board Manual, Bylaws, Article III, p. 17.

Acknowledging Christ preeminent as the creator of all things, as the redeemer of people fallen into sin, as the touchstone of all truth, and as the sovereign ruler over all areas of life, the College strives to discern and to unfold the implications of His preeminence in all things. To serve this end, we seek to appropriate the mind of Christ as the biblical perspective from which we characterize and respond to reality:

> A thoroughly Scriptural philosophy of education begins with the centrality of Christ. All things exist by Him and for Him. From start to finish the primary goal of the educational process is to glorify God. The Christian considers God to be the source of all wisdom and knowledge. The Scriptures, as inspired divine revelation, provide not only the most important body of knowledge available to men, but they also become the filter and the illuminator which allows the Christian to properly evaluate and interpret knowledge stemming from natural revelation of any other source.[5]

In attempting to make such a biblically-grounded frame of reference explicit and operative, we are committed to excellence in academic inquiry, and we seek to define all areas of the VBC's structure and program according to this understanding of our purpose.[6] VBC's "goal is more than imparting academic knowledge; rather it is leading each student to spiritual maturity and Christlikeness."[7]

VBC continues to be affiliated with Faith Baptist Church as VBC's host church. Faith Baptist Church lists VBC as one of its ministries on its website[8] and provides significant financial support to VBC.[9] VBC's dormitories, offices, and other facilities are located on properties owned by Faith Baptist Church.[10] The chairman of VBC's governing board is the pastor of Faith Baptist Church.[11] Additionally, VBC receives support from local Baptist churches,[12] and VBC's board is governed by Baptist theology: board members must be

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[5] *See* Educational Philosophy, http://www.vbc.edu/general-information-2/mission-statement.
[6] *See id.*
[7] *See* Purpose, http://www.vbc.edu/general-information-2/mission-statement.
[8] *See* http://www.fbcnet.org/.
[9] *See* Virginia Baptist College Financial Statements for the Year Ended June 30, 2015, p. 10 ("Virginia Baptist College, Inc. is an organization that is controlled by individuals who are associated with both Faith Baptist Church and the College. The College is subsidized by the Church. This subsidy is in the form of facilities provided rent-free and cash support when needed."). *See also* VBC Financial Statements, p. 9 ("Due to the large level of cash support and the facilities provided by Faith Baptist Church, the discontinuance of support from Faith Baptist Church would severely impact the operations of the College."); VBC Board Manual, Host Church Policy, p. 32.
[10] VBC Board Manual, pp. iv-vi.
[11] VBC Board Manual, Host Church Policy, pp. 32 (requiring that the board elect the pastor of the host church, if he chooses to serve, as chairman), 43.
[12] *See* VBC Financial Statements, p. 7.

Christians who attend independent Baptist churches and must sign the VBC Doctrinal Statement.[13]

Faith Baptist Church and VBC—as one of its ministries—understand the Bible to be the infallible, written Word of God. In addition, both Faith Baptist Church and the College affirm that the Doctrinal Statement provides the most adequate and comprehensive articulation of the system of doctrine taught in the Bible.[14] Accordingly, the College seeks to express positions that are in accord with those standards.

Therefore, consistent with these standards, VBC has developed a Statement on Human Sexuality (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). Students who wish to live on campus must choose the appropriate dorm based on their biological sex.
>
> Any student or employee involved in any immoral behavior, including, but not limited to, premarital sex, adultery, homosexuality, and written, verbal, visually sexual communication, abortion, or transgender activities should expect immediate suspension or dismissal from the College.[15]

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[16]

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[13] VBC Board Manual, Bylaws, Article IV, p. 17.

[14] *Compare* VBC Doctrinal Statement, http://www.vbc.edu/doctrinalstatement *with* Faith Baptist Church, "What We Believe," http://www.fbcnet.org/new/what-we-believe/.

[15] *See* Virginia Baptist College Statement on Human Sexuality, page 2.

[16] 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.").

And as you also know, the resolution agreement[17] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.[18] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX.

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

For that reason, I 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 VBC is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the College's freedom to respond to transgender individuals in accordance with its theologically-grounded convictions.

Additionally, consistent with historic understanding of the Holy Scriptures and the doctrinal standards shared with Faith Baptist Church,[19] the College affirms the following regarding sexual conduct:

> [S]exual intimacy is designed by God to be expressed solely within a marriage between one man and one woman. This view of sexuality and marriage is rooted in the Genesis account of creation (2:18-25), reflected in the teachings of Jesus Christ himself (Matt. 19:4-6), and is maintained consistently throughout Scripture. It is a view based on the biblical teaching of monogamy—that God designed sexual union for the purpose of uniting one man and one woman into a permanent, lifelong, intimate, one flesh union in the context of marriage.
>
> Thus, God's design for marriage and sexuality is the foundational reason for viewing acts of sexual intimacy between a man and a woman outside of

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[17] 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.
[18] *Id.*
[19] VBC Doctrinal Statement, http://www.vbc.edu/doctrinalstatement; Faith Baptist Church, "What We Believe," http://www.fbcnet.org/new/what-we-believe/.

> marriage, and any act of sexual intimacy between two persons of the same sex, as illegitimate moral options for the confessing Christian. Sexual relations of any kind outside the confines of marriage between one man and one woman are inconsistent with the teaching of Scripture, as understood by Christian churches throughout history.[20]

The College, in service to the Church, welcomes those of professed Christian faith who experience same sex attraction. But, the College also, consistent with Faith Baptist Church and historic Baptist theology, 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.[21]

It is conceivable that the Department of Education's Office for Civil Rights could interpret Title IX of the Education Amendments of 1972 the same way. 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 VBC. The College, therefore, also seeks exemption on this basis out of an abundance of caution.

Lastly, consistent with a biblical interpretation of the value of life, the College in its Statement on Human Sexuality provided the following summary of its beliefs regarding the sanctity of human life:

> We believe that human life begins at conception and that the unborn child is a living human being. Abortion constitutes the unjustified, unexcused taking of unborn human life. Abortion is murder. We reject any teaching that abortions of pregnancies due to rape, incest, birth defects, gender selection, birth or population control, or the physical or mental well-being of the mother are acceptable. (Job 3:16; Ps. 51:5, 139:14-16; Isa. 44:24, 49:1, 5; Jer. 1:5, 20:15-18; Luke 1:44).[22]

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

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[20] *See* Virginia Baptist College Statement on Human Sexuality, p. 1.
[21] *See* http://www.eeoc.gov/decisions/0120133080.pdf.
[22] *See* Statement on Human Sexuality, p. 2.

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)
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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,

Daniel Stevens
President, Virginia Baptist College

Enclosures

Wayland Baptist University | *Office of the President*
Paul W. Armes, Ph.D.

August 26, 2015

Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

Dear Ms. Lhaman:

I am President of Wayland Baptist University. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12.

The University is a Southern Baptist institution of higher education. It is a Texas nonprofit corporation whose address is 1900 West 7th Street, Plainview, Texas 79072.

The University's mission statement declares:

> Wayland Baptist University exists to educate students in an academically challenging, learning-focused and distinctively Christian environment for professional success and service to God and humankind.

The University is controlled by a religious organization, the Baptist General Convention of Texas. This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Texas. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Bylaws, which I enclose, the Baptist General Convention of Texas controls the University in part by exercising its right to select a majority of the board of directors of the University, the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, §703(e)(2) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of

marriage, sexual orientation, gender identity (including but not limited to transgender status), pregnancy, and abortion.

I identify those provisions to be:

Admissions:

34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:

34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:

34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);

34 C.F.R. § 106.32 (governing housing);

34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);

34 C.F.R. §106.37 (governing financial assistance);

34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and

34 C.F.R. § 106.41 (governing athletics);

Employment:

34 C.F.R. § 106.51 (governing employment);

34 C.F.R. § 106.52 (employment criteria);

34 C.F.R. § 106.53 (recruitment);

34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and

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

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the Convention has repeatedly spoken. For example, in 2009, the Convention adopted the attached resolution *On Sexual Ethics*. The Convention has declared ". . . the Bible teaches that the ideal for sexual behavior is the marital union between husband and wife and that all other sexual relations - whether premarital, extramarital, or homosexual - are contrary to God's purposes and thus sinful." Since 1980, the Convention has declared on six occasions its religious beliefs opposing abortion. The Convention has declared its religious belief that "gender is based on biological attributes and is seen as a gift from God and immutable." That declaration is also attached.

In 1988 the Convention adopted an addition to its previously adopted statement of Baptist Faith and Message which includes the following expression of religious tenets of the Convention:

> XVIII. THE FAMILY
>
> God has ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption.
>
> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is Gods unique gift to reveal the union between Christ and His church, and to provide for the man and the woman in marriage the framework for intimate companionship, the channel for sexual expression according to biblical standards, and the means for procreation of the human race.

. . .

Children, from the moment of conception, are a blessing and heritage from the Lord. Parents are to demonstrate to their children Gods pattern for marriage. Parents are to teach their children spiritual and moral values and to lead them, through consistent lifestyle example and loving discipline, to make choices based on biblical truth. Children are to honor and obey their parents.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is if the regulation prohibited the University:

- From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;
- From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and
- From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity (including but not limited to transgender status), pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Dr. Paul Armes, Ph.D.
President

Enclosures: Bylaws of Wayland Baptist University as amended on October 23, 2014
BGCT Resolution on Sexual Ethics dated November 20, 2009

Westminster
Seminary California

1725 BEAR VALLEY PARKWAY, ESCONDIDO, CA 92027-4128 • 760/480.8474 • www.wscal.edu

March 29, 2016

VIA U.S. MAIL, FEDERAL EXPRESS, AND EMAIL [OCR@ed.gov]

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: Westminster Seminary California Request for Title IX Religious Exemption

Dear Ms. Lhamon:

The purpose of this letter is to request, pursuant to 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 Westminster Seminary California ("the Seminary" or "WSC") is exempt from Title IX of the Education Amendments of 1972 ("Title IX") and its accompanying regulations to the extent that they are interpreted to curtail the Seminary's freedom to establish standards concerning gender identity, sexual orientation, abortion, marriage, and homosexual practice in accordance with its deeply held religious convictions. As President of the Seminary, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

A. GOVERNING STANDARDS

As you know, under Title IX and its implementing regulation at 34 C.F.R. § 106.12, Title IX does not apply to an educational institution that is controlled by a religious organization to the extent that application of Title IX would be inconsistent with the religious tenets of the organization. As the Office for Civil Rights has explained in its guidance ("OCR Guidance"):

> An institution will normally be considered to be controlled by a religious organization if one or more of the following conditions is true:
>
> (1) It is a school or department of divinity, defined as an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects; or

(2) It requires its faculty, students or employees to be members of, or otherwise espouse a personal belief in, the religion of the organization by which it claims to be controlled ....[1]

B. THE SEMINARY QUALIFIES FOR THE EXEMPTIONS

As explained below, the Seminary is entitled to the requested religious exemption and is controlled by a religious organization within the meaning of the statute, implementing regulations, and OCR Guidance in that it meets at least the above two conditions.

Westminster Seminary California is a school of divinity that primarily prepares students to become ministers of religion. Specifically, the Seminary is a California non-profit graduate institution of higher education[2] offering theological and biblical study designed primarily and specifically for the education of students to prepare them to become future pastors (i.e., ministers of religion) for Christian churches or to prepare them to teach theological subjects or to pursue other religious vocations.

Westminster Seminary California opened its doors in Escondido, California, in 1979 as an extension of Westminster Theological Seminary in Philadelphia, Pennsylvania ("WTS") and welcomed its first students in the Fall of 1980. At that time, WSC came under the umbrella of a request for Title IX exemptions that had been submitted by WTS on August 9, 1977. WSC became independent of WTS in 1982. The exemption requested by WTS was granted by the Office for Civil Rights to WTS on September 18, 1985. WSC now seeks an exemption in its own name. Because WSC's religious tenets, mission, and control structure remain substantially the same as those of WTS at the time when the latter was granted Title IX exemptions, the same considerations that supported the grant of exemptions to WTS in 1985 support the grant of exemptions to WSC today.

WSC's mission is defined as follows:

> Westminster Seminary California (WSC) is a Christian institution seeking to glorify God through graduate theological study. Its primary responsibility is to educate future pastors for Christian churches, especially for Presbyterian and Reformed denominations. It also provides theological education for others who will serve in the Christian community and the larger society.

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[1] Website, U.S. Department of Education, "Religious Exemption, Protecting Students>Sex Discrimination," at http://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/rel-exempt-pr.html.

[2] As evidenced by the Restated Articles of Incorporation of Westminster Theological Seminary in California (submitted with this letter as Exhibit "A," "Certificate of Amendment and Restatement of Articles of Incorporation of Westminster Theological Seminary in California"), the Seminary is a California non-profit corporation organized and existing under and by virtue of the non-profit corporation laws of the State of California. As also evidenced by the Restated Articles, the legal name of the Seminary is "Westminster Theological Seminary in California." The Seminary operates under and is generally known by the d/b/a "Westminster Seminary California" or "WSC."

> WSC offers instruction in biblical, theological, and ministerial disciplines to both men and women as the heart of a program to help students to develop intellectually and spiritually as leaders. While the focus of our programs is to educate and prepare men for office-bearing ordained ministries of instruction and leadership as pastors, WSC also furnishes training in Scripture and theology to both women and men who are preparing to serve Christ and His church in vocations other than the ordained leadership ministries so that the whole body of Christ may be enriched through the diverse gifts bestowed by God's Spirit.
>
> Because zeal without knowledge or knowledge without zeal can only injure the church, WSC seeks to develop in its students a balanced combination of scholarship and Christ-like piety, where proper cultivation of the mind increases the devotion of the heart. Westminster Seminary California seeks to establish a pastoral and scholarly community that ultimately seeks to glorify Christ, promote His Gospel, and serve His Church.

(WSC Website, "Mission.")(Emphasis in original.)[3]

Consistent with this mission, all classes offered by the Seminary have an instructional focus and content that is religious in nature. All classes are designed primarily to prepare future pastors (i.e., ministers of religion), and secondarily, to prepare other persons who may serve in other religious vocations, or to prepare them to teach theological subjects.[4] The Seminary offers a Master of Divinity (M.Div.) program designed to prepare future pastors. Approximately seventy percent (70%) of enrolled students are pursuing an M.Div. degree. In addition to this degree, WSC offers three Master of Arts (M.A.) programs for men and women who do not plan to serve in ordained ministry. Built off of the M.Div., the M.A. programs allow students to focus on a particular area: Biblical Studies, Theological Studies, or Historical Theology.[5]

---

[3] https://www.wscal.edu/about-wsc/welcome-to-wsc/mission. The Seminary's By-Laws similarly provide in pertinent part:

> MISSION STATEMENT. Westminster Seminary California is a Christian institution seeking to glorify God through graduate theological study. Its primary responsibility is to educate future pastors for Christian churches, especially for Presbyterian and Reformed denominations. It also provides theological education for others who will serve the Christian community and the larger society.

(Bylaws of Westminster Theological Seminary in California, Section 1, p.1.) A copy of the By-Laws is submitted with this letter as Exhibit "B".)

[4] The Seminary's By-Laws, at Art. II, Section 4, p.3, state in pertinent part:

TASKS: In view of its foundational convictions and institutional characteristics WSC understands its primary *tasks* to be the following:

A. WSC's central task is to educate and form men for ordained ministries of instruction and leadership as pastors, evangelists, and teachers. The seminary seeks to prepare ordained leaders who believe and love, and who therefore strive to explore, communicate and defend, the depth and breadth of the Scripture's instruction for faith and life, summarized in the Reformed confessions.
B. WSC also furnishes training in Scripture and theology to both men and women who are preparing to serve Christ and his church in vocations other than the ordained leadership ministries, so that the whole body of Christ may be enriched through the diverse gifts bestowed by the manifold grace of God.
C. WSC supports and advances the ministries of those engaged in ordained teaching and preaching ministries by offering continuing theological education.

[5] https://www.wscal.edu/academics/degrees-and-programs.

WSC's mission, educational framework, and governing principles are shaped by the fact that the Seminary is a confessional institution committed to Reformed theology as expressed in its written confessional standards. The Seminary is controlled by the written Reformed confessional standards (i.e. the tenets) of the Reformed and Presbyterian church denominations (i.e., religious organizations) belonging to the North American Presbyterian and Reformed Council (specifically the United Reformed Churches, the Orthodox Presbyterian Church, the Presbyterian Church in America, the Associated Reformed Presbyterian Churches, and the Korean-American Presbyterian Church) and the Christian Reformed Church.[6] The Reformed Confessional standards that govern WSC and align it with these church denominations are the Westminster Confession and Catechisms in the form in which they were adopted by Westminster Theological Seminary (Philadelphia) in 1936, the Heidelberg Catechism, Belgic Confession, and Canons of Dordt as adopted by the Synod of Dordt in 1619 (with a certain commonly received revision of Article 36) (the "Confessional Standards").[7]

The Seminary is governed by a Board of Trustees made up of eighteen (18) individuals. Pursuant to the Seminary's By-Laws, the board members must have been previously recognized by election and ordination to the office of elder in one of the above confessionally Reformed denominations with which the Seminary is aligned, and they are accountable to their respective denomination for their actions and faith.[8] Further, the Seminary's By-laws also require that at least six (6) but not more than nine (9) board members must be ordained ministers of the gospel.[9] Moreover, the By-Laws require that each Board member elected to the Board of Trustees, before assuming office, must express agreement with the written Confessional Standards of the Seminary and of these denominations in the form of a written subscription to the following pledge:

> I do solemnly declare in the presence of God and of these representative members of the faculty and trustees of Westminster Seminary California (1) that I believe the Scriptures of the Old and New Testaments to be the Word of God, the only infallible rule of faith and practice; (2) that I do solemnly and *ex animo* adopt, receive, and subscribe to the confessional standards of the seminary as the confession of my faith, or as a summary and just exhibition of that system of doctrine and religious belief, which is contained in Holy Scripture, and therein revealed by God to man for his salvation; and I do solemnly promise and engage not to inculcate or insinuate anything which shall contradict or contravene either directly or impliedly, any element in that system of doctrine, nor to oppose any of the fundamental principles of that form of church government, while I continue as a member of the Board of this seminary; (3) and I pledge that, approving the

[6] ByLaws, Art. II, Section 3.A, p.2.

[7] ByLaws, Art. II, Section 2.C, p.2; ByLaws, Art. III.2), p. 4; Art. IV, Section 4, p. 5. These Confessional Standards also affirm belief that the Scriptures of the Old and New Testaments are the Word of God, the only infallible rule of faith and practice. The Confessional Standards and Scriptures are an integral part of the Statement of Faith of WSC, as stated in its ByLaws at Art. III, p. 3.

[8] ByLaws, Art. IV, Sections 1 and 2, p. 4.

[9] ByLaws, Art. IV, Section 1, p. 4.

> Articles of Incorporation of Westminster Seminary California, I will faithfully endeavor to carry into effect those articles and to promote the great design of the seminary.[10]

The board members, as elder officers in their respective churches within the aligned Reformed and Presbyterian denominations mentioned above, are also required by their church body to subscribe and be in submission to the Confessional Standards.

The faculty of the Seminary consists of the president of the Seminary, all teaching staff, the deans, and the library director. Appointments as assistant professor, associate professor, and professor entail the right to vote, and the president and library director are voting members of the faculty.[11] All voting members of the faulty whose primary teaching responsibilities are in the M.Div. programs must be persons who are ministers in confessional Reformed churches mentioned above. In addition, all voting members of the faculty, before assuming office, must subscribe to the pledge similar to that required by the Trustees and set forth in the ByLaws – in essence to the effect that they subscribe to the same Confessional Standards.[12] The faculty is responsible to the Board of Trustees through the president.[13]

C. A RELIGIOUS EXEMPTION IS WARRANTED.

Application of Title IX and certain regulations promulgated pursuant to it would conflict with the religious tenets of the Seminary and the denominations with which it is aligned concerning marriage, sex outside of marriage, sexual orientation, homosexual behavior, gender identity, abortion, pregnancy, and divorce.

The Seminary's Board of Trustees has adopted Behavioral Standards that apply to all members of the Seminary community, including students, faculty, and staff. The Behavioral Standards are derived from the Confessional Standards and the Seminary's belief in the Scriptures. The Behavioral Standards provide in pertinent part:

> **BEHAVIORAL STANDARDS**
>
> Westminster Seminary California is a distinctively and pervasively Christian community of scholars and expects its students, employees and authorized volunteers to conform to the standards of behavior set forth in Scripture and in the historic Reformed confessions, namely the Westminster Standards (Westminster Confession of Faith and the Westminster Larger and Shorter Catechisms) and the Three Forms of Unity (the Belgic Confession, Heidelberg Catechism, and Canons of Dort) (collectively, "the Confessional Standards"). These Confessional Standards teach that authentic goodness is a state of the heart, the product of regeneration by God's Holy Spirit. We cannot judge another's heart, and therefore we cannot judge the internal thoughts and attitudes that produce good or wicked actions. But we can and must take account of the external actions that Scripture praises or condemns.
>
> Westminster Seminary California takes firm stands on matters of moral conduct as taught in the Scriptures and summarized in the Confessional Standards. For instance, the seminary affirms the sanctity of human life, including the life of an unborn child (Gen. 1:26-31; Psalm 22:10-11; 139:13-15; Gal. 1:15; WCF 4.2;

[10] ByLaws, Art. IV, Section 4, p. 5.
[11] ByLaws, Art. XI, Section 1, p. 19.
[12] ByLaws, Art. XI, Section 2, p. 19.
[13] ByLaws, Art. XI, Section 5, p. 19.

HC Q 6; BC 14). The seminary has deeply held religious beliefs that homosexual behavior, lifestyle, and cohabitation, sexual relations outside the marital relationship, prurient use of pornography, transgender and cross-dressing behavior are immoral (Gen. 1:28; 2:18; Lev. 18:22; 20:13; Rom. 1:26-27; 1 Cor. 6:9-11; 2 Cor. 12:21; WCF 24.1-2, 5-6; HC Q 108-109) These are only select examples of the seminary's positions on some contemporary questions of conduct and morals.

....

Sexual Conduct Policy
Westminster Seminary California believes that all persons, male and female, deserve to be treated with dignity, respect, honor, and love because they are created in the image of God. Sexuality is a good gift from God that enhances the whole of life, yet, for our benefit, God has provided boundaries for the expression of human sexuality. Westminster Seminary has deeply held religious beliefs, based upon biblical principles and our Confessional Standards, that only marriage between one man and one woman is God's intention for the joyful fulfillment of sexual intimacy. According to the Scriptures, Christians will uphold sexual abstinence among the unmarried (1 Cor. 6:18) and the sanctity of marriage between a man and a woman (Heb. 13:4). Therefore, it is our deeply held religious belief that Scripture condemns all forms of sexual intimacy outside of marriage, such as pre-marital sex, extra-marital sex, homosexual behavior, pornography, and all other sexual relations outside the bounds of monogamous marriage between one man and one woman (Matt. 5:27-28; Rom. 1:21-27; 1 Cor. 6:9-10; Gen. 2:24; Eph. 5:31). Violation of marriage vows by unfaithfulness or unbiblical divorce displeases God and injures others. Sexual practices that are divorced from loving, covenantal marriage relationships between and a man and a woman distort God's intentions and result in sinful behavior. Not only sexual intimacy outside of marriage violates biblical standards, but so too may words, attitudes, and thoughts. We recognize that these principles may conflict with the practice or opinion of some within the larger culture. Nonetheless, Westminster Seminary California is convinced that this is God's design for human sexuality, and all members of the seminary community are expected to live within this biblical standard.

Sexual misconduct allegations will be viewed as serious and will be subject to appropriate disciplinary and other measures. Complaints will be investigated immediately and thoroughly. If it is determined that sexual misconduct has occurred, prompt and appropriate disciplinary action will be taken, up to and including termination (of an employee) and/or expulsion (of a student). The seminary will not retaliate, or permit retaliation (including terminating employment), for bringing an allegation of sexual misconduct in good faith (i.e., not frivolously, maliciously, or with vengeful intent).

....

Gender Policy It is also Westminster Seminary California's deeply held religious belief that human gender is assigned by God at birth and that birth gender may not be changed (Gen. 1:27; 5:2; Matt. 19:4). A person's expression of gender should be consistent with his or her birth gender. Westminster Seminary California reserves the right to dismiss any student [or terminate the employment of any employee] whose conduct, speech, and/or influence upon our faith community should prove to be in our judgment intractably contrary to this standard or contrary to the best interests of our students and their commitments to the seminary and to our Lord. Therefore, Westminster Seminary California will not support persistent or conspicuous displays of cross-dressing or other expressions or actions that are deliberately discordant with birth gender.[14]

In the employment context, both applicants and existing employees who perform any duties requiring teaching, imparting, or exemplifying Christian belief or practice are required to

[14] Westminster Seminary California Student Handbook, Westminster Seminary California Faculty Handbook, and Westminster Seminary California Staff Handbook. The pertinent portion of the Behavioral Standards from the Student Handbook are submitted with this letter as Exhibit "C." The pertinent portion of the Behavioral Standards from the Faculty Handbook are submitted with this letter as Exhibit "D." The pertinent portion of the Behavioral Standards from the Staff Handbook are submitted with this letter as Exhibit "E."

profess Christian faith. In addition they are required to affirm their commitment to the Seminary's written sexual standards and conduct. [15]

As is apparent from the Behavioral Standards, derived from the Confessional Standards and the Scriptures, it would not be consistent with the Seminary's religious tenets and those of the denominations with which it is aligned to comply with the provisions of Title IX and the associated regulations to the extent that they would require the Seminary to allow males and females to reside in the same housing, to visit within the housing of the opposite sex without restrictions, to allow an unmarried male and female to live together, to allow same-sex married persons to reside together, to permit same-sex married persons to be students or employees, to allow a person with gender identity issues (including but not limited to transgender persons) to be treated as a member of the gender which they have assigned themselves rather than their birth gender, or would require that the Seminary not discriminate in discipline, recruiting, admissions, financial assistance, hiring, and employment decisions in matters such as employment leaves for pregnancy, childbirth, elective termination of pregnancy, or on the basis of pre-marital sex, unmarried pregnancy, certain elective abortion, extra-marital sex, or homosexual activity, past or present; or would require that the Seminary not subject students or employees to rules of behavior, sanctions, or other treatment because of these students' or employees' characteristics or behavior in violation of the Code of Christian Conduct.

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[16] In addition, as you know, the resolution agreement[17] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[18] Accordingly, it is reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the academic and employment context. To the extent these suppositions are correct, it appears that compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of WSC and the denominations with which it is aligned.

For these reasons, Westminster Seminary California respectfully requests that your office acknowledge that the Seminary is exempt from Title IX and the following implementing

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[15] Westminster Seminary California Faculty Handbook, Westminster Seminary California Staff Handbook.

[16] 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, B-2 ("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.").

[17] 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.

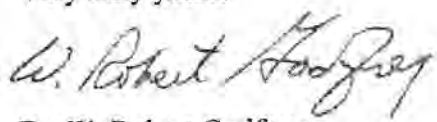
[18] *Id.*

regulations (including to the extent that they reach gender identity discrimination), and any other regulations or interpretations that would require the Seminary to treat marriage, sex outside marriage, homosexual behavior, gender identity, pregnancy, unmarried pregnancy, or elective termination of pregnancy in a manner that is inconsistent with the religious tenets of the Seminary and the denominations with which it is aligned:

- 34 C.F.R. § 106.21 (admission)
- 34 C.F.R. § 106.22 (preference in admission)
- 34 C.F.R. § 106.23 (recruitment of students)
- 34 C.F.R. § 106.31(b)(4) (different rules of behavior or sanctions; education programs or activities)
- 34 C.F.R. § 106.31(b(7) (limitation of rights, privileged, advantages or opportunities)
- 34 C.F.R. § 106.32 (housing)
- 34 C.F.R. § 106.33 (comparable facilities such as restrooms or locker rooms)
- 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 (different rules based on marital or parental status of students)
- 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, employment criteria, recruitment of employees, consideration of marital or parental status in employment decisions, and pre-employment inquiries)

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

Very truly yours,



Dr. W. Robert Godfrey
President
Westminster Seminary California

OFFICE OF THE PRESIDENT

March 6, 2015

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

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

Dear Mrs. 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 William Carey 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 respond to transgender individuals in accordance with its religious convictions. As president of William Carey University, I am the "highest ranking official of the institution," 34 C.F.R. §106.12(b), and thus qualified to seek these exemptions.

William Carey University is a non-profit institution of higher education with its main campus in Hattiesburg, Mississippi. It traces its origins to the founding of Pearl River Boarding School in 1892. In 1911 its successor, Mississippi Woman's College, became associated with the Mississippi Baptist Convention and more than a century later William Carey University stands as a Christ-centered learning community committed to developing each student in scholarship, leadership and service. William Carey University seeks to blend faith and learning with living in our diverse global community. Its identity as a Christian institution is central to all it does and teaches. Since becoming affiliated with the Mississippi Baptist Convention over one hundred years ago, William Carey University has adhered to the beliefs and practices of the Baptist faith. This commitment is stated in institutional documents dating to 1912. As a consequence of that relationship William Carey University trustees have adopted the following Statement of Faith and Practice which guides all that we do:

WCU Box 1, 498 Tuscan Avenue, Hattiesburg, MS 39401 | Office (601) 318-6495 | Fax: (601) 318-6494 | Email: pres@wmcarey.edu
www.wmcarey.edu

> William Carey University accepts the Bible as the Holy Scripture, as the inspired Word of God, and thus the ultimate authority in matters of faith, doctrine and Christian living. William Carey University further accepts the "Baptist Faith and Message" as most recently revised and adopted by the Southern Baptist Convention as an affirmation of our basic Christian beliefs and as a general statement of our faith.

The 2014-2015 student handbook, *The Translation*, clearly communicates the Christian commitment that students of William Carey University are expected to exhibit:

> The William Carey University mission statement, vision, creed and annual theme are intended to communicate an ethos that permeates who we intend to be as an institution. Policies, regulations, guidelines and other information in this handbook are provided to communicate expectations of a WCU student. It is acknowledged; however, that policies, rules, and regulations cannot govern every conceivable condition or circumstance that may arise. It is therefore stated clearly that students are to adhere to Judeo-Christian ethics and moral standards as informed by the Baptist tradition. The current version of "The Baptist Faith and Message" is a clear statement of these beliefs. Any behavior on the part of any WCU student or employee that detracts from the kind of academic community that we seek to build, or any action that is in violation of the long-held beliefs stated in "The Baptist Faith and Message" is subject to disciplinary action as stated in this handbook or determined by university personnel.

In the employment context faculty, staff and administrative handbooks state that the first consideration in hiring employees is that they demonstrate "the ideals of Christianity with integrity, consistency and participation in religious affairs." The handbooks go on to state that "The university at all times desires to fill vacancies with the best qualified persons available and with persons equipped to make value and moral judgments based upon the Biblical foundations of the Christian faith."

As you know, the Office of Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations. As you also know; however, the resolution agreement between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as members of their chosen sex. In addition the *Department of Education guidelines on sexual violence* contained in U. S. Department of Education, questions and answers on Title IX and sexual violence at 5. It is thus reasonable to suppose the ED OCR believes that such responses are required by Title IX. It is also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of William Carey University.

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

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

Thank you in advance for your consideration. I look forward to hearing from you soon.

Sincerely,

Tommy King
President and CEO
William Carey University

TK/cg

OFFICE OF THE PRESIDENT

November 30, 2015

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

Re: Claim of Title IX Religious Tenet Exemption

I direct this letter to you in my capacity as president and the highest ranking official of William Carey University, located in Hattiesburg, Mississippi. The University is controlled by a religious organization. I submit the following statement in order to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, and which is the subject of 34 C.F.R. 106.12. This statement is in lieu of any previous statements provided to you by the University on this subject.

William Carey University is a Southern Baptist institution of higher education. It is a Mississippi nonprofit corporation.

The College is controlled by The Mississippi Baptist Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Mississippi. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Restated Articles of Incorporation, which I enclose, The Mississippi Baptist Convention controls the University by electing the University's board of trustees who govern the institution.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), (§703(e)(2)) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society."

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(See, for example, the decision of the United States Circuit Court of Appeals; Eleventh Circuit, regarding our sister Alabama Southern Baptist University in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.

I identify those provisions to include:

Admissions:
34 C.F.R. § 106.21 and § 106.22 including but not limited to 106.21(b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc.);
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 etc.);
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);
34 C.F.R. § 106.39 (governing health and insurance benefits);
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 of measuring skills);

Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of martial or parental status in employment decisions);
34 C.F.R. § 106.60 (governing pre-employment inquiries); and
34 C.F.R. § 106.61 (governing sex as bfoq).

I enclose the University's Statement of Faith and Practice which reflects the University's understanding of the Convention's expectations of the University arising out of the Convention's

religious tenets. The Bible is accepted as the ultimate authority in matters of faith, doctrine, and Christian living.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the Bible teaches:

> The family is the basic unit of human society, established by the creational decrees of God. The family is rooted in God's gift of marriage, which the Creator defines as the lifelong union of one man and one woman. God has ordained the family as the foundational institution of human society.
>
> Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race.
>
> Children, from the moment of conception, are a blessing and heritage from the Lord.

The Convention has declared:

> The union of one man and one woman is the only form of marriage prescribed in the Bible as God's perfect design for the family.
>
> The Bible affirms that all human life, both born and preborn, is a person bearing the imagine of God.
>
> God's design was the creation of two distinct and complementary sexes, male and female which designate the fundamental distinction that God has embedded in the very biology of the human race.

Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

From engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, pregnancy, abortion, and sex outside marriage (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these students characteristics. Examples would include the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; and prohibition of sex outside of marriage between a man and woman;

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, pregnancy, abortion, and gender identity in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Tommy King, President

WILLIAM JESSUP
UNIVERSITY

19 April 2016

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 write in reference to the letter dated April 28, 2015, submitted on behalf of William Jessup University ("WJU"). WJU's letter requested that the Department of Education's Office for Civil Rights ("ED OCR") acknowledge that William Jessup University is exempt under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 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.

WJU has received no response to its letter, but in any event wishes to supplement its request with further information about the University's religious affiliation and related policies. As you know, 20 U.S.C. § 1681(a)(3) exempts schools that are "controlled by a religious organization if the application of [Title IX] would not be consistent with the religious tenets of such organization[.]"

WJU is a non-profit institution of higher education with its main campus in Rocklin, California. William Jessup and his wife opened San Jose Bible College in 1939 with just fourteen students.[1] Seventy-six years later, William Jessup University, with its 1,400 students, is still a Christ-centered learning community, committed to training students for leadership and service.[2] WJU partners with the Church to transform graduates in a way that will help redeem the world[3] through carrying out Jesus Christ's saving mission.[4]

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[1] *See* http://www.jessup.edu/about/history-of-jessup/.
[2] *Id.*
[3] *See* http://www.jessup.edu/about/quick-facts/#tab_vision.
[4] *See* http://www.jessup.edu/about/quick-facts/#tab_statementoffaith.

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Christ, the divine Son of God, is the integrating center of William Jessup University and is intentionally at the core of all that WJU is and does.[5] The University exists to prepare Christians for leadership and service in church and society, through Christian higher education, spiritual formation, and directed experiences.[6] This purpose is accomplished through a highly competent and dedicated faculty, an integrated academic curriculum, and student life programs designed to strengthen faith, shape character, and nurture compassionate response in a need-filled world.

WJU is affiliated with the Independent Christian Church ("ICC") and the Restoration Movement. The Restoration Movement began in the early 19th century as an attempt to restore the New Testament church and emphasized a lack of denominational structure based on a core belief that Christianity should not be divided and that the church belongs to Christ, not to a particular hierarchal organization.[7] Due to this belief, the Restoration Movement has no national church headquarters or supreme body overseeing the churches and organizations that identify with it.

Eventually, the Restoration Movement separated into three main branches: the Churches of Christ, the Christian churches and the Christian Church (Disciples of Christ).[8] The ICC, in keeping with the Restoration Movement, avoids any appearance of association with denominationalism, and accordingly has no set creed, although certain general doctrines have emerged, primarily regenerative baptism by immersion, assembly for worship on the first day of the week, the observance of the Lord's Supper as a focal point of such worship and accepting the Bible, particularly the New Testament, as the rule of faith and practice.[9]

WJU was "birthed in the heritage of the Independent Christian Church," and, in line with the precepts of the Restoration Movement, the University explicitly indentifies itself as non-denominationally Christian.[10] WJU's bylaws also recognize its historic connection and ongoing commitment to the Restoration Movement.[11] The tenets of the Restoration Movement that are woven into the University's Statement of Faith inform the entire structure and mission of the institution.[12] The members of the Board of Trustees, faculty, employees and volunteers are required to subscribe to the University's Statement of Faith,[13]

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[5] *See* http://www.jessup.edu/wp-content/uploads/2013/07/15.0CommunityCovenant_v3.pdf.
[6] *See* http://www.jessup.edu/about/quick-facts/#tab_mission.
[7] *See* http://en.wikipedia.org/wiki/Restoration_Movement; *see also*, Jessup, Bryce, "The History of the Restoration Movement."
[8] *Id.*
[9] *Id.*
[10] William Jessup University Student Handbook, page 5.
[11] Amended and Restated Bylaws for William Jessup University, a California Non-Profit Religious Corporation, Section 2(b).
[12] For a discussion on the Church's principles, *see, e.g.*, Lawson, LeRoy, "What Kind of Church is This?" *adapted from*, The Family of God, Standard Publishing, 1980, available at: www.cctoday.com/who/our_roots.asp.
[13] Amended and Restated Bylaws for William Jessup University, a California Non-Profit Religious Corporation; Articles of Incorporation of William Jessup University, Article VI.

which incorporates the ideals of the ICC and Restoration Movement, including those laid out in Thomas Campbell's Declaration and Address, one of the Movement's foundational documents. Further, members of WJU's governing board must be committed to maintaining the principles and values of the Restoration Movement.[14]

WJU also receives significant financial assistance through its connection to the Restoration Movement. More than half of the annual donations received by WJU from churches come from those affiliated with the ICC and Restoration Movement. WJU also receives loans from the Church Development Fund, Inc. ("CDF"), an organization devoted to assisting churches and Christian organizations that are part of the Restoration Movement.[15]

Additionally, WJU is affiliated with the North American Christian Convention ("NACC"), an annual gathering of Restoration Movement churches,[16] maintaining a presence at every meeting of the NACC, and WJU's president serves on the NACC's Continuation Committee. CrossLink International, a website dedicated to connecting the people and ministries of the Restoration Movement lists WJU as one of its "Restoration Movement Colleges."[17]

The Board of Trustees and the University submit themselves to the Bible and to these historic expressions of its doctrine and seek to express positions that are in accord with those standards. Therefore, consistent with these theological standards, WJU's governing board developed a policy on human sexuality.[18]

As you know, ED OCR has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[19]

And as you also know, the resolution agreement[20] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit

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[14] Amended and Restated Bylaws for William Jessup University, a California Non-Profit Religious Corporation, Section 2(b).
[15] *See* www.cdfonline.org/about/background.
[16] *See* www.naccthecconnectingplace.org.
[17] *See* http://www.crosslink.org/LocateCollege.php.
[18] *See* http://www.jessup.edu/wp-content/uploads/2013/07/17.0HumanSexualityPositionPaper_v7-KTSedits-2.pdf. *See* Letter from John Jackson to Catherine Lhamon re Request for Religious Exemption from Certain Applications of Title IX, dated April 28, 2015, pages 2-3, for more details.
[19] 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.")
[20] 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.

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.[21] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX.

It is also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by ED OCR to reach transgender discrimination, would be inconsistent with the religious tenets of the University, as we noted in our original letter.[22]

In addition to gender identity, there are two other bases for exemption that WJU now seeks. First, consistent with historic understanding of the Holy Scriptures and the ICC tradition, WJU affirms the following regarding sexual conduct:

1. Humans are "fearfully and wonderfully made" in the image of God, strategically and purposefully as the biological gender with which they were born.
2. God created humans as sexual beings—male and female—to reflect His image.
3. God designed heterosexual union between a male and female, as husband and a wife respectively, as His good and perfect gift to reflect the complementary relationship between Christ and His Church, and this is the model for healthy human sexual relationships.
4. Sexual intimacy is only appropriate within the context of a lifelong commitment in a faithful, monogamous, heterosexual marriage between one biological male and one biological female regardless of how current state or federal law defines marriage. We consider anything beyond this as sin and contrary to the teaching of Scripture.
5. Members of the University community are called to steward the good gift of human sexuality, consistent with the convictions expressed above.[23]

The University, in service to the Church, welcomes those of professed Christian faith who experience same sex attraction. But, WJU also, consistent with the Christian church tradition (and its origins in the Restoration Movement), 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

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[21] *Id.*

[22] *See* Letter from John Jackson to Catherine Lhamon re Request for Religious Exemption from Certain Applications of Title IX, dated April 28, 2015.

[23] *See* http://www.jessup.edu/wp-content/uploads/2013/07/17.0HumanSexualityPositionPaper_v7-KTSedits-2.pdf.

VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of sexual orientation.[24]

It is conceivable that ED 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 WJU's theological commitments. WJU, therefore, also seeks exemption on this basis out of an abundance of caution.

Second, "consistent with both the teaching of Scripture and the Christian church tradition (and its origins in the Restoration Movement)" on the value of life, WJU in affirms the following with respect to the sanctity of human life:

> We hold three foundational assumptions:
> - Human life is uniquely sacred from conception to the grave.
> - The sanctity of life is among the broadest and most inclusive of our moral obligations to other human beings.
> - Life is precious and in God's hands.
>
> Therefore, we believe that:
> - The intentional destruction of innocent human life is unbiblical and contrary to God's will.
> - All human beings, at all stages of existence, with every quality of experience, reflecting every type of human diversity, and encompassing every possible quality of relationship have worth and dignity in God's eyes that cannot be measured and should not be violated.
> - The university desires to be a community that is committed to engaging in dialogue about human life issues with humility, sensitivity, compassion, and prayerfulness.[25]

Accordingly, WJU requests that your office take into account the above information about WJU's religious affiliation, and acknowledge that WJU is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination and to the extent they restrict the University's freedom to apply and enforce its Sanctity of Human Life policy):

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)

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[24] *See* http://www.eeoc.gov/decisions/0120133080.pdf.
[25] *See* William Jessup University, Community Covenant Chapter on Sanctity of Human Life.

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,

John Jackson, Ph.D.
President, William Jessup University

WILLIAM JESSUP
UNIVERSITY

April 28, 2015

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

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

Dear Ms. Lhamon:

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

WJU is a non-profit institution of higher education with its main campus in Rocklin, California. William Jessup and his wife opened San Jose Bible College in 1939 with just fourteen students.[1] Seventy-six years later, William Jessup University, with its 1,400 students, is still a Christ-centered learning community, committed to training students for leadership and service.[2] WJU partners with the Church to transform graduates in a way that will help redeem the world through carrying out Jesus Christ's saving mission. Christ, the divine Son of God, is the integrating center of William Jessup University and is intentionally at the core of all that WJU is and does. The University exists to prepare Christians for leadership and service in church and society, through Christian higher education, spiritual formation, and directed experiences. This purpose is accomplished through a highly competent and dedicated faculty, an integrated academic curriculum, and student life programs designed to strengthen faith, shape character, and nurture compassionate response in a need-filled world.

WJU's educational philosophy is guided by its Statement of Faith, which is embraced by all faculty and staff. The Statement affirms the key elements of the historic Christian faith, assuring consensus on the foundational tenets of the faith. (Statement of Faith attached.) WJU is committed to developing students for leadership and service through excellent academics in a Christ-centered learning community.

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[1] http://www.jessup.edu/about/history-of-jessup/
[2] *Id.*

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WJU has adopted five University learning goals that direct the implementation of the University's mission and vision to see graduates exemplify transformational leadership in the church and society around the world through the integration of their faith with learning and critical thinking. WJU students will be prepared to:

- Articulate the relevance of Jesus Christ, His teachings, and a biblical worldview to their personal and professional lives.
- Communicate effectively across cultures.
- Demonstrate critical, analytical, and creative thinking.
- Exhibit competence in their chosen disciplines.
- Engage in a lifelong pursuit of knowledge, character formation, and service to their local and global communities.[3]

WJU states its vision as follows: "The William Jessup University vision is that our graduates will be transformed and will help redeem world culture by providing notable servant leadership; by enriching family, church and community life; and by serving with distinction in their chosen career." (Vision Statement attached.) It articulates its mission as follows: "In partnership with the Church, the purpose of William Jessup University is to prepare Christians for leadership and service in church and society, through Christian higher education, spiritual formation, and directed experiences." (Mission Statement attached.)

On February 6, 2015, WJU's Board of Trustees adopted a policy on human sexuality. It reads in pertinent part as follows:

> We believe that:
> 1. Humans are "fearfully and wonderfully made" in the image of God, strategically and purposefully as the biological gender with which they were born.
> 2. God created humans as sexual beings—male and female—to reflect His image.
> 3. God designed heterosexual union between a male and female, as husband and a wife respectively, as His good and perfect gift to reflect the complementary relationship between Christ and His Church, and this is the model for healthy human sexual relationships.
> 4. Sexual intimacy is only appropriate within the context of a lifelong commitment in a faithful, monogamous, heterosexual marriage between one biological male and one biological female regardless of how current state or federal law defines marriage. We consider anything beyond this as sin and contrary to the teaching of Scripture.
> 5. Members of the University community are called to steward the good gift of human sexuality, consistent with the convictions expressed above.

[3] 2014-2015 WJU Course Catalog, p. 13, http://www.jessup.edu/files/academics/registrar/docs/catalogs/2014-2015Catalog.pdf

(Genesis 1:26-28; Matthew 19:4-9; Ephesians 5:31-32; Hebrews 13:4; Mark 10:4-12)

WJU has also adopted the following lifestyle standards:

We believe that:

1. In our sin nature we can experience frailty, ambiguity and perplexity in various areas of human sexuality, including but not limited to sexual identity and sexual orientation.
2. God's redemptive love can transform us in all areas, including how we experience our sexuality and gender.
3. Individuals have the ability to choose their behavior and decide how they wish to experience and express their sexuality and gender.
4. Some individuals may struggle with their gender identity and wish to explore living as a particular gender other than that with which they were biologically created. While we support any individual in their struggle with sexual identity, we do not affirm any decision to identify as a gender other than their biological one, including but not limited to a decision to pursue a medical course of action to pursue a medical course of action to physically change one's biological gender.

(Titus 1:12; 1 Peter 1:13-15)

In the employment context, both applicants and existing employees are required to affirm their commitment to WJU's Community Covenant. (Community Covenant attached.)

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.[4] And as you also know, the resolution agreement[5] between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen sex.[6] It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title

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[4] 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.")

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

[6] *Id.*

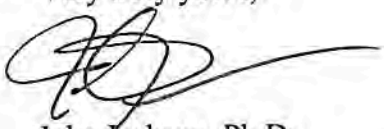
IX, as interpreted by ED OCR to reach transgender "discrimination," would be inconsistent with the religious tenets of WJU.

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

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

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

Very truly yours,



John Jackson, Ph.D.
President
William Jessup University

WILLIAMS
BAPTIST COLLEGE

To: Ms. Catherine E. Lhaman
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

From: Dr. Tom Jones

Date: 11/17/2014

Re: Claim of Title IX Religious Tenet Exemption

I am President of Williams Baptist College. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the College the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. 1681, 1682, and which is the subject of 34 C.F.R. 106.12.

Williams Baptist College is a Southern Baptist institution of higher education. It is an Arkansas nonprofit corporation whose principal office address is 60 West Fulbright Avenue, Walnut Ridge, Arkansas 72476. I enclose the Charter and Bylaws of the University.

Williams Baptist College is owned and operated by a religious organization. That organization is the Arkansas Baptist State Convention. This Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Arkansas. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Charter and Bylaws, the Arkansas Baptist State Convention controls the College in part by exercising its right to select the entire membership of the board of directors of the College, the governing body of the College.

The Convention's authority over the College constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2, § 703(e)(3) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Southern Baptist university in *Killinger v. Samford University, 113 F. 3d 196 (1997)).*

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This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.

I identify those provisions to be:

Admissions:
34 C.F.R. § 106.21 including but not limited to (b)(iii) (governing differential treatment on the basis of sex in admissions); and (c) (governing admissions prohibition on the basis of marital or parental status).
Recruitment:
34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).
Education Programs or Activities:
34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), and (b)(7) (otherwise limiting any person in the enjoyment of any right, etc);
34 C.F.R. § 106.32 (governing housing);
34 C.F.R. §106.33 (governing comparable facilities such as restrooms and locker rooms);
34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and
34 C.F.R. § 106.41 (governing athletics);
Employment:
34 C.F.R. § 106.51 (governing employment);
34 C.F.R. § 106.52 (employment criteria);
34 C.F.R. § 106.53 (recruitment);
34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
34 C.F.R. § 106.60 (governing pre-employment inquires).

The mission of the College is stated as follows:

> Williams' mission is to provide an excellent, holistically Christian, liberal arts education, while compassionately shaping students lives.

Southern Baptist religious tenets have been described most extensively and most recently in *The Baptist Faith and Message* 2000, a statement of faith adopted by the Convention. That statement is attached.

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In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the following statements are illustrative:

"Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race..... Children, from the moment of conception, are a blessing and heritage from the Lord." XVII The Family, The *Baptist Faith and Message* 2000.

"Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation." III Man, *The Baptist Faith and Message* 2000. (The Southern Baptist Convention elaborated on this tenet most recently in 2014 by the adoption of a resolution "On Transgender Identity." It is attached. That resolution was likewise adopted by the Arkansas Baptist State Convention.)

"Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography..... We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death." XV The Christian and the Social Order, *The Baptist Faith and Message* 2000.

The College's policies are rooted in these religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the College:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution, the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex, prohibition of sex outside of marriage between a man and a woman, and sanctions as the result of pregnancy and abortion;

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From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee characteristics.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

Dr. Thomas O. Jones
President
Williams Baptist College

cc: Mr. James P. Guenther, Guenther, Jordan & Price

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