



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

Re: Clarks Summit University's Request for Title IX Religious Exemption

Dear Ms. Lhamon,

As the "highest ranking official" (34 C.F.R. § 106.12(b)) of Clarks Summit University (CSU), 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 the University is exempt from certain aspects of Title IX of the Education Amendments of 1972, as Title IX is apparently interpreted by the Department of Education (DOE).¹ This exemption extends to CSU to the extent that the Act and its applicable regulations are interpreted to curtail CSU's freedom to act in accordance with its religious convictions. The legal theories underlying the allegations in the complaint that you have forwarded to us imply that Title IX contains standards that conflict with certain Christian teachings and standards of the University in relation to sexuality and gender, as specified in more detail below.

I. Clarks Summit University is controlled by a religious organization in the form of its religiously defined and spiritually committed board of trustees.

Title IX implementing regulations recognize that an educational institution is exempt from its restrictions insofar as "it is controlled by a religious organization" (34 CFR Sec. 106.12(3)) that has religious beliefs contrary to those restrictions. The identity of the controlling organization can either be an external church organization, or it can be the board of trustees itself, if the board has a sufficiently specific religious identity and set of beliefs.

For over 30 years, DOE has maintained that Title IX does not contain "an independent requirement that the controlling religious organization be a separate legal entity than the educational institution." Direct Grant Programs, 85 Fed. Reg. 59,916, 59,956 (Sept. 23, 2020). The agency formalized this interpretation in a rule promulgated in 2020, which said that if an "educational institution is a school or department of divinity," that is "sufficient to establish that [it] is controlled by a religious organization." 34 C.F.R. § 106.12(c). The validity of this long-

¹ We also wish to thank your lead Investigator on our case, Josh Galiotto, for agreeing to a 30-day extension beyond the initial February 4 deadline for the response to the pending Title IX complaint, once this letter is filed.

standing interpretation of Title IX has been recently recognized by the U.S. Court of Appeals for the Ninth Circuit.²

We believe the CSU board of trustees qualifies as a controlling religious body for purposes of Title IX and implementing regulations. The University was founded in 1932 as Baptist Bible Seminary and later changed its name to Baptist Bible College. Now, as Clarks Summit University, its original foundation as a school based on the Bible and biblical principles still remains the same, overseen by a religiously defined and spiritually committed board of trustees.

CSU has from its beginning taught that the Bible is authoritative for all matters of faith and life. Its mission statement proclaims:

"Founded in 1932 in Johnson City, New York, Clarks Summit University is an educational institution that embraces its Baptist heritage. With a commitment to biblical authority, Clarks Summit University serves undergraduate, graduate, and seminary students by preparing them for lives of significant service for the cause of Jesus Christ in a variety of ministries and careers."

"As a learning community dedicated to biblical higher education, Clarks Summit University strengthens the church of God and influences society by cultivating an environment that promotes academic excellence and Christlikeness. Students are challenged to pursue biblical truth and wisdom, to embrace a Christian worldview, and to develop professional competence and relational skills."

The identity and beliefs of the board of trustees are critical to the religious mission of CSU. Accordingly, the Board Policy Manual, at Art. 3, Sec 2, specifies that "only individuals who are members in good standing of churches whose teaching is, in word and spirit, in harmony with the University's Articles of Faith and Standard of Conduct, who subscribe to the Bylaws of the institution, and who manifest a sustained interest in the work of the institution shall be eligible for membership on the Board of Trustees."

The board members are expected to sign their support for the Articles of Faith on a yearly basis. These Articles include the following belief commitments:

"We believe that humanity was created in the image of God and retains that image after the fall. All humans, from the time of their conception, including those who are physically or mentally challenged, have value as image-bearers. Therefore, we affirm the dignity of human life. All forms of abuse, slander, dehumanization, or oppression toward fellow humans is an affront to God's likeness, which has been stamped upon all individuals."

² *Maxon v. Fuller Theological Seminary*, DC No. 2:19-cv09969-CBM-MRW (9th Cir. Dec. 13, 2022) (unpublished).

"We believe God created two and only two distinct, unchangeable sexes, male and female, as evidenced by biological gender. Based on that creation model, God designed marriage to be a one-flesh union of only one male and only one female. Marriage is the only divinely sanctioned relationship for sexual intimacy."

For all these reasons, the CSU board is itself a "religious organization," and it controls CSU. The board also ensures that the beliefs outlined above are implemented in the governing policies and practices of the University, as detailed below.

II. CSU is entitled to an exemption from Title IX to the extent it covers discrimination on the basis of sexual orientation and, specifically, prohibitions on same-sex romantic and/or sexual relationships.

CSU's commitment to basic, orthodox, evangelical biblical beliefs, including those regarding sexuality and same-sex relationships, is communicated and demonstrated in many ways. Each undergraduate student completes a 30-credit hour major in Biblical Studies in addition to their career major, so all students study to know the Bible. Students are involved in local Baptist and other Bible-centered churches. All students must agree to the doctrinal and lifestyle expectations of CSU.

This mission pervades CSU's entire community. The Board Policy Manual requires not only board members, but all faculty, staff and administrative officers to annually sign their agreement with the Confession of Faith:

"Our mission demands that our employees are good examples to our students, to those in the community, and to those visiting our campus. Therefore, all employees are asked to annually review the Confession of Faith and Standards of Conduct and sign that they agree with them."

The University's vision and goals affirm the mission. The vision statement summarizes, *"Clarks Summit University's Christ-centered, career-ready graduates will strengthen the church and influence society around the world."*

The University's goal statement further implements this same mission:

"Clarks Summit University provides a biblically based learning environment that guides students to:

- intellectual discipline characterized by integration of truth and wisdom,*
- spiritual maturity marked by Christlikeness,*
- professional and relational skills demonstrated by competent service to strengthen the church and influence society."*

The Confession of Faith as detailed in CSU's doctrinal statement, in turn, opens with the assertion of the foundational belief of the Bible as the true authority from which all other beliefs flow.

"We believe in the verbal and plenary inspiration of the text of the original manuscripts of the 66 books of the Old and New Testaments, which alone constitute the inerrant Word of God. We believe the Bible supports using a grammatical, historical method of interpretation in light of the progress of revelation. Thus, we believe that the Bible is the clear, sufficient, and supreme authority for all belief, life, and ministry."

Christian teaching regarding sexuality is grounded in the creation account found in the Bible, specifically, in Genesis chapters 1-3. Here, God creates two distinct yet complementary sexes, male and female, declares them both as essential to the image of God, and asserts the definition of marriage as being between one man and one woman. (Gen. 1:26-28; 2:21-25). "Thus, shall a man leave his father and his mother, and shall cleave unto his wife, and they shall be one flesh." (Gen. 2:24).

In several other places in the Hebrew Scriptures, marriage is affirmed as being a heterosexual arrangement, and same-sex behavior is repeatedly forbidden, not just for Israel, but for all peoples. (Gen. 19:1-11; Lev. 18:22; 20:13, 20-23). The New Testament likewise repeats the Edenic definition of marriage as being between a man and a woman (Mark 10:6-8; Matt. 19:5), and likewise prohibits same-sex sexual relations. (Rom. 1:24-27; 1 Cor. 6:9-11; 1 Tim. 1:10).

CSU's Confession of Faith specifically affirms these standard orthodox Christian biblical teachings on humanity and sexuality:

"We believe God created two and only two distinct, unchangeable sexes, male and female, as evidenced by biological gender. Based on that creation model, God designed marriage to be a one-flesh union of only one male and only one female. Marriage is the only divinely sanctioned relationship for sexual intimacy."

This statement is among the beliefs which all faculty, staff, administration, and trustees must sign annually.

CSU students also are informed of these religious beliefs and standards of the University and are expected to abide by them. Students sign a Community Commitment each year that reads as follows:

"Therefore, as a member of the CSU community, I promise to submit to the CSU Community Commitment and affirm that I will love God, love my neighbor, live in community, and learn discernment in all that I do for the glory of God. By signing, I also confirm that I have read the Student Handbook and commit to following the standards and guidelines outlined within."

One portion of the Student Handbook asserts:

“Clarks Summit University recognizes the significant and strategic role that sexual purity plays in the spiritual maturity of our students. Scripture refers to the issue of purity from sexual immorality as a matter of doing the will of God and pleasing God (1 Thessalonians 4:1-8).”

Following that section, the Community Commitment, through the Student Handbook, requires:

- *Students, regardless of their relationship status, must strive for moral and sexual purity in body and mind (1 John 3:3).*
- *Students are prohibited from engaging in sexual activity outside of the boundaries of biblical marriage (heterosexual monogamous marriage).*
- *Students are not to engage in and maintain same-sex romantic or sexual relationships.*
- *Clarks Summit University will not support persistent or conspicuous examples of cross-dressing or other actions that are deliberately discordant with birth gender and will deal with such matters within the biblical counseling and judicial processes of the institution.*
- *Students are prohibited from accessing pornographic or obscene material or creating links to such sites.*

In short, Clarks Summit University follows the authority of the biblical principles of sexual morality and addressed above. The University is also committed to the biblical values of love for all people and that God’s grace and mercy extends to all, allowing for repentance and grace to be exercised.

III. CSU is also entitled to an exemption with respect to its policies on gender identity and cross-dressing.³

Many of the biblical passages and policies referenced above also bear on the question of gender and gender identity. Specifically, in Genesis where it says that “God created man in his own image, in the image of God created he him; male and female created he them” (Gen. 1:27), CSU believes that God revealed the basis of gender identity as given by creation, and not by human choice.

Indeed, in the biblical account, not only were the different genders forbidden from sexual activity with the same gender, but they were also forbidden to represent themselves as the opposite gender: “The woman shall not wear that which pertains unto a man,” the book of Deuteronomy instructs, “neither shall a man put on a woman’s

³ The current Title IX case that has been brought against CSU only contains factual allegations in relation to sexual activity and does not allege or discuss claims about gender identity or representation. Thus, we do not believe that the current claimant has standing to raise issues regarding gender identity issues. CSU, however, is using this opportunity to seek an exemption in relation to both sexual activity and gender identity from regulations that are contrary to its religious mission, beliefs, and identity.

garment.” (Deut. 22:5). The New Testament likewise speaks negatively of men acting in effeminate roles (1 Cor. 6:9), and likewise explicitly forbids women taking on the role of men in sexual and gender relationships. (Rom. 1:26).

In light of these passages, the CSU’s Community Commitment, through the Student Handbook, says that:

“Clarks Summit University will not support persistent or conspicuous examples of cross-dressing or other actions that are deliberately discordant with birth gender and will deal with such matters within the biblical counseling and judicial processes of the institution.”

In short, it is clear that OCR’s apparent position on cross-dressing and other sexual identity-related issues is not consistent with the religious tenets of Clarks Summit University.

For all these reasons, I request that your office acknowledge that the University is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations to the extent that they might be interpreted to curtail CSU’s freedom to respond with theologically and biblically founded convictions on issues of sexuality and gender.

IV. CSU is entitled to an exemption from several specific regulations to the extent they cover sexual orientation and gender identity.

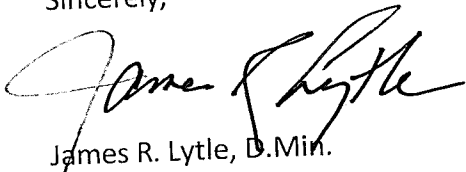
In light of the above discussion, Clarks Summit University requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations to the extent that they are interpreted to reach gender identity or sexual orientation discrimination in a manner that restricts CSU’s freedom to apply and enforce its policies on human sexuality and its Community Commitment:

- 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 Program)
- 34 C.F.R. § 106.32 (Housing)
- 34 C.F.R. § 106.33 (Comparable Facilities)
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- 34 C.F.R. § 106.35 (Access to Institutions of Vocational Education)
- 34 C.F.R. § 106.36 (Counseling)
- 34 C.F.R. § 106.37 (Financial Assistance)
- 34 C.F.R. § 106.38 (Employment Assistance to Students)
- 34 C.F.R. § 106.39 (Health and Insurance Benefits and Services)
- 34 C.F.R. § 106.40 (Marital or Parental Status)
- 34 C.F.R. § 106.41 (Athletics)
- 34 C.F.R. § 106.42 (Textbooks and Curricular Material)

- 34 C.F.R. § 106.43 (Standards for Measuring Skill or Progress in Physical Education Classes)
- 34 C.F.R. § 106.51-61 (Relating to Employment)

Thank you for your consideration of this request. If you require any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Lytle". The signature is fluid and cursive, with the first name "James" being the most prominent part.

James R. Lytle, D.Min.
President

cc. Josh Galiotto, OCR Investigator

James R. Lytle



538 Venard Road
Clarks Summit, PA 18411

ClarksSummitU.edu

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