



OFFICE OF THE PRESIDENT  
*Dr. William Blocker*

August 31, 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 the College of Biblical Studies 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 the College of Biblical Studies, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

The College of Biblical Studies ("CBS" or "the College") was founded in 1976 as Houston Bible Institute to provide biblical and theological training for Christian leaders, particularly those in inner-city minority groups.<sup>1</sup> CBS's mission is to provide "biblically based education for the Body of Christ, with primary focus on African-American and other ethnic minority groups, and equips its students with a biblical worldview for Christian service to the church and the world."<sup>2</sup> The College offers "college-level training in Bible and theology" for students who are unable to receive such education in a more conventional full-time or residential program.<sup>3</sup> Accordingly, CBS affirms that it falls under the first category of OCR's definition of an institution that is controlled by a religious organization,<sup>4</sup>

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<sup>1</sup> See <http://cbshouston.edu/history>.

<sup>2</sup> See <http://cbshouston.edu/mission>.

<sup>3</sup> See *id.*

<sup>4</sup> See <http://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/rel-exempt-pr.html>.

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as it exists to prepare students to become ministers and to teach theological subjects, in contradistinction to the broader focus of a religious liberal arts college.<sup>5</sup>

Additionally, CBS is controlled by its religious board of trustees, who must affirm the CBS doctrinal statement.<sup>6</sup> The Board of Trustees and the College understand the Bible to be the infallible, written Word of God: "It should be noted that the saving grace of the Lord Jesus Christ and the belief in the inerrancy of the Scriptures in their original writings underlies the purpose of the school[.]"<sup>7</sup>

The College relies on and requires all Board Members, regents of the College, faculty, administrators, and staff to affirm the following doctrines, as foundational to all that it does, including what is taught in its classes:

Every word in the original writings of the Holy Scriptures is inspired of God and without error (2 Tim. 3:16; 2 Pet. 1:21; 1 Cor. 2:13).

The Godhead exists eternally in three persons: the Father, the Son and the Holy Spirit; and these three are one God (Gen. 1:1; Jn. 10:30, 4:24; Deut. 6:4; Matt. 28:19; 2 Cor. 13:14).

Man was created in the image and likeness of God, but in Adam all mankind fell into sin with the result that all men are sinners, hopelessly sinful in themselves, apart from the grace of God (Gen. 1:27, 9:6; Rom. 5:12, 3:23; Eph. 2:1).

The Eternal Son of God became incarnate in the Lord Jesus Christ, who is true God and true man, having been born of the virgin Mary (Jn. 1:1, 14, 18; Matt. 1:21-23; Heb. 1:6, 8; 1 Jn. 5:20; 1 Tim. 2:5).

Salvation is received by faith alone in Christ, who died in substitutionary sacrifice for our sins and rose again (Acts 4:12; 13:38, 39; 1 Cor. 15:1-4; Rom. 4:4, 5; 5:1).

Every true believer is promised positional and ultimate sanctification with the possibility of progressive development in life spiritually (progressive sanctification) (Heb. 10:10, 14; Jn. 17:17; Eph. 5:26, 27; 1 Thess. 4:3, 4; 1 Jn. 3:2).

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<sup>5</sup> See College of Biblical Studies Constitution, Article II, page 1. See also <http://cbshouston.edu/academic-programs>.

<sup>6</sup> CBS Constitution, Article II, pages 2-3.

<sup>7</sup> CBS Constitution, Article II, page 3.

All who are born of the Spirit through faith in Christ can have the assurance of salvation and are eternally secure in Christ (Rom. 5:1; Jn. 3:5, 6; 1 Jn. 5:13; Jn. 10:28, 29; 17:12; 2 Tim. 1:12).

The Holy Spirit is the Third Person of the Godhead, who regenerates, indwells, baptizes and seals all true believers in Christ and fills those yielded to God (Matt. 28:19; Jn. 1:13; 3:3-6; Titus 3:5; 1 Cor. 2:12; 6:19; Rom. 8:9; 1 Cor. 12:13; Eph. 4:30).

The Church, embracing all true believers, is the body and bride of Christ, formed by the baptism of the Holy Spirit (Eph. 1:22, 23; 5:24, 25, 30; 1 Cor. 12:12, 13, 27).

Christians are called to a holy life of service and testimony in the power of the Holy Spirit, which service includes the propagation of the Gospel message to the whole world. There is promised reward in heaven for faithfulness in such service (1 Pet. 1:15, 16; Jn. 12:25, 26; Acts 1:8; 1 Cor. 3:12-15).

The scriptural ordinances of baptism and the Lord's Supper are for all true believers in Christ (Matt. 28:19, 20; Mk. 16:15, 16; Acts 8:12, 36-38; 9:18; 10:47; 1 Cor. 1:16; 11:23-26).

Angels were originally created holy but now exist as unfallen and fallen including Satan (Col. 1:16; Neh. 9:6; Ps. 143:2-5; Jude 6; Matt. 25:41; Rev. 12:9; Eph. 6:11, 12).

God has revealed different dispensations or stewardships with corresponding rules of life, of which the present dispensation is the age of grace (Eph. 3:2-6, 9-11; Col. 1:25-27; Rom. 6:14; Heb. 7:18, 19).

The imminent return of the Lord, which is the blessed hope of the Church, is to be followed in order by: the tribulation; the establishment of the reign of Christ on earth for one thousand years; the eternal state of punishment for the unsaved and the eternal state of blessing for the saved (Titus 2:13; 1 Thess. 1:10; 4:13-18; 5:4-10; Rev. 3:10; Matt. 24:21, 29, 30; 25:31; Rev. 20:1-6, 11-15; Matt. 25:46).<sup>8</sup>

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, CBS has

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<sup>8</sup> See <http://cbshouston.edu/doctrinal-statement>.

developed a statement on human sexuality (enclosed). That statement provides in pertinent part as follows:

[T]he Bible encourages Christians to understand their sexual orientation and sexual identity in the original design of God as biologically created at birth: male and female with distinct differences but equal value in God's eyes (Genesis 1:27, 5:2; 1 Peter 3:7). In fact, a Christian should find his or her primary identity in Christ as a child of God (John 1:12; Galatians 2:20; Colossians 3:1-3, 1 John 3:1-2). As a result, the Bible forbids individuals from adopting a gender identity that conflicts with the biological sex they received from birth and to affirm others who accept the sex they were biologically assigned at birth (Deuteronomy 22:5; 1 Corinthians 6:9, where use of *μαλᾱκοὶ* means "effeminate" or indicating a rejection of one's God-given, biological sex). The Bible teaches that exchanging the natural functions of the God-given sex for unnatural functions (including same-sex attraction or desiring to convert to another gender) is a result of sin (Romans 1:26-27). The Bible recognizes only two sexes — male and female — and a trust in the sovereignty of God will lead Christians to display and adopt only the sex God biologically gave them at birth (Genesis 5:2; Matthew 19:4). To do otherwise through sex reassignment, transvestite, transgender, gender-fluid, or nonbinary "genderqueer" and related acts or conduct is to question God's providence and sovereignty.<sup>9</sup>

As you know, the Department of Education's Office for Civil Rights (OCR) has issued a "Dear Colleague" letter jointly with the Department of Justice, which states that Title IX's prohibition on sex discrimination "encompasses discrimination based on a student's gender identity, including discrimination based on a student's transgender status."<sup>10</sup> That is, a school "must not treat a transgender student differently from the way it treats other students of the same gender identity."<sup>11</sup>

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.<sup>12</sup>

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<sup>9</sup> College of Biblical Studies, *Biblical Statement on Human Sexuality*, pages 2-3.

<sup>10</sup> 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>.

<sup>11</sup> *Id.* at page 2.

<sup>12</sup> *Id.*

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.<sup>13</sup>

Moreover, the resolution agreement<sup>14</sup> between the Arcadia Unified School District and OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.<sup>15</sup> It is thus reasonable to suppose that OCR believes that Title IX requires such responses.

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

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 CBS 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,<sup>16</sup> the College affirms the following regarding sexual conduct:

Some sexual actions are always prohibited in the Bible including, but not limited to, fornication, adultery, homosexuality, transgender identification, bestiality/zoophilia, prostitution, rape, and sinful lust in all forms. For instance, sex outside of marriage is always prohibited, especially for the Christian whose body has been bought by the price of Christ's blood and is the temple of the Holy Spirit (1 Corinthians 6:13-20; Hebrews 13:4).

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<sup>13</sup> 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.")

<sup>14</sup> 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>.

<sup>15</sup> *Id.*

<sup>16</sup> See <http://cbshouston.edu/doctrinal-statement>.



Furthermore, the Bible discourages Christians from associating with believers who are involved in unrepentant sexual immorality (Psalm 50:16-23; 1 Corinthians 5:9-11, 15:33).

CBS believes that God gives two life-enhancing options for human sexual behavior according to the Bible: (1) a regular, active, biblical conjugal "one flesh" marital sexual union of one man and one woman to help overcome the temptations of the evil one (1 Corinthians 7:3-5), and (2) celibacy (Isaiah 56:3-5; Matthew 19:10-12; 1 Corinthians 7:7, 26-28). Those who cannot control their sexual urges are encouraged to pursue biblical marriage unless they are prevented biblically and/or situationally by God from doing so (1 Corinthians 7:2, 9). Both celibacy and marriage are gifts from God by His will, with their own unique blessings and challenges, and should be received with great joy and faith. Celibacy and faithful singleness as well as godly monogamous marriage are to be celebrated and affirmed within the College.<sup>17</sup>

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 that the ban on sex discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination based on sexual orientation.<sup>18</sup>

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 CBS. The College, therefore, also seeks exemption on this basis out of an abundance of caution.

In accord with its theological beliefs about gender roles, the College has adopted a Statement on Gender Roles (enclosed), which provides in part:

We believe men and women are equally valuable and responsible for spreading the Gospel of Jesus Christ and furthering His instruction to the church. Men and women are called to live a godly life in private and public by God's grace. In love, God has established distinct roles and responsibilities

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<sup>17</sup> CBS Biblical Statement on Human Sexuality, pages 2, 4.

<sup>18</sup> See <http://www.eeoc.gov/decisions/0120133080.pdf>.

for women and men. We affirm the Bible's teaching on biblical gender roles, which teaches men and women are equal in value but different in their functions within the home and the church.

We affirm that it would not be biblically appropriate for a woman to have the same authority as a man in terms of leadership and the pastoral role in the local church. We affirm this is a function that has been sovereignly assigned to men based on 1 Tim. 2:11-15; 3:1-2; Tit. 1:6, and 1 Cor. 14:34-36.<sup>19</sup>

Due its function of providing theological training for Christian leaders, the College may restrict some employment positions, program admissions, and class offerings by sex:

The College acknowledges that the purpose of Paul's letter is to instruct Timothy and other believers about how to conduct themselves within the local church (1 Tim. 3:15). 1 Timothy 2:11 does not directly address women teaching in parachurch organizations or in lay responsibilities such as Sunday School classes. Complementarian theologians disagree on how this text would apply to such situations and as a result CBS desires to pursue unity in not making a direct statement on those types of situations. However, since CBS desires to model 1 Timothy 2:11 for its students, it reserves the right to determine how to apply to these principles to unique situations (including but not limited to curriculum, class content and availability, employment and all other issues) as a college that prepares ministers.<sup>20</sup>

Therefore, the College also seeks exemption from Title IX and its regulations to the extent that they curtail the College's freedom to act in accordance with its theological commitments regarding gender roles.

Lastly, consistent with a biblical interpretation of the value of life, College's Statement on the Sanctity of Human Life (enclosed) provides in pertinent part:

Consistent with our mission of providing biblically based education, the College embraces the Bible as the authoritative source of all beliefs about the sanctity of human life (John 17:17; 1 Corinthians 2:12-13; 2 Timothy 3:16-17). The Bible portrays human life as sacred with inherent value because humans are created in the image of God (Genesis 1:26-27, 5:1-2; 1 Corinthians 11:7; James 3:9).

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<sup>19</sup> CBS Biblical Statement on Gender Roles, pages 1-2.

<sup>20</sup> Statement on Gender Roles, page 2, footnote 2.

As a result, the College of Biblical Studies does not endorse the taking of a life without just cause including, but not limited to, murder, abortion, euthanasia, and suicide.

Abortion is contrary to the biblical mandate for mothers to protect their children, including those who are in the womb (Proverbs 31:27-28; Isaiah 49:15; 66:13). The Bible declares that life begins at conception and that abortion, even when the infant will be born with disabilities or infirmities, is an unnecessary taking of that life (Judges 13:2-7; Job 10:8-12; Psalm 139:13-16; Isaiah 49:1,5; Jeremiah 1:4; Luke 1:44; Ephesians 1:4). Forms of contraception that have the same effect as an abortion (e.g., morning after pill, abortifacients) should also be avoided. Other forms of contraception should be considered by married couples only after prayer and consultation with appropriate medical and pastoral staff. Forms of *in vitro* fertilization in which the human embryos and/or fertilized eggs are destroyed and not preserved should also be avoided.<sup>21</sup>

CBS 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 Gender Roles and 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)
- 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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<sup>21</sup> See College of Biblical Studies, Statement on the Sanctity of Human Life, pages 1-2.