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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

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 Statement⁸ 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

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

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>

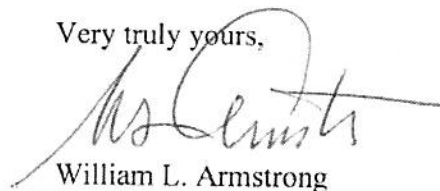
agreement¹⁹ between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires the school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of their chosen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

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