



ORU

MAKE NO
LITTLE PLANS
HERE

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
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**VIA ELECTRONIC MAIL AND
FEDERAL EXPRESS DELIVERY**

Re: Request of Oral Roberts University for Recognition and Extension of Exemption
from Certain Title IX Requirements

Dear Ms. Lhamon,

I hereby request, under 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12(a), recognition and extension of Oral Roberts University's ("ORU") existing religious exemption from certain interpretations and applications of Title IX of the Education Amendments of 1972 ("Title IX") which would violate ORU's religious tenets. As President of ORU, I am the "highest ranking official of the institution," 34 C.F.R. §106.12(b), and thus qualified to seek these exemptions.

In 1977, ORU sought a religious exemption under Title IX from the Office for Civil Rights of the Department of Education ("DOE"). ORU received written confirmation from the DOE of recognition of its religious exemption in 1985.¹ In light of certain recent developments regarding the scope and application of Title IX, including DOE guidance that "sex" discrimination prohibited by Title IX includes gender orientation and gender identity, ORU is submitting this request to confirm its existing religious exemption and to assure the extension of the religious exemption to portions of Title IX that may be interpreted, applied and/or enforced in a manner that violates ORU's religious tenets.

¹ As you will note from the 1985 DOE exemption letter, ORU's controlling religious authority at that time was Oral Roberts Evangelistic Association ("OREA"). In 2008, ORU and OREA separated on all legal, financial, and organizational matters. Since 2008, the ORU Board of Trustees, while embracing the same core theological and religious beliefs as OREA, has been ORU's controlling and ultimate power and authority on all matters, including religion and theology.

Dr. William M. Wilson | President

ORAL ROBERTS UNIVERSITY

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At the outset, it is important for the DOE to understand that ORU wholeheartedly supports, promotes and complies with Title IX regarding granting equal opportunities in educational programs as well as in employment to members of both sexes. ORU's religious exemption and this letter is limited to the extent the interpretation, application and/or enforcement of Title IX would violate ORU's religious tenets.

The particular Title IX regulations for which recognition and extension of ORU's religious exemption are sought are set forth below:

<u>Code Section</u>	<u>Subject Matter</u>
34 CFR §106.21	Governing admissions;
34 CFR §106.22	Governing preference in admissions;
34 CFR §106.23	Governing recruitment of students;
34 CFR §106.31	Governing education programs or activities;
34 CFR §106.32	Governing housing;
34 CFR §106.33	Governing comparable facilities such as restrooms and locker rooms;
34 CFR §106.34	Governing access to classes and schools;
34 CFR §106.36	Governing counseling;
34 CFR §106.37	Governing financial assistance for students;
34 CFR §106.38	Governing employment assistance to students;
34 CFR §106.39	Governing health insurance benefits and services;
34 CFR §106.40	Governing different rules based on marital or parental status of students;
34 CFR §106.41	Governing athletics;
34 CFR §106.43	Governing standards for measuring skill or progress in physical education classes; and
Subpart E of 34 CFR §§106.51 – 61	Governing discrimination in employment.

The basis for ORU's request to the DOE for reaffirmation and extension of its religious exemption are summarized below.

ORU was established in 1962 as a private Christian university located in Tulsa, Oklahoma. ORU is an Oklahoma not for profit corporation and an Internal Revenue Code §501(c)(3) tax exempt entity. ORU was "founded in the fires of evangelism and upon the unchanging precepts of the Bible." See ORU's Founding Vision. ORU seeks to fulfill God's commission to its founder, Oral Roberts, to "Raise up your students to hear My voice, to go where My light is dim, where My voice is heard small, and My healing power is not known, even to the uttermost bounds of the earth. Their work will exceed yours, and in this I am well pleased." ORU's mission is "To build Holy Spirit-empowered leaders through whole person education to impact the world with God's healing." See ORU's Mission Statement.

ORU's fulfillment of its mission includes providing a "whole person education":

...The University is founded upon and shall forever be dedicated to the promulgation and preservation of Biblical Christianity and academic excellence. The University is a Christian institution with the distinctive Charismatic dimension of the Holy Spirit. The expression of the gifts and fruit of the Holy Spirit is to be encouraged.

The University seeks to educate the whole person with balanced emphasis placed on the development of mind, spirit, and body, harmonizing knowledge, skills, and attitudes with faith in, and commitment to, Jesus Christ as Lord and Savior, believing Him to be the only perfect, whole person who has lived.

The University is committed to the historic Christian faith of the eternal Godhead: Father, Son, and Holy Spirit who, through the new birth and indwelling of us as believers by His Spirit, is Lord of our lives now and forever. The University is committed to assist students in their quest for knowledge of their personal relationship to God, to mankind, and to the universe in which we live. Dedicated to the realization of truth as it is totally embodied in Christ and the achievement of one's potential life capacity, the University seeks to graduate an integrated person: a person spiritually alive, intellectually alert, physically disciplined in His work on earth, and living at all times in expectancy of the Second Coming of Christ...

See Amended and Restated Bylaws ("Bylaws"), Section 2.1.

ORU's religious beliefs and tenets are embedded in its on-campus Christian community as well as through its reach across the globe. ORU's diverse student body includes students from all 50 states and represents more than 90 countries across the globe. ORU offers more than 70 undergraduate degree options, 12 master's-level programs, including a master's degree through ORU's Graduate School of Theology and Ministry ("GSTM"), and two doctoral degrees.

GSTM's seminary consists of a world class faculty dedicated to educating students to prepare them to become ministers, theology professors, missionaries or enter other religious vocations.

ORU's religious beliefs are on display in the classroom, not just through a professor beginning class with prayer, but also as a result of a comprehensive curriculum that integrates faith with academic instruction. Affirming the central role of the Bible to ORU's educational endeavors, all ORU students are required to complete a number of Biblically based courses in order to receive a degree. In addition, ORU students, faculty and staff are required to attend ORU's twice a week on-campus Chapel services and are able to participate in monthly Campus Worship, missions, and other activities designed to impact the lives of people across the globe for the Kingdom of God.

ORU is governed and controlled by its Board of Trustees pursuant to statements of mission, purpose, and faith as set forth in ORU's Amended and Restated Certificate of Incorporation ("Certificate of Incorporation") as well as in ORU's Bylaws:

Section 4.1 Governing Body. The governing body of the University shall be the Board of Trustees (sometimes referred to herein as the "Board", and the individual members of the Board of Trustees are sometimes referred to herein as the "Trustees"). Except as may otherwise be provided herein, the Board of Trustees shall have and exercise all power and authority which may be given to and exercised by a board of directors of a for profit corporation under applicable law. The Board's ultimate authority is affirmed through its general, academic, and financial policymaking functions and its responsibility for the financial health and welfare of the University. The Board of Trustees shall exercise ultimate institutional authority as set forth in the University's Certificate of Incorporation, in these Bylaws, and in such other policy documents it deems to be appropriate.

See Bylaws, Section 4.1. ORU's governing documents contain professions of faith and spiritual lifestyle commitments whereby in order to qualify for election as a Trustee, an individual must:

...i. acknowledge these core beliefs:

- (1) The Bible is the expressed Word of God and is our final authority in all matters of faith and practice. (II Timothy 3.16; Psalm 119.89-91; II Peter 1.20-21).*
- (2) God, all-loving Creator of the Heavens and the earth, eternally exists in three persons: Father, Son and Holy Spirit. (Genesis 1.1,26; John 1.1-2; 4.24; Romans 1.*
- (3) Jesus is the eternal and second person of the Trinity. Though fully Divine, He became fully human. He was born of the virgin Mary and lived a sinless life. He was crucified for crimes He didn't commit, and through His resurrection, freed all people*

from the power of sin and death. He will return again, ushering in the eternal Kingdom of God. All who respond to the work and teachings of Jesus by a personal belief that issues forth in personal obedience to Jesus and His teachings will live forever with Him. (Matthew 1.18-25; John 1.1; 12.44-45; Romans 9.5; Hebrews 4.15; Ephesians 5.2; 1 Thessalonians 4.16-17).

- (4) *Salvation, a free gift from God, is God's desire for all humanity to be in right relationship with Him. In turning from a self-centered life and turning to God and accepting the work Christ accomplished in His death and resurrection, one receives new and eternal life. (John 3.16-17; 14.6; Ephesians 2.8-10; 1 Timothy 2.4; 1 John 2.2).*

ii. *acknowledge the University's spiritual commitments as set forth in the Faculty and Administration Handbook:*

- (1) *Confesses to be a child of God, redeemed by the life, death, and resurrection of Jesus Christ who has sent the Comforter, the Holy Spirit, to abide within.*
- (2) *Is open to releasing the prayer language of the indwelling Holy Spirit, as St. Paul did and taught in 1 Corinthians 14:14-15, when he said, ". . . I will pray with the Spirit, and I will pray with the understanding also," and is willing to assist others in this experience.*
- (3) *Is manifesting the fruit of the Holy Spirit (Galatians 5:22-23, 25) and is desiring the gifts of the Holy Spirit (1 Corinthians 12:1-14) as an expression of love for all people in service through a community of faith and lay witness ministry in the world.*

iii. *demonstrate a commitment to and passion for the Mission of the University; and*

iv. *possess sufficient knowledge, experience, and skills to help discharge the business, professional; and spiritual duties of the Board.*

See Bylaws, Section 4.2.

ORU draws its faculty, staff, and administration from those who hold its same religious beliefs by professing and demonstrating a strong commitment to the Lord Jesus Christ and the Bible as God's Word. An integral part of fulfilling ORU's mission is electing Trustees and hiring faculty, staff, and administration that exemplify its lifestyle and Honor Code. ORU's faculty,

staff and students sign the Honor Code pledge, which is an expression of the individual's responsibility to God and providing, in pertinent part, that:

In signing the Code of Honor I fully recognize that Oral Roberts University was founded to be and is committed to being a Christian religious ministry and that it offers a lifestyle of commitment to Jesus Christ of Nazareth as personal Savior and Lord and as an integral part of its evangelistic outreach. It is therefore my personal commitment to be a person of integrity in my attitude and respect for what Oral Roberts University is in its calling to be a Christian University...

...I will keep the HONOR CODE carefully and prayerfully. I understand that my signature below is my acceptance of the entire CODE OF HONOR and completes a contract between me and Oral Roberts University which is a prerequisite for matriculation and becomes a part of my permanent file. Further, my acceptance of the Code of Honor is a solemn vow and promise to God as to how I will live my life.

See ORU Honor Code. ORU has a Chapel service at the beginning of each academic year devoted to the Honor Code, during which the Honor Code is reviewed with students, faculty and staff and each student is to sign the Honor Code on an annual basis.

ORU's Bylaws further provide that students, by virtue of admission, "agree to be bound by the rules, policies, procedures, and administrative regulations, as they exist at the time of his or her admission, and as they may be changed, modified, or added to, during the time he or she is a student." See Bylaws, Section 11.3. Each student is expected to conduct himself or herself with dignity and with due respect for the rights of others, and in keeping with the principles and guidelines of *the Student Handbook*. *Id.* ORU's faculty, staff and students are required to adhere to and conduct themselves in accordance with ORU's religious tenets.

As ORU's controlling authority, including on matters of faith and religion, the ORU Board of Trustees has adopted statements of faith and belief on various matters including abortion, pregnancy, human sexuality, gender identity and sexual orientation – all of which are grounded in ORU's long-standing religious tenets as expressed in the Certificate of Incorporation and Bylaws. For example, ORU's position on abortion established by the ORU Board of Trustees was communicated to and served as the basis of the Department of Health and Human Services ("HHS") acknowledging ORU's eligibility for an accommodation from the Affordable Care Act's requirements to include abortifacients in its group health plan. ORU's position on abortion states, in pertinent part, that:

Among these deeply held shared religious beliefs are the Bible's clear teachings on the absolute sanctity of life. ORU believes, in accordance with Scripture, that life begins at conception. (Psalm 139:13-16, Luke 1:39-41, Jeremiah 1:5) and from that moment forward, life in the womb is sacred and worthy of the utmost protection and respect.

ORU abhors the destruction of innocent human life through abortion as unbiblical and contrary to God's will. ORU unreservedly believes that the procurement of, participation in, facilitation of, or payment for abortion or abortifacients violates the Sixth Commandment and are inconsistent with the dignity conferred by God on creatures made in His image. Based on the Bible's religious and moral teachings, ORU opposes termination of the life of a preborn child by, among other means, abortion-inducing drugs and devices including those that after fertilization serve to prevent the newly formed embryo from implanting into the mother's uterus or dislodge the viable embryo after it was recently implanted.

See my November 18, 2014 Letter to Secretary Thomas Perez and James Mayhew.

More recently, the ORU Board of Trustees adopted a Position Paper on Human Sexuality and Gender which provides in part that:

1. *Embracing the whole person philosophy that views the entire person—body, mind and spirit—as belonging to God and valuable to Him, the university considers human sexuality a gift of God, with sexual intercourse properly expressed only within a marriage between a man and a woman.*
2. *Affirming the value of all persons (Gen 1:20) does not entail condoning any conduct or lifestyle inconsistent with the word of God. Heterosexual sins and homosexual practices are not consistent with a Spirit-filled life and whole person lifestyle.*
3. *It is never our intent to shame persons who struggle with sexual issues. Instead, we wish to offer them supportive assistance in Christian love to live the godly lifestyle envisioned in the ORU Honor Code.*
4. *While recognizing that some persons experience homosexual attraction, we deny that this force eradicates the capacity of free will and the choice to desist or to seek the power of the Holy Spirit to overcome temptation.*
5. *Our relationship to God and commitment to His claim on our lives as members of the kingdom of God give us our identity as Christians. Sexual orientation and other individual characteristics are secondary to this primary identity.*
6. *We believe that God is the author of gender. Congruence between created design (male and female) and an individual's experience of personhood was intended from the beginning. Inconsistency in this matter reveals that our world is broken physically, psychologically, and spiritually.*

7. *Human beings should seek peace and healing from any conflicts or incongruence between their sex and gender identification in a manner consistent with God's design and creative order.*
8. *As an interdenominational and global Spirit-empowered institution of higher learning, ORU believes strongly in addressing human sexuality and gender issues with pastoral concern and redemptive hospitality. Our overarching goal is always healing and wellness of the whole person and the fulfilling of God's ultimate purposes for humanity.*

See Excerpts from ORU's Position Statement on Human Sexuality and Gender.

These positions of faith and belief have been and continue to serve as the basis for ORU's exemptions from governmental laws and regulations that would violate ORU's religious tenets. In addition to the previously referenced accommodation under the ACA to exclude abortifacients from its group health plan, ORU sought and in 1985 obtained a Title IX exemption from the DOE. ORU continues to satisfy the requirements for the religious exemption from Title IX pursuant to 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12(a) which "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."

ORU affirms 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. ORU believes 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 without reservation. However, in keeping with our biblical beliefs concerning the morality of such actions, we cannot support or encourage an individual to live in conflict with Biblical principles. Accordingly, any individual who violates ORU's Code of Honor is subject to discipline, including possible dismissal from the university.

Based upon the foregoing, I hereby request on behalf of ORU that the DOE recognize and extend ORU's exemption from compliance with any interpretation or application of Title IX to the extent it would violate ORU's religious tenets based upon gender identity, sexual orientation, marital status, sex outside of a marriage between one man and one woman, parental status, abortion, and the training and employment of individuals for pastoral office. The ORU documentation referenced herein is included for your reference. Thank you in advance for your assistance in processing this request.

Respectfully Submitted,



Dr. William M. Wilson
President, Oral Roberts University

Catherine Lhamon Assistant Secretary

October 4, 2016

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Enclosures:

1. ORU's Amended and Restated Bylaws;
2. ORU's Amended and Restated Certificate of Incorporation;
3. ORU's Honor Code;
4. ORU Mission and Vision Statements;
5. Excerpt from ORU Board of Trustee's Position Statement on Human Sexuality and Gender;
6. November 18, 2014 Letter to Secretary Thomas Perez and James Mayhew; and
7. ORU's 1985 Title IX Exemption Letter.