

August 10, 2017

Sterling College

OFFICE OF THE PRESIDENT

Candice Jackson, Acting Assistant Secretary
U.S. Department of Education, Office of Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave. SW
Washington, DC 20202-100

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

Dear Assistant Secretary Jackson:

I hereby request, on behalf of Sterling College as its highest ranking officer, 34 C.F.R. § 106.12(b), that the Department of Education's Office for Civil Rights (OCR) grant a religious exemption from compliance to Sterling College regarding certain Title IX regulations that could curtail the College's ability to fulfill its mission. This request is based on 20 U.S.C. §1681(a)(3) and 34 C.F.R. §106.12 (a) respectively.

Sterling College is a private, Christian liberal arts college located in Sterling, Kansas. The College was founded in 1887 as Cooper College by the United Presbyterian Church of North America and has been accredited by the Higher Learning Commission and North Central Association for over half of that time, most recently in June 2016.¹ The College is governed by a Board of Trustees whose members must be Christians who affirm the College's doctrinal statement, and who are committed to the mission of the College.² Sterling College's mission is to develop creative and thoughtful leaders that understand a maturing Christian faith.³ In order to fulfill its mission, Sterling College requires its faculty and trustees to adhere to and support the College's statement of faith.⁴

A centerpiece of the college's statement of faith is the belief that the Bible is God's revealed Word and authoritative and infallible in all matters of faith and practice.⁵ Given our commitment to and respect for this sacred scripture, and our belief in the Bible's guidance in fulfilling our stated mission, it follows that a religious exemption is needed when OCR regulations or guidance curtail the college's ability to faithfully practice our doctrinal beliefs.

Sterling College holds the Bible to be the sacred and holy book of the Christian faith that provides guidance concerning human identity, gender, sexuality and marriage. Consistent with this belief, the College on July 1, 2017, as part of the Employee Handbook, adopted a Statement on Life, Marriage, Gender Identity and Human Sexuality. In support and agreement with the Sterling College Statement of Faith, Sterling College believes the following regarding life, marriage, gender and sexuality:

¹ Sterling College Bylaws, Article I, p. 3. See also <https://www.sterling.edu/about/accreditation>.

² Sterling College Bylaws, Article II, p. 3, Article IV, p. 5.

³ Sterling College Bylaws, Article I, p. 2.

⁴ Sterling College Bylaws, Article II, pp. 2-3, Article IV, p. 5.

⁵ Sterling College Bylaws, Article I, p. 3.

- that God wonderfully and immutably creates each person as male or female. These two distinct, complementary sexes are both made in the image of God (Gen. 1:26-27). Rejection of one's biological sex is a rejection of this God-given trait.⁶
- that marriage is designed to be the lifelong uniting of one man and one woman in a single, biblical, covenant union as delineated in Scripture. (Gen. 2:18-25).⁷
- that God intends sexual activity to occur only between a man and woman who are married to one another. (I Cor. 6:18; 7:2-5; Heb. 13:4) We believe that any form of sexual immorality (including adultery, fornication, homosexual behavior and bisexual conduct) is understood to be one of the disruptive consequences of the fall. (Matt. 15:18-20; I Cor. 6:9-10; Rom. 1:18-32).⁸
- that the call of Christ on the married and unmarried is one of purity; faithfulness among the married couple (recognized as one man and one woman) and a chaste life for those who are unmarried (I Thess.4:3-8). For those in our community who are attracted to persons of the opposite sex as well as those who struggle with same-sex attraction, the biblical mandate for sexual purity remains.⁹

As you know, OCR 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."¹⁰ That is, a school "must not treat a transgender student differently from the way it treats other students of the same gender identity."¹¹

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.¹²

We understand that these letters have been rescinded by the current administration.¹³ However, OCR's latest letter indicated that your office may assert subject matter jurisdiction over complaints alleging "gender-based harassment (i.e., based on sex stereotyping, such as acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, such as refusing to use a transgender student's preferred name or pronouns when the school uses preferred names for gender-conforming students or when the refusal is motivated by animus toward people who do not conform to sex stereotypes) of a transgender student created a hostile environment."¹⁴

⁶ Sterling College Employee Handbook, p. 6

⁷ Sterling College Employee Handbook, p. 6

⁸ Sterling College Employee Handbook, p. 6

⁹ Sterling College Employee Handbook, p. 6

¹⁰ 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.

¹¹ *Id.* at page 2.

¹² *Id.*

¹³ U.S. Department of Justice and U.S. Department of Education, Dear Colleague Letter on Transgender Students, *available at* https://www2.ed.gov/about/offices/list/ocr/letters/colleague_201702_title_ix.docx.

¹⁴ U.S. Department of Education, OCR Letter to the Field re Complaints Involving Transgender Students, *available at* <https://www.documentcloud.org/documents/3866816-OCR-Instructions-to-the-Field-Re-Transgender.html>.

For these reasons, I request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that OCR acknowledge that Sterling 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.

Lastly, consistent with a biblical interpretation of the value of life, the College in its Student Handbook provided the following policy regarding the sanctity of human life:

The Bible is clear in its teaching on the sanctity of human life and we will encourage choices that affirm life. Our belief in the sanctity of life guides our response to an unmarried student who becomes pregnant. Because the issues surrounding a pregnancy can be varied and difficult, the College strongly encourages any student who becomes pregnant or becomes involved in a pregnancy outside of marriage to contact a member of the Student Life staff. The staff member will seek to assist the student in an atmosphere that is caring and confidential, and will explore with the student the life-affirming resources that are available. We are committed to standing with both the father and mother of the unborn child as they consider the results of their actions and as they make decisions for themselves and their child. We understand the complexity of needs that pregnancies present and will provide structure and support during this time. Counseling for both mother and father (if applicable) will be required. Due to the importance of appropriate prenatal care and well-being issues, College housing for the mother-to-be and father (if applicable) will not be available beginning with the third trimester. Any consequences determined necessary by the College will be applied equally to both parties if both are students.¹⁵

In addition, the Employee Handbook (adopted July 1, 2017) also emphasizes a biblical value for human life stating, "...that the Bible is clear in its teaching on the sanctity of human life and we encourage choices that affirm life for all of our employees."

Our desire is to comply with all areas of Title IX that are not inconsistent with the religious tenets and biblical teachings adhered to by Sterling College. With that said, Sterling College respectfully requests exemption from Title IX and the following regulations, to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent the College's policy on the sanctity of life:

Federal Regulation	Description
34 C.F.R. § 106.21	Policies regarding admissions
34 C.F.R. § 106.22	Policies regarding preference in the admission of students
34 C.F.R. § 106.23	Policies regarding recruitment of students
34 C.F.R. § 106.31(b)(4)	Policy regarding rules of behavior, sanctions, or other treatment
34 C.F.R. § 106.31(b)(7)	Policies regarding limitations of rights, privileges, advantages or opportunities
34 C.F.R. § 106.32	Policies regarding housing (room & board)
34 C.F.R. § 106.33	Policies regarding comparable facilities
34 C.F.R. § 106.34	Policies regarding access to classes and schools
34 C.F.R. § 106.36	Policies regarding counseling

¹⁵ See Sterling College Student Handbook, p. 39.

34 C.F.R. § 106.37	Policies regarding financial assistance
34 C.F.R. § 106.38	Policies regarding financial assistance
34 C.F.R. § 106.39	Policies regarding health and insurance benefits and activities
34 C.F.R. § 106.40	Policies regarding marital and parental status of students
34 C.F.R. § 106.41	Policies regarding athletics
34 C.F.R. § 106.43	Policies regarding standards for physical education classes
34 C.F.R. § 106.51	Policies regarding discrimination in employment
34 C.F.R. § 106.53	Policies regarding recruitment of employees
34 C.F.R. § 106.57	Policies regarding marital status
34 C.F.R. § 106.60	Policies regarding pre-employment inquiries

If you have questions or need further clarification on any point, please do not hesitate to contact my office.
Thank you for your consideration of this request.

Sincerely yours,



Scott Rich, Ed.D
President, Sterling College