



27 October 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 Compass College of Cinematic Arts (CCCA or the 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 act in accordance with its religious convictions. As President of the College, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and thus qualified to seek these exemptions.

Compass College of Cinematic Arts began in 1997 as a production company, which grew into a faith-based film school,¹ and now exists to provide "God-gifted artists with the spiritual and creative tools needed to create experiential and culturally impacting stories."² CCCA's goals are "are to prepare, empower, and connect students into the diverse areas of the entertainment industry and for them to conduct their daily work and lives with purpose, value, and clarity."³ CCCA expects its graduates to "model and pursue life passionately, demonstrating ethical, multicultural and social responsibility, in alignment with the teachings of Jesus Christ."⁴

The College is governed by a board of directors whose members must affirm the College's statement of faith, be members in good standing at a church that subscribes to the same theological doctrines as the College, and promote the mission of the College.⁵ The

¹ See <http://www.compass.edu/index.php/about/mission-vision>.

² See <http://www.compass.edu/index.php/about>.

³ See Compass College of Cinematic Arts Catalogue, p. 7, available at <http://www.compass.edu/images/2016-17%20College%20Catalog%20Final.pdf>.

⁴ *Id.*

⁵ See Compass College Statement of Belief and Allegiance; Bylaws of Compass College of Cinematic Arts, § 2.4, p. 2.

Board of Directors and the College understand the Bible to be the infallible, written Word of God: “[T]he Bible itself, as the inspired and infallible Word of God that speaks with final authority concerning truth, morality, and the proper conduct of mankind, is the sole and final source of all that [the Board] believes.”⁶

Acknowledging Christ as the creator of all things, as the redeemer of people fallen into sin, as the touchstone of all truth, and as the sovereign ruler over all areas of life, CCCA strives to discern and to unfold the implications of His preeminence in all things. In attempting to make such a biblically-grounded frame of reference explicit and operative, CCCA is committed to both the artistic development and spiritual formation of its students, and defines its educational philosophy as well as its structure and program according to this understanding of its purpose.⁷

The College relies on and requires all board members, officers of the College, and faculty to affirm the following doctrines, as foundational to all that it does, including what is taught in its classes:

- We believe the Bible to be the inspired, the only infallible, authoritative Word of God.
- We believe that there is one God, eternally existent in three persons: Father, Son, and Holy Spirit.
- We believe in the deity of our Lord Jesus Christ, in His virgin birth, in His sinless life, in His miracles, in His vicarious and atoning death through His shed blood, in His bodily resurrection, in His ascension to the right hand of the Father, and in His personal return in power and glory.
- We believe that for the salvation of lost and sinful people, regeneration by the Holy Spirit is absolutely essential.
- We believe in the present ministry of the Holy Spirit by whose indwelling the Christian is enabled to live a godly life.
- We believe in the resurrection of both the saved and the lost; they that are saved unto the resurrection of life and they that are lost unto the resurrection of damnation.
- We believe in the spiritual unity of believers in our Lord Jesus Christ.⁸

⁶ Bylaws of Compass College of Cinematic Arts, § 2.4, p. 2.

⁷ See Compass College Catalogue, pp. 5-6, available at <http://www.compass.edu/images/2016-17%20College%20Catalog%20Final.pdf>.

⁸ See <http://www.compass.edu/index.php/about/mission-vision>. Adjunct faculty must only agree not to advocate against these doctrines. See Understanding and Conditions of Employment, Adjunct Faculty.

The Board of Directors 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, the College has developed the following Sex, Sexuality and Gender Identity Policy (enclosed). That statement provides in pertinent part as follows:

Compass College of Cinematic Arts is committed to a biblical worldview that seeks to glorify God as our Creator and the Maker of all things—supreme over all created order and human endeavor. As such, our policy regarding sex, sexuality and gender identity is derived from the teachings of the Bible, as understood in the Evangelical theological tradition, and grounded in our long-standing institutional religious identity.

We believe, in accordance with Scripture, that due to sin and human brokenness our experience or preference of our sex and gender is not always that which God originally designed. With the foundational understanding of creation, fall and redemption, we do not affirm the adoption of an identity discordant with one's birth sex. Yet, we do affirm God's capacity and graciousness to heal and transform our brokenness. We further recognize our obligation before God to love all persons and to encourage one another in building Christ-like character.

As a Christian educational institution of higher learning, we seek to embody the gentle and patient love of Christ for all, including those whose views diverge from ours, recognizing that all of us stand in need God's grace. In that light, we are committed to engaging in difficult conversations with humility, prayerfulness and care, teaching the applicable biblical principles, and to building a community of truth, honesty and love.

The full policy, of which this is a summary, contains the biblical scripture on which this understanding is based and is available from Human Resources and the Center for Excellence offices.⁹

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

⁹ Compass College of Cinematic Arts, Sex, Sexuality and Gender Identity Policy.

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 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.¹³

Moreover, the resolution agreement¹⁴ 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.¹⁵ 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 the College.

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 Compass College is exempt from Title IX of the Education Amendments of 1972 and its accompanying

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 p. 2.

¹² *Id.*

¹³ 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.")

¹⁴ 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>.

¹⁵ *Id.*

regulations, to the extent that they are interpreted to curtail CCCA'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, the College affirms the following regarding sexual conduct:

We believe that the only authoritative and trustworthy norm for righteous moral discernment is God's revealed Word, and that all members of the college community are called to model the teachings of Scripture in their process of Christ-like character development. Therefore, Compass College affirms that God's Word offers two life-enhancing choices for sexual intimacy: celibacy in singleness or faithfulness in Christian marriage between one man and one woman. All other expressions of sexuality, such as sexual intimacy between singles or between two persons of the same gender, fall short of God's design for Christian marriage and His righteous standard.

Compass College of Cinematic Arts aspires to be a gracious community that promotes openness and honesty, and we pledge to extend compassion and care to all members of our community—students, staff and faculty. For any who struggle with same-sex attraction, sexual orientation issues or maintaining purity in opposite-sex relationships, we will offer respect, accountability, counseling and resources as we seek to live consistently with Christian teaching.¹⁶

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.¹⁷

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

¹⁶ Compass College of Cinematic Arts, Sex, Sexuality and Gender Identity Policy.

¹⁷ See <http://www.eeoc.gov/decisions/0120133080.pdf>.

Lastly, consistent with a biblical interpretation of the value of life, the College expects members of its community to “uphold the God-given worth of human beings, from conception to death, as the unique image-bearers of God (Gen. 1:27; Psalm 8:3-8; 139:13-16).”¹⁸

The College 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 CCCA’s freedom to apply and enforce its beliefs about the sanctity of 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)

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.

Yours sincerely,



Keri Lowe
President, Compass College

¹⁸ See Compass College Diversity Statement, available at <http://www.compass.edu/images/2016-17%20College%20Catalog%20Final.pdf>.