



CROWN COLLEGE

Office of the President

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

Crown College ("the College") was founded in 1916 as a Christ-centered institution of higher education. It is a college of the Christian and Missionary Alliance (C&MA), a Christian denomination that is a "light-bearing, Jesus-centered missions and church-planting movement with deeper life at its heart."¹ The College is "connected with and subordinate to" the C&MA, and if the College were ever to reject the doctrines or teachings of the C&MA, the College's property would revert to the denomination.² The College is also governed by a board of directors, of which two-thirds must be comprised of C&MA church members.³ Within that ecclesiastical context, the College's mission is to "provide a biblically-based

¹ See <http://www.crown.edu/about/heritage-purpose/>.

² Bylaws of Crown College, Article II, page 1.

³ Bylaws of Crown College, Article V, page 2.

biblically-based education for Christian leadership in the Christian and Missionary Alliance, the Church-at-large and the world.”⁴

Acknowledging Christ preeminent 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, the College strives to discern the implications of His preeminence in all things. To serve this end, we seek to appropriate the mind of Christ as the biblical perspective from which we characterize and respond to reality. We are committed to excellence in academic inquiry, and we seek to define all areas of the College’s structure and program according to this understanding of our purpose.⁵

The C&MA and Crown College —as one of its agencies—understand the Bible to be the infallible, written Word of God. In addition, both the C&MA and the College affirm that the C&MA Statement of Faith provides the most adequate and comprehensive expression of the system of doctrine taught in the Bible.⁶ The C&MA and the College submit themselves to the Bible and to this historic expression of its doctrine and seek to express positions that are in accord with those standards.

Therefore, consistent with these standards, the College has developed a Policy on Human Sexuality and Gender Identification (enclosed). That statement provides in pertinent part as follows:

We uphold that creation of humanity in two distinct sexes, male and female, was and is God’s original and continuing intent. [Genesis 1: 26-28; Matthew 19: 1-12; Ephesians 5: 1-5; Colossians 3: 5; 1 Thessalonians 4: 3] We do not uphold the adoption of a gender identity opposite of one’s biological sex at birth. Nor do we uphold attempting to change one’s biological birth sex by medical means. Because of our beliefs and guidance from God’s word, we require and expect each member of our community to embrace and live in alignment with his or her birth sex. This includes, but is not limited to, using facilities in accordance with one’s birth sex.

This Crown College policy regarding human sexuality and gender identity is rooted in our faith and belief in God, in His inerrant Word, and is reflected in our century old religious identity and affiliation with the Christian and Missionary Alliance. Institutional decisions including but not limited to student admission, housing and retention and employee hiring and retention

⁴ See <http://www.crown.edu/about/heritage-purpose/>.

⁵ See <http://www.crown.edu/about/core-values/>.

⁶ See <https://www.cmalliance.org/about/beliefs/doctrine>.

will be made based on adoption of and adherence to this policy in conduct and belief.⁷

As you know, the Department of Education's Office for Civil Rights (OCR) recently 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."⁸ That is, a school "must not treat a transgender student differently from the way it treats other students of the same gender identity."⁹

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.¹⁰ 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.¹¹

Moreover, the resolution agreement¹² between the Arcadia Unified School District and OCR (and the Department of Justice) required 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.¹³ It is thus reasonable to suppose that OCR believes that such responses are required by Title IX.

It is also reasonable to assume 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, compliance with Title IX, as

⁷ See Policy on Human Sexuality and Gender Identification, page 1.

⁸ 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>.

⁹ *Id.* at page 2.

¹⁰ *Id.*

¹¹ 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.").

¹² 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>.

¹³ *Id.*

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 OCR acknowledge that Crown 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.

Additionally, the C&MA, consistent with its understanding of the Holy Scriptures and doctrinal standards has affirmed the following regarding homosexual conduct:

1. The act of homosexuality is a sin according to God's Word;
2. Churches should actively seek to lead the homosexual person to confession and repentance that he might find justification and sanctification in Jesus Christ, according to I Corinthians 6:11; and
3. In light of the Biblical view of its sinfulness, a practicing homosexual continuing in this sin would not be a fit candidate for ordination or membership in the C&MA.¹⁴

Accordingly, Crown College has adopted the following policy regarding sexual conduct:

As reflected in Crown College's Statement of Faith, the Old and New Testament are a complete revelation of God's will for the salvation of men and the divine and only rule of Christian faith and practice. Accordingly, Crown upholds that sexual intimacy is a gift of God to be expressed exclusively within marriage between one woman and one man. [Genesis 2: 20-25; Matthew 19: 1-6]. Engaging in sexual intimacy outside the covenant marriage relationship, such as premarital sex, adultery, or same-sex sexual intimacy is unacceptable for members of the Crown College Community. [Matthew 19: 1-12; Romans 1: 26-27; 1 Corinthians 6: 9-10;].¹⁵

The College, in service to the Church, welcomes those of professed Christian faith who experience same sex attraction. But, it also affirms with the C&MA that sexual activities with members of the same sex are sinful and are not to be condoned as acceptable expressions of one's sexuality. As you are aware, the EEOC has begun declaring that the

¹⁴ See <https://www.cmalliance.org/about/beliefs/perspectives/human-sexuality>;
<https://www.cmalliance.org/serve/qualifications>.

¹⁵ See Policy on Human Sexuality, page 1.

ban on sex discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination based on sexual orientation.¹⁶

It is conceivable that OCR 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 OCR to reach sexual orientation discrimination, would also be inconsistent with the theological commitment of Crown College. The College, therefore, also seeks exemption on this basis out of an abundance of caution.

Additionally, the College seeks exemption from the Title IX regulations prohibiting marital status discrimination, to the extent that these regulations apply to the College's policies on divorce and remarriage. The College, in compliance with denominational standards,¹⁷ takes the following position regarding divorce and remarriage:

Divorce and remarriage is permissible when one's spouse (not oneself) has been guilty of adultery and restoration of the broken marriage vows has become impossible (Matthew 19:9). Divorce and remarriage is permissible when one's spouse (not oneself) abandons the marriage (1 Corinthians 7:15). Divorce and remarriage is permissible if the parties made no profession of faith prior to or at the time of the divorce (2 Corinthians 5:17).¹⁸

Lastly, regarding the sanctity of life, the C&MA affirms:

[E]ach individual is known by God from before the foundation of the world. Since all life exists for God's purposes and all human lives are equally sacred, it is our belief that human life is blessed of God and must be preserved and nurtured . . . Abortion-on-demand must be opposed as a violation of human dignity and a moral evil precisely because it forcibly terminates the life of a human being fashioned in God's image.¹⁹

Consistent with this biblical interpretation, the College's Statement of Community Beliefs (enclosed) includes our beliefs regarding the sanctity of human life:

¹⁶ See <http://www.eeoc.gov/decisions/0120133080.pdf>.

¹⁷ See <http://www.cmalliance.org/about/beliefs/perspectives/divorce>.

¹⁸ See <http://www.crown.edu/about/heritage-purpose/>.

¹⁹ See <https://www.cmalliance.org/about/beliefs/perspectives/sanctity-of-life>.

The Bible is clear in its teaching on the sanctity of life. Life begins at conception. We are opposed to the destruction of innocent life through abortion on demand.²⁰

Crown 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 the College's freedom to apply and enforce its divorce policy and its Statement on 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)

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,

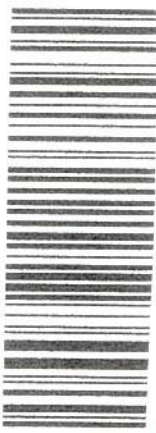


D. Joel Wiggins, Ph.D.
President, Crown College

²⁰ See <http://www.crown.edu/about/heritage-purpose/>.

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