

June 2, 2015

Ms. 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

Dear Ms. Lhamon:

I write to you as the president of Fresno Pacific University, a private Christian university in Fresno, California. I hereby request, pursuant to 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12(b), that the Department of Education's Office for Civil Rights acknowledge that Fresno Pacific University is exempt from Title IX of the Educational Amendments of 1972 and its accompanying regulations, to the extent that they conflict with Fresno Pacific University's freedom to respond to matters of gender identity and activities which are nonconforming with gender stereotypes in accordance with the religious tenets of the U.S. Mennonite Brethren churches.

Throughout its history, Fresno Pacific University has been sponsored by the Conferences of Mennonite Brethren Churches. Fresno Pacific University's predecessor, the Pacific Bible Institute was founded in 1944 by the Conferences of Mennonite Brethren Churches. Over time, the Pacific Bible Institute grew into the modern day Fresno Pacific University; however, it has always maintained its sponsorship by the Conferences of Mennonite Brethren Churches, and now specifically the Pacific District Conference of Mennonite Brethren Churches. It has always existed for the purpose of providing education consistent with the beliefs of the Mennonite Brethren denomination, and that remains the case today. The most recent amended articles of incorporation of Fresno Pacific University state its purpose as follows:

"This Corporation is formed for the educational and religious purposes of establishing, conducting and maintaining a Christian school, university, or seminary of learning, providing an opportunity for students to study courses in Bible and Theology, Religion, Liberal Arts, Sciences, Humanities, other courses of study customarily offered by schools, universities, or seminaries, and other courses of study which the Board of Trustees may from time to time deem appropriate."¹

Further, both the articles of incorporation and the bylaws of Fresno Pacific University provide that the members of the corporate entity "shall consist of the persons who are elected and serve as delegates to the Convention of the Pacific District Conference of Mennonite Brethren

¹ Article 4 of Certificate of Amendment and Restatement of Articles of Incorporation of Fresno Pacific University filed with the California Secretary of State 2006

Churches.”² In turn, the delegate members of the corporation shall have the authority to elect sixty percent (60%) of the voting members of the Board of Trustees of Fresno Pacific University.³

The bylaws of Fresno Pacific University state that the Confession of Faith of the Pacific District Conference of Mennonite Brethren Churches shall be the Confession of Faith of Fresno Pacific University⁴ and that no amendment to the Articles of Incorporation or Bylaws of Fresno Pacific University may be made which would conflict with the Confession of Faith of the Pacific District Conference of Mennonite Brethren Churches.⁵ The Pacific District Conference of Mennonite Brethren Churches as a branch of the United States Conference of Mennonite Brethren Churches adheres to the Confession of Faith United States Conference of Mennonite Brethren Churches.

Fresno Pacific University has established its campus culture around its stated mission that “Fresno Pacific University develops students for leadership and service through excellence in Christian higher education.” This statement which is set forth on the Fresno Pacific University website⁶ also includes additional statements regarding the vision and values of Fresno Pacific University, including its presence as an Anabaptist, evangelical, ecumenical and Christian community.

In addition to and amplification of the Confession of Faith, Fresno Pacific University is guided by its statement known as the “Fresno Pacific Idea.” For your reference, a copy of this statement is included herewith. All activities and programs flow out of this statement and are evaluated in reference to it. The Fresno Pacific Idea is set forth on the University’s website, in the annual course catalog and various Fresno Pacific University publications.

The Confession of Faith of the United States Conference of Mennonite Brethren Churches can be accessed at both the U.S. Conference's website⁷ in its full detail version and on the website of Fresno Pacific University in the accepted condensed version.⁸ The Confession of Faith maintains a strong belief in the distinctiveness of the genders:

Humans, the crowning act of creation, were designed to live in fellowship with God and in mutually helpful relationships with each other. God created them male and female in the image of God. (Article 3: Creation and Humanity; Humanity).

The church is one body of believers, male and female, from every nation, race and class. (Article 6: The Nature of the Church; Body of Christ).

Disciples maintain sexual purity and marital faithfulness and reject immoral premarital and extramarital relationships and all homosexual practices. (Article

² Section 2.2 of Bylaws of Fresno Pacific University

³ Section 2.3 of Bylaws

⁴ Section 2.1 Bylaws

⁵ Section 6.1 Bylaws

⁶ www.fresno.edu/about/mission_and_values

⁷ <http://www.usmb.org/menus/confession-of-faith-detailed-version.html>

⁸ <http://www.fresno.edu/about/our-mission/confession-faith>

10: Discipleship; Demonstrating True Faith).

Marriage is a covenant relationship intended to unite a man and a woman for life. At creation, God designed marriage for companionship, sexual union and the birth and nurture of children. Sexual intimacy rightfully takes place only within marriage. (Article 11: Marriage, Singleness and Family; Marriage).

As a supplement to the Confession of Faith, the Board of Faith and Life of the United States Conference of the Mennonite Brethren Churches has prepared pamphlets discussing the denomination's beliefs regarding various contemporary topics. The pamphlet entitled "Human Sexuality"⁹ states, in pertinent parts as follows:

“Sexuality was God's idea. God created humanity as male and female with sexual desires. Intimate sexual expression is one of God's good gifts and an essential aspect of propagating the human race (Gen. 1:27-28). Along with the gift of sexuality, God gave guidelines and instructions designed to safeguard it as a good gift so that sexuality can be practiced according to God's will.”

...

“God created men and women in his image. God declares both male and female persons to be "very good" (Gen. 1:31). By creating humans as sexual beings, God designed more than a physiological process by which the earth may be filled through procreation. Likewise, while Creator-God has designed sexual intimacy to be a pleasurable and mutually satisfying experience, the significance of sexual expression goes beyond mere physical pleasure. Sexual oneness between a husband and wife united in a marriage covenant is intended to be symbolic of the oneness union that God intends to last for a lifetime.”

...

“The Bible declares that expressions of sexual intimacy outside the bounds of marriage between a man and a woman are sin. Pre-marital, extra-marital, group, adult/child, animal and same-sex sexual intimacy are all out of bounds for the follower of Jesus Christ (Rom. 1:26-32). Yet God's wonderful grace and forgiveness are extended to those who have placed their faith in him. God's plan is that repentance frees his forgiveness to flow and then life change follows.”

This distinction between the genders is also assumed in Fresno Pacific University's statements made within its student handbook. The Values and Behavioral Standards statement, which all students are required to abide by, states, in part:

“Scripture and the Confession of Faith of the United States Conference of Mennonite Brethren Churches (the University's sponsoring denomination) affirm

⁹ <http://www.usmb.org/departments/Board-of-Faith-and-Life/page/Human-Sexuality.html>

the marital covenant as existing only between a man and a woman. Physical intimacy is reserved for individuals within a marriage covenant. Cohabitation with a boyfriend/girlfriend, or members of the opposite sex, outside of the marriage relationship is prohibited. Certain sexual behaviors are prohibited. These include but are not limited to: fornication, adultery, and same-sex romantic relations.”¹⁰

Fresno Pacific University maintains gender-specific housing and allows members of one gender to be present in residence halls of the other only during specified hours and then only with the door to the room remaining open.

Consistent with the Confession of Faith, Fresno Pacific University believes that "(e)ach person is created in the image of God and ought to be celebrated and nurtured." (Article 14: The Sanctity of Human Life). As such, Fresno Pacific University affirms the dignity of all human beings regardless of gender and separates the value of individuals from the behavioral choices they make. Furthermore, Fresno Pacific University has admitted openly gay students who are willing and choose to live in accordance with the Confession of Faith and the Fresno Pacific Idea. However, in keeping with our biblical beliefs regarding the morality of actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles in any area, including gender and gender identity.


Fresno Pacific University therefore respectfully requests that your office acknowledge that Fresno Pacific University is exempt from Title IX and the following regulations (in their current or future forms) to the extent that they are interpreted to address gender identity discrimination and to the extent that they restrict the University's freedom to enforce its Values and Behavioral Standards statement and otherwise conduct Fresno Pacific University in accordance with the Confession of Faith:

- 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. § 106.35 (Access to institutions of vocational education)
- 34 C.F.R. § 106.36 (Counseling and use of appraisal and counseling materials)
- 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 (Standard for measuring skill or progress in physical education classes)
- 34 C.F.R. § 106.51-61 (relating to employment)

¹⁰ Fresno Pacific University Student Handbook, 2015 page 9, found at <http://www.fresno.edu/sites/default/files/Studentr-Handbook-3-111-15.pdf>

Thank you in advance for your consideration. If you should require any additional information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in blue ink that reads "Richard Kriegbaum". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard Kriegbaum, Ph.D.
President

Enclosure