



GENEVA COLLEGE

August 12, 2015

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: Geneva College's Request for Title IX Religious Exemption

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 Geneva 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 homosexual behaviors, abortion, and gender identity issues 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.

Geneva College was established in 1848 by the Reformed Presbyterian Church of North America (RPCNA). The College continues to be owned and controlled by the church through a Board of Corporators, all of the members thereof are members of the denomination appointed by the Synod of the RPCNA. Trustees of the College are elected by the Board of Corporators on condition that they support the mission of the College and its continuing relationship with the church.

The College's mission statement is: "**Geneva College is a Christ-centered academic community that provides a comprehensive education to equip students for faithful and fruitful service to God and neighbor.**" Founded in the tradition of the Reformed Christian faith, Geneva prepares students to serve Christ in all areas of society: work, family and the church. Geneva College's philosophy of education is based on the Foundational Concepts of Christian Education.¹ Central to the mission of Geneva College is its desire to glorify God. Likewise, the College believes that the Bible teaches that the lives of all people (especially followers of Jesus Christ) should glorify God.

¹ Geneva College, Foundational Concepts of Christian Education http://www.geneva.edu/about-geneva/foundational_concepts

The College adheres to the confessional standards of the Westminster Confession of Faith and its catechisms. Geneva holds that intimate sexual behavior outside of male-female marriage, whether with a same-sex or opposite-sex partner, is wrong. The College expressly forbids this behavior on campus and will deal with this in the context of the College's student conduct policy (which includes discipline up to and including suspension from the College) or within the context of the College's Employee Handbook (which includes discipline up to and including termination of employment). When the College becomes aware that a Geneva student or employee is engaging in this behavior, the College will take steps to counsel, and perhaps discipline, the responsible person or persons. With respect to student discipline matters, the College's amnesty policy for self-reported behavior violations applies in this context as well. Additionally, with respect to matters of gender identity, the College believes that behaviors such as becoming or pursuing transgendered/trans-sexual status, identification as something other than that of one's sex at birth, living as the opposite sex to that which one was born, , cross-dressing, and other related gender identity issues" are violations of the seventh commandment. These behaviors are also subject to disciplinary action under the applicable student and employee policies.

Further, the College adheres to belief that the intent of the Catechism is to speak to the entire inner and external life of the one whose sexuality is contrary to nature as God designed it. Genesis 1:27 states, "So God created man in his own image, in the image of God he created him; male and female he created them." God's creation, the sexual differences between man and woman are pronounced "very good" (Genesis 1:31). In the New Testament, Jesus confirms the heterosexual creation of human beings: "God made them male and female" (Matthew 19:4). The College's governing denomination (RPCNA) states in its Constitution, "When men [and women] understand the message of the Bible, they must earnestly seek to obey that message in all that they think and do."²

The Constitution of the RPCNA states in its section on marriage and divorce that: "Premarital sex relations or promiscuous sex practices as well as homosexuality and other perversions of the natural order are violations of God's law and purpose. All should strive to discipline their sexual desires, maintain purity of thought and practice, and avoid situations which lead to sexual temptation. 1 Cor. 6:9, 15-20; 1 Cor. 5:1-5, 9-11; 1 Cor. 7:8-9; Rom. 1:26-28; Phil. 4:8; Prov. 5." The College understands that matters related to practice of homosexuality and unnatural gender identity are forbidden by the Constitution of the RPCNA and by scripture.

Further, the College believes that God created man, male and female, in two distinct natures. The Westminster Confession of Faith states: "*After God had made all other creatures, He created man, male and female, with reasonable and immortal souls, endued with knowledge, righteousness, and true holiness, after His own image;*"

² Constitution of the Reformed Presbyterian Church of North America, pg. A-11
<http://reformedpresbyterian.org/downloads/constitution2010.pdf>

Likewise, the College's Foundational Concepts of Christian Education state:

"Standards of moral discipline must be maintained according to the moral law of God, which He has set forth in Scripture. Therefore, discipline is to be exercised on the basis of God's Word. Discipline exercised in Christian love and firmness not only deters licentiousness, but also teaches in principle how to live under Christ's Lordship and how to live with other people on the basis of righteousness."

This distinction between men and women is described in the Synod of the College's controlling denomination approved a document in 2011 entitled "Contemporary perspectives on sexual orientation: A theological and pastoral analysis."³ This document says that "Sexual identity is included in the 'all parts and faculties of soul and body'⁴ which have been disordered by original sin. Genesis teaches us that the created sexual order (which God pronounced objectively "very good;" Gen. 1:31) involves two genders, sexually designed for one another. "God created man ... male and female," The document later states "We confess, biblically, that God created mankind as male or female, with sexual orientation and gender identity being one and the same as that individual's biological sex."

We affirm the dignity of all human beings. We also separate the value of each person from the behavioral choices one makes. We believe that, as Christians, we are called to treat all people with compassion, and to extend the gospel of repentance, forgiveness, and transformation through Jesus Christ to such persons without reservation. However, in keeping with our biblical beliefs surrounding the morality' of such actions, we cannot in good conscience support or encourage an individual to live in conflict with biblical principles.

As you know, the Office for Civil Rights has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, though the Department of Education recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.⁵ And as you also know, the resolution agreement⁶ between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker

³The Synod of the College's controlling denomination approved a document in 2011 entitled "*Contemporary perspectives on sexual orientation: A theological and pastoral analysis.*" (See the Minutes of the 2011 Synod of the Reformed Presbyterian Church of North America, pp. 84-131. Pittsburgh, PA: Crown and Covenant Publications.)

⁴ Westminster Confession of Faith, Chapter 6

⁵ 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.")

⁶ 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.nclrights.org/wp-content/uploads/2013/09/Arcadia_Resolution_agreement_07.24.2013.pdf.

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.⁷ It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX. It 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 ED OCR to reach gender identity, would be inconsistent with the religious tenets of Geneva College.

Additionally, recently the EEOC has begun openly declaring that the ban on “sex” discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of “sexual orientation.”⁸ 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 religious tenets of Geneva College, and the College therefore seeks exemption on this basis as well out of an abundance of caution.

Geneva College also believes in the sanctity of human life, and accordingly views abortion as the unlawful taking of human life. The College’s governing denomination has stated the following with respect to human life:

Unborn children are living creatures in the image of God. From the moment of conception to birth they are objects of God’s providence as they are being prepared by Him for the responsibilities and privileges of postnatal life. Unborn children are to be treated as human persons in all decisions and actions involving them. Deliberately induced abortion, except possibly to save the mother’s life, is murder.⁹

Geneva’s policies for student and employee conduct reflect this belief as well, and require students and employees to conduct themselves in a manner consistent with this belief.¹⁰ Geneva’s health insurance plans exclude abortions, abortifacient drugs, or abortion-inducing drugs.

Geneva 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 sexual orientation or gender identity discrimination, and to the extent they restrict the College’s freedom to apply and enforce its policies and beliefs on the sanctity of human life):

⁷ *Id.*

⁸ See http://www.macon.com/2015/03/30/3668458_eeoc-issues-determination-letter.html?rh=1

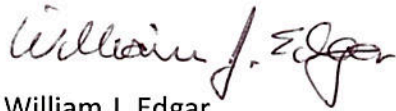
⁹ See <http://reformedpresbyterian.org/downloads/constitution2013.pdf> at Ch. 24.

¹⁰ See <http://www.geneva.edu/student-life/dean/student-handbook> at 15; Geneva College Employee Handbook (select pages enclosed)

- 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.

Sincerely,



William J. Edgar
Interim President, Geneva College