

MANHATTAN

CHRISTIAN COLLEGE

November 17, 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: 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 Manhattan Christian 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 Manhattan Christian College's freedom to act in accordance with its religious convictions. As President of the Manhattan Christian College, I am the "highest ranking official of the institution," 34 C.F.R. § 106.12(b), and am thus qualified to seek these exemptions.

Manhattan Christian College ("the College") is a non-profit institution of higher education with its main campus in Manhattan, Kansas. Founded in 1927 as the Christian Workers' University, the College exists in part to fulfill the following purpose:

To secure, teach, train and send out consecrated men and women of all nationalities to preach and practice the pure New Testament Gospel among all nations, at home and abroad, and in harmony with the Divine Commission recorded in Matthew 28:19-20; Mark 16:15-16; Luke 24: 46-47; as exemplified on the First Pentecost after Christ's Resurrection and Ascension and as elsewhere recorded in the New Testament.¹

The College is "historically affiliated with nondenominational, independent Christian Churches and Churches of Christ of the Restoration Movement."² The College also

¹ Articles of Incorporation and Bylaws, Section 1, as stated in the Board of Trustees Handbook, page V-1.

² See *Who We Are*, <http://www.mccks.edu/partners/about-mcc>.

requires that officers of the College, such as the Vice Presidents of Academic Affairs and Student Life, and faculty teaching "Biblical studies, doctrine, theology, practical ministries and church history," be "grounded in the history of the Campbell-Stone Restoration Movement."³ Moreover, the College prefers (but does not require) the President of the College to be a member of an Independent Christian Church/Churches of Christ, and focuses its recruiting on students from Christian Churches/Churches of Christ.⁴

The College is governed by a Board of Trustees whose members must be "dedicated Christians who evidence Christian commitment," who affirm the College's doctrinal statement, and who are committed to the mission of the College.⁵ The Board of Trustees and the College understand the Bible to be the infallible, written Word of God: "We stand for the Divine Inspiration and Supreme Authority of the Holy Scriptures and are committed to a Christian Theistic worldview that seeks to glorify God, recognizing and affirming Christ as King in every aspect of the created order and in every sphere of human endeavor."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, the College 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, the College is committed to excellence in academic inquiry and seeks to define the College's educational philosophy and all areas of the College's 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:

- A. We believe that there is one God, creator of the universe, eternally existing in three persons, Father, Son, and Holy Spirit, and that we are called to live to the praise of His glory.
- B. We believe the Bible to be the inspired, the only infallible, authoritative word of God.

³ Board of Trustees Handbook, pages 1-4.

⁴ Board of Trustees Handbook, pages 1-5, II-10.

⁵ Articles of Incorporation and Bylaws, Section 4, as stated in the Board of Trustees Handbook, page V-5.

⁶ Board of Trustees Handbook, page 1-7.

⁷ See *Who We Are*, <http://www.mccks.edu/partners/about-mcc>.

- C. We believe in the deity of our Lord Jesus Christ, in His virgin birth, in His sinless life, in His miracles, in His vicarious death and atonement through His shed blood, in His bodily resurrection, in His ascension to the right hand of the Father, and in His personal and visible return in power and glory.
- D. We believe the only terms of salvation that we may proclaim are those expressed in the New Testament: faith, repentance, confession of faith in Jesus Christ, and baptism by immersion in water for the remission of past sins and for the promised presence of the Holy Spirit.
- E. We believe in the present ministry of the Holy Spirit by whose indwelling the Christian is enabled to live a godly life, and by whom the church is empowered to carry out Christ's Great Commission.
- F. We believe in the bodily resurrection of both the saved and the lost; those who are saved unto the resurrection of life and those who are lost unto the resurrection of damnation.⁸

The Board of Trustees 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 position addressing gender identity:

We affirm that God's original and ongoing intent and action is the creation of humanity manifest as two distinct sexes, male and female. With this foundational understanding of God's teaching revealed in the Bible, we do not affirm the resolution of tension between one's biological sex and one's experience of gender by the adoption of a psychological identity discordant with one's birth sex. Similarly we do not affirm attempts to change one's given biological birth sex via medical intervention in favor of the identity of the opposite sex or of an indeterminate identity.

While we believe it is important to articulate the college's stance on these issues it is also important to note that MCC recognizes there are those who have very real feelings and opinions that stand in contrast to the college's stated policy. We recognize that every person has struggles of some type and that all of us fall short of God's glory. With that understanding in mind, all who read this policy need to know that the intent is to outline a Christian

⁸ Board of Trustees Handbook, page I-7.

Theistic worldview in relationship to these issues. We also acknowledge that uninformed and harsh actions by Christians have inflicted unnecessary pain on those who struggle in these areas. We recognize our obligation before God to love all persons, understanding such love in the context of God's revealed truth. We also recognize that due to sin and human brokenness, our experiences in these areas is not always that which God the Creator originally designed, and yet affirm further God's capacity to heal and transform our brokenness. We aspire to be a community that lives by both grace and truth for all, and all are expected to treat others with respect and Christ-like compassion. Hateful, bigoted, or destructive interactions will not be tolerated.

In keeping with our mission and our commitment to the Bible, all members of the College's community are to follow the teachings of Scripture and live their lives in accordance with those principles. As a Christian residential institution of higher learning we will respect those whose moral views diverge from ours, and seek to embody the gentle and patient love of Christ for all. We will make institutional decisions in light of this policy regarding student admission, housing and retention, employment hiring and retention, and other matters.⁹

As you know, the Office for Civil Rights ("OCR") 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.¹⁰

And as you also know, the resolution agreement¹¹ 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

⁹ See Statement on Doctrine, pages 2-3.

¹⁰ 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.").

¹¹ 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>.

of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.¹²

It is thus reasonable to suppose that OCR believes 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, OCR's acknowledgement that Manhattan Christian 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, consistent with historic understanding of the Holy Scriptures and our doctrinal standards,¹³ the College affirms the following regarding sexual conduct:

[S]exual intimacy is designed by God to be expressed solely within a heterosexual marriage relationship between one man and one woman. These views are maintained consistently throughout Scripture and have been understood and upheld by Christian churches throughout history. We cannot affirm any sexual intimacy between a man and a woman in a pre-marital or an extra-marital relationship, any sexual intimacy between two persons of the same sex, and marriage to be anything other than a union between one man and one woman in the context of a Biblical marriage covenant. In dealing with sexual sins outside of marriage, we must be attentive to Scripture and therefore consistent in applying campus policies to both heterosexual and homosexual situations.¹⁴

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

¹² *Id.*

¹³ See Statement on Doctrine, pages 1-2.

¹⁴ See Statement on Doctrine, page 2.

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.¹⁵

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

Lastly, consistent with a biblical interpretation of the value of life, the College in its Statement of Doctrine provided the following summary of its beliefs regarding the sanctity of human life:

We believe that all human life is sacred and created by God in His image. Human life is of inestimable worth in all its dimensions, including pre-born babies, the aged, the physically or mentally challenged, and every other stage or condition from conception through natural death. We are therefore called to defend, protect, and value all human life.¹⁶

Manhattan Christian 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 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)

¹⁵ See <http://www.eeoc.gov/decisions/0120133080.pdf>.

¹⁶ See Statement on Doctrine, page 2.

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,

A handwritten signature in cursive script, appearing to read "J. Kevin Ingram". The signature is written in black ink and includes a long, sweeping horizontal line at the end.

J. Kevin Ingram
President, Manhattan Christian College