

Southern Nazarene University

CHARACTER | CULTURE | CHRIST

November 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: Southern Nazarene University Request for Title IX Religious Exemption

Dear Ms. Lhamon:

It is our understanding that the Department of Education and the Department of Justice have recently interpreted Title IX's ban on sex discrimination to include discrimination based on gender identity.¹ As President of Southern Nazarene University, ("SNU") a private, religious liberal arts University in Bethany, Oklahoma, I hereby request pursuant to 34 C.F.R. §106.12, an exemption for Southern Nazarene University from this interpretation of Title IX, due to the deeply-held and inherent religious beliefs of our University.

Background

Southern Nazarene University is a Christian liberal arts university located in Bethany, Oklahoma grounded in the Wesleyan-Holiness tradition of the South Central Region of Church of the Nazarene. We are celebrating 116 years as a higher education institution. Our identity as a Christian university is central to all that we do. Our official Mission Statement, adopted by the Board of Trustees is as follows:

The mission of Southern Nazarene University is to make Christ-like disciples through higher education in Christ-centered community. This is accomplished within the contexts of the liberal arts, selected professional and graduate studies, a Wesleyan-holiness theological perspective, and a cross-cultural community life. As an institution of the Church, the University shall operate within the framework of the Manual of the Church and in cooperation with the denomination's International Board of Education. The University is the Church at work in higher education, integrating faith, learning, and life.

¹ Resolution Agreement between 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/crt/about/edu/documents/arcadiaagree.pdf>; and *Questions and Answers on Title IX and Sexual Violence*, April 29, 2014, *available at* <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> which contains the following: "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."

We transform lives in higher education by boldly proclaiming the following values:

We are Christian

We are united with all believers in proclaiming the Lordship of Jesus Christ. We believe that in divine love God offers to all people forgiveness of sins and restored relationship. In being reconciled to God, we believe that we are also to be reconciled to one another, loving each other as we have been loved by God and forgiving each other as we have been forgiven by God. We believe that our life together is to exemplify the character of Christ. We look to Scripture as the primary source of spiritual truth confirmed by reason, tradition, and experience. We value our Wesleyan-Holiness heritage and believe it to be a way of understanding the faith that is true to Scripture, reason, tradition, and experience.

We are Missional

We are a sent people, responding to the call of Christ and empowered by the Holy Spirit to go into all the world, witnessing to the Lordship of Christ and participating with God in the building of the Church and the extension of His kingdom. Our mission begins in worship, ministers to the world in evangelism and compassion, encourages believers toward Christian maturity through discipleship, and prepares women and men for Christian service through Christian higher education.

We are Holiness

The Church of the Nazarene is a Protestant Christian church in the Wesleyan-Holiness tradition, tracing its roots to an anniversary date of 1908. It was founded to spread the message of scriptural holiness (Christlike living) across the lands. Today the Church of the Nazarene is located in 156 world areas.

The Church of the Nazarene is committed to Christian higher education, through which women and men are equipped for lives of Christian service. In its seminaries, Bible colleges, colleges, and universities, it is committed to the pursuit of knowledge, the development of Christian character, and the equipping of leaders to accomplish their God-given calling of serving in the Church and in the world. This continued commitment to Christian higher education through the years has produced a worldwide network of seminaries, Bible schools, colleges, and universities, such as Southern Nazarene University.²

Control by a Religious Organization

SNU is an Oklahoma Nonprofit Corporation³, with Amended and Restated Articles of Incorporation dated March, 19, 1986. Pursuant to the Articles of Incorporation, the purpose of the University is described in terms of a Christian mission as follows in part:

² <http://snu.edu/the-nazarene-denomination/>

³ Created pursuant to the Oklahoma General Corporation Act ("GCA"), Title 18, Section 1001).

To establish and maintain a college for the teaching and instruction of Christian education;...⁴

It is assigned by the Church of the Nazarene to serve ten districts of the denomination. Upon hypothetical dissolution, assets are to be distributed for purposes associated with the Church of the Nazarene. The Board of Trustees is elected from the members of the ten districts and at least half of the Board membership is comprised of clergy ordained in the Church.⁵ Our faculty are required to be in full accord with the doctrines, practices and Christian objectives of the University. Further, faculty are prohibited from professing views not in harmony with the Manual of the Church of the Nazarene or the Policies adopted by the Board of Trustees. Students are required to behave in accordance with lifestyle expectations consistent with the Church of the Nazarene.⁶

The University and the denomination believe that the Bible is authoritative and inerrant with regard to matters of salvation and we are committed to lives in harmony with the truth as set forth in Scripture. We believe that the Bible speaks to many contemporary issues with mandatory perspective; matters of human sexuality are included in that authority and as such, the Bible regulates morally acceptable behavior and behavior coincident with the requirements of salvation.

Additional indications of control of SNU by the Church of the Nazarene are included in discussions below.

Bible-Based Sexual Identity and Other Sexual Morality Policies

The University and its denomination believe that human beings are fashioned by God in His own image, and are created male and female (Genesis 1:27). In the New Testament, Jesus confirms the heterosexual creation of human beings: God made them male and female (Matthew 19:4). Like the rest of God's creation, the sexual differences between man and woman are pronounced "very good" (Genesis 1:31). Sexual practices that are divorced from loving, conventional relationships between man and woman conflict with God's intentions and result in sinful behavior that separates man from God and threatens Salvation. Humanity's failure to ground sexual identity in God's creative intent and holy character violates biblical standards of sexual purity and morality. We reject all attempts at construing sexuality or sexual identity by medically altering the human body, cross dressing, or similarly practicing behaviors characteristic of the opposite sex as morally objectionable and sinful (Deuteronomy 22:5).

⁴ Amended and Restated Articles of Incorporation, adopted March 19, 1986.

⁵ Southern Nazarene University Bylaws, amended and adopted May 8, 2015. Article IV provides in part: " Trustees shall be members of the Church who embrace the doctrine and the policy of the Church. The provisions of this Section reflect the intent of this Board for its membership to include approximately equal number of clergy and laypersons."

⁶ See Faculty Handbook at <http://snu.edu/faculty-handbook>

SNU's Board of Trustees affirmatively state in the policy manual the following:

“Christian marriage as being exclusively between one genetic man and one genetic woman: “For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh” (Gen. 2:24; Matthew 19:5).”

Further the policy considers:

“Gender identity, as described in scripture: “He created them male and female” (Gen. 5:2) (Manual 903.8). We regard gender nonconformity as a violation of God’s plan, recognizing, however, rare cases of persons who are physiologically, genetically or hormonally proven to be the victims of a mistaken gender assignment in childhood over which they had no control and gave no informed consent.”

This policy on marriage and gender identity is consistent with the Covenant of Christian Character of the Church of the Nazarene set forth in the Manual of the Church of the Nazarene 2013-2017.⁷ Further, it is consistent with and mandated by the Pastoral Perspectives on Homosexuality, issued by the General Superintendents of the Church of the Nazarene as an official policy of the Church of the Nazarene on the topic.⁸

⁷ **D. Human Sexuality**

32. The Church of the Nazarene views human sexuality as one expression of the holiness and beauty that God the Creator intended for His creation. It is one of the ways by which the covenant between a husband and a wife is sealed and expressed. Christians are to understand that in marriage human sexuality can and ought to be sanctified by God. Human sexuality achieves fulfillment only as a sign of comprehensive love and loyalty. Christian husbands and wives should view sexuality as a part of their much larger commitment to one another and to Christ from whom the meaning of life is drawn.

The Christian home should serve as a setting for teaching children the sacred character of human sexuality and for showing them how its meaning is fulfilled in the context of love, fidelity, and patience. Our ministers and Christian educators should state clearly the Christian understanding of human sexuality, urging Christians to celebrate its rightful excellence, and rigorously to guard against its betrayal and distortion. Sexuality misses its purpose when treated as an end in itself or when cheapened by using another person to satisfy pornographic and perverted sexual interests. We view all forms of sexual intimacy that occur outside the covenant of heterosexual marriage as sinful distortions of the holiness and beauty God intended for it.

Homosexuality is one means by which human sexuality is perverted. We recognize the depth of the perversion that leads to homosexual acts but affirm the biblical position that such acts are sinful and subject to the wrath of God. We believe the grace of God sufficient to overcome the practice of homosexuality (1 Corinthians 6:9-11). We deplore any action or statement that would seem to imply compatibility between Christian morality and the practice of homosexuality. We urge clear preaching and teaching concerning Bible standards of sexual morality. (Genesis 1:27; 19:1-25; Leviticus 20:13; Romans 1:26-27; 1 Corinthians 6:9-11; 1 Timothy 1:8-10)

<http://nazarene.org/files/docs/Manual2013-17.pdf>.

⁸ http://nazarene.org/files/docs/Perspectives_Homosexuality.pdf.

Students are also required by doctrinally-mandated policy to abide by requirements relating to sexual propriety. Such policies are set forth for students in the Student Handbook, Lifestyle Covenant.⁹

The University and the denomination also believe in the sanctity of life and by doctrine and policy strongly oppose intentional termination of a pregnancy absent a very few compelling circumstances.¹⁰ This belief, expressed in the Manual of the Church of the Nazarene, is integrated into the policy of the University by virtue of repeated references to compliance with Church of the Nazarene doctrine and beliefs.

Affirmation of Human Dignity and Christian Love

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, including those who practice sexual behavior in conflict with the Bible, 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. Moreover, an individual who violates campus standards for biblical living is subject to discipline, including termination or expulsion.

Request for Religious Exemption

Based on the resolution recently entered into by the Department and the Arcadia Unified School District and the April 2014 Guidance document, it appears that the Department is now interpreting Title IX's ban on discrimination in education based on sex to also mean that educational institutions may not "discriminate" on the basis of gender identity. Specifically, the school district in that dispute was ordered to allow a female student presenting herself as a male to use the restroom, locker room and living accommodations of her choice, and to participate in boy's athletic programs.

We would not be able to make similar accommodations consistent with our religious beliefs and convictions. In addition, we would not be able to make similar accommodations for employees and applicants for employment. Because of our scripture-based beliefs

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- ⁹ "We value sexual purity and the sanctity of Christian marriage; therefore, abstaining from sexual immorality (including, but not limited to, premarital or extramarital sex, other immoral sexual activity, and homosexual behavior) is expected; for the same reason, abstaining from viewing or possessing pornography is expected." See Student Handbook <http://snu.edu/handbook>.

¹⁰ The Manual of the Church of the Nazarene, Covenant of Christian Conduct, provides: "C. Sanctity of Human Life: The Church of the Nazarene believes in the sanctity of human life and strives to protect against abortion, embryonic stem cell research, euthanasia, and the withholding of reasonable medical care to handicapped or elderly." available at <http://nazarene.org/files/docs/Manual2013-17.pdf>.

regarding gender and sexual morality, our practices might be deemed in violation of the Department's current interpretation of Title IX. However, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12(a), this interpretation must not be applied to Southern Nazarene University. "This part does not apply to an educational institution controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization."

Thus, on behalf of Southern Nazarene University, I hereby request an official exemption from compliance with that interpretation of Title IX. SNU specifically requests a religious exemption from the following requirements insofar as they prohibit discrimination based on gender identity: 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions), 34 C.F.R. § 106.32 (governing housing), 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms), 34 C.F.R. § 106.41 (governing athletics), and 34 C.F.R. § 106.51 (governing employment), and any other requirement inconsistent with SNU's biblically-based beliefs as described herein. SNU also requests a religious exemption from any regulation prohibiting discrimination against a student on account of termination of pregnancy¹¹.

SNU gladly complies with Title IX with respect to the granting of equal opportunities in educational programs or employment to members of both sexes; our request for exemption is limited to the recent interpretation that "sex" under Title IX also includes gender identity and to any requirement that is inconsistent with SNU's policies regarding sanctity of life and any SNU policy which reserves the right to take adverse action against a student or employee who violates that policy.

Please feel free to contact me if more information is needed. Thank you for your consideration.

Sincerely,



Dr. Loren Gresham
President
Southern Nazarene University

¹¹ 34 C.F.R. §106