



WILLIAM JESSUP
UNIVERSITY

19 April 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 write in reference to the letter dated April 28, 2015, submitted on behalf of William Jessup University ("WJU"). WJU's letter requested that the Department of Education's Office for Civil Rights ("ED OCR") acknowledge that William Jessup University is exempt under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the University's freedom to act in accordance with its religious convictions.

WJU has received no response to its letter, but in any event wishes to supplement its request with further information about the University's religious affiliation and related policies. As you know, 20 U.S.C. § 1681(a)(3) exempts schools that are "controlled by a religious organization if the application of [Title IX] would not be consistent with the religious tenets of such organization[.]"

WJU is a non-profit institution of higher education with its main campus in Rocklin, California. William Jessup and his wife opened San Jose Bible College in 1939 with just fourteen students.¹ Seventy-six years later, William Jessup University, with its 1,400 students, is still a Christ-centered learning community, committed to training students for leadership and service.² WJU partners with the Church to transform graduates in a way that will help redeem the world³ through carrying out Jesus Christ's saving mission.⁴

¹ See <http://www.jessup.edu/about/history-of-jessup/>.

² *Id.*

³ See http://www.jessup.edu/about/quick-facts/#tab_vision.

⁴ See http://www.jessup.edu/about/quick-facts/#tab_statementoffaith.



Christ, the divine Son of God, is the integrating center of William Jessup University and is intentionally at the core of all that WJU is and does.⁵ The University exists to prepare Christians for leadership and service in church and society, through Christian higher education, spiritual formation, and directed experiences.⁶ This purpose is accomplished through a highly competent and dedicated faculty, an integrated academic curriculum, and student life programs designed to strengthen faith, shape character, and nurture compassionate response in a need-filled world.

WJU is affiliated with the Independent Christian Church (“ICC”) and the Restoration Movement. The Restoration Movement began in the early 19th century as an attempt to restore the New Testament church and emphasized a lack of denominational structure based on a core belief that Christianity should not be divided and that the church belongs to Christ, not to a particular hierarchal organization.⁷ Due to this belief, the Restoration Movement has no national church headquarters or supreme body overseeing the churches and organizations that identify with it.

Eventually, the Restoration Movement separated into three main branches: the Churches of Christ, the Christian churches and the Christian Church (Disciples of Christ).⁸ The ICC, in keeping with the Restoration Movement, avoids any appearance of association with denominationalism, and accordingly has no set creed, although certain general doctrines have emerged, primarily regenerative baptism by immersion, assembly for worship on the first day of the week, the observance of the Lord’s Supper as a focal point of such worship and accepting the Bible, particularly the New Testament, as the rule of faith and practice.⁹

WJU was “birthed in the heritage of the Independent Christian Church,” and, in line with the precepts of the Restoration Movement, the University explicitly identifies itself as non-denominationally Christian.¹⁰ WJU’s bylaws also recognize its historic connection and ongoing commitment to the Restoration Movement.¹¹ The tenets of the Restoration Movement that are woven into the University’s Statement of Faith inform the entire structure and mission of the institution.¹² The members of the Board of Trustees, faculty, employees and volunteers are required to subscribe to the University’s Statement of Faith,¹³

⁵ See http://www.jessup.edu/wp-content/uploads/2013/07/15.0CommunityCovenant_v3.pdf.

⁶ See http://www.jessup.edu/about/quick-facts/#tab_mission.

⁷ See http://en.wikipedia.org/wiki/Restoration_Movement; see also, Jessup, Bryce, “The History of the Restoration Movement.”

⁸ *Id.*

⁹ *Id.*

¹⁰ William Jessup University Student Handbook, page 5.

¹¹ Amended and Restated Bylaws for William Jessup University, a California Non-Profit Religious Corporation, Section 2(b).

¹² For a discussion on the Church’s principles, see, e.g., Lawson, LeRoy, “What Kind of Church is This?” adapted from, *The Family of God*, Standard Publishing, 1980, available at: www.cctoday.com/who/our_roots.asp.

¹³ Amended and Restated Bylaws for William Jessup University, a California Non-Profit Religious Corporation; Articles of Incorporation of William Jessup University, Article VI.

which incorporates the ideals of the ICC and Restoration Movement, including those laid out in Thomas Campbell's Declaration and Address, one of the Movement's foundational documents. Further, members of WJU's governing board must be committed to maintaining the principles and values of the Restoration Movement.¹⁴

WJU also receives significant financial assistance through its connection to the Restoration Movement. More than half of the annual donations received by WJU from churches come from those affiliated with the ICC and Restoration Movement. WJU also receives loans from the Church Development Fund, Inc. ("CDF"), an organization devoted to assisting churches and Christian organizations that are part of the Restoration Movement.¹⁵

Additionally, WJU is affiliated with the North American Christian Convention ("NACC"), an annual gathering of Restoration Movement churches,¹⁶ maintaining a presence at every meeting of the NACC, and WJU's president serves on the NACC's Continuation Committee. CrossLink International, a website dedicated to connecting the people and ministries of the Restoration Movement lists WJU as one of its "Restoration Movement Colleges."¹⁷

The Board of Trustees and the University 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, WJU's governing board developed a policy on human sexuality.¹⁸

As you know, ED 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.¹⁹

And as you also know, the resolution agreement²⁰ between the Arcadia Unified School District and ED OCR (and the Department of Justice) requires that school district to permit

¹⁴ Amended and Restated Bylaws for William Jessup University, a California Non-Profit Religious Corporation, Section 2(b).

¹⁵ See www.cdfonline.org/about/background.

¹⁶ See www.nacctheconnectingplace.org.

¹⁷ See <http://www.crosslink.org/LocateCollege.php>.

¹⁸ See http://www.jessup.edu/wp-content/uploads/2013/07/17.0HumanSexualityPositionPaper_v7-KTSedits-2.pdf. See Letter from John Jackson to Catherine Lhamon re Request for Religious Exemption from Certain Applications of Title IX, dated April 28, 2015, pages 2-3, for more details.

¹⁹ 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.")

²⁰ 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>.

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.²¹ It is thus reasonable to suppose that ED OCR believes that such responses are required by Title IX.

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 ED OCR to reach transgender discrimination, would be inconsistent with the religious tenets of the University, as we noted in our original letter.²²

In addition to gender identity, there are two other bases for exemption that WJU now seeks. First, consistent with historic understanding of the Holy Scriptures and the ICC tradition, WJU affirms the following regarding sexual conduct:

1. Humans are “fearfully and wonderfully made” in the image of God, strategically and purposefully as the biological gender with which they were born.
2. God created humans as sexual beings—male and female—to reflect His image.
3. God designed heterosexual union between a male and female, as husband and a wife respectively, as His good and perfect gift to reflect the complementary relationship between Christ and His Church, and this is the model for healthy human sexual relationships.
4. Sexual intimacy is only appropriate within the context of a lifelong commitment in a faithful, monogamous, heterosexual marriage between one biological male and one biological female regardless of how current state or federal law defines marriage. We consider anything beyond this as sin and contrary to the teaching of Scripture.
5. Members of the University community are called to steward the good gift of human sexuality, consistent with the convictions expressed above.²³

The University, in service to the Church, welcomes those of professed Christian faith who experience same sex attraction. But, WJU also, consistent with the Christian church tradition (and its origins in the Restoration Movement), 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 that the ban on sex discrimination in Title

²¹ *Id.*

²² See Letter from John Jackson to Catherine Lhamon re Request for Religious Exemption from Certain Applications of Title IX, dated April 28, 2015.

²³ See http://www.jessup.edu/wp-content/uploads/2013/07/17.0HumanSexualityPositionPaper_v7-KTSedits-2.pdf.

VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of sexual orientation.²⁴

It is conceivable that ED 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 ED OCR to reach sexual orientation discrimination, would also be inconsistent with WJU's theological commitments. WJU, therefore, also seeks exemption on this basis out of an abundance of caution.

Second, "consistent with both the teaching of Scripture and the Christian church tradition (and its origins in the Restoration Movement)" on the value of life, WJU in affirms the following with respect to the sanctity of human life:

We hold three foundational assumptions:

- Human life is uniquely sacred from conception to the grave.
- The sanctity of life is among the broadest and most inclusive of our moral obligations to other human beings.
- Life is precious and in God's hands.

Therefore, we believe that:

- The intentional destruction of innocent human life is unbiblical and contrary to God's will.
- All human beings, at all stages of existence, with every quality of experience, reflecting every type of human diversity, and encompassing every possible quality of relationship have worth and dignity in God's eyes that cannot be measured and should not be violated.
- The university desires to be a community that is committed to engaging in dialogue about human life issues with humility, sensitivity, compassion, and prayerfulness.²⁵

Accordingly, WJU requests that your office take into account the above information about WJU's religious affiliation, and acknowledge that WJU 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 University's freedom to apply and enforce its Sanctity of Human Life policy):

- 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)

²⁴ See <http://www.eeoc.gov/decisions/0120133080.pdf>.

²⁵ See William Jessup University, Community Covenant Chapter on Sanctity of Human Life.

- 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,

A handwritten signature in black ink, appearing to be 'John Jackson', with a long horizontal flourish extending to the right.

John Jackson, Ph.D.
President, William Jessup University