

December 8, 2014

Assistant Secretary Catherine Lhamon
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Request for Title IX Religious Exemption.

Dear Assistant Secretary Lhamon:

As the highest-ranking official of Charleston Southern University, a private, Christian liberal arts university in South Carolina, I hereby request exemption from compliance with certain Title IX regulations, under the religious exemption provided in 20 CFR 1681(a)(3). The particular regulations for which exemption is requested are:

- 34 CFR §106.21(b)(iii) – admissions; regarding prohibitions on the basis of sex
- 34 CFR §106.21(c) – admissions; regarding prohibitions based on marital and parental status
- 34 CFR §106.31(b)(4) – regarding different rules of behavior, sanctions, or other treatment
- 34 CFR §106.57 – pregnancy; regarding marital or parental status of employees
- 34 CFR §106.40 – pregnancy; regarding marital or parental status of students
- 34 CFR §§106.51(a) and 106.51(b)(6) – regarding discrimination in employment in leaves for pregnancy, childbirth, and termination of pregnancy, based on sex, including in regard to gender identity issues
- 34 CFR §106.32 – regarding housing
- 34 CFR §106.33 – regarding restrooms and locker rooms
- 34 CFR §106.41 – regarding athletics

Charleston Southern University is a private, Christian liberal arts university located in North Charleston, South Carolina. The University was established in 1964 and is one of South Carolina's largest accredited, independent universities, enrolling approximately 3,400 students. The University's founding principle is Matthew 28:19-20 "Go ye therefore, and teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Ghost: Teaching them to observe all things whatsoever I have commanded you: and, lo, I am with you always, even unto the end of the world."

Charleston Southern University's mission is *Promoting Academic Excellence in a Christian Environment* and its vision is "To be a Christian university nationally recognized for integrating faith in learning, leading and serving."

- **Learning** 2 Corinthians 10:5 “We demolish arguments and every pretension that sets itself up against the knowledge of God, and we take captive every thought to make it obedient to Christ.”
- **Leading** Colossians 3:17 “And whatever you do, whether in word or deed, do it all in the name of the Lord Jesus, giving thanks to God the Father through him.”
- **Serving** Ephesians 2:10 “For we are God’s workmanship, created in Christ Jesus to do good works, which God prepared in advance for us to do.”

Our **Institutional Goals** are:

- **Faith Integration:** Strengthen the culture of the university where biblical faith is a priority
- **Academic Excellence:** Assure excellence in academic programs to maximize student learning
- **Student Engagement and Success:** Increase student satisfaction, retention, graduation rates and employment opportunities
- **Regional, National and International Reputation:** Promote academic and student success regionally, nationally and internationally
- **Faculty, Staff and Coaches Development:** Provide for the personal and professional development of faculty, staff and coaches
- **Enrollment:** Grow enrollment through academic program expansion
- **Athletics:** Improve the competitive status of the university’s NCAA Division I athletic program
- **Resource Development:** Generate financial resources to accomplish the university’s goals and objectives
- **Financial Stewardship:** Maximize financial and physical resources to meet current and projected needs

The University is governed and controlled by its Board of Trustees, which consists of twenty-five members who are elected by the South Carolina Baptist Convention, as dictated in the Charleston Southern University Trustee By-Laws. A copy of the By-Laws, approved by the Board of Trustees on March 29, 2005, is attached as Item 1.

The University’s Biblical Core Values were adapted from THE BAPTIST FAITH & MESSAGE, Southern Baptist Convention. 1998 and read:

- **Scripture.** II Timothy 3:16 “All Scripture is given by inspiration of God and is profitable for doctrine, for reproof, for correction, for instruction in righteousness.” The Bible is the inerrant and infallible record of God’s revelation to humanity, and it is the only sufficient source of appeal on matters relating to the Christian faith.
- **God.** Genesis 1:1 “In the beginning, God created the heavens and the earth.” John 1:3 “All things were made by him; and without him was not anything made that was made.” There is one and only one living and true God. The historical account of Genesis decrees that He is the personal and direct Creator of all that exists, including the first human beings Adam and Eve. To Him we owe the highest love, reverence, and obedience.

- **Jesus Christ.** John 14:6 "Jesus saith unto them, I am the way, the truth, and the life: no man cometh unto the Father, but by me." God made provision through Christ for the redemption of sinful humanity by His substitutionary atonement on the cross, and He alone is sufficient as Savior.
- **Salvation.** John 3:16 "For God so loved the world, that he gave his only begotten Son, that whosoever believeth in him should not perish, but have everlasting life." Salvation involves God's gracious redemption of individuals and is offered freely to all who accept Jesus Christ as personal Lord and Savior by repentance and faith.
- **Life of the Believer.** Romans 12:2 "And do not be conformed to this world, but be transformed by the renewing of your mind, that you may prove what is that good and acceptable and perfect will of God." Christians are to be consistent with Scripture in their character and conduct.
- **Evangelism and Missions.** Acts 1:8 "But ye shall receive power, after that the Holy Ghost is come upon you; and ye shall be witnesses unto me both in Jerusalem, and in all Judea, and in Samaria, and unto the uttermost part of the earth." It is the privilege and duty of every Christian to share the Gospel of Christ personally and by all other methods in harmony with the Gospel.

The University believes that the Bible is the true and reliable word of God, and follows Biblical principles in its policies and practices applicable to Christian education, and to its students and employees.

Because of our commitment to the Holy Scriptures, Charleston Southern University implements Faith Integration on campus to students and employees in a number of ways:

- **Chapel.** Our corporate integration starts with our chapel. The purpose of CSU Chapel is to provide the University with a corporate worship experience connecting the campus community with the thoughts and heart of Jesus Christ, creating a generation to live for HIS Name. Forty-Eight chapel requirements must be met during a student's tenure for graduation.
- **Whitfield Center for Christian Leadership.** The mission of the Whitfield Center for Christian Leadership is to equip individuals for leadership and service through the development of a biblical worldview. The aforementioned happens in three areas:
 - **Biblical Worldview Institute.** The foundation of all that the Whitfield Center for Christian Leadership has been called to do is the clear articulation and understanding of a biblical worldview.
 - **Faith Integration Institute.** Understanding what the Bible teaches is foundational, but living out that understanding is transformational (i.e., men and women who actually integrate their faith into every area of their lives – how they teach, how they learn, how they work, how they live their lives).
 - **Marketplace Institute.** The Whitfield Center is developing programs, resources and collaborative relationships in Charleston and beyond that will allow us to influence and have our students be influenced by key leaders who are standing for an integrated biblical worldview in some of the most difficult arenas.

- **Faith Integration for Faculty and Staff.** Each semester, a facilitator leads staff and faculty through three workshops designed to encourage and equip employees with the knowledge and application of how to integrate faith in the workplace. Intentionality on purpose and praxis are highlighted.
- **Faith Integration for Students.** All students, including non-traditional, must take two religion classes.
- **Campus Ministries.** Charleston Southern University intentionally provides a network of resources to connect students with opportunities to serve the local community, to minister throughout the United States and even to be a part of international missions! To allow students the opportunity to grow in the Holy Word of God, we have organized ministries that lead small groups, worship services and provide access to spiritual growth through residence life, commuter Bible studies, and conferences.

Regarding human sexuality, the teachings of the Bible and the beliefs of the Baptist Church, both of which are followed by the University, are that God created two sexes, male and female; that marriage is between one man and one woman; and that extramarital sex, premarital sex, and the practice of homosexuality are sinful behaviors, and therefore prohibited. (Genesis 2:27; Exodus 22:16-17; Deuteronomy 22:23-28; Leviticus 20:10-16.)

Charleston Southern University, based upon Biblical principles, affirms that a person cannot change his/her birth gender and so must be treated as such; rather than a self-identified gender, which would be inconsistent with the University's religious beliefs. Furthermore, our affiliation with The Southern Baptist Convention, via The South Carolina Baptist Convention, confirms Charleston Southern University's core beliefs in alignment with the National Convention. Notwithstanding, we agree and support the Southern Baptist Convention's statement on transgender which, in summary, is as follows:

- We "affirm God's good design that gender identity is determined by biological sex and not by one's self-perception—a perception which is often influenced by fallen human nature in ways contrary to God's design (Ephesians 4:17-18)...."
- That we grieve the reality of human fallenness which can result in such biological manifestations as intersexuality or psychological manifestations as gender identity confusion and point all to the hope of the redemption of our bodies in Christ (Romans 8:23)...."
- That we extend love and compassion to those whose sexual self-understanding is shaped by a distressing conflict between their biological sex and their gender identity...."
- That we invite all transgender persons to trust in Christ and to experience renewal in the Gospel (1 Timothy 1:15-16)...."

Application within the context of the student culture at Charleston Southern University, guided by the understanding of the scriptures, soul-competency and support of The Southern Baptist Convention's biblical position, is clearly outlined in the Student Handbook.

- **Biblical Design for Human Sexuality.** We believe that all people should be treated with dignity, grace, and holy love, whatever their sexual beliefs.
 - Sexuality is one of the ways by which the marriage covenant between a husband and a wife is sealed and expressed. Marriage is God's unique gift to reveal the union between Christ and His church and to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race. It is important to note that Christian teaching on marriage and sexuality is in the narrative of all Scripture – from Genesis to Revelation. Marriage, gender and sexuality aren't just appendages tacked onto Scripture, but are icons of the Gospel and human flourishing (Matthew 19:4-6; Ephesians 5:22-33; Hebrews 13:4).
 - Sex misses its purpose when treated as an end in itself or when cheapened by using another person to satisfy pornographic and sinful sexual interests. We view all forms of sexual intimacy that occur outside the covenant of heterosexual marriage, even when consensual, as distortions of the holiness and beauty God intended for it.
- **Sexual Impropriety.** Premarital or extramarital sexual activity on or off campus. The promotion, advocacy, defense or ongoing practice of a homosexual lifestyle (including same-sex dating behaviors) is also contrary to our community values. We seek to help students who face all types of sexual temptation, encouraging single students to live chaste, celibate lives, and encouraging married students to be faithful to their marriage and their spouse.

Therefore, in accordance with the University's non-faculty and faculty handbook, employees are expected to conduct themselves in a manner consistent with Charleston Southern's Christian values. As such, employment of someone who identifies as being of the opposite sex from their birth gender and who expresses that identification either through behavior and/or dress is against the University's religious beliefs. Therefore, the University requests an exemption from 34 CFR §106.31(b)(4) and 34 CFR § 106.51(a).

The University's religious beliefs prohibit pre-marital sex and elective abortion. An exemption from CFR § 106.57 is therefore requested in order that the University not be required to violate its religious beliefs in order to retain pregnant unmarried employees or employees who elect to terminate their pregnancy.

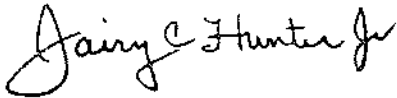
If students and/or employees exhibit behavior which is not in keeping with the University's mission and vision, then the University may impose sanctions up to, and including, expulsion from the University or termination of employment.

Enforcing the above noted regulations would be inconsistent with the religious beliefs and practices of the South Carolina Baptist Convention and Charleston Southern University. As such, and in keeping with its religious beliefs, Charleston Southern University requests an

exemption for the specific Title IX regulations referenced in this letter in order that the University may make decisions consistent with its religious beliefs and principles in regard to its students and employees.

Please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Jairy C. Hunter Jr". The signature is written in a cursive style with a large initial "J" and a trailing flourish.

Jairy C. Hunter, Jr.,
President

Encs.

1. CSU BOT By-Laws



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

February 11, 2015

Jairy C. Hunter, Jr.
President
Charleston Southern University
9200 University Boulevard
P.O. Box 118087
Charleston, SC 29423-8087

Dear President Hunter:

The purpose of this letter is to respond to your December 8, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Charleston Southern University (University) of Charleston, South Carolina. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

The implementing regulation at 34 C.F.R. § 106.12 provides that Title IX does not apply to an educational institution controlled by a religious organization to the extent that application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions are allowed to request an exemption from Title IX by identifying the provisions of Title IX that conflict with a specific tenet of the religious organization. The request must identify the religious organization that controls the educational institution and specify the tenets of that organization and the provisions of the law and/or regulation that conflict with those tenets.

Your request explained that the University "is governed and controlled by its Board of Trustees, which consists of twenty-five members who are elected by the South Carolina Baptist Convention." Your letter enclosed a copy of the University's Bylaws. Article II of those Bylaws state that one of the objectives of the institution is to "[o]perate a Baptist, liberal arts university."

Your letter requests a religious exemption from certain provisions of Title IX to the extent that application of those provisions would not be consistent with the South Carolina Baptist Convention's religious tenets. In support of this request, your letter cites several religious tenets that conflict with the application of the Title IX regulations listed below. Specifically, your letter explains that the University, consistent with the Southern Baptist Convention's¹ statement on transgender individuals, "affirms that a person cannot change his/her birth gender and so must be treated as such; rather than a self-identified gender, which would be inconsistent with the University's religious beliefs." Additionally, your letter states that the University views "all forms of sexual intimacy that occur outside the covenant of heterosexual marriage, even when consensual" as inconsistent with the tenets of the Southern Baptist Convention and that the "University's religious beliefs prohibit pre-marital sex and elective abortion." You state that, for these reasons, application of certain provisions in Title IX "would be inconsistent with the religious beliefs and practices of the South Carolina Baptist Convention and Charleston Southern University."

¹ Your letter explains that the University is affiliated with the Southern Baptist Convention via its controlling organization, the South Carolina Baptist Convention.

Your letter requests a religious exemption from the following provisions of Title IX to the extent that compliance would conflict with the South Carolina Baptist Convention's religious tenets:

- 34 C.F.R. § 106.21(b)(iii) and (c) (governing admission);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51(a) and (b)(6) (governing employment); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion and compliance would conflict with the controlling organization's religious tenets.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulation other than as stated above. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

I hope this letter responds fully to your request. If you have any questions, please do not hesitate to contact me.

Sincerely,



Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education