

MULTNOMAH



UNIVERSITY

FROM THE OFFICE OF THE PRESIDENT
G. CRAIG WILLIFORD, PH.D.

February 11, 2015

Catherine E. Lhamon, Assistant Secretary for Civil Rights
Office for Civil Rights
U.S. Department of Education
LBJ Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100

Re: Multnomah University's Request for Title IX Religious Exemption

Dear Ms. Lhamon:

I have become aware that the Department of Education recently interpreted Title IX's ban on sex discrimination in education to include discrimination based on gender identity.¹ As president of Multnomah University, a private, religious college in Oregon, I hereby request, under 34 C.F.R. §106.12, an exemption for Multnomah from this interpretation of Title IX due to the religious beliefs of our institution.

As described in its articles of incorporation and bylaws (enclosed), Multnomah University is a faith-based, higher education institution built upon the historic, Christian, protestant, evangelical tradition. Since our beginning in 1936, our mission has been to serve churches and society by providing biblically and spiritually formed clergy and leaders for the church and public arena. Our core religious convictions are central to our educational experience and learning community as demonstrated in numerous ways including our requirement that all undergraduate students earn a Bible degree in addition to any other degree they seek.

Multnomah University is completely controlled by the Board of Trustees.² Every member of the Board is required to be a Christian and subscribe to the beliefs outlined in our doctrinal and values statements.³ As a religious corporation with a specific educational mission, Multnomah University is committed to an evangelical theology that arises from its Christian Protestant tradition. Therefore, as stipulated in its articles of incorporation and bylaws⁴,

¹ See 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."); *see also* 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/crt/about/edu/documents/arcadiaagree.pdf>

² Bylaws, Art. I, Section 1A.

³ Bylaws, Art. I, Section 1B.

⁴ See Second Restated Articles of Incorporation, Art. IV—Doctrine and Values and Restated Bylaws, Art. I, Section 1.B.2.

Multnomah University's theological and ethical tradition is articulated in its doctrinal and values statements; both of which are signed annually by all trustees, faculty, and staff. A copy of the doctrinal and values statements are enclosed. A nondenominational institution, Multnomah University's doctrinal heritage defines its mission, guides the development of its academic programs, shapes strategic planning and decision-making, and also determines the ethical values embraced by the trustees, faculty, and staff. As further evidence of its historic identity as a religious organization, Multnomah University also has a Seminary, which offers seven different graduate degrees in theology, divinity, ministry, and Biblical studies. Multnomah has also helped found and support numerous other ministries in the Pacific Northwest, including the Church Ministries Institute, Multnomah Press, International Renewal Ministries, and the "Know Your Bible Hour" radio broadcast.

Multnomah University's "Human Sexuality and Purity Policies" (enclosed) reaffirms our longstanding belief in the authority of the Bible; the care and compassion we want to characterize our community; and our understanding of the Bible's teaching on human sexuality.

In keeping with Multnomah University's mission and commitment to evangelical Christianity, all members of the University community are expected to live and support the teachings of Scripture. Multnomah affirms that sexual relationships are designed by God to be expressed solely within a marriage between husband and wife. This view of sexuality and marriage is rooted in the Genesis account of creation and is maintained consistently throughout Scripture.

The University believes that sexual relations of any kind outside these confines of heterosexual marriage are inconsistent with the teaching of Scripture, as understood by Christian churches throughout history. Sexual misconduct, depending on the facts and circumstances of each case, may result in disciplinary action. In all disciplinary matters, we will seek to be redemptive in the lives of the individuals involved. Consequently, the University will offer counsel and assistance to support and strengthen the individual's resolve to live consistently with Christian teaching on sexuality.

Multnomah University emphasizes Christian principles of religion in its community and campus life. Multnomah University's community standards, expressed in its student handbook and employee handbook, requires students and employees to follow the code of conduct established by the University.⁵ As the framework for this code of conduct, Multnomah University has incorporated the Christian standards of behavior directed by biblical principles and the tenets of the historic, Christian, protestant, evangelical tradition.

Multnomah affirms 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. Moreover, any individual who violates campus standards for biblical living is subject to discipline, including expulsion.

⁵ 2014-15 Multnomah University Student Handbook, *available at* <http://www.multnomah.edu/student-life/student-services/student-handbooks/>

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.⁶ And as you also know, the resolution agreement⁷ 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 room, and living accommodations of their choice, and to participate in athletic programs as a member of sex to which they believe they belong.⁸ 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 transgender "discrimination," would be inconsistent with the religious tenets of Multnomah University.

Because the requirement to treat transgender students consistent with their "gender identity" would conflict with our aforementioned religious tenets, Multnomah accordingly requests that your office acknowledge that the University is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity discrimination):

- 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 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 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 (governing athletics); and
- 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)

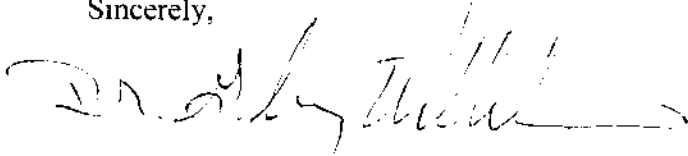
⁶ U.S. Department of Education, Questions and Answers on Title IX and Sexual Violence, *available at* <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> at 5 ("Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation.")

⁷ 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.

⁸ *Id.*

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,

A handwritten signature in cursive script, appearing to read "G. Craig Williford".

G. Craig Williford, Ph.D.
President

Enclosures: (a) Multnomah University articles of incorporation and bylaws
(b) Multnomah University doctrinal and values statements
(c) Multnomah University's "Human Sexuality and Purity Policies"