

# KING V. WARNER PACIFIC COLLEGE

by John Kaempff, Kaempff Law Firm

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*In early 2019, in King v. Warner Pacific College, the Oregon Court of Appeals held that, under an Oregon statute, a Christian school can expressly discriminate against a job applicant on the basis of their religion, and can prefer applicants who are Christian. State statutes like these should be kept in mind because they supplement the First Amendment constitutional right of Christian schools to freely exercise their religion in the employment process.*

In February, 2019, the Oregon Court of Appeals decided *King v. Warner Pacific College*. The plaintiff in that case is “of the Hebrew faith.” He sued the defendant, a Christian college, after he unsuccessfully applied to be an adjunct psychology professor. The college has a written policy requiring “each employee to affirm a personal faith in Jesus Christ.” The plaintiff refused to do that. Also, the college intends that “a Christian worldview be integrated into all academic programs.” So, its president refused to hire the plaintiff. He sued, alleging this violates Oregon statutes prohibiting employment discrimination based on religion. But

the trial court dismissed the case because of Oregon Revised Statutes 659A.006(4). It states that “it is *not* an unlawful employment practice for a bona fide church or other religious institution to prefer an employee, or an applicant for employment, of one religious sect or persuasion over another.” The court confirmed that this statute “*permits* religious organizations to discriminate on the basis of religion in employment within their own organizations.” The court also held that under it, “a religious organization may simply choose not to hire as a means of exercising its preference. Accordingly, the College could lawfully ‘prefer’ not to hire a non-Christian applicant.”

The Oregon Court of Appeals, not a conservative court, affirmed the dismissal of the case. It affirmed the ruling that the above statute “protects the College’s decision not to hire plaintiff, a non-Christian.” The parties “*agreed* that the College discriminated against plaintiff on the basis of religion, but they dispute whether that discrimination was permitted” under Oregon’s statutes. The court held that it is permitted.

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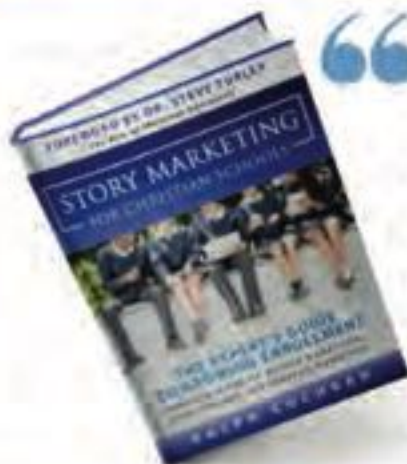
It also stated that its decision “involves judicial self-restraint rooted in an express legislative respect for a religious perspective. That self-restraint cautions against second-guessing the school’s well-*documented* decision to teach a subject from a *religious* perspective.” Because the case was resolved solely on statutory grounds, the Court stated that it was not deciding the case based on the constitutional right to freely exercise religion.

Similarly, Oregon Revised Statutes 659A.006(5) states that “it is not an unlawful employment practice for a bona fide church or other religious institution to take any employment action based on a bona fide religious belief about *sexual* orientation in employment positions directly related to the operation of a church or other place of worship, such as clergy, religious instructors and support staff.”

So, there are three important lessons for Christian schools from the *King* case. First, document that following the Christian faith is a requirement for all

employees, including in the school’s mission statement and employee manual. Second, consult the employment discrimination statutes of the state where your school is located. They may contain additional protections for your school, like Oregon’s statutes, not provided in federal law. Third, consult the religious freedom protections in both the U.S. Constitution and the constitution of your state, which may offer additional protections beyond statutes.

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Co-Founder of The Association of Classical Christian Schools,  
Logos School, and New Saint Andrews College and Minister at Christ Church



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