ASSOCIATION of JESUIT COLLEGES & UNIVERSITIES
AJCU

September 26, 2011

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College of the Holy Cross, MA
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Fairfield University, CT
Fordham University, NY
Georgetown University, DC
Gonzaga University, WA
John Carroll University, OH
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Loyola Marymount University, CA
Loyola University Chicago, IL
Loyola University Maryland, MD
Loyola University New Orleans, LA
Marquette University, WI
Regis University, CO
Rockhurst University, MO
Saint Joseph's University, PA
Saint Louis University, MO
Saint Peter's College, NJ
Santa Clara University, CA
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University of Detroit Mercy, MI
University of San Francisco, CA
University of Scranton, PA
Wheeling Jesuit University, WV
Xavier University, OH

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Madam Secretary:

The Affordable Care Act is a landmark achievement which will help to provide affordable health care to all Americans, and we applaud you for all that you have done to shape and pass this legislation. Thanks to you, to President Obama, and to members of the United States Congress, millions of Americans who have been denied care will now have access to quality, affordable health care. We view this achievement as a milestone of social justice and civic equity.

As presidents of Jesuit Catholic colleges and universities, however, we wish to express our very deep concern about the rules which the U.S. Department of Health and Human Services published last month to implement the Act. These regulations will require our institutions and many other Catholic institutions to offer our students sterilization procedures and prescription contraceptives, including pills that act post-fertilization to induce abortions. Compliance with these new rules would force us to deny our religious institutional heritage and identity by helping our students to act contrary to Catholic teaching and belief.

We do not believe that the men and women of your Department who were tasked with creating these new rules intended that this requirement should extend to faith-based organizations such as ours. There is indeed an exemption in the rules for "religious employers." But because the rules define the exemption narrowly in terms of employment, it does not apply to our Jesuit Catholic colleges and universities, or to many other Catholic and other faith-based institutions.

The rules state that "The inculcation of religious values [must be] the purpose of the organization." The rules go on to define this inculcation, however, in narrow terms of employment, and not in terms of mission. As Jesuit Catholic colleges and universities, we absolutely seek to inculcate our students in the values of the Catholic faith. These include an absolute belief in the value of human life, as well as belief in the dignity and worth of all of

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God's creation. As institutions of higher education, we embrace academic freedom and we encourage all of our students to learn how to question in the pursuit of knowledge. In no way, however, is this incompatible with our core identities as Jesuit Catholic institutions.

Presently, by stipulating that exemptions would only apply to "religious employers" that are excused from filing an IRS Form 990, the rules deny exemption to Catholic hospitals and middle schools, as well as colleges and universities. Only churches, their integrated auxiliaries, and religious orders are exempt under the present rules, but we are no less faith-based than they are.

We respectfully request that you direct your staff to revisit the rules of the Affordable Care Act that pertain to religious exemptions, and that these rules be adjusted away from employment-based criteria and towards criteria that consider the underlying mission of the institution applying for an exemption. As college presidents, the health and welfare of our students is always of paramount concern. We would not request this change if we believed that it would in any way endanger the health of our students. We would be delighted to join you and your staff in a discussion of how best to revise the implementation rules so that both the health of our students and the health and integrity of our Jesuit Catholic values and beliefs are equally maintained and preserved.

Sincerely,

Gregory F. Lucey, S.J.
President

On behalf of

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