997 Bradford Street
Pomona, California 91767
August 30, 2007

Office of Diversity and Compliance
California State Polytechnic University, Pomona
3801 West Temple Avenue
Pomona, California 91768

Dear Office of Diversity and Compliance,

This letter is to dispute the conclusions of the last two letters to me regarding my name and gender change at this university and to ask you once again to change my name from Jared Clifford Tveter to Olympia Tveter, and thus also change my gender marker as reflected by name. I thank you for your letter dated June 28th granting a change in my gender marker in the school records from male to female. That meant so much to me. I can only hope that with this letter I write, that my analysis of your arguments and in my presentation of the law that you will now grant my name change, and gender change as reflected by my name.

In this letter I will first respond to the arguments of the letter dated May 1st, 2007 from Kathleen Street, Associate Vice President of Enrollment Services, and then the letter dated June 28th, 2007 from Carmen Munoz-Silva, Director of Diversity and Compliance. The first letter argued that the university had the right to deny me a name change based on the California Code of Civil Procedure section 1275 et seq. This was a patently false claim by the university. The letter to follow it, on June 28th, claimed that the previous letter was indeed mistaken and that I did have the right to change my name by common law, but that based on an opinion of a former California state attorney general, that it is not "incumbent" upon anyone, including the state, to honor that right, and so the university has chosen to continue to deny me that right. The claim of that letter is also a false one, as will be shown.

So specifically <u>at issue is that this university, as a government agency, does *not* have the right to deny me my rights as set forth by common law, state statutes, state and federal case law, nor the U.S. Constitution and the Declaration of Independence based on opinion number 00-205 of former State Attorney General Bill Lockyer.</u>

Inspecting the arguments of the letter of May 1st is important in that, to an extent it reviews a little of the history of this dispute, but, more so, it sheds light on the reasons why the common law *should* absolutely be followed by the state government itself, specifically this university.

The wording of this letter claimed that I needed to show "proper supporting documentation" for the state university to grant me a name and gender change. Specifically the letter read:

> The University maintains its position that a name and gender change cannot be processed for you in the University records without proper supporting documentation.

> California has a statutory procedure to formally change one's name. (California Code of Civil Procedure section 1275 et seq.) You still have the option to produce proper supporting documentation (e.g., court order, driver's license, Social Security card with a new name) to effectuate a change in the University's records.

Several logical fallacies exist in this argument. Section 1275 et seq. only requires certain persons (in prison, on parol, on probation, and convicted sex offenders) to follow the court procedure to change their name. These statutes are clear that ***everyone else*** has the right under state law to change their name through the common law alone. And when one examines these statutes together with state and federal court rulings, it is clear that the common law is the actual legal name change, the procedure is only there if a person would like a more public record of that common law name change. ***The common law is the law*** in this case, not the procedure. The other fallacy of this letter is that the university seemed to believe that the statutory procedure includes getting one's driver's license and Social Security card changed, which is not the case. To expose these flaws and how they relate to the common law, let us first examine the codes themselves.

Upon looking up these sections, one finds that the codes lay out the procedures for how court ordered name changes are to be done and when. Specifically sections 1275-1279.6 lay this out. Of particular note is section 1275.5(a) governing when they are to be done, and which I quoted in my second formal letter to the university. It reads that a person may choose to go through the courts to make a record of their name change or one may also very well choose to not make a record of it, but to only use the common law (as I am). As stated, 1275.5(a) also puts four restrictions on whether one can use the common law *alone* to change their name in California. As I do not fit into any of those four categories listed — in accordance with these statutes, I can legally choose (as I am) to disregard the procedures in 1275 and those following it, and change my name through common law alone. There are no other restrictions listed in these statutes as inherently claimed in the May 1st letter, and in the state codes not a license nor a social security card are listed as effectuating documents of the procedure.

To furthermore engage the apparent assumptions of the letter of May 1st, if I did produce a driver's license, that would not necessarily mean that my name is changed with social security or that I had a court order. And if I produced a court order it would not necessarily mean that my name on my driver's license and social security card were changed. So I could have a license or a court order and if you changed the university records based on these then much of what I have been told in the first two letters from the university regarding the necessity of a Social Security card in my new name was untrue. And this was indeed confirmed as untrue in the June 28th letter.

And if anything, if one reads further in these codes, 1279.6 requires that the university (who is involved in a business or service) does not discriminate and force a name upon someone based on a person's gender, but use the name which that person chooses to use. In my case, I am a woman choosing by common law to use a name for my life other than my birth name, and this university is currently refusing to acknowledge it.

Also, if one examines several court cases related to this code, one finds that this particular code was actually enacted as an "affirmation" of the common law right. In re Useldinger 35 Cal.App.2d 723 (1939) reads:

> The common-law right to change one's name has not been abrogated by statute in this state and such change may be accomplished without resorting to legal

> proceedings, and as sections 1275 to 1279, inclusive, of the Code of Civil Procedure were enacted in affirmation of that right and for the purpose of establishing a change of name as a matter of record.

Lucidly here, the courts pronounce that these codes were "enacted in affirmation of that [common-law] right." The procedural codes are merely for recording purposes. By the common law, the only proof that is needed is my honest word, not a court order. This particular case concerned a man who had gone by a different name than his birth name since age 12 and now at age 25 wanted to establish a more permanent record of it.

> More than 14 years before the filing of the petition petitioner had exercised his legal right to change his name to James J. Britt. Thereafter petitioner had consistently used and had been generally known by the last-mentioned name and it constituted petitioner's "legal name just as much as if he had borne it from birth". (Ray v. American Photo Player Co., supra, p. 314) The purpose of the petitioner in filing this proceeding was to establish a legal record of that which he had already legally done many years before.

So, simply giving my word, by the common law stands as being of equal validity as my birth name. I am going by Olympia in nearly every aspect of my life, and thus the university should acknowledge my will to use the name I have chosen for my life. My legal name is Olympia Tveter, as if I "had borne it from birth," yet somehow, this university, in this letter of May 1st thought that the courts or some other proof than my word made the name more acceptable. And when one looks at cases such as In re McUlta 189 F. 250, which is similar to this, name is basically irrelevant in so far as the law is concerned, the person and their self-determination and will for how they live their life is all that matters. The statutes are just to make a record of it.

It is also worthy to mention that in the state case In re Marriage of Banks (1974) 42 Cal.App.3d 631 the courts also ruled that:

> Code Civ. Proc., §§ 1275-1279, were enacted in affirmation of the common law right of a person to change his name without initiating legal proceedings and for the purpose of providing for the establishment of a change of name as a matter of record.

This makes it even more crystal clear that changing one's name is actually a matter ONLY of common law, the common law is the legal name change. The court procedure just makes it recorded, if that person desires it to be recorded. Clearly from these cases, the courts have made it clear that the common law name change is the legal name change, the court procedure is just to make a record of it.

The federal case of Brooks Bros. V. Brooks Clothing of California (1945) 60 F.Supp. 442 affirms this:

> It should be added that in California a person may without judicial proceeding, change his name, and acquire property and do business under it. Ray v. American Photo Player Co., 1920, 46 Cal.App.311, 189 P. 130; In re Useldinger, 1939, 35 Cal.App.2d 723, 96 P.2d. 958.

Statute is simply to have a public record of it, and it is not prerequisite for legally changing one's name. The codes are "in affirmation of that [common-law] right" and not to hinder it. The university had been mistaken in their interpretation that because the procedure exists, that it must be followed to provide "proof."

As well, the most recent letter from the Director of Diversity and Compliance (June 28th) confirms this, that ***the*** single reason now for denying me a name and in part a gender change is that you, this university, now claim that although I have the legal right to change my name by common law, that you are not obligated to honor my right. Your reasoning here is also profoundly illogical.

If one examines the Declaration of Independence, one of the highest documents of this nation, it reads:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men.

Being part of the government, your duty is to secure the rights of the people. You duty is not to pick and choose which rights you will honor and which you will not. Your purpose is to be a guarantor of my rights—that is why you exist.

The Preamble of the U.S. Constitution as well pronounces this, that your purpose is to, "secure the Blessings of Liberty to ourselves and our Posterity." Part of your purpose is to secure those rights. ***When you say that I have the right, but it is not "incumbent" on you secure those rights, such an interpretation runs counter to all that this nation was founded on.***

Governments are formed to secure the rights of the people, not to inhibit, or deny them based on their own arbitrary whims, or else the government becomes a tyrant over the people. As I shall show, those rights of the people are the common law rights.

The common law is of titanic importance to this nation and this state in ensuring liberty, inhibiting tyranny and facilitating a smooth and productive society. To further emphasize these points, I will explore below a few passages from the *Report on Civil and Common Law* by a committee of the first California legislature (1 Ca 588). This report also supports the rulings In re Useldinger and that of Brooks Bros. v. Brooks Clothing of California, that the statute is only to affirm the common law, not to usurp it or replace it.

These early legislators understood the immense importance of the common law to the people of this state and to the majority of the nation. When speaking of attempts to vanquish the common law from this state, this state legislative report reads:

> We apprehend that any such attempt, if made, would in due season be answered by the people, as the bishops were answered by the sturdy barons of England at Merton, when a similar effort was made to impose upon them a part of this same system of Rome, "We will that the laws of England be not changed." (604)

To link this back to the U.S. Constitution, the report in another passage also reads:

> Upon whatever coast an English colony has been planted, there also have colonists established the Common Law, and have ever afterwards clung to it as

> the birthright of themselves and their children, with a tenacity that no power, no suffering, no fear of danger, no hope of reward, could induce them to relax. (593)

Nor am I induced to relax and forsake my common law rights based on your arbitrary desires. The common law is the foundation of our nation. The wording, "and have ever afterwards clung to it [the Common Law] as the birthright of themselves and their children," pleads an undeniable connection to the U.S. Constitution, to "secure the Blessings of Liberty to ourselves and our Posterity." The common law birthright is the Blessings of Liberty.

From the founding of this nation and this state, it is clear that the common law prevents the state from exercising tyranny over the People. When there are gaps or ambiguities in statutory law (which can never be wholly complete or comprehensive), the common law must be followed (604). If there is not obedience unto the common law in such cases, judges, and other entities of the state

> would be obliged to base their judgments either upon the system with which they are familiar, or upon their own abstract notions of right or wrong in every case. The community would thus be exposed to the exercise of discretionary and arbitrary judicial power. (602)

In short, tyranny. For an individual to not acknowledge and follow the common law, for whatever ambiguous reason, is, according to a former state attorney general, acceptable, but as our government is founded on the common law, in matters of ambiguity, the government is required to abide by the common law—it is not within your purview to be arbitrary and withhold common law rights in this matter simply because "others" are not required to honor them. The common law is the base law to prevent you, the government, from behaving tyrannically.

As well, as the Common Law is the actual law that is our birthright and part of the Blessings of Liberty, the government is suppose to uphold these rights. One of the rulings from United States v. Cox, 593 F2d 46 (1979) also supports this conclusion: "Statutes are to be interpreted with reference to common law and where there is no indication to the contrary, given their common-law meaning." The common law is the ruler which guides the interpretation of the statutory law. This is also an evident theme throughout the aforementioned legislative report. The procedural statutes are written to affirm that which is already the law—the common law. This common law is part of my birthright of being one of the people in this land, and which "no power, no suffering, no fear of danger, no hope of reward, could induce [me] to relax."

And especially in the light of the federal case of Jech v. Burch (1979) 466 F.Supp. 714. In this, the court ruled that the common law right to determine one's name was a right protected under the U.S. Constitution and that this right is protected from "arbitrary state action," which this university appears to be exhibiting by denying my rights based merely on that it is not "incumbent" upon "others" to, when clearly under the highest documents of this land, your purpose is to secure those rights:

> ...a proper interpretation of Anglo-American political and legal history and precedent leads to the conclusion that parents have a common law right to give their child any name they wish, and that the Fourteenth Amendment protects this right from arbitrary state action. ...
>
> The common experience of mankind, whether parents agonizing over a name for

> their newborn child, or grandparents trying to participate in the naming process, or grown children living with the names their parents gave them, points up to the universal importance to each individual of his own very personal label. Every society has developed a special folklore around a person's name. One's name becomes a symbol for one's self.
>
> Good name in man and woman, dear my lord,
> Is the immediate jewel of their souls;
> Who steals my purse steals trash; 'tis something, nothing;
> 'Twas mine, 'tis his, and has been slave to thousands;
> But he that filches from me my good name
> Robs me of that which not enriches him,
> And makes me poor indeed.
>
> W. Shakespeare. Othello Act III, Sc. 3, Line 155 (1604)
>
> The "Blessings of Liberty" mentioned in the preamble of the Constitution include time honored rights, amenities, privileges, and immunities, among which is autonomous control over the development and expression of one's intellect, interests, tastes, and personality. See Doe v. Bolton, 410 U.S. 179, 93 S.Ct. 739, 35 L.Ed.2d 201 (1973) (concurring opinion of Douglas J., at 210-211, 93 S.Ct. 739). The naming of one's own child comes within this catalogue of blessings of liberty.

And likewise, the naming of the self—"autonomous control over the development and expression of one's intellect, interests, tastes, and personality." This case directly expounds that this common law right of self determination is part of the "Blessings of Liberty" that the U.S. Constitution protects and that specifically the Fourteenth Amendment protects people from intolerant policies in this matter. The Fourteenth Amendment reads: "nor shall any State deprive any person of life, liberty, or property, without due process of law." The wording "of universal importance" speaks of how truly this right to determine one's name is a very *human* right, applicable to *all*. This protection of the law, this Blessing of Liberty must be honored; none are to robbed of this right "of universal importance," "of that which ... enriches [them]"— this common law right, at will, to freely choose their "own very personal label"— their name.

To add to this personal flexibility and freedom, as you have acknowledged in the June 28th letter, one even has the right to be in personal control of and go by multiple legal names, all chosen at will under the common law (California Packing Corp. v. Kandarian, 62 Cal. App. 729, Abdul-Jabbar v. General Motors Corporation, 85 F.3rd 407, and Touchton v. Dover Corp./Rotary Lift Div., 319 F.Supp2d 1290, United States v. Mount 757 F.2d 1315), though I am seeking to be known most exclusively as Olympia Tveter. So no matter the name or names I choose to be in control of, you are bound under the highest documents of this land to secure my common-law rights. Please, I ask you, please, secure my rights.

If a former attorney general for the state of California says that nobody has to honor the law, then what do we have the law for!? We do not have *laws* for nothing! The government and laws are created because we the people thought that it was important to secure certain rights for ourselves. Not to let government tyrannically ignore them on a whim. It appears that that is exactly what is being done—ignoring the laws on a whim, when the founding documents of our nation order your compliance.

Let us now look specifically at that opinion of the former California State Attorney

General Bill Lockyer regarding this matter. His opinion you quote in the June 28th letter reads:

> To change one's name by common law method is to exercise the freedom to unbind oneself from the given name or surname acquired by birth or prior assumption, and to identify oneself anew, it is not to unilaterally impose recognition or acceptance of the new chosen name as an obligation incumbent upon others. (CA Attorney General Opinion No. 00-205, June 9, 2000)

The ***only*** way that this could make sense in the light of the state statutes, and state and federal court rulings, and in the light of the U.S. Constitution and Declaration of Independence is if this opinion applied to "others" meaning "other people," not to the government itself, as the government's purpose is to be a guarantor of rights, and thus to honor them.

To give an example, I know someone on the university campus who is a *very* conservative Christian. His specific beliefs in God include that gender is something fixed and God assigned, so he still refuses to recognize me by my new name and gender. I can understand this. His purpose is not to secure my rights. The purpose of government on the other hand is to secure those rights. I cannot "unilaterally impose recognition or acceptance of the new chosen name as an obligation incumbent upon others." This is true. But the government's obligation ***is*** to recognize those rights, and to accept and secure my self-determined will for my life

This university has thankfully already done so in regards to my specific gender marker, from male to female. Honoring self-determination includes my name though too, as well as my gender as reflected by my name. As stated in the letter dated June 28th, you, the university, already have security safeguards in place in the records system to keep track of multiple names of students. Clearly, as you have admitted in that letter, to both ensure that fraud does not occur in the record keeping system and to secure my right to change my name through the common law is very easy for you to do.

You are required to not be arbitrary in matters outside of civil law, but instead to abide by the common law in this matter and to secure the rights of the people, which is the common law, the Blessings of Liberty.

And so in this letter, I ask you once more to please follow through and secure my rights unto which you were ordained by the people to be a guarantor. I request once again with this letter that you please honor those rights.

Most Sincerely,

Olympia Tveter

CC:
Michael Ortiz, University President
Kathleen Street, Associate Vice President of Enrollment Services
Maria L. Martinez, Associate Registrar
David E. Johnson, Director of Judicial Affairs
Fernando Estrada, Director of the Pride Center