



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

JUN 27 2014

Dr. Brent Ellis
President
Spring Arbor University
106 E. Main St.
Spring Arbor, MI 49283

Dear Dr. Ellis:

The purpose of this letter is to respond to your correspondence to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Spring Arbor University (University) of Spring Arbor, Michigan from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. 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 educational institutions controlled by a religious organization to the extent application of Title IX would be not be consistent with the religious tenets of such organization. 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.

Your request explained that the University is “an evangelical Christian university affiliated with the Free Methodist Church” that “emphasizes Christian principles of religion in its community and campus life.” Your letter states that students are required to attend chapel regularly and must pass Christian Perspective courses in order to graduate. According to the University’s Articles of Incorporation, the majority of members of the University’s Board of Trustees must be members of the Free Methodist Church. Your letter explains that “the University is under the control of the Free Methodist denomination through the Church members who serve as Trustees and have the majority voice on the Board, and through the President of the University, who must be a member of the Free Methodist Church.”

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The Department of Education’s mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

You state that the University's Code of Conduct is based on Biblical principles and the tenets of the Free Methodist Church, and that all students and employees are required to follow the Code of Conduct or risk sanctions, including dismissal from the University or termination of employment. Among the religious tenets followed by the University and its controlling organization (the Free Methodist Church) are "that God created two sexes, male and female" and that a person cannot change his or her sex assigned at birth. You also assert that the University, in compliance with the religious tenets of its controlling organization, "adhere[s] to the requirement of heterosexuality" and does not condone premarital cohabitation or extramarital sexual relationships.

Your letter states that, because of these tenets, a transgender student would not be permitted to live in University housing, play on athletic teams, share restrooms, or use locker rooms with individuals of the transgender student's gender identity. Your letter further states that transgender individuals would not be eligible for employment with the University. Your letter also provides that transgender individuals "would not be permitted to engage in dating or sexual activity with a person of their birth sex, because this behavior is considered to be homosexual in nature, based upon the University's religious beliefs." On this basis, your letter requests an exemption from Title IX and the following provisions of its implementing regulation to the extent that these provisions prohibit discrimination on the basis of gender identity or sexual orientation:

- 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. § 106.41 (governing athletics); and
- 34 C.F.R. § 106.51 (governing employment).

The University is exempt from the provisions listed above to the extent that they prohibit discrimination based on gender identity or sexual orientation or require a recipient to treat students consistent with their gender identity, and compliance would conflict with the controlling organization's religious tenets.

Additionally, your letter states the tenets of the Free Methodist Church "also prohibit elective abortion, pre-marital sex, extra-marital sex, and homosexual behavior, for students and employees." On this basis, you request an exemption from Title IX and the following provisions of its implementing regulation to the extent that they would require the University to "retain pregnant unmarried employees or employees who elect to terminate their pregnancy, to admit pregnant unmarried students, to retain unmarried students who elect to terminate their pregnancy, to allow unmarried students of the opposite sex to live together, to retain pregnant, unmarried students and to allow them to live in University housing, and to allow homosexual students to live together":

- 34 C.F.R. § 106.21(b)(iii) (governing differential treatment on the basis of sex);
- 34 C.F.R. § 106.21(c) (governing admissions prohibitions on the basis of marital or parental status);

Dr. Brent Ellis, President
Spring Arbor University
June 24, 2014
Page 3 of 3

- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.51(a) (governing employment);
- 34 C.F.R. § 106.51(b)(6) (governing the granting of pregnancy-related leave); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

The University is exempt from the provisions listed immediately above, to the extent that they require the University to treat pregnancy, abortion, sexual orientation, and pre-marital or extra-marital sexual relationships in a manner that is inconsistent with the religious tenets of its controlling organization.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and its implementing regulations 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
Office for Civil Rights
U.S. Department of Education

cc: Diane Y. Bower, Esq., Marcoux Allen