



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS  
THE ASSISTANT SECRETARY

May 5, 2020

The Honorable Bernard Sanders  
United States Senate  
Washington, DC 20510

Dear Senator Sanders:

Thank you for your letter to Secretary of Education Betsy DeVos, dated February 25, 2020, regarding a message you received from a constituent concerning Corban University's (formerly known as Western Baptist College) religious exemption under Title IX of the Education Amendments of 1972 (Title IX). Your constituent's letter requests that the U.S. Department of Education (Department) revoke Corban University's Title IX exemption based on the belief that the exemption permits for the University to discriminate against LGBTQ faculty and students.<sup>1</sup> I am pleased to respond on behalf of Secretary DeVos.

Since its enactment, Title IX has provided an exemption for educational institutions that are controlled by religious organizations to the extent that complying with Title IX would conflict with the religious tenets of the controlling organization. *See* 20 U.S.C. § 1681(a)(3). The Department's website makes clear that institutions are not required to submit a written statement or to obtain approval from the Office for Civil Rights (OCR) prior to asserting a religious exemption.<sup>2</sup> If an institution submits a written statement to the Assistant Secretary for OCR claiming a religious exemption, OCR evaluates whether that statement identifies the religious organization that controls the educational institution and specifies the provisions of Title IX or its regulations that conflict with the tenets of the religious organization. *See* 34 C.F.R. § 106.12. OCR does not draw a distinction between religious exemption requests that relate to LGBTQ students and those that request an exemption on any other ground. OCR's current process for assessing religious exemption requests is the same regardless of the provision of Title IX from which the institution seeks an exemption.

Consistent with the statute, OCR limits eligibility for a religious exemption to educational institutions that can demonstrate that they are controlled by a religious organization. As described on the Department's website, an educational institution seeking an exemption will be considered to be controlled by a religious organization if one or more of the following conditions is true:

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<sup>1</sup> On August 5, 1985, Western Baptist College received a letter from Harry M. Singleton, Assistant Secretary for Civil Rights, granting its religious exemption from certain provisions of Title IX. *See* [www.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/western-baptist-college-response-08051985.pdf](http://www.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/western-baptist-college-response-08051985.pdf).

<sup>2</sup> *See* [www.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/index.html](http://www.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/index.html).

- It is a school or department of divinity, defined as an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects; or
- It requires its faculty, students or employees to be members of, or otherwise espouse a personal belief in, the religion of the organization by which it claims to be controlled; or
- Its charter and catalog, or other official publication, contains [an] explicit statement that it is controlled by a religious organization or an organ thereof or is committed to the doctrines of a particular religion, and the members of its governing body are appointed by the controlling religious organization or an organ thereof, and it receives a significant amount of financial support from the controlling religious organization or an organ thereof.

A religious institution also must identify the Title IX provisions that conflict with specific religious tenets of the controlling religious organization. OCR still requires a religious institution to comply with Title IX when the application of the law is consistent with the controlling organization's religious tenets.

The Department and OCR are committed to protecting the civil rights of all students, consistent with OCR's jurisdiction under Title IX and the other civil rights laws it enforces, while also respecting the religious liberties of institutions and students. OCR is also committed to the vigorous enforcement of the civil rights laws and holding recipients of ED funds, as applicable, accountable when necessary to secure compliance with the laws over which OCR has jurisdiction.

Thank you for your interest in ensuring that students have a safe learning environment that is free from discrimination. If you have additional questions or concerns, please contact Jordan Harding, Principal Deputy Assistant Secretary, delegated the duties of the Assistant Secretary for Legislation and Congressional Affairs, at (202) 401-0020.

Sincerely,



Kenneth L. Marcus

Assistant Secretary for Civil Rights