



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

December 14, 2017

Daniel L. Anderson, Th.D.
President
Appalachian Bible College
161 College Drive
Mt. Hope, WV 25880

Dear Dr. Anderson:

I write in response to your June 24, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Appalachian Bible College (College) of Mt. Hope, West Virginia, from Title IX of the Educational 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. Title IX and its implementing regulation at 34 C.F.R. § 106.12 provide that Title IX does not apply to an educational institution that is controlled by a religious organization to the extent that the application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions may 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 or regulation that conflict with those tenets.

Your request letter states that the College "is an agency of and is governed by the Appalachian Bible Fellowship, Inc. ("ABF" or "the Fellowship"), a missionary agency" and that "[w]ithin that context, the College "exists to provide post-secondary educational services to independent fundamental Baptist and other Bible church communities." The Fellowship's Constitution and By-Laws affirm that the Fellowship "purposes to organize, own, operate and maintain an independent organized missionary agency, for the purpose of providing Bible training for the children, Christian young people and adults in the area in which it is established." Your letter also states that "[t]he Fellowship and the College – as one of its ministries – understand the Bible to be the infallible, written Word of God. In addition, both the Fellowship and the College affirm that the Fellowship's Doctrinal Statement provides the most adequate and comprehensive expression of the system of the doctrine taught in the Bible."

Your letter requests exemption from certain provisions of Title IX and its implementing regulations "to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College's freedom to apply and enforce its Policy on Gender-Specific Staff Positions and its Policy on Pregnancy."

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orientation discrimination, and to the extent they restrict the College's freedom to apply and enforce its Policy on Gender-Specific Staff Positions and its Policy on Pregnancy." In support of your request, you cite to the College's Policy on Sexuality and Gender. In part, the policy affirms "that God creates human life as two distinct sexes, male and female" and recognizes "each individual as male or female based on their biological birth sex." The policy additionally states that "[a]dopting a psychological identity different from one's biological birth sex, or attempts to change the gender of one's body to an opposite sex, or an indeterminate sex, through medical treatments, is not appropriate." The College's Policy on Sexuality and Gender also instructs that "the Bible restricts sexual activity to marriage between a man and a woman, that is, a biological male and biological female." Your letter also states that in accordance with the Fellowship's policies and theological beliefs about gender roles, there are restrictions on certain employment positions based on sex. Finally, your letter cites the College's Policy on Pregnancy, which affirms "the God-ordained worth of human life, from conception to death, confirmed by the uniquely bestowed image of God placed upon each human being," and the "intentional termination of unborn life through abortive measures, whether surgical, pharmaceutical, physically abusive, or other means is an offense against God and is sinful." The Policy on Pregnancy further specifies that "[a]n unmarried female student or employee who is pregnant through rape (including incest) will be allowed to continue as a student or employee but will not be housed in the residence hall in the semester in which her due date occurs" and that an "unmarried female student or employee who is pregnant through other than rape will not be allowed to continue as a student or employee during her pregnancy."

Your letter states that, for the above reasons, the College is requesting an exemption from the following regulatory provisions to the extent application of those provisions would not be consistent with the College's religious tenets regarding gender identity and sexual orientation, or to the extent that they restrict "the College's freedom to apply and enforce its Policy on Gender-Specific Staff Positions and its Policy on Pregnancy":

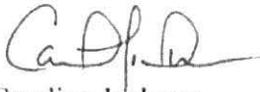
- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities);
- 34 C.F.R. § 106.34 (governing access to classes and schools);
- 34 C.F.R. § 106.36 (governing counseling);
- 34 C.F.R. § 106.37 (governing financial assistance);
- 34 C.F.R. § 106.38 (governing employment assistance to students);
- 34 C.F.R. § 106.39 (governing health and insurance benefits and services);
- 34 C.F.R. § 106.40 (governing marital or parental status);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.43 (governing standards for measuring skill or progress in physical education classes); and
- 34 C.F.R. §§ 106.51-61 (governing employment).

The College is exempt from these provisions to the extent that compliance would conflict with the controlling organization's religious tenets.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulation 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 recognized.

I hope this letter fully responds to your request. If you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Jackson", with a stylized flourish extending to the right.

Candice Jackson
Acting Assistant Secretary for Civil Rights
U.S. Department of Education