



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

November 21, 2022

Adam J. Morris, PhD
President
Azusa Pacific University
901 East Alost Avenue, PO Box 7000
Azusa, California 91702-7000

Dear President Morris:

I write in response to your November 9, 2022, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested assurance of a religious exemption from Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688, for Azusa Pacific University (the "University") in Azusa, California. Your letter incorporates by reference a prior letter, dated May 18, 2022, from the University's General Counsel. On August 24, 2022, OCR responded to the May 18, 2022, explaining that, in order for OCR to provide assurance of the University's eligibility for a Title IX religious exemption, the University must provide a statement by the highest ranking official of the institution, such as the University's President.

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 regulations at 34 C.F.R. § 106.12 provide that Title IX does not apply to an educational institution controlled by a religious organization to the extent that the application of Title IX would be inconsistent with the controlling organization's religious tenets. Section 106.12(b) of the Department's Title IX regulations describe the process by which an educational institution may request assurance of a religious exemption. 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. Section 106.12(c) of the Department's Title IX regulations describes the evidence that is sufficient to establish that an educational institution is controlled by a religious organization.

The May 18, 2022, letter explains how the University is controlled by a religious organization. The University provided a copy of its original Articles of Incorporation, which state that the

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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.

University is “a religious corporation” organized for religious and educational purposes, including “spreading and propagating the Gospel of Jesus Christ.” The May 18, 2022, letter explains that the University is controlled by a Board of Trustees. The University’s Bylaws provide that “[o]nly those persons who are in harmony with the policies and purposes of Azusa Pacific University, and who commit to the statement of faith adopted by the Board, shall be eligible to serve as a Trustee. All trustees shall sign the Trustee Statement of Faith annually at the September board meetings.” The May 18, 2022, letter further explains that “all undergraduate students are required to attend University Chapel three times per week.” The May 18, 2022, letter also notes that the University’s mission statement provides that it is “an evangelical Christian community of disciples and scholars who seek to advance the work of God in the world through academic excellence in liberal arts and professional programs of higher education that encourage students to develop a Christian perspective of truth and life.”

Your November 9, 2022, letter specifies religious tenets “concerning matters of gender” that conflict with Title IX. You explain that the conviction that “all people are created in the image of God and hold equal intrinsic value and worth before God and on another (Gen. 1:26-27, 31)... is the starting point for governing the University’s relationships within our community.” The letter further explains that the University’s religious standards regarding gender are grounded in the following tenets: “God’s original and continued intent in the creation of humanity is expressed in two (and only two) distinct, biologically-rooted sexes, male and female;” “[t]he God-ordained character of humanity results in the determination of one’s biological sex at the time of conception;” “same-sex sexual relations and transgenderism are proscribed in the most strenuous terms;” “biblical marriage can exist only between one man and one woman;” and “sex outside marriage or with a married person who is not one’s spouse is forbidden.”

For the above reasons, the University requests assurance of its exemption from regulatory provisions that form the factual predicates for OCR’s investigation of allegations that the University discriminates against LGBTQ+ students based on sexual orientation and gender identity “because its policies and practices, including in its current Student Handbook, prohibit sexual intimacy outside of marriage and endorse the doctrine that marriage is between a man and a woman” and “by refusing to fully recognize the LGBTQ+ student groups on campus.” OCR interprets this as a request for assurance of its exemption from 34 C.F.R. § 106.31 (governing education programs or activities) to the extent it prohibits discrimination based on sexual orientation and gender identity and its application would be inconsistent with tenets of the controlling religious organization.

The University is exempt from this provision to the extent it prohibits discrimination based on sexual orientation and gender identity and its application would be inconsistent with tenets of the controlling religious organization.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the 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 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. Lhamon', with a stylized flourish at the end.

Catherine E. Lhamon
Assistant Secretary for Civil Rights

CC: James R. Buckley, General Counsel & University Integrity Officer