



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

August 29, 2016

Barry H. Corey  
President  
Biola University  
13800 Biola Avenue  
La Mirada, CA 90639

Dear President Corey:

I write to respond to your November 14, 2014, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Biola University (University) of La Mirada, California, from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. In response to a request from OCR on December 22, 2014, you submitted further information on February 5, 2015, about the University's eligibility for exemption from Title IX. 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 controlled by a religious organization to the extent that application of Title IX would be inconsistent with the controlling organization's religious tenets. 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 or regulation that conflict with those tenets.

Your February 2015 letter explains that the University "is a private Christian evangelical institution" and that it "is governed and controlled by its Board of Trustees pursuant to the statement of mission and purpose and Articles of Faith contained in its Articles of Incorporation." Your letter further states that "the University's Articles of Incorporation require that every member of the Board of Trustees, every officer, member of the faculty and every employee espouse a personal belief in the Christian faith and to subscribe annually to the Articles of Faith of the University." Additionally, your letter explains that the University's bylaws "require that all students of the University profess a belief in Jesus Christ as personal savior" and that "[a]ll students and employees of the University agree to abide by a Standard of Conduct which expresses a commitment to the principles of Christian living found in the Bible."

In your November 2014 letter, you request an exemption to the extent that Title IX or its implementing regulations are interpreted "to include discrimination based on gender identity." In support of this request, you cite to a "Statement on Transsexualism and Transgenderism"

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adopted by the University's governing board, which your letter explains is "grounded in [the University's] long-standing institutional religious identity as expressed in its Articles of Faith contained in its Articles of Incorporation and Bylaws which have been constant since Biola's founding over one hundred years ago." According to your letter, that Statement cites the Bible for the proposition that "God's original and ongoing intent and action was the creation of humanity manifest as two distinct sexes, male and female" and that "[e]xcept in very unusual cases, our sex as male or female is a biological given . . . and is not changeable, but rather a stable enduring characteristic of the person determined by God's creational intent."

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent they are interpreted "to include discrimination based on gender identity:"

- 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. §§ 106.51-106.61 (governing employment).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of gender identity and 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 granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets identified in your request, OCR is obligated to identify a controlling organization to contact 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  
U.S. Department of Education