



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

August 31, 2016

Barry Creamer
President and CEO
Criswell College
4010 Gaston Ave.
Dallas, TX 75246

Dear President Creamer:

I write to respond to your September 28, 2015, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Criswell College (College) of Dallas, Texas from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. In response to a request from OCR on January 27, 2016, you submitted further information in a letter received by the Department on March 22, 2016, about the College'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 September 2015 letter states that the "College is a distinctively Christian institution of higher education" that "is governed by a Board of Trustees." Your March 2016 letter explains that "[t]he Southern Baptists of Texas Convention nominates 40% of Criswell College's trustees to the governing board of Criswell College" and that "the Criswell Foundation, a religious nonprofit ministry, nominates an additional 40% of the trustees for Criswell College." Additionally, according to that letter, the "College receives 7% of its annual budget from the Southern Baptists of Texas." The letter further states that "[e]ach year the faculty and administration of Criswell College is required to reaffirm in writing the doctrinal position of the Southern Baptists of Texas Convention." Additionally, the letter explains that "[s]tudents at Criswell College are required to attend chapel twice each week," and that they "must be endorsed by a church and outline their personal statement of faith prior to admission." Finally, your letter states that "[a]ll undergraduate students take at least 42 hours of study on Biblical and theological matters."

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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.

Your September 2015 letter requests an exemption from certain provisions of Title IX “so that the College can discriminate in regard to its students and employees on grounds consistent with its religious tenets.” In support of this request, you explain that “[t]he College’s Articles of Faith consist of the Baptist Faith and Message 2000 . . . with several addenda.” You explain that the Baptist Faith and Message 2000 “is the official statement of faith of the Southern Baptist Convention,” and that the College has “aligned itself with the doctrines and values expressed” therein. Your letter states that the following tenets are reflected in the College’s Articles of Faith: “(1) God created two sexes, male and female; (2) marriage is the uniting of one man and one woman in a covenant commitment for a lifetime; (3) husbands and wives have distinct and complementary roles in marriage; (4) human life begins at conception; (5) the office of a pastor is reserved for men; and (5) sexual immorality, including fornication, adultery and homosexuality, are prohibited.”

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions to the extent they are interpreted to prohibit discrimination based on gender identity, sexual orientation, sex outside of marriage, abortion, and the education or training and employment of individuals for the pastoral office:

- 34 C.F.R. § 106.21(b)(1)(iii) and (c) (governing admissions);
- 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. § 106.36 (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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.51(a) and (b)(6) (governing employment);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60(a) (governing pre-employment inquiries related to marital status).

The College is exempt from these provisions to the extent that they prohibit discrimination based on gender identity, sexual orientation, marital status, sex outside of marriage, parental status, abortion, and the education or training and employment of individuals for the pastoral office 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,

A handwritten signature in black ink, appearing to read 'CEL', written in a cursive style.

Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education