



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

December 15, 2017

Gene C. Crume, Ph.D.
President
Judson University
1151 North State St.
Elgin, IL 60123

Dear President Crume:

I write in response to your December 12, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Judson University (University) of Elgin, Illinois, 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. An institution may be considered controlled by a religious organization if it is a school or department of divinity.

Your request letter states that the University is "an evangelical Christian university which represents the Church at work in higher education." The letter further explains that the University is "affiliated with the American Baptist Churches USA" and "governed by a board of trustees whose members must be evangelical Christians and affirm the Judson Trustee Covenant." The University's bylaws provide that "the largest majority of the Board must be Baptist, and at least half of those individuals must be American Baptist."

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 or to restrict the University's freedom to enforce its policy on divorce and the sanctity of life. In support of this request, your letter cites the University's Family Life Policy, which explains the University's belief that "God created people male and female in the womb (Psalm 139:13) and that one's birth sex determines the standard for Biblical behavior in lifestyle and sexual conduct for all persons who identify as transgender, transsexual, or practice such behaviors as cross dressing." The Family Life Policy also affirms the position of the American

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Baptist Churches, USA that “God’s design for sexual intimacy places it within the context of a marriage between one man and one woman” and that “the practice of homosexuality is incompatible with Biblical teaching.” Your letter explains that the University Board Policy Manual therefore considers certain practices and behaviors unacceptable in the University community, including “extra marital sex (e.g. adultery, premarital sex); homosexual or bisexual behavior; inappropriate sexual intimacy; abortion; pornography; transgender, transsexual, or cross dressing; and immodesty of dress.” The Board Policy Manual also provides that, consistent with its affirmation of the sanctity of marriage and the family, “in the event of [an employee’s] separation or divorce, ... the administration may reassign the employee within the University or, if circumstances warrant it, dismiss the employee.” Lastly, your letter cites the University’s Family Life Policy statement that “[t]he taking of a human life through any means (including but not limited to abortion, homicide or suicide) is considered abhorrent and contrary to the University’s missional core and that of the American Baptist Churches, USA” and that the University “reserves the right to terminate any member of the faculty or staff and dismiss any student from the community for violating this basic understanding of human life.”

Your letter states that, for the above reasons, the University is requesting an exemption from the following regulatory provisions to the extent they are interpreted to reach gender identity or sexual orientation discrimination or to restrict the University’s freedom to enforce its policy on divorce and the sanctity of life:

- 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 University 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 long horizontal flourish extending to the right.

Candice Jackson
Acting Assistant Secretary for Civil Rights