



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 24, 2023

Jerry Prevo
Interim President
Liberty University
1971 University Blvd.
Lynchburg, VA 24515

Dear Interim President Prevo:

I write in response to your December 5, 2022, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you asserted a religious exemption from Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688, for Liberty University (the "University") in Lynchburg, Virginia, in the context of a pending OCR investigation.¹

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 or assert a religious exemption in response to a pending OCR investigation. 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.

Your letter explains how the University is controlled by a religious organization. The letter states that the University is a "proudly Christian school" that "exist[s] for the purpose of glorifying God by equipping men and women in higher education in fidelity to the Christian faith expressed

¹ OCR notes that Liberty University initially sent a letter asserting a Title IX religious exemption to OCR on June 3, 2022. However, the letter did not meet the procedural requirements outlined in 34 C.F.R. § 106.12(b). The December 5, 2022, letter corrected these issues. Liberty University's December 5, 2022, letter notes that it incorporates the June 3, 2022, letter.

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through the Holy Scriptures....” The letter explains that the University carries out that mission “under the auspices of the Thomas Road Baptist Church,” which is responsible for the University’s founding and continues to play a “sacred role as guardian of the spiritual mission and doctrinal purity of Liberty University to assure that its founding vision of an evangelical Christian institution of higher education is never lost or abandoned.” Your letter notes that the Liberty University Doctrinal Position, one of the foundational documents of the University, can only be amended by a two-thirds majority vote of the entire Liberty University Board of Trustees and with the consent of the Board of Directors of Thomas Road Baptist Church. The University’s published institutional mission references its Christian identity and requires the University “to be forever linked to the Doctrinal Position and the scriptural principles that flow from it concerning a biblically faithful university.” Further, the University’s Articles of Incorporation state that “[a]ll functions, operations, and actions of the [University], including its policies, rules of conduct and athletic programs, must be consistent with the Doctrinal Position and corresponding biblical principles, and members of the University community must respect and act in harmony therewith.” Accordingly, members of the University community are required to maintain high standards of integrity, honesty, morality and modesty of dress, refraining from behaviors prohibited in the Holy Scriptures. Your letter explains that the University requires its Trustees, officers, and faculty to espouse a personal belief in its Doctrinal Position and/or its Doctrinal Statement, and it requires other employees and students to acknowledge the statement of Doctrine and support the University’s Christian mission.

Your letter also outlines the religious tenets of the controlling religious organization that conflict with Title IX. Specifically, your letter notes that the University’s Doctrinal Position reflects the religious tenets of Thomas Road Baptist Church and is certified by the Church. The Doctrinal Position requires members of the University community to refrain from behaviors prohibited in the Holy Scriptures. The Doctrinal Position expressly denounces homosexual acts and states that the following are prohibited behaviors: “denial of birth sex by self-identification with a different gender; ...sexual relations outside of marriage between one natural born-man and one natural-born woman; [and] romantic coupling among persons of the same sex.” The Doctrinal Position states that “human beings were directly created, not evolved, in the very image of God, as either biologically male or female from the womb.” Additionally, students are required to adhere to “The Liberty Way,” the student honor code, which is informed by the University’s Christian mission and the Doctrinal Position. The Liberty Way includes a “Statement on Sexuality and Relationships” that expressly states, “statements and behaviors that are associated with LGBT states of mind are prohibited.” Your letter asserts that any interpretation of Title IX that requires the University to accept student conduct based on “homosexual orientation or transgender ideology” is “flatly inconsistent with the Doctrinal Position that is foundational to everything Liberty does.”

For the above reasons, the University requests assurance of its exemption from the following regulatory provisions to the extent that they conflict with the Thomas Road Baptist Church's religious tenets pertaining to sexual orientation and gender identity, as reflected in Liberty University Doctrinal Position:

- 34 C.F.R. § 106.21 (admission)
- 34 C.F.R. § 106.22 (preference in admission)
- 34 C.F.R. § 106.23 (recruitment)
- 34 C.F.R. § 106.31 (education programs or activities)
- 34 C.F.R. § 106.32 (housing)
- 34 C.F.R. § 106.33 (comparable facilities)
- 34 C.F.R. § 106.34 (access to classes and schools)
- 34 C.F.R. § 106.36 (counseling)
- 34 C.F.R. § 106.37 (financial assistance)
- 34 C.F.R. § 106.38 (employment assistance to students)
- 34 C.F.R. § 106.39 (health and insurance benefits and services)
- 34 C.F.R. § 106.40 (marital or parental status)
- 34 C.F.R. § 106.41 (athletics)
- 34 C.F.R. § 106.42 (textbooks and curricular material)
- 34 C.F.R. § 106.43 (measuring skills or progress in physical education classes)
- 34 C.F.R. §§ 106.51-61 (employment)

Liberty University is exempt from these provisions to the extent that these provisions conflict with the Thomas Road Baptist Church's religious tenets pertaining to sexual orientation and gender identity, as reflected in the Liberty University Doctrinal Position.

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. Also, in the unlikely event that a complaint alleges that the practices followed by an institution are not based on the religious tenets identified in your request, OCR may contact the controlling organization 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, OCR will not recognize this exemption.

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 long horizontal flourish extending to the right.

Catherine E. Lhamon
Assistant Secretary for Civil Rights

cc: David M. Corry, General Counsel, Liberty University