



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 30, 2018

Kristopher Miller
Executive Director
Native American Christian Academy
8450 S. Sun Valley Road
P.O. Box 4013
Sun Valley, AZ 86029-4013

Dear Kristopher Miller:

I write in response to your October 18, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Native American Christian Academy (Academy) of Sun Valley, Arizona, 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 Academy is a "Christian boarding school" that "exists to educate and disciple students for Christ." Your letter further explains that the Academy "operates under the corporate name Native American Ministries, Inc., and is governed by a board of directors, which consists of 'the District Superintendent of the Native American District of the Church of the Nazarene; two elders from the district; two lay persons from the district; the District Superintendent of the Arizona District of the Church of the Nazarene; and six born-again Christian members.'" Your letter also states that the board and the Academy "submit themselves to the Bible" and that the Academy requires employees to affirm certain religious doctrines.

Your letter requests exemption from certain provisions of Title IX and its implementing regulations to the extent that "they are interpreted to curtail the Academy's freedom to respond to transgender individuals in accordance with its theologically-grounded convictions," "reach

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sexual orientation discrimination,” or “restrict the Academy’s freedom to apply and enforce its Statement on Human Life.” In support of this request, your letter cites to the Academy’s Statement on Marriage, Gender, and Sexuality, whereby “employees agree not to adopt a transgender identity, and [Academy] students agree to ‘the standards of only dressing in conformance with one’s biological sex and using restrooms, changing facilities conforming to one’s biological sex.’” Further, your letter states that “the Academy also, consistent with Church teaching, affirms that sexual-activities with members of the same sex cannot be condoned as acceptable expressions of one’s sexuality.” Your letter also cites to the Academy’s Statement on Human Life, which states that the Academy “holds that all human life is sacred and is God’s greatest blessing and, therefore, must be respected and protected from its conception to its completion.” The Academy “therefore, prohibit[s] all members of the [Academy] community from promoting or participating in any act of, or related to, aborting a child whether such child is prebirth or post-birth.”

Your letter states that, for the above reasons, the Academy is requesting an exemption from the following regulatory provisions to the extent that “they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent that they restrict the Academy’s freedom to apply and enforce its Statement on Human 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 Academy 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.

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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