



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

August 29, 2016

Dr. Mark A. Smith  
President  
Ohio Christian University  
1476 Lancaster Pike  
Circleville, OH 43113

Dear Dr. Smith:

I write to respond to your May 14, 2015, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Ohio Christian University (University or OCU) of Circleville, Ohio from Title IX of the Education 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 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 request explained that the University "was founded in 1948, by an act of the Churches of Christ in Christian Union (CCCU), as Circleville Bible College." According to your letter, "[a]n OCU education is guided by the school's Statement of Faith, which affirms the elements of the historic, Wesleyan-Holiness Christian faith and its relationship with the CCCU denomination." Additionally, your letter states that "CCCU appoints at least one half of the University's governing board, plays a role in selecting the president and trustees, and provides the University financial support." Your letter further states that the University "requires that all full-time employees must be active members of a local church and lead personal lives that reflect the teachings, example, and love of Jesus Christ."

Your letter requests an exemption from the provisions of Title IX "to the extent they are interpreted to reach gender identity discrimination." Your request explains that "compliance with Title IX, as interpreted by ED OCR to reach transgender 'discrimination' would be inconsistent with the religious tenets of" the University. In support of this request, you state that the University's Board of Trustees adopted a policy on sexuality and gender identity (Policy) on August 28, 2014. According to your letter, the Policy states that the "University's policy

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regarding sex, sexuality, and gender identity is grounded in the teachings of the Bible as understood in the University's doctrine and long-standing religious affiliation and status with the Churches of Christ in Christian Union which was established in the Wesleyan theological tradition . . . [The University] affirm[s] that God's original and ongoing intent and action is the creation of humanity manifest as two distinct sexes: male and female." Your letter further explains that the University has adopted lifestyle standards within the Policy. According to your letter, those lifestyle standards state that "[w]ithin the Biblical understanding of the act of mankind's creation, the Biblical description of the fall of mankind, and God's act of redemption, we do not support or affirm the resolution of a psychological identity discordant with one's birth sex. Similarly, [the University does] not support or affirm attempts to change one's given biological birth sex via medical intervention in favor of the identity of the opposite sex or of an indeterminate identity . . . [The University] will make institutional decisions in light of this policy regarding housing, student admission and retention, employment hiring and retention, and other matters."

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

- 34 C.F.R. § 106.21 (governing admissions);
- 34 C.F.R. § 106.22 (governing preference in admissions);
- 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 such as restrooms and locker rooms);
- 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 different rules based on marital or parental status of students);
- 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 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