



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

August 4, 2016

Jorge Iván Vélez Arocho
President
Pontifical Catholic University of Puerto Rico
2250 Boulevard Luis A. Ferré-Aguayo, Suite 564
Ponce, Puerto Rico 00717-9997

Dear President Arocho:

I write to respond to your May 25, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Pontifical Catholic University of Puerto Rico (University) 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 letter explains that the University "was canonically established in 1972 and granted the title of Pontifical in 1991," a distinction which "officially ratified the authenticity of the university as a genuine Catholic institution of the Church." Your letter states that the University's mission is "to honor and promote the life and dignity of the human being as well as to educate him/her in accordance with the values of the Gospel . . ." Your letter further states that the University "is controlled by the Catholic Church, and the members of its governing body are appointed by the Church." Specifically, you explain that the University "has a two-tiered governance structure:" a Board of Trustees and a Corporation, the latter of which "is comprised of de jure members, who are the Apostolic delegate to Puerto Rico and the members of the Puerto Rican Conference of Catholic Bishops." Additionally, you state that the University "requires its faculty, and employees to espouse and or respect the doctrine of the Catholic Church" and that the University "has a department of divinity, whose program is specifically for the education of students to prepare them for a religious vocation."

Your letter requests a religious exemption from the following provisions of Title IX on the ground that they are "inconsistent with the religious tenets of the" University:

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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.

- 34 C.F.R. § 106.15 (governing admission);
- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences 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 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 and use of appraisal and counseling materials);
- 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).

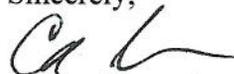
In support of this request, you explain that “[a]s a pontifical university, the institution must adhere to the dogmas and teachings of the Holy Roman Catholic Church as expressed by the Holy See and the Sacred Congregation for Catholic Education.” Your letter states that the University is “not able . . . in good conscience to support or affirm choices and behaviors that conflict with [the University’s] identity as Pontifical Catholic Institution.” Specifically, in requesting an exemption from the application of Title IX to the University’s admissions practices, you refer to the University’s department of divinity. OCR interprets this request to mean that the University seeks to offer admission (and related benefits, such as financial assistance, housing, etc.) to programs providing divinity training only to men, consistent with the practice of the Catholic Church to allow only men to be priests. Additionally, in requesting an exemption from the Title IX regulations related health insurance benefits and services, and marital and parental status of students, you note that “[t]ermination of pregnancy is inconsistent with the Catholic doctrine.” OCR interprets this as a request for an exemption from Title IX’s prohibition on discrimination based on termination of pregnancy. Finally, your request related to employment states that the University “requires its faculty, and employees to espouse and-or respect the doctrine of the Catholic Church.” Consistent with the information above, OCR interprets this request to mean that the University seeks to select employees for the divinity department, in part, based on sex, and that the University seeks exemption from Title IX’s prohibition on discrimination based on termination of pregnancy as it applies to employees.

The University is exempt from these provisions to the extent that they prohibit discrimination based on sex in admissions to the divinity program and discrimination against students and employees based on termination of pregnancy.

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 of the controlling organization, OCR is obligated to 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, 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