



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 13, 2016

Daniel L. Akin
President
Southeastern Baptist Theological Seminary
120 South Wingate Street
Wake Forest, NC 27587

Dear President Akin:

I write to respond to your December 18, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Southeastern Baptist Theological Seminary (Seminary) of Wake Forest, North Carolina 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.

The implementing regulation at 34 C.F.R. § 106.12 provides 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 Seminary, "a Southern Baptist institution of higher education," "is controlled by a religious organization. That organization is the Southern Baptist Convention . . . whose constituency is the cooperating Southern Baptist churches of North America." Your letter states that "[p]ursuant to the Seminary's Charter and Bylaws, the Southern Baptist Convention controls the Seminary in part by exercising its right to select the entire membership of the board of directors of the Seminary, the governing body of the Seminary."

Your letter requests a religious exemption from the provisions of Title IX "to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion." In support of this request, you cite to "The Baptist Faith and Message 2000, a statement of faith adopted by the Southern Baptist Convention." According to your letter, The

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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.

Baptist Faith and Message 2000 states that “It is God’s unique gift . . . to provide for the man and woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means of procreation of the human race.” Your letter further states that God created people “male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God’s creation. . . . Christians should oppose . . . all forms of sexual immorality, including adultery [and] homosexuality . . . [and] should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death.”

You explain that it would not be consistent with the Convention’s religious tenets for the Seminary to comply with Title IX to the extent that it prohibits the Seminary from “engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission’s sexual orientation, transgendered status, marital status, past and present practices regarding marriage, sex outside of marriage, pregnancy, and abortion[; . . . from] subjecting students to rules of behavior, sanctions, or other treatment because of the students[’] characteristics[; or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the Seminary is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, pregnancy, abortion, and gender identity in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees);
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The Seminary is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or abortion 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 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