



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 15, 2019

Paul Lowell Haines, Ed.D., J.D.
President
Taylor University
236 West Reade Avenue
Upland, IN 46989

Dear President Haines:

I write in response to your September 6, 2018 letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested assurance of a religious exemption for Taylor University (University) of Upland, Indiana, 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 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 letter states that the University's mission "is to develop servant leaders marked with a passion to minister Christ's redemptive love and truth to a world in need." The University is governed by a Board of Trustees, each of whom must "be Christians who are 'active church members with an evangelical commitment,' who affirm the College's doctrinal statement and nondenominational character, and who are supportive of the traditional policies of the University." Further, your letter states, inter alia, that University trustees, administration, faculty, and staff must affirm doctrines described in the University Bylaws, Article II, Statement of Faith.

Your letter claims an exemption from certain provisions of Title IX and its implementing regulations to the extent that "they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the University's freedom to apply and enforce its Statement on the Sanctity of Human Life."

In support of this request, your letter cites the University's "Policy on Transgenderism/ Transsexuality," which states "we regard sex at birth as the identification of the given biological sex of each member of our constituency," and "[r]equests to affirm subsequent changes of any kind from one's sex at birth are considered to be a rejection of the biblical and theological understandings to which the instituted is committed." This policy further states, that the school views "growth in godliness to be directed toward alignment or reconciliation with one's biological birth sex as God's creational intent." Your letter also cites the University's Statement on Human Sexuality, which states that the "God-ordained context for virtuous sexual expression and procreation is marriage, a sacred covenant between one man and one woman (Gen. 2:24; Mt.

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19:4-6; Heb. 13:4).” Your letter further cites to the school’s “Statement on Human Sexuality,” which states that “All premarital and extra-marital sexual activity (e.g., fornication, adultery, incest, prostitution, homosexual behavior, and all sexual activity involving children) is immoral.” Finally, you reference the University’s “Sanctity of Life Statement,” which states “So God created man in His own image, in the image of God He created him; male and female He created them. Therefore, human life must be respected and protected from its inception to its completion.”

Your letter states that, for the above reasons and others, the College is claiming 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 they restrict the University’s freedom to apply and enforce its Statement on the Sanctity of 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. § 106.42 (governing textbooks and curricular materials);
- 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).

OCR recognizes that the College 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.

I hope this letter fully responds to your request. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Kenneth L. Marcus
Assistant Secretary for Civil Rights