



UNIVERSITY OF DALLAS  
OFFICE OF THE PRESIDENT

September 30, 2016

Seth Galanter  
Principal Deputy Assistant Secretary  
Office for Civil Rights  
U.S. Department of Education  
400 Maryland Ave. S.W.  
Washington, D.C. 20202-1100

***Re: University of Dallas request for Title IX exemption***

Dear Mr. Galanter:

This letter is in furtherance of prior correspondence from the University of Dallas (“University”) dated July 23, 2015, and the University’s request for exemption from stated regulatory requirements under Title IX of the Education Amendments of 1972. Your letter of January 8, 2016, acknowledged the University’s religious beliefs, but requested additional information “to determine whether the University’s relationship with the Catholic Church meets the standard for ‘control’” within the meaning of 20 U.S.C. § 1681(a)(3). As set forth below, the University is controlled by the Catholic Church and is therefore eligible for the requested exemption in accordance with 34 CFR § 106.12 and the First Amendment.

Standards for Catholic Universities

The University Bylaws clearly state the intent of the University to comply with the norms for Catholic universities as announced by Pope John Paul II in *Ex Corde Ecclesiae* (hereinafter “*Ex Corde*”). *Ex Corde* is an apostolic constitution which sets out the “essential characteristics” that a university “must” follow to be deemed “Catholic.” Part I ¶ 13. “Fidelity to the Christian message as it comes . . . through the Church” is at the core of these requirements. Part I ¶ 13(3). Status as a Catholic university is determined by a Catholic Diocesan Bishop or a higher authority within the Church upon a university’s satisfactory showing of compliance with *Ex Corde*. Without the appropriate consent, a university may not “refer to itself as a Catholic University.” Part II, Art. 3 §§ 2-3.

In accordance with *Ex Corde*, fidelity to the Catholic Church is ensured “by reason of an institutional commitment” manifest by specified actions that publicly bind the university to the Catholic church and its teachings. Part II, Art. 2 § 2. For example, each university must “make known its Catholic identity, either in a mission statement or in some other appropriate public document.” Part II, Art. 2 § 3. Similarly, “[a]ll teachers and all

administrators, at the time of their appointment, are to be informed about the Catholic identity of the Institution and its implications, and about their responsibility to promote, or at least to respect, that identity.” Part II, Art. 4 § 2.

Catholic universities must also maintain “a faculty, or at least a chair, of theology,” and all members of that faculty must remain “faithful to the Magisterium of the Church as the authentic interpreter of Sacred Scripture and Sacred Tradition.” Part I ¶ 19; Part II, Art. 4 § 3. Of the remaining faculty, at least 50 percent must be Catholic, and *all* faculty are required to “respect the distinctive Catholic identity of the University.” Part II, Art. 4 § 4. In addition, a university must appoint a “sufficient number of qualified people—priests, religious, and lay-persons” to “provide pastoral ministry for university community, carried on in harmony and cooperation with the pastoral activities of the local Church.” Part II, Art. 6 § 2.

All of these commitments to the Church must be completed to the satisfaction of the local diocesan Bishop or a higher Church authority before the institution can be designated, or maintained as, a Catholic university. Part II, Art. 3 §§ 2-3.

#### The University’s Commitment to the Catholic Church

The University of Dallas has explicitly bound itself to the Catholic Church in the manner contemplated by *Ex Corde*. The University’s Articles of Incorporation and Bylaws expressly state that it was formed “in full recognition of the authority of the will of God” as a “Catholic institution of higher learning.” The University Bylaws state the University’s purpose “to fully comply with the obligations of a Catholic University as established in *Ex Corde Ecclesiae*” and “to promote the moral, spiritual and religious lives of its students and to be publicly identified as a Catholic University.” The University’s Trustees are likewise required to “ensur[e] that the University continues its educational and religious mission and its essential purpose as a Catholic institution of higher education.”

Also in accordance with *Ex Corde*, the University has implemented extensive practices to publicly affirm its institutional commitment to the Catholic Church. For example, since the University’s founding, each University president has made a public profession of commitment to the Catholic faith as part of his investiture. Similarly, on its website, in its Mission Statement, and throughout its catalogues and other publications, the University repeatedly affirms to the public that it is a Catholic university committed “to the Catholic Church and its teachings” and “to the renewal of Catholic theology in fidelity to the Church and in constructive dialogue with the modern world.”

In further compliance with *Ex Corde*, the University maintains a theology department that makes classes on Catholic teaching available to all students. All members of the theology faculty maintain a *Mandatum* from the Diocesan Bishop confirming that they are faithful to the Magisterium of the Church and that the content of their teaching is consistent with authentic Catholic doctrine. The University also fully complies with the requirement that non-Catholic teachers may not constitute a majority within the Institution.

In addition, the University maintains an extensive pastoral ministry, in full cooperation with the local diocese, allowing students the “opportunity to integrate religious and moral principles with their academic study and non-academic activity.” Specifically, the University maintains an Office of Campus Ministry and employs a Director of Campus Ministry to provide “a wide variety of catechetical, spiritual and service programs.” And throughout the school year, the Celebration of the Eucharist is held on the University campus at the Church of the Incarnation twice daily Monday through Thursday and five times daily Friday through Sunday. The Sacrament of Reconciliation is offered four times per week.

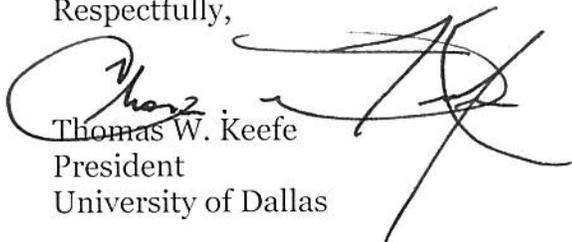
Finally, as has been true since its founding, the University’s designation as a Catholic university is monitored and ultimately subject to the consent of the Bishop of the Catholic Diocese of Dallas. In furtherance of this role, the Bishop serves as Chancellor of the University and a voting member of the University Board of Trustees. Most importantly, should the University fail to comply satisfactorily with the terms of *Ex Corde*, the Bishop has final authority to require the University to stop representing itself as a Catholic university.

The University Satisfies the Requirement of Religious Control

The foregoing factors satisfy the element of control under 20 U.S.C. § 1681(a)(3). OCR has essentially acknowledged this by granting exemptions to universities that have no formal relationship with a parent religious organization and rely exclusively on internal standards to demonstrate religious control. *See, e.g.*, 06/28/2016 Letter from C. Lhamon to W. Armstrong (Exhibit A); 07/31/2015 Letter from C. Lhamon to R. Myers (Exhibit B). In these letters, OCR properly infers that the term “control” in 20 U.S.C. § 1681(a)(3) can require nothing more than that the organization seeking an exemption maintain religious tenets that would be violated if forced to comply with identified provisions of Title IX. The University explicitly states that it is committed to the doctrines of the Catholic Church and its ability to represent itself as a Catholic University is controlled by the Catholic Church through the requirements imposed by *Ex Corde* and the consent of the Diocesan Bishop.

Based upon the foregoing, the University respectfully requests that OCR confirm the University’s exemption under Title IX.

Respectfully,

  
Thomas W. Keefe  
President  
University of Dallas

Cc: Joseph Murphy, Chair University of Dallas Board of Trustees  
Karin W. Riley, General Counsel