



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

December 21, 2023

President Gayle D. Beebe  
Westmont College  
955 La Paz Road  
Santa Barbara, CA 93108

Dear President Beebe:

I write in response to your May 30, 2023, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you asserted a religious exemption from Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688, for Westmont College in Santa Barbara, California (the College).

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 regulations 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 the application of Title IX would be inconsistent with the controlling organization's religious tenets. Section 106.12(b) of the Department's Title IX regulations describe the process by which an educational institution may request assurance of a religious exemption or assert a religious exemption in response to a pending OCR investigation. 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. Section 106.12(c) of the Department's Title IX regulations describes the evidence that is sufficient to establish that an educational institution is controlled by a religious organization.

Your letter asserts that the College is controlled by a religious organization. Specifically, the letter states that the College is controlled by its Board of Trustees, which is "deeply religious" and exclusively composed of individuals ascribing to the College's Statement of Faith, Community Life Statement, and Behavioral Expectations as a condition of their appointment. As "a nonprofit liberal arts college committed to Jesus Christ and belonging to the worldwide evangelical Protestant tradition," you emphasized that the College's Mission openly references and relies upon religious tenets of the Christian religion. Your letter notes that the College also requires its faculty and employees to espouse a personal belief in the evangelical Christian faith. The College's Articles of Faith, Community Life Statement, and Behavioral Expectations are included in the 2022 Faculty Handbook. Applicants for employment must sign an acknowledgment agreeing to

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abide by the Statement of Faith, Community Life Statement, and Behavioral Expectations and agree to adhere to traditional biblical values. The College’s Human Resources website states that the College is committed to the universal truths of the Christian faith, and the College embraces the motto “Christ Preeminent in All Things.” Additionally, students who enroll at Westmont must agree to abide by the College’s Community Life Statement, Behavioral Expectations, and the Policy on Sexual Activity Outside of Marriage. The 2022-2023 Academic Catalog also references the College’s Behavioral Expectations.

Your letter specifies the religious tenets of the controlling religious organization that conflict with Title IX. You explain that the College observes religious tenets with respect to sexual activity that include “not condoning practices that Scripture forbids, including sexual relations outside of marriage.” *See* Westmont Community Life Statement and Behavioral Expectations. Additionally, your letter notes that, pursuant to the College’s Behavioral Expectations, members of the Westmont “community who choose to marry are expected to abide by the commitment to lifelong heterosexual marriage.” *Id.* At the same time, the 2022-2023 Academic Catalog affirms that “[t]he college is committed to protecting individuals from harassment and retaliation based on sexual orientation, gender identity and gender expression.”

For the above reasons, the College request assurance of its exemption from the following regulatory provisions to the extent that these provisions prohibit sexual orientation discrimination and conflict with the controlling organization’s religious tenets:

- 34 C.F.R. § 106.23 (recruitment)
- 34 C.F.R. § 106.31 (education programs or activities)
- 34 C.F.R. § 106.32 (housing)
- 34 C.F.R. § 106.33 (comparable facilities)
- 34 C.F.R. § 106.34 (access to classes and schools)
- 34 C.F.R. § 106.36 (counseling)
- 34 C.F.R. § 106.37 (financial assistance)
- 34 C.F.R. § 106.38 (employment assistance to students)
- 34 C.F.R. § 106.39 (health and insurance benefits and services)
- 34 C.F.R. § 106.40 (marital or parental status)
- 34 C.F.R. § 106.41 (athletics)
- 34 C.F.R. § 106.43 (measuring skills or progress in physical education classes)
- 34 C.F.R. §§ 106.51-61 (employment)

Westmont College is exempt from these provisions to the extent that these provisions prohibit sexual orientation discrimination and conflict with the controlling organization’s religious tenets.

Westmont College also requested assurance of its exemption from 34 C.F.R. §§ 106.21 (admissions); 106.22 (preference in admissions); 106.35 (access to institutions of vocational education); and 106.42 (textbooks and curricular material). Title IX’s prohibition on discrimination in admissions applies only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education. 20 U.S.C. § 1681. As a private liberal arts undergraduate institution, §§ 106.21, 106.22,

and 106.35 do not apply to the College. Additionally, an exemption from § 106.42 is not necessary because that provision limits the regulations' application to a recipient's "use of particular textbooks or curricular materials" and does not impose any obligation on a recipient.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulations 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,

A handwritten signature in black ink, appearing to read 'C. Lhamon', with a long horizontal flourish extending to the right.

Catherine E. Lhamon  
Assistant Secretary for Civil Rights