



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

July 25, 2023

Linda A. Livingstone, Ph.D.
President
Baylor University
One Bear Place # 97096
Waco, TX 76798

Dear President Livingstone:

I write in response to your May 1, 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 Baylor University (the "University") in Waco, TX.

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 explains how the University is controlled by a religious organization. The letter states that "[a]s a Baptist university, Baylor is 'operated within Christian-oriented aims and ideals of Baptists, including those contained in the Baptist Faith and Message of 1963.'" Your letter further explains that the University is "closely affiliated with the Baptist General Convention of Texas, a cooperative association of autonomous Texas Baptist churches, is an associate member of the Baptist World Alliance, and is controlled by a predominately Baptist Board of Regents." Your letter states that each member of the University's governing Board "must be supportive of Baylor University's mission, vision and historic Baptist heritage" and that at least three-fourths of the University's at-large Regents and Regents elected by the Baptist General Convention of Texas

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must be Baptist and active members of a Baptist church. According to your letter, the University's Bylaws provide that certain University matters are left to the sole management and control of these Baptist Regents. Additionally, your letter states that since the founding of the University, the President of the University has been Baptist. Your letter explains that the University requires all incoming University undergraduate students to "attend two semesters of University Chapel in which they "gather[] to worship and pray, to be taught and inspired, and to encounter God in a way that makes a difference in their college experience." Your letter also states that University employees "are also called to serve as Christ's witness to the world and as a representative of the University and its mission by complying with law and University policy, including behavior standards," and must agree to a candidate's statement of faith wherein "they must espouse a personal belief that is co-religionist with the University to be eligible for employment."

Your letter also specifies the religious tenets of the controlling religious organization that conflict with Title IX. Your letter states that the University "regulate[s] conduct that is inconsistent with the religious values and beliefs that are integral to its Christian faith and mission," "affirms the biblical understanding of sexuality as a gift from God" and "requires 'purity in singleness and fidelity in marriage between a man and a woman as the biblical norm.'" Your letter cites a University webpage titled *Human Sexuality at Baylor University*,¹ which describes three Board-approved guiding principles that are "rooted in its Baptist beliefs and traditional biblical understanding of human sexuality:" The guiding principles are: "[1] The dignity and worth of all, regardless of sexual orientation or gender identity, as we strive to fulfill our Christian commitment of a caring community. [2] The biblical understanding that sexual relations of any kind outside of marriage between a man and a woman are not in keeping with the teaching of Scripture, as summarized in the University's Statement on Human Sexuality. [3] Our commitment to providing a welcoming, supportive educational environment based on civility and respect for all." Your letter states that "any asserted Title IX requirement that contradicts the Baptist doctrine of marriage and the created distinction between men and women, is inconsistent with Baylor's religious tenets."

For the above reasons, the University requests assurance of its exemption from the following regulatory provisions to the extent that they are inconsistent with the University's religious tenets:

- 34 C.F.R. § 106.6(c) (effects of rules of private organizations)
- 34 C.F.R. § 106.21 (admission)
- 34 C.F.R. § 106.22 (preference in admission)
- 34 C.F.R. § 106.23 (recruitment)
- 34 C.F.R. §§ 106.30(a), 106.44-45 (sexual harassment)²
- 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)

¹ Baylor University, *Human Sexuality at Baylor University*, <https://diversity.web.baylor.edu/leadership-commitment/human-sexuality-baylor-university> (last visited June 26, 2023).

² Specifically, the University requests assurance "that the belief in or practice of its religious tenets by the University or its students" would not constitute "unwelcome conduct" under the Department's definition of "sexual harassment" under Title IX.

- 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)

The University is exempt from these provisions to the extent that they are inconsistent with the University's religious tenets.

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