



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 2, 2018

Jerry C. Davis
President
College of the Ozarks
P.O. Box 17
Point Lookout, MO 65726

Dear President Davis:

I write in response to your June 9, 2017, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for the College of the Ozarks (College) of Point Lookout, Missouri, from Title IX of the Educational 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 request letter states that the College is affiliated with the Presbytery of Mid-America, Evangelical Presbyterian Church and "completely controlled by its Board of Trustees." Your letter explains that the College's bylaws require trustees to "share the College's faith commitment to the historic evangelical Christian faith and Protestant tradition" and "annually affirm adherence to the Apostles' and Nicene Creeds." Your letter further explains that "[f]aculty members' Christian commitment, evidenced by church membership and attendance, is considered a part of the evaluation process" and that the College requires chapel attendance by students.

Your letter requests 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 conflict with the College's belief in and commitment to the sanctity of human life and marriage. In support of this request, your letter cites its faculty, staff, and student handbooks, explaining that the College "is guided by a long-standing traditional, biblical worldview which reflects the understanding that human sexuality is a gift from God," that "sex assigned at birth is a person's God-given, objective gender, whether or not it differs

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from internal sense of “gender identity,”” and that sexual relations are for the purpose of the procreation of human life and the uniting and strengthening of the marital bond in self-giving love, purposes that are to be achieved solely through heterosexual relationships in marriage.” Your letter further explains that the College “believes in the sanctity of human life from the moment of conception.”

Your letter states that, for the above reasons, the College is requesting an exemption from the following regulatory provisions to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they conflict with the College’s belief in and commitment to the sanctity of human life and marriage:

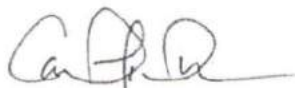
- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities);
- 34 C.F.R. § 106.34 (governing access to classes and schools);
- 34 C.F.R. § 106.35 (governing access to institutions of vocational education);
- 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. § 106.43 (governing standards for measuring skill or progress in physical education classes); and
- 34 C.F.R. §§ 106.51-61 (governing employment).

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,



Candice Jackson
Acting Assistant Secretary for Civil Rights