



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

July 29, 2016

David J. Moore
President
American Indian College
10020 N. 15th Avenue
Phoenix, AZ 85021

Dear President Moore:

I write to respond to your October 7, 2015, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for American Indian College (College) of Phoenix, Arizona, 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 controlled by a religious organization to the extent that application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions are allowed to 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.

Your request indicates the College is "an educational institution affiliated with the Assemblies of God, a religious organization." The request explains that the General Council of the Assemblies of God, "the highest governing body of the church, has established the Alliance for Assemblies of God Higher Education ('Alliance') and tasked the Alliance with developing educational, spiritual, and theological standards for schools that wish to be affiliated with the church." According to your letter, "the Alliance developed Endorsement Criteria that are intended to facilitate the development of educational institutions that are committed to the Assemblies of God's mission," the purpose of which is to ensure "doctrinal fidelity and institutional conformity to Assemblies of God standards of morality." Your letter explains that the College is "endorsed by the Alliance and is committed to maintaining this status by carefully following the Alliance's Endorsement Criteria." Your letter further states that "[c]onsistent with the Alliance's Endorsement Criteria, American Indian College's mission documents commit American Indian College to the formation of mature Christian character and spiritual life, the development of loyalty to the doctrines and principles of the Assemblies of God, and the preparation of leaders for the Kingdom of God and the Assemblies of God." Your letter states that, as a part of this Endorsement, the College "is eligible for financial support from the Assemblies of God" and that

the “Alliance develops financial resources for endorsed colleges in cooperation with the Assemblies of God Trust.”

Additionally, your request indicates that the College “selects its leadership, faculty, administrators, and students” based on the Alliance Endorsement Criteria, and “[a]t least 90% of American Indian College’s board members are affiliated with the Assemblies of God.” Your letter states that “under the Endorsement Criteria, American Indian College may not deviate from [the Alliance’s standards] without permission from the Alliance.” Your letter further explains that the College’s “faculty, administrators, and students” must be “members of an Assemblies of God church or otherwise espouse a personal belief in the basic tenets of the Christian faith as understood by the Assemblies of God,” and that all “administrators and faculty annually sign a statement affirming loyalty to the Statement of Fundamental Truths of the Assemblies of God.” According to your letter, the College “holds at least three chapel services each week, which are mandatory for students” and “has enforceable church and chapel attendance policies for administrators and faculty.”

Your letter requests a religious exemption from certain provisions of Title IX or its implementing regulations because the College’s “religious convictions, informed by its relationship with the Assemblies of God, conflict with” Title IX as it applies to discrimination based on “sexual orientation, gender identity, or more generally on the basis of the Assemblies of God’s teachings about marriage and biblical standards for sexual conduct.” In support of this request, your letter cites to religious convictions established by the Assemblies of God’s Constitution and Bylaws. Specifically, the Assemblies of God believes that: “human beings bear the image of God and receive their essential identity and dignity before we are born” and that “abortion is the killing of innocent human life”; marriage is the “union of one man and one woman, intrinsically ordered to procreation and biological family”; “God has designed sexual intimacy for marriage and that sexual acts outside of marriage are sinful”; “same-sex sexual attractions are temptations to sin and should therefore be resisted”; “God created humankind . . . male and female”; and “all attempts to physically change, alter, or disagree with [one’s] predominant biological sex” should be discouraged. Your letter states that an “individual who violates campus standards for biblical living is subject to discipline, including expulsion.”

Your letter states that, for these reasons, the College is requesting an exemption from the following regulatory provisions to the extent that they are interpreted in a manner that conflicts with the “College’s faithful application of the religious tenets” described above:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);
- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);

- 34 C.F.R. § 106.51 (governing employment); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of sexual orientation, gender identity, marital status, pregnancy, parental status, sex outside of marriage, and abortion and 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 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 granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets identified in your request, OCR is obligated to identify a controlling organization to contact to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

I hope this letter responds fully to your request. If you have any 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
U.S. Department of Education