



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

February 11, 2015

William K. Thierfelder  
President  
Belmont Abbey College  
100 Belmont-Mt. Holly Road  
Belmont, NC 28012

Dear President Thierfelder:

The purpose of this letter is to respond to your January 16, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Belmont Abbey College (College) of Belmont, North Carolina. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance.

The Department's implementing regulation at 34 C.F.R. § 106.12 provides 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 and/or regulation that conflict with those tenets.

Your request explains that the College is owned by and affiliated with the Southern Benedictine Society of North Carolina, Inc., the members of which are Benedictine Monks. Your letter further explains that "[t]he Monks founded the college on the basis of, and as an expression of, their Catholic faith" and that "the Monks and the College also believe that the Church was founded by Jesus Christ and given authority by him to interpret the Word of God and to teach with binding authority on questions of faith and morals."

Your letter requests a religious exemption from provisions of Title IX to the extent that it prohibits discrimination based on gender identity. In support of this request, you cite Biblical passages that reflect the College's and Monks' belief "that human beings, fashioned by God in His own image and likeness, are thus created male and female (Genesis 1:27)" and that "heterosexual creation of human beings expresses God's creative intention (Matthew 19:4)." Your letter further explains that, because of these religious tenets, the College does not "support or affirm the resolution of tension between one's biological sex and the experience of gender by the adoption of psychological identity discordant with one's birth sex, nor attempts to change one's birth sex by surgical intervention, nor conduct or dress consistent with an identity other than one's biological birth sex."

Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that the College would not be able to make similar accommodations consistent with its Catholic beliefs. Instead, your letter explains that the College will "make institutional decisions... regarding housing, student admission and retention,

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appropriate conduct, employment, hiring and retention, and other matters” consistent with the tenets of the Southern Benedictine Society of North Carolina.

We interpret these statements as a request for exemption from the following provisions in the Department’s Title IX regulations to the extent that they prohibit discrimination based on gender identity:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 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. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of gender identity 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 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 granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization 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,



Catherine E. Lhamon  
Assistant Secretary for Civil Rights  
U.S. Department of Education