



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

September 7, 2016

Erik Hoekstra
President
Dordt College
498 Fourth Avenue NE
Sioux Center, IA 51250

Dear President Hoekstra:

I write to respond to your October 1, 2015, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Dordt College (College) of Sioux Center, Iowa, 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 letter explains that the College is an "institution of higher education associated with the Christian Reformed Church in North America." According to your letter, "the College is owned and controlled by an incorporated society composed entirely of members of the Christian Reformed Church in North America (CRCNA)" and is "governed by a Board of Trustees" the membership of which "includes a predominance of members elected by the society from the Christian Reformed Church." Your letter explains that "the College's Board of Trustees adopted a policy on sexual standards and conduct" and that "[i]n the employment context, both applicants and existing employees are required to affirm their commitment to the College's Sexual Standards and Conduct: Statement of Policy Regarding the Christian Lifestyle at Dordt College."

Your letter requests an exemption from the provisions of Title IX "to the extent they are interpreted to reach gender identity discrimination." In support of this request, your letter cites to the College's policy on sexual standards and conduct. According to your letter, that policy

states that “Scripture is clear that God created humans as two distinct sexes, male and female; however, due to sin and brokenness, our experience of sex and gender is not always what God the Creator originally designed for His glory and our joy and flourishing as his servants” and that, as a result, “[a]dopting an identity discordant with one’s biological sex is prohibited” at the College.

You state that, for these reasons, the College is requesting an exemption from the following regulatory provisions “to the extent they are interpreted to reach gender identity discrimination:”

- 34 C.F.R. § 106.21 (governing admissions);
- 34 C.F.R. § 106.22 (governing preference in admissions);
- 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 such as restrooms and locker rooms);
- 34 C.F.R. § 106.34 (governing access to classes and schools);
- 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 insurance benefits and services);
- 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. § 106.43 (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 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 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 'CEL', written in a cursive style.

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