



faith baptist bible college
and theological seminary

November 8, 2016

Catherine Lhamon, Assistant Secretary
U.S. Department of Education, Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave., SW
Washington, DC 20202-1100

Re: Request for Religious Exemption from Certain Applications of Title IX

Dear Ms. Lhamon:

I hereby request, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights acknowledge that Faith Baptist Bible College and Theological Seminary (FBBC&TS) is exempt from Title IX of the Education Amendments of 1972 and its accompanying regulations, to the extent that they are interpreted to curtail the College's freedom to act in accordance with its religious convictions. As president of Faith Baptist Bible College and Theological Seminary, I am the "highest ranking official of the institution," (34 C.F.R. § 106.12(b)), and thus qualified to seek these exemptions.

Faith Baptist Bible College was founded in 1921 in Omaha, Nebraska, as the Omaha Bible Institute. In the mid-1950s the school's name was changed to the Omaha Baptist Bible Institute and then in 1960 to the Omaha Baptist Bible College. In 1967 the campus was relocated to Ankeny, Iowa, with the college renamed as Faith Baptist Bible College, and in January 1986 the Board of Directors established Faith Baptist Theological Seminary. Since its alignment with Baptist teaching and fellowship of Baptist churches in the 1950s, FBBC&TS has existed "as a fundamental Baptist institution of Christian higher education to disciple vocational Christian workers and leaders for local churches throughout the world."

FBBC&TS is completely controlled by its Board of Directors (Board), which is a religious

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1900 NW Fourth Street
Ankeny, Iowa 50023

Phone 515.964.0601
Fax 515.964.1638

Admissions 1.888.324.8448
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faith.edu
info@faith.edu

organization. The responsibilities of the Board, as outlined in Article I, Section C of the Board bylaws, show that it controls the school. All Board members are Christians who must be members in good standing in a fundamental, conservative, separatist Baptist church and who annually read and consent to the FBBC&TS mission statement, the doctrinal statement, its historic position as a fundamental, conservative, traditional school, its Definition and Direction Statement, and its conservative music policy.

Not only does the institution rely on and require all Board members to affirm the missional documents and positions declared therein, but it also requires the administration and faculty to do so as well, since its doctrinal beliefs and philosophy of education are foundational to all that it does, including what is taught in the classroom.

FBBC&TS understands the Bible to be the infallible, written Word of God and affirms that its doctrinal statement provides a comprehensive expression of the system of doctrine taught in the Bible. The Board of Directors, administration, faculty, and staff submit themselves to the Bible and to these expressions of doctrine and seek to adhere to positions that are in accord with those teachings and standards. The pertinent part of the doctrinal statement related to the current issues in Title IX can be found in the second paragraph of the Creation section, which reads:

We believe God created both male and female, and that He designed gender distinctions between men and women, including the Biblically-defined and distinctive roles of husband and wife. Since gender distinctions are rooted in divine order, changing or disguising one's inherited sex (and correlated gender) reflective of this order transgresses God's design.

Therefore, consistent with the doctrinal statement, FBBC&TS has developed a Policy on Sexual Misconduct and Relationship Violence. The pertinent part of that policy is found on page 2 (Section 1.3–Gender and Sexuality) and reads:

We celebrate these God-given distinctions both in creation and in the Bible, and the mutual and equal dignity, honor, and respect inherent in God's designs for men and women. Sexual immorality, sex discrimination, and gender-based harassment are strictly prohibited on the campus of FBBC&TS. The administration, staff, faculty, and students are required to abide by their respective handbooks in sexual conduct and related matters.

In May 2016 the Department of Education's Office for Civil Rights (OCR) issued a "Dear Colleague" letter jointly with the Department of Justice, which states that Title IX's prohibition on sex discrimination "encompasses discrimination based on a student's gender identity, including discrimination based on a student's transgender status." The letter further states that a school "must not treat a transgender student differently from the way it treats other students of the same gender identity."

OCR's letter, referenced above, indicated that a school must use pronouns and names that reflect a transgender student's gender identity and permit the student full access, based upon gender identity, to sex-segregated activities and facilities, including locker rooms, restrooms, showers, housing (including overnight accommodations), and athletic teams. The OCR had previously issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.

Moreover, the resolution agreement between Arcadia Unified School District and OCR (and the Department of Justice) required that school district to permit transgender students to use the

restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong. It is thus reasonable to presume that the OCR believes that Title IX requires such responses.

It is also reasonable to presume that your office interprets Title IX to impose gender identity nondiscrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by the OCR to mean transgender discrimination, would be inconsistent with the religious tenets and the theological commitment of FBBC&TS. Therefore, FBBC&TS seeks exemption on this basis.

Specifically, I request, under 20 U.S.C. § 168(a)(3) and 34 C.F.R. § 106.12, that the Department of Education's Office for Civil Rights acknowledge that FBBC&TS is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity discrimination):

- 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. § 106.31 (education programs or activities)
- 34 C.F.R. § 106.32 (housing)
- 34 C.F.R. § 106.33 (comparable facilities)
- 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 (standards for measuring skill or progress in physical education classes)
- 34 C.F.R. § 106.51-61 (relating to employment)

Thank you in advance for your consideration. I look forward to hearing from you soon. If you require anything further, please do not hesitate to contact me.

Respectfully,



Dr. Jim Tillotson
President, Faith Baptist Bible College and Theological Seminary