



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, DC 20202

OCT 22 2014

Fr. Sean O. Sheridan
President
Franciscan University of Steubenville
1235 University Blvd.
Steubenville, OH 43952

Dear Fr. Sheridan:

The purpose of this letter is to respond to your August 27, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Franciscan University of Steubenville (University) of Steubenville, Ohio 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 educational institutions controlled by a religious organization to the extent application of Title IX would be inconsistent with the 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 University is a "Catholic co-educational institution of higher education" that is "owned and controlled by a religious organization of the Catholic faith," specifically the "Franciscan Friars of the Most Sacred Heart of Jesus."

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 requirements of that resolution agreement are "opposed to Franciscan University's Catholic mission and identity and to the tenets of the Catholic Church." Specifically, you cite to Catholic theology that asserts that "human beings are created male or female" and that the "tenets of the Catholic Church are violated by manipulating one's God-given sex or gender and/or by attempting to identify as the sex or gender opposite to one's God-given sex/gender."

You state that, for these reasons, the University seeks an exemption from Title IX to the extent that it is interpreted as it was in the OCR resolution agreement described above. We interpret

www.ed.gov

this statement as a request for exemption from provisions 34 C.F.R. §§ 106.32 (governing housing), 106.33 (governing comparable facilities such as restrooms and locker rooms), and 106.41 (governing athletics). The University is exempt from these provisions to the extent that they require a recipient to treat students consistent with their gender identity, but doing so 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 its implementing 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 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,

A handwritten signature in black ink, appearing to read 'C. Lhamon', with a stylized flourish at the end.

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