



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

August 4, 2016

Joe Wiley
President
Freed-Hardeman University
158 E. Main Street
Henderson, TN 38340-2398

Dear President Wiley:

I write to respond to your July 15, 2015, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Freed-Hardeman University (University) of Henderson, Tennessee, 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 letter explains that the "University was founded by members of the churches of Christ" and its "purpose is to 'provide every student an education permeated with ... Christian values.'" Your request indicates the "controlling religious body" of the University is "the churches of Christ." You explain that the "University's Restated Charter of Incorporation and Bylaws vest control of the University in its Board of Trustees," and the "Bylaws of the University require membership in the churches of Christ as a condition of membership on the board of Trustees." Your request states that the "Bylaws of the University require that all employees of the University, with limited exceptions, be members of the churches of Christ as a condition of employment."

You request an exemption to the extent that Title IX or its implementing regulations to the extent that they "apply or may apply to students, prospective students, employees, prospective employees and issues involving gender identity and sexual orientation." In support of this request, you explain that "one of the outstanding features of the [c]hurches of Christ lies in the acceptance of the Bible as a true completely adequate revelation" and that "churches of Christ seek to base what they both believe and practice about marriage and sexual relations upon the

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Bible.” Specifically, you cite to Bible passages that state that “[m]arriage should be honored by all, and the marriage bed kept pure, for God will judge the adulterer and all the sexually immoral” and that individuals should “not have sexual relations with a man as one does with a woman” in support of the belief that “homosexual practice is sinful.” Additionally, your letter cites to Bible passages that state that “God created mankind in his own image . . . male and female he created them”; and that “[a] woman must not wear men’s clothing, nor a man wear women’s clothing” to explain that “churches of Christ would oppose a person’s attempt to modify his or her birth sex, and present as a sex other than his or her original birth sex.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent they “would violate the sincerely held religious beliefs of Freed-Hardeman University and the churches of Christ” described above:

- 34 C.F.R. § 106.21 (governing admission);
- 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. § 106.37 (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. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment)
- 34 C.F.R. § 106.53 (governing recruitment of employees)
- 34 C.F.R. § 106.55 (governing job classification and structure)
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).
- 34 C.F.R. § 106.60 (governing pre-employment inquiries)

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of sexual orientation or 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 'C. Lhamon', with a long, sweeping horizontal stroke at the end.

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