



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 18, 2017

David Wright, Ph.D
President
Indiana Wesleyan University
4201 South Washington Street
Marion, Indiana 46953

Dear President Wright:

I write to respond to your March 18, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Indiana Wesleyan University (University) of Marion, Indiana, from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. In response to a request from OCR on May 13, 2016, you submitted further information on June 2, 2016, about the University's eligibility for exemption from Title IX.

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 states that the University is "an institution of The Wesleyan Church." Your June 2016 letter explains that the University's Articles of Incorporation make clear that the University "shall be under the control, supervision, and patronage of The Wesleyan Church as a successor of The Wesleyan Methodist Church of America. The General Conference of said Church shall make regulations from time to time for the general control and to provide for the management of the University." You further state that, according to the University's Articles of Incorporation, "ultimate authority resides with the General Board of The Wesleyan Church." Specifically, "[i]n the event that the Board of Trustees fail for any reason to govern, to manage, or to control the University in agreement with the bylaws and the *Standards for Educational Institutions of The Wesleyan Church*, the General Board of Administration of The Wesleyan Church may assume full responsibilities to govern, to manage, and to control the University."

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Your March 2016 letter requests a religious exemption from certain provisions of Title IX “to the extent that they are interpreted to curtail the University’s freedom to act in accordance with its religious convictions.” In support of this request, you cite to the a statement issued by The Wesleyan Church entitled, “A Wesleyan View of Gender Identity and Expression,” which declares that “all humans have the same responsibility for stewarding physical attributes and abilities” and that “[g]ender assignment is a divine prerogative.” According to your letter, the statement also asserts that “[g]ender non-conformity that disrupts marriage and adult family relationships violates the law of love and the sanctity of the family.” Your letter also cites to the Wesleyan Church’s statement entitled, “A Wesleyan View of Homosexuality,” which declares that “homosexual activity is contrary to the known will of God” and, in quoting *The Discipline of the Wesleyan Church*, declares that “[s]exual relationships outside of marriage and sexual relationships between persons of the same sex are immoral and sinful.” Your letter also asserts that the University adopted The Wesleyan Church’s *Church and Culture* statement, which “seeks to recognize and preserve the sanctity of human life from conception to natural death and is opposed to the use of induced abortion.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “to the extent they are interpreted to reach gender identity and/or sexual orientation discrimination, and to the extent they restrict the University’s freedom to apply and enforce the Wesleyan Church’s statement on the sanctity of life:”

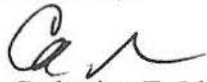
- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing education programs or activities)
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities);
- 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 and insurance benefits and services);
- 34 C.F.R. § 106.40 (governing marital or parental status);
- 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 University is exempt from these provisions to the extent that they prohibit discrimination on the basis of sexual orientation or gender identity or restrict the University’s freedom to apply and enforce the Wesleyan Church’s statement on the sanctity of life 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