



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 6, 2016

Dr. Derry Connolly
President
John Paul the Great Catholic University
200 West Grand Avenue
Escondido, CA 92025

Dear Dr. Connolly:

I write to respond to your August 25, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for John Paul the Great Catholic University (University) of Escondido, California 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.

The implementing regulation at 34 C.F.R. § 106.12 provides 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 explained that the University "is a non-profit institution of higher education . . . dedicated both to creativity, leadership, and entrepreneurship and to being faithfully Catholic – living the Gospel of Jesus." Your letter explains that the University's mission is to "impact culture for Christ by forming students as creators and innovators, leaders and entrepreneurs at the intersections of media, business and theology, guided by the teachings of Jesus Christ as preserved by His Catholic Church." Your letter states that the University's "educational philosophy is grounded in the Catholic Church's teachings, sacred traditions, and Scripture. Every faculty member commits to harmony with Catholic Church teachings in speech and action and the University expects all trustees, faculty, and staff to 'celebrate the positive spiritual and entrepreneurial components of its mission and to eschew betraying or obstructing what the institution is striving to build.'" Your letter explains that the commitment to live in harmony with the teachings of the Catholic Church extends to "both applicants and existing faculty."

Your letter requests a religious exemption from the provisions of Title IX "to the extent they are

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-1100
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict [the University's] freedom to apply and enforce its Policy on Human Sexuality." In support of this request, you explain that the University adopted its Policy on Human Sexuality on May 15, 2015. Although your letter did not enclose the Policy on Human Sexuality as referenced, according to your letter, the Policy on Human Sexuality states that "[i]n accordance with the teachings of Jesus Christ as preserved by His Catholic Church, the [University] community believes that God created all humans – male and female in His image and likeness and with equal dignity, and that due to sin and human brokenness, our experience of our sex and gender is not always as God designed . . . The [University] policy on gender identity affirms that one's gender is based upon one's biological sex . . . and holds firmly that any tension between one's biological sex and experience of gender identity should not be resolved through medical intervention or adoption of dress or practices of the opposite biological sex." The Policy on Human Sexuality further states that "the [University] community believes that marriage is between one man and one woman for life . . . [and] [i]n agreement with the Catechism of the Catholic Church . . . affirm[s] that 'human life must be respected and protected absolutely from the moment of conception.'"

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 or sexual orientation discrimination, and to the extent they restrict [the University's] freedom to apply and enforce its Policy on Human Sexuality." Based on the supporting statements in your letter, OCR interprets this to include regulatory provisions that prohibit discrimination based on gender identity, sexual orientation, marital status, pregnancy, and parental status.

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences 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 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 and use of appraisal and counseling materials);
- 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 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 University is exempt from these provisions to the extent that they that prohibit discrimination based on gender identity, sexual orientation, marital status, pregnancy, and parental status.

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
U.S. Department of Education