



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

March 13, 2018

David Veum, DMin  
President  
Lutheran Brethren Seminary  
1036 Alcott Ave. W  
Fergus Falls, MN 56537

Dear President Veum:

I write in response to your February 8, 2018 letter to the U.S. Department of Education's Office for Civil Rights (OCR). In your letter, you requested a religious exemption for Lutheran Brethren Seminary (Seminary) of Fergus Falls, Minnesota, from Title IX of the Educational 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 that is controlled by a religious organization, to the extent that the application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions may 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. An institution may be considered controlled by a religious organization if it is a school or department of divinity.

Your request letter states that the "Seminary is an institution of theological higher education and is a department of the Church of the Lutheran Brethren of America, a Minnesota not-for-profit corporation." Your letter also states that the "Seminary's primary mission is to train and equip pastors, missionaries, and Christian lay workers for ministry in the Church of the Lutheran Brethren and other church bodies."

Your letter requests exemption from certain provisions of Title IX and its implementing regulations "to the extent that they are interpreted to reach gender identity discrimination or sexual orientation discrimination and to the extent they restrict the Seminary's freedom to apply and enforce the Statement on the Sanctity of Human Life." In support of this request, your letter states that "the Bible holds a primary and central place in the curriculum. It is recognized that

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

the Bible is God's special revelation and that it is the source and norm for the institution's Statement of Faith." Your letter cites the "Church of the Lutheran Brethren Statement on Human Sexuality," which states that "God established marriage between man and woman. The Bible sanctions only heterosexual marriage." The Statement on Human Sexuality also states that "[a]ny extramarital sexual practice, whether homosexual or heterosexual, is outside of the limits of Biblical morality, and is sinful," and "that one of the basic reasons for God's creation of human beings as male and female is to propagate the human race and provide a caring home for the nurture of children," and that certain "Scriptures condemn homosexuality." You note that the Seminary "welcomes those of professed Christian faith who experience same-sex attraction," but "affirms that sexual activities between members of the same sex are sinful and are not to be condoned as acceptable expressions of one's sexuality." Your letter cites the "Statement on the Sanctity of Human Life," which states that "[h]uman life is of inestimable worth in all its dimensions, including pre-born babies, the aged, the physically or mentally challenged, and every other stage or condition from conception through natural death. We are therefore called to defend, protect, and value all human life."

Your letter states that, for the above reasons, the Seminary is requesting an exemption from the following regulatory provisions to the extent that "they are interpreted to reach gender identity or sexual orientation discrimination and to the extent they restrict the Seminary's freedom to apply and enforce the Statement on the Sanctity of Human 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 Seminary is exempt from these provisions to the extent that 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 recognized.

I hope this letter fully responds to your request. If you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Candice Jackson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Candice Jackson  
Acting Assistant Secretary for Civil Rights