



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

August 31, 2016

R. Alton Lacey
President
Missouri Baptist University
One College Park Drive
St. Louis, MO 63141

Dear President Lacey:

I write to respond to your June 18, 2015, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Missouri Baptist University (University) of St. Louis, Missouri, from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. In response to a request from OCR on January 4, 2016, you submitted further information on March 10, 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 March 2016 letter explains that the University "is a private, evangelical Christian University." According to your letter, "[r]egardless of major, full-time students are required to attend chapel, and must take and pass Old Testament History and New Testament History in order to graduate from the University." Your letter explains that the University "requires its faculty to espouse a personal belief in Christianity, the religion of the organization by which [the University] claims to be controlled, that is, the association of persons and churches in Missouri called Baptists." Your letter further explains that "[e]ach faculty member is required to provide a written 'statement of faith' at the time he or she is hired by the University," which indicates "how they came to a saving faith in Christ and what they believe about the essential doctrines of the Christian faith . . . in order that the University can be assured that each faculty member is a committed Christian." Finally, you state that "the University is governed by and controlled by its Board of Trustees, seventy-five percent (75%) of whom must be members of Baptist Churches located in Missouri, as dictated by the University's Articles of Incorporation" and that the "University receives a significant amount of financial support from the Baptist community,

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including such Baptist organizations as the Baptist General Convention of Missouri and Cooperative Baptist Fellowship.”

Your March 2016 letter contains an updated list of provisions of the Title IX regulation from which you seek exemption “so that the University may discriminate on religious grounds in regard to its students and employees, in keeping with its religious beliefs and the tenets of Missouri Baptist churches.” In support of this request, you explain that “Baptists commonly agree upon certain religious tenets that reflect an evangelical Christian understanding and view of the Scriptures,” one of which “is that the Bible is the true and reliable word of God.” You explain that “cohabitation, engaging in pre-marital or extra-marital sexual relations, and homosexual activity is viewed as inconsistent with the Bible and University tenets” and that the “University may impose sanctions for behavior which is not in keeping with these standards, including dismissal from the University or termination of employment.” You further state that one “tenet[] of the University and Missouri Baptist churches . . . [is] that God created two sexes, male and female” and that the University “believes, based upon Biblical principles, that a person cannot change their birth gender.” Additionally, your letter explains that “[t]he University’s Christian religious beliefs, which are based upon the Bible and the tenets of the Baptist denomination, also prohibit elective 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 prohibit discrimination based on gender identity, sexual orientation, sex outside of marriage, and abortion:

- 34 C.F.R. § 106.21 (governing admissions);
- 34 C.F.R. § 106.31(a) and (b) (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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51(a), (b)(6), and (b)(7) (governing employment); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

The University is exempt from these provisions to the extent that they prohibit discrimination based on gender identity, sexual orientation, marital status, sex outside of marriage, parental status and abortion 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 stylized flourish at the end.

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