



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

December 15, 2017

Stephen Davey, D.D.  
President  
Shepherds Theological Seminary  
6051 Tryon Road  
Cary, NC 27518

Dear Dr. Davey:

I write in response to your November 28, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Shepherds Theological Seminary (Seminary) of Cary, North Carolina 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 was founded as a "Christ-centered institution of higher education for students seeking a biblical education that is based on conservative evangelical doctrines" and that it "offers various degree programs to meet the needs of students seeking professional competence in pastoral ministry and other ministry oriented careers." The Seminary "understands the Bible to be the infallible, written Word of God and affirms that our doctrinal positions as explained in our Doctrinal Statement provide the most adequate and comprehensive expression of the system of doctrine taught in the Bible."

Your letter requests exemption from certain provisions of Title IX and its implementing regulations to the extent that "they are interpreted to curtail the Seminary's freedom to respond to both transgender and homosexual individuals in accordance with its theologically-grounded convictions," and "in order for [the Seminary] to fulfill its role in training students for ministry in churches that share its biblical views on the roles of men and women in ministry."

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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.*

In support of this request, your letter cites to the Seminary's Statement on Women in Ministry – Biblical Manhood and Womanhood, stating that “[a]lthough men and women are spiritually equal in position before God, God has ordained distinct and separate functions for men and women in the church and home.” Your letter also cites to the Seminary's Statement on Marriage and Sexual Purity stating that “[a]ny form of homosexuality, lesbianism, bisexuality, transgender, bestiality, incest, pedophilia, fornication, adultery, and pornography are sinful perversions of God's gift of sex,” and that “[w]e believe that sexual activity is to be exercised and enjoyed only within the covenant relationship of marriage between one man and one woman, and that God has expressly condemned sexual intercourse outside of the marriage covenant.” It also states that “[t]he husband is the head of the household, serving as a shepherd/leader in the home. Likewise, men are to hold the offices of authority in the church. Accordingly, only men are eligible for licensure and ordination by the church and qualified to exercise their authority by leading mixed adult worship services and adult Christian education classes.”

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 issues of women in ministry, gender identity or sexual orientation discrimination”:

- 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.

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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 black ink, appearing to read 'Candice Jackson', with a long horizontal flourish extending to the right.

Candice Jackson

Acting Assistant Secretary for Civil Rights