



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 18, 2017

Kent J. Ingle, D.Min.
President
Southeastern University
1000 Longfellow Blvd.
Lakeland, FL 33801-6034

Dear President Ingle:

I write to respond to your October 26, 2015, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Southeastern University (University) of Lakeland, Florida, from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681. In response to a request from OCR on August 16, 2016, you submitted further information on August 25, 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 "is affiliated with the Assemblies of God denomination, affiliated with and sponsored by several Assemblies of God districts, and governed by a board that must include either an ordained Assemblies of God minister or a member in good standing of an Assemblies of God church from each sponsoring district." Your August 2016 letter explains that this affiliation is based on the University's endorsement by the Alliance for Assemblies of God Higher Education (Alliance), which was created by the highest governing board of the Assemblies of God denomination to act as an agency of the Assemblies of God. The letter further explains that the University's governing board currently has nine sponsoring districts from the Assemblies of God, which must contribute financially and provide an individual from the district to serve as a voting member of the University's board of trustees. The University's bylaws allow the President and Executive Committee of the board of trustees to elect up to 20 additional "at-large" members, who also must be affiliated with the Assemblies of

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.

God or with churches that maintain compatible doctrinal views with the Assemblies of God. Your letter further explains that the University mandates that faculty be affiliated with the Assemblies of God and attend weekly chapel services and requires a statement of faith and a pastoral recommendation from student applicants.

Your October 2015 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 respond to transgender individuals in accordance with its theologically grounded-convictions” or “to reach sexual orientation discrimination.” In support of this request, you cite to the University’s Human Sexuality Policy, which is derived from certain biblical principles, including that “God created humans with an immutable gender of either male or female,” that “God’s intention for human sexuality is for sexual intimacy to occur between one genetic male and one genetic female within the covenant of marriage,” and that “fornication, adultery, incest, unnatural sexual intercourse, and homosexual acts” are “expressly forbidden” in Scripture.

Your request states 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”:

- 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 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 identify a 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,

A handwritten signature in black ink, appearing to read 'C. Lhamon', written in a cursive style.

Catherine E. Lhamon
Assistant Secretary for Civil Rights