



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 13, 2016

Dr. Loren Gresham
President
Southern Nazarene University
6729 Northwest 39th Expressway
Bethany, OK 73008

Dear Dr. Gresham:

I write to respond to your November 12, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Southern Nazarene University (University) of Bethany, Oklahoma 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 "grounded in the Wesleyan-Holiness tradition of the South Central Region of Church of the Nazarene" and that upon "hypothetical dissolution, assets are to be distributed for purposes associated with the Church of the Nazarene." In your letter, you cite to a requirement in the University's Bylaws that "[t]he Board of Trustees is elected from the members of the ten districts [of the denomination of the Church of the Nazarene] and at least half of the Board membership is comprised of clergy ordained in the Church [of the Nazarene]." You also cite to the University's Faculty Handbook, which, according to your letter, sets forth that "faculty are required to be in full accord with the doctrines, practice and Christian objectives of the University. Further, faculty are prohibited from professing views not in harmony with the Manual of the Church of the Nazarene or the Policies adopted by the Board of Trustees. Students are required to behave in accordance with lifestyle expectations consistent with the Church of the Nazarene."

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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.

Your letter requests a religious exemption from the provisions of Title IX “insofar as they prohibit discrimination based on gender identity [or . . .] on account of termination of pregnancy.” In support of this request, you cite to the Bible, the Covenant of Christian Character of the Church of the Nazarene as set forth in the Manual of the Church of the Nazarene (Manual), and the Pastoral Perspectives on Homosexuality issued by the General Superintendents of the Church of the Nazarene. According to your letter, the “University and its denomination believe that human beings are fashioned by God in His own image, and are created male and female” and so the University “reject[s] all attempts at construing sexuality or sexual identity by medically altering the human body, cross dressing, or similarly practicing behaviors characteristic of the opposite sex as morally objectionable and sinful.” Your letter also states that in accordance with the Manual, “[t]he University and the denomination also believe in the sanctity of life and by doctrine and policy strongly oppose intentional termination of pregnancy absent a very few compelling circumstances.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “insofar as they prohibit discrimination based on gender identity:”

- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 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. § 106.41 (governing athletics); and
- 34 C.F.R. § 106.51 (governing employment).

Your letter also requests, for the reasons described above, an exemption from “any regulation prohibiting discrimination against a student on account of termination of pregnancy.” OCR interprets this as a request for an exemption from the following regulation:

- 34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of gender identity or termination of pregnancy 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 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,

A handwritten signature in blue ink, appearing to read "C. Lhamon".

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