



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

August 18, 2014

Dr. David Alexander
President
Northwest Nazarene University
623 S. University Boulevard
Nampa, Idaho 83686

Dear Dr. Alexander:

The purpose of this letter is to respond to your July 29, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for Northwest Nazarene University (University) of Nampa, Idaho 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 and/or regulation that conflict with those tenets.

Your request explained that the University "is grounded in the Wesleyan-Holiness tradition, and is an educational expression of the Northwest region of the Church of the Nazarene." The letter explains that the school is "assigned by the Church of the Nazarene to serve seven districts of the denomination" and that its "Board of Trustees is elected from the members of the seven districts." Your letter states that the University's Amended and Restated Articles of Incorporation require all members of the University's Board of Trustees to be members of the Church of Nazarene and that half of the Board members must be clergy. Your letter further explains that the University's "faculty and staff are required to profess faith and are prohibited from professing views not in harmony with the Articles of Faith of the Church of the Nazarene." In addition, students are expected to maintain a lifestyle that is consistent with the directives and guidelines established by the General Assemblies of the Church and published in the Church of Nazarene Manual.

You state that the University and the Church of Nazarene's belief, based on biblical interpretation, is that human beings are created male and female, and that the University

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“reject[s] all attempts at construing sexuality or sexual identity by medically altering the human body . . . or . . . practicing behaviors characteristic of the opposite sex as morally objectionable and sinful.” You refer to the Church of Nazarene’s Manual as evidence of the Church’s belief that homosexuality is a sin. Additionally, because the Manual states that the Church is opposed to abortion, the University also opposes the “intentional termination of a pregnancy absent a very few compelling circumstances.”

Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student’s gender identity, and to play on boys’ athletic teams. You explain that the University “would not be able to make similar accommodations consistent with [its] religious beliefs and convictions.” You further state that, for these reasons, the University is requesting an exemption from the following regulatory provisions to the extent that they prohibit discrimination based on gender identity: 34 C.F.R. §§ 106.31(b)(4) (governing different rules of behavior or sanctions); 106.32 (governing housing), 106.33 (governing comparable facilities such as restrooms and locker rooms), and 106.41 (governing athletics). The University is exempt from these provisions to the extent that they require a recipient to treat students consistent with their gender identity, but doing so would conflict with the controlling organization’s religious tenets.

Your request also seeks a “religious exemption from any regulation prohibiting discrimination against a student on account of termination of pregnancy.” We interpret that as a request for exemption from 34 C.F.R. § 106.40(b). The University is exempt from this provision 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 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,



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