



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 13, 2016

Tommy King
President
William Carey University
WCU Box 1
498 Tuscan Avenue
Hattiesburg, MS 39401

Dear President King:

I write to respond to your November 30, 2015, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption for William Carey University (University) of Hattiesburg, Mississippi 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, "a Southern Baptist institution of higher education," "is controlled by the Mississippi Baptist Convention . . . whose constituency is the cooperating Southern Baptist churches of Mississippi." Your letter states that "[p]ursuant to the University's Restated Articles of Incorporation, . . . [t]he Mississippi Baptist Convention controls the University by electing the University's board of trustees who govern the institution."

Your letter requests a religious exemption from the provisions of Title IX "to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, pregnancy, abortion, and gender identity in a manner that is inconsistent with the religious tenets of the Convention." In support of this request, you cite to the "University's Statement of Faith and Practice which reflects the University's understanding of the Convention's expectations of the University arising out of the Convention's religious tenets."

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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.

According to your letter, “the Bible teaches: . . . It is God’s unique gift . . . to provide for the man and the woman in marriage the framework for intimate companionship, the channel of sexual expression according to biblical standards, and the means for procreation of the human race.” Your letter further states that “[t]he Convention has declared: The union of one man and one woman is the only form of marriage prescribed in the Bible as God’s perfect design for the family. The Bible affirms that all human life, both born and preborn, is a person bearing the [image] of God. God’s design was the creation of two distinct and complementary sexes, male and female which designate the fundamental distinction that God has embedded in the very biology of the human race.”

You explain that it would not be consistent with the Convention’s religious tenets for the University to comply with Title IX to the extent that it prohibits the University from “engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission’s sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, pregnancy, abortion, and sex outside marriage[; . . . from] subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics[; or from] making all employment decisions. . . in a manner which takes into consideration these employee characteristics.”

You state that, for these reasons, the University is requesting an exemption from the following regulatory provisions “to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, pregnancy, abortion, and gender identity in a manner that is inconsistent with the religious tenets of the Convention:”

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preferences in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31(b)(4) (governing different rules of behavior or sanctions);
- 34 C.F.R. § 106.31(b)(7) (governing the limitation of rights, privileges, advantages, or opportunities);
- 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. § 106.34 (governing access to classes and schools);
- 34 C.F.R. § 106.36 (governing counseling and use of appraisal and counseling materials);
- 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 insurance benefits and services);
- 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. § 106.43 (governing standards for measuring skills or progress in physical

- education classes);
- 34 C.F.R. § 106.51 (governing employment);
 - 34 C.F.R. § 106.52 (governing employment criteria);
 - 34 C.F.R. § 106.53 (governing recruitment of employees);
 - 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions);
 - 34 C.F.R. § 106.60 (governing pre-employment inquiries); and
 - 34 C.F.R. § 106.61 (governing sex as a bona-fide occupational qualification).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of marital status, sex outside of marriage, sexual orientation, gender identity, pregnancy, or 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 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