



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

February 11, 2015

Jairy C. Hunter, Jr.
President
Charleston Southern University
9200 University Boulevard
P.O. Box 118087
Charleston, SC 29423-8087

Dear President Hunter:

The purpose of this letter is to respond to your December 8, 2014, letter to the U.S. Department of Education, Office for Civil Rights (OCR), in which you requested a religious exemption from Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, for Charleston Southern University (University) of Charleston, South Carolina. 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 governed and controlled by its Board of Trustees, which consists of twenty-five members who are elected by the South Carolina Baptist Convention." Your letter enclosed a copy of the University's Bylaws. Article II of those Bylaws state that one of the objectives of the institution is to "[o]perate a Baptist, liberal arts university."

Your letter requests a religious exemption from certain provisions of Title IX to the extent that application of those provisions would not be consistent with the South Carolina Baptist Convention's religious tenets. In support of this request, your letter cites several religious tenets that conflict with the application of the Title IX regulations listed below. Specifically, your letter explains that the University, consistent with the Southern Baptist Convention's¹ statement on transgender individuals, "affirms that a person cannot change his/her birth gender and so must be treated as such; rather than a self-identified gender, which would be inconsistent with the University's religious beliefs." Additionally, your letter states that the University views "all forms of sexual intimacy that occur outside the covenant of heterosexual marriage, even when consensual" as inconsistent with the tenets of the Southern Baptist Convention and that the "University's religious beliefs prohibit pre-marital sex and elective abortion." You state that, for these reasons, application of certain provisions in Title IX "would be inconsistent with the religious beliefs and practices of the South Carolina Baptist Convention and Charleston Southern University."

¹ Your letter explains that the University is affiliated with the Southern Baptist Convention via its controlling organization, the South Carolina Baptist Convention.

Your letter requests a religious exemption from the following provisions of Title IX to the extent that compliance would conflict with the South Carolina Baptist Convention's religious tenets:

- 34 C.F.R. § 106.21(b)(iii) and (c) (governing admission);
- 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. § 106.40 (governing different rules based on marital or parental status of students);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51(a) and (b)(6) (governing employment); and
- 34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions).

The College 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