



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

December 15, 2017

Michael P. Cavanaugh
President
Elim Bible Institute and College
7245 College Street
Lima, NY 14485

Dear President Cavanaugh:

I write in response to your December 19, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for Elim Bible Institute and College (College) in Lima, New York, from Title IX of the Educational 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. Title IX and its implementing regulation at 34 C.F.R. § 106.12 provide that Title IX does not apply to an educational institution that is controlled by a religious organization to the extent that the application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions may 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. An institution may be considered controlled by a religious organization if it is a school or department of divinity.

Your request letter states that the College is an integrated auxiliary of Elim Fellowship, Inc., which is an association of churches. Your letter explains that the College's constitution requires that a majority of the governing board be ordained ministers of Elim Fellowship, at least two of its directors be from the Council of Elders of Elim Fellowship, all board members endorse Elim Fellowship's doctrinal statement, and that Elim Fellowship furnishes substantial financial assistance to the College. Your request letter further explains that the College "asks all staff, faculty, adjunct faculty, and volunteer staff to agree to and follow certain non-negotiable standards." For example, each student promises to respect Elim's Statement of Faith and submit to Community Life Guidelines, including with respect to sexuality and courtship.

Your letter requests exemption from certain provisions of Title IX and its implementing regulations to the extent that application of those provisions would not be consistent with the College's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion. In support of this request, your letter cites tenets that are "imbedded in Holy Scripture, in the Elim Statement of Faith, in the constitutions of both [the College] and Elim Fellowship and in historic Christian orthodoxy." Your letter explains that

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these tenets include beliefs “that sexual purity is a necessary expression for all of God’s children and requires abstinence from adultery, fornication, incest, homosexuality and other sexual practices forbidden by scripture;” “that marriage is the uniting of one man and one woman in covenant commitment for a lifetime, and a sacred institution established by God;” “that God’s design was the creation of two distinct and complementary sexes, male and female, and that a person affirms God’s infinite wisdom by living in alinement with his or her birth sex;” and “that since mankind is created in God’s image, human life is of inestimable worth and significance in all its dimensions, from conception to the grave.”

Your letter states that, for the above reasons, the College is requesting an exemption from the following regulatory provisions to the extent application of those provisions would not be consistent with the College’s religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion:

- 34 C.F.R. § 106.21 (governing 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. § 106.40 (governing marital or parental status);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.51 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment); and
- 34 C.F.R. § 106.57 (governing marital or parental status).

The College is exempt from these provisions 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 recognized.

I hope this letter fully responds to your request. If you have any further questions, please do not hesitate to contact me.

Sincerely,



Candice Jackson
Acting Assistant Secretary for Civil Rights