

Catherine E. Lhamon, Assistant Secretary  
U.S. Department of Education, Office for Civil Rights  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

Re: Statement of Exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12

Dear Ms. Lhamon:

It has come to Trinity Bible College's attention that the Department of Education has recently taken the position that 20 U.S.C. § 1681(a), Title IX's rule against discrimination on the basis of sex, now bars differential treatment based on "gender identity." The Department's new interpretation of Section 1681(a) conflicts with Trinity Bible College's religious tenets and our ability to carry out our religious mission.

In the course of our review, Trinity Bible College ("the College") has identified other potential interpretations or applications of Section 1681(a) that likewise conflict with our religious mission. Therefore, as the highest-ranking official of Trinity Bible College's administration, I write to inform the Department of Education that Trinity Bible College qualifies for the religious exemption under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 because of its affiliation with the Assemblies of God. I also write to explain how certain provisions, as they may be interpreted by the Department, conflict with specific tenets of the College and the Assemblies of God.

**Trinity Bible College qualifies for Title IX's religious exemption.**

Trinity Bible College is an educational institution affiliated with the Assemblies of God, a religious organization. The following explains why the College qualifies for the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 as these provisions have been interpreted and applied by the Department of Education.<sup>1</sup>

The General Council of the Assemblies of God ("General Council"), the highest governing body of the church, has established the Alliance for Assemblies of God Higher Education ("Alliance") and tasked the Alliance with developing educational, spiritual, and theological standards for schools that wish to be affiliated with the

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<sup>1</sup> See U.S. Dep't of Ed., *Explanation of HEW Form 639 A* (March 1977) at 3-4, available at <http://freepdfhosting.com/88b629f888.pdf>.

church.<sup>2</sup> To fulfill this mandate, the Alliance developed Endorsement Criteria that are intended to facilitate the development of educational institutions that are committed to the Assemblies of God's mission, to the integration of faith and learning in the Pentecostal tradition, and to academic excellence.<sup>3</sup> The purpose of the Endorsement Criteria is to ensure doctrinal fidelity and institutional conformity to Assemblies of God standards of morality.

Trinity Bible College is endorsed by the Alliance and is committed to maintaining this status by carefully following the Alliance's Endorsement Criteria.<sup>4</sup> Consistent with the Alliance's Endorsement Criteria, the College's mission documents commit the College to the formation of mature Christian character and spiritual life, the development of loyalty to the doctrines and principles of the Assemblies of God, and the preparation of leaders for the Kingdom of God and the Assemblies of God.<sup>5</sup>

The Alliance's Endorsement Criteria also shape how the College selects its leadership, faculty, administrators, and students. At least 90% of the College's board members are affiliated with the Assemblies of God and the remaining board members are affiliated with another Pentecostal church. Under the Endorsement Criteria, the College may not deviate from these standards without permission from the Alliance.

Additionally, the Alliance's Endorsement Criteria require the College's faculty, administrators, and students to be members of an Assemblies of God church or otherwise espouse a personal belief in the basic tenets of the Christian faith as understood by the Assemblies of God. As required by the Endorsement Criteria, all of the College's administrators and faculty annually sign a statement affirming loyalty to the Statement of Fundamental Truths of the Assemblies of God, a personal experience of Holy Spirit baptism, and a willingness to influence others with regard to loyalty to the Assemblies of God church and theology.

Consistent with Alliance standards, the College asks all applicants for on-campus programs to affirm that they are born-again Christians, that they desire to be involved in Christian service, and that they agree with the accepted essentials of the Christian faith as held by the Assemblies of God. Applicants must also provide a letter of recommendation from a pastor.

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<sup>2</sup> See The Alliance for Assemblies of God Higher Education, *Our Purpose*, available at <http://colleges.ag.org/about/mission.cfm>.

<sup>3</sup> See The Alliance for Assemblies of God Higher Education, *Endorsement Criteria*, Rev. 2010, available at <http://colleges.ag.org/pdfs/Final%20Criteria.pdf>.

<sup>4</sup> See Trinity Bible College, *Endorsements*, 2014-2016 Academic Catalogue, page 11.

<sup>5</sup> See Trinity Bible College, *Beliefs and Mission Statement*, 2014-2016 Academic Catalogue, pages 9-10.

Student life at the College is also shaped by our commitment to Alliance standards. The College shares the Assemblies of God's conviction that Christian colleges and universities should form their students both academically and spiritually. Faithful to the Endorsement Criteria, the College helps stimulate students' appreciation for the Word of God and encourages students to pursue spiritual maturity and excellence. The College is dedicated to strengthening our students' appreciation of and attachment to the Christian Church, especially the Pentecostal tradition and the Assemblies of God. Each student is required to be involved in a ministry for at least two semesters, with more expected of students in ministry-related majors.

As part of our commitment to developing a robust Christian community, and consistent with the Alliance's standards, the College holds at least three chapel services each week, which are mandatory for students. The College also has enforceable church and chapel attendance policies for administrators and faculty.

Because the College adheres to the Endorsement Criteria, it is eligible for financial support from the Assemblies of God. The Alliance develops financial resources for endorsed colleges in cooperation with the Assemblies of God Trust. The Alliance also develops educational resources and runs conferences to help affiliated schools better serve their mission and their students.

In light of all of the above, Trinity Bible College requests the Department's acknowledgement that the College is entitled to the exemption set forth at 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12.

**Certain applications of 20 U.S.C. § 1681(a) and 34 C.F.R. 106 conflict with Assemblies of God doctrine and practice.**

Trinity Bible College is compelled to submit this statement because it believes that its religious convictions, informed by its relationship with the Assemblies of God, conflict with some of the ways that the Department of Education may interpret or may seek to enforce 20 U.S.C. § 1681(a). Specifically, while the Department has not issued regulations or guidance explaining how an educational institution's response to a transgender individual might violate Title IX and its accompanying regulations, the Department recently issued guidance on sexual violence prevention which incorporates discrimination based on "gender identity" as part of "sex discrimination" under the statute.<sup>6</sup>

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<sup>6</sup> U.S. Department of Education, Questions and Answers on Title IX and Sexual Violence, *available at* <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> at 5 ("Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation.").

Moreover, the resolution agreement<sup>7</sup> between the Arcadia Unified School District and the Department (and the Department of Justice) requires that school district to permit transgender students to use the restroom, locker room, and living accommodations of their choice, and to participate in athletic programs as a member of the sex to which they believe they belong.<sup>8</sup> It is thus reasonable to suppose that the Department believes that such responses are required by Title IX.

It is also reasonable to presume that your office interprets Title IX to impose gender identity non-discrimination obligations upon covered institutions in the employment context. To the extent these suppositions are correct, it appears as though compliance with Title IX, as interpreted by the Department to reach transgender discrimination, would be inconsistent with the religious tenets of the College.<sup>9</sup>

Finally, as you are aware, the EEOC has begun declaring that the ban on sex discrimination in Title VII of the Civil Rights Act of 1964 also forbids discrimination on the basis of sexual orientation.<sup>10</sup> It is conceivable that the Department could interpret Title IX of the Education Amendments of 1972 the same way. To the extent these suppositions are correct, it appears as though compliance with Title IX, if interpreted by the Department to reach sexual orientation discrimination, would also be inconsistent with the theological commitment of the College.

As a Christian institution, the College believes that all matters of faith and conduct must be evaluated on the basis of Holy Scripture, which is our infallible guide (2 Timothy 3:16-17). As a school founded in and inspired by the Assemblies of God tradition and endorsed by the Alliance, the College looks to the General Council and the General Presbytery of the Assemblies of God to help us interpret Scripture.

**Human Dignity:** The Assemblies of God believes that God created humankind in His image and that people receive their essential dignity from the fact that they are created in God's image and are loved by Him (Genesis 1:27). This dignity does not depend on whether someone is single or married or on whether someone suffers from any particular temptation to sin (1 Corinthians 7; Romans 5:8).

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<sup>7</sup> Resolution Agreement Between the Arcadia Unified School District, the U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice, Civil Rights Division, *available at* <http://www.justice.gov/sites/default/files/crt/legacy/2013/07/26/arcadiaagree.pdf>.

<sup>8</sup> *Id.*

<sup>9</sup> The religious convictions set forth below are established by the Assemblies of God in its Constitution and Bylaws, *available at* [http://ag.org/top/about/constitution\\_bylaws.cfm](http://ag.org/top/about/constitution_bylaws.cfm), and in Position Papers approved by the General Presbytery of the Assemblies of God, *available at* [http://ag.org/top/Beliefs/position\\_papers/](http://ag.org/top/Beliefs/position_papers/).

<sup>10</sup> *See* <http://www.eeoc.gov/decisions/0120133080.pdf>.

**Abortion:** The Assemblies of God believes that human beings bear the image of God and receive their essential identity and dignity before we are born (Luke 1:31-44; Acts 7:19; Job 31:15; Psalm 139:13-16). As such, the Assemblies of God believes that abortion is the killing of innocent human life and is therefore prohibited by the Ten Commandments and elsewhere throughout Scripture (Exodus 20:13, 21:22-24; Matthew 19:18; Romans 13:9).

**Marriage:** The Assemblies of God defines marriage as the permanent, exclusive, comprehensive, and conjugal “one flesh” union of one man and one woman, intrinsically ordered to procreation and biological family, and in furtherance of the moral, spiritual, and public good of binding father, mother, and child. The Assemblies of God teaches that the purpose of Christian marriage is to reflect the love, purity, and permanence between Christ and the Church (Ephesians 5:23-33).

**Sexual Conduct:** The Assemblies of God believes that God has designed sexual intimacy for marriage and that sexual acts outside of marriage are sinful. Such acts include but are not limited to adultery, fornication, incest, bestiality, pornography, prostitution, voyeurism, pedophilia, exhibitionism, sodomy, polygamy, polyamory, or same-sex sexual acts. (Exodus 20:14; Leviticus 18:7-23; 20:10-21; Deuteronomy 5:18; Matthew 5:27-28; 15:19; Romans 1:26-27; 1 Corinthians 6:9-13; Galatians 5:19; Ephesians 4:17-19; Colossians 3:5; 1 Thessalonians 4:3; Hebrews 13:4).

**Sexual Orientation:** The Assemblies of God affirms the sexual complementarity of man and woman and teaches that same-sex sexual attractions are temptations to sin and should therefore be resisted. (Genesis 1:27; 2:24; Matthew 19:4-6; Mark 10:5-9; Romans 1:26-27; 1 Corinthians 6:9-11).

**Sexual Identity:** The Assemblies of God believes that God created humankind in His image, male and female, sexually different but with equal personal dignity. The church supports the dignity of individual persons affirming their biological sex and discouraging any and all attempts to physically change, alter, or disagree with their predominant biological sex—including but not limited to elective sex-reassignment, transvestite, transgender, or nonbinary “genderqueer” acts or conduct. (Genesis 1:26-28; Romans 1:26-32; 1 Corinthians 6:9-11).

**Sexual Equality:** The Assemblies of God believes that men and women have equal dignity before God and does not make any distinction between the sexes when selecting people for ministry or spiritual leadership positions. Having observed that God pours out His Spirit upon both men and women, the Assemblies of God concludes that God gifts both sexes for ministry in His Church.

The College believes and embraces these teachings and has integrated them into its standards for its administrators, faculty, and students. In order to help foster these standards and to help ensure that the College is a place of nourishment, the College

has adopted policies regarding expectations for student and employee behavior, accountability, rules and disciplinary actions, and other general expectations for student life on campus.<sup>11</sup>

None of this is to say that the College or the Assemblies of God excludes anyone based on their sins or based on their temptations. The Assemblies of God believes that all have sinned and fall short of the glory of God and should seek redemption through confession, repentance, baptism, and faith in Jesus Christ. We welcome and treat with respect, compassion, and sensitivity all who experience same-sex attractions or confess sexually immoral acts and are committed to resisting sexual temptation, refraining from sexual immorality, and transforming their behavior in the light of biblical teachings (Matthew 11:28–30; Romans 3:23; 1 Corinthians 10:13; Ephesians 2:1–10; Hebrews 2:17–18; 4:14–16).

However, in keeping with our biblical beliefs about sexual morality, the College cannot in good conscience support or encourage an individual to live in conflict with biblical principles. Any individual who violates campus standards for biblical living is subject to discipline, including expulsion.

The College believes that its policies and practices, informed by Assemblies of God teachings, do not discriminate on the basis of sex—that is, between men and women—and therefore do not violate Title IX. However, at the same time, the College understands that faithful application of the religious tenets set forth above may conflict with the way that the Department may interpret or seek to apply Title IX and certain provisions of 34 C.F.R. 106. Those potential conflicts are set forth below.

Based on the convictions listed above, the College believes that it cannot fulfill its God-given mission and build an intentional Christian community if it cannot require students, faculty, and administrators to embrace and do their best to follow the Assemblies of God's teachings about marriage, sexual conduct, sexual identity, and the sanctity of life. These convictions shape the College's admissions, student discipline, and employment policies. Additionally, all College students and other personnel are expected to embrace their God-given biological sex, an expectation which shapes the College's policies regarding student housing, restroom and locker room use, and participation in athletic programs.

Trinity Bible College accordingly requests that your office acknowledge that the College is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they restrict the College's freedom to apply and enforce its position on abortion and the sanctity of life):


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<sup>11</sup> See Trinity Bible College Policy on Human Sexuality, and 2015-2016 Student Handbook.

- 34 C.F.R. § 106.21 (admission)
- 34 C.F.R. § 106.22 (preference in admission)
- 34 C.F.R. § 106.23 (recruitment)
- 34 C.F.R. § 106.31 (education programs or activities)
- 34 C.F.R. § 106.32 (housing)
- 34 C.F.R. § 106.33 (comparable facilities)
- 34 C.F.R. § 106.34 (access to classes and schools)
- 34 C.F.R. § 106.36 (counseling)
- 34 C.F.R. § 106.37 (financial assistance)
- 34 C.F.R. § 106.38 (employment assistance to students)
- 34 C.F.R. § 106.39 (health and insurance benefits and services)
- 34 C.F.R. § 106.40 (marital or parental status)
- 34 C.F.R. § 106.41 (athletics)
- 34 C.F.R. § 106.43 (standards for measuring skill or progress in physical education classes)
- 34 C.F.R. § 106.51-61 (relating to employment)

Thank you for your attention to this matter. I look forward to hearing from you soon. If you require anything further, please do not hesitate to contact me.

Sincerely,

  
Paul Alexander, Ph.D.  
President  
Trinity Bible College