



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

September 22, 2016

Alan S. Cureton, Ph.D.
President
University of Northwestern St. Paul
3003 Snelling Avenue North
St. Paul, MN 55113-1598

Dear President Cureton:

I am writing in response to your February 12, 2016, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for the University of Northwestern – St. Paul (University) of St. Paul, Minnesota, 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.

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 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 letter explains that the University is “a Christ-centered, higher education institution built upon the historic, Christian, Protestant, evangelical tradition” that is “completely controlled by, and receives its financial support from University of Northwestern-St. Paul, Inc., a non-profit religious corporation.” According to that letter, all trustees, students, faculty and staff must agree to the University's doctrinal statement and Declaration of Christian Community. Your letter further explains that the University's mission is to provide “Christ-centered higher education equipping students to grow intellectually and spiritually, to serve effectively in their professions, and to give God-honoring leadership in the home, church, community, and world.”

Your letter requests an exemption from certain provisions of Title IX and its implementing regulations to the extent they prohibit gender identity or sexual orientation discrimination and to the extent they restrict the University's freedom to apply and enforce its beliefs and policy regarding abortion. In support of this request, your letter cites to the University's mission and commitment to evangelical Christianity. The letter states that the University affirms that “sexual relationships are designed by God to be expressed solely within a marriage between husband and wife...; [t]his view of sexuality and marriage is rooted in the Genesis account of creation...; ...

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sexual relations of any kind outside these confines of heterosexual marriage are inconsistent with the teaching of Scripture...; ... we are created by God in His image as two distinct sexes—male and female—and believes that each person glorifies God and affirms His infinite holiness and wisdom by living in alignment with his or her birth sex.” According to the letter, the University does not “affirm or support transgender identity or expression.” Additionally, the letter explains that “abortion is morally equivalent to murder based on the teachings of Scripture” and that “[a]ny individual who unrepentantly participates in abortion would also be in violation of our community standards.”

You state that, for the above reasons, the University is requesting an exemption from the following regulatory provisions to the extent they are interpreted to reach gender identity or sexual orientation discrimination and to the extent they restrict the University’s freedom to apply and enforce its beliefs and policy regarding abortion:

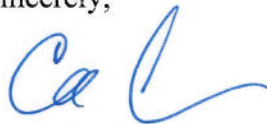
- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment);
- 34 C.F.R. § 106.31 (governing education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities 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);
- 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 and insurance benefits and services);
- 34 C.F.R. § 106.40 (governing marital or parental status);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.43 (governing standards for measuring skill or progress in physical education classes); and,
- 34 C.F.R. § 106.51-61 (governing employment).

The University is exempt from these provisions to the extent that they prohibit discrimination on the basis of gender identity, sexual orientation, 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 complaint alleges that the practices followed by the institution are not based on the religious tenets identified in your request, OCR is obligated to contact the controlling organization to contact 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 fully responds to your request. If you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Lhamon', with a stylized flourish at the end.

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