



# Tabor College

Office of the President

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December 3, 2014

Catherine 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

Dear Ms. Lhamon:

As president of Tabor College, a private Christian liberal arts college in Hillsboro, Kansas, I am writing pursuant to 34 C.F.R. § 106.12(b) to request that the College be provided with an official exemption from the recent interpretation by the Departments of Education and Justice that "sex" under Title IX also includes gender identity.

At the outset, let me make clear that Tabor supports and fully complies with the provisions of Title IX that grant equal opportunities in educational programs or employment to members of both sexes. However, we are aware that in the context of a recent Resolution Agreement with Arcadia Unified School District, the Departments of Education and Justice have interpreted Title IX's ban on sex discrimination in education to include discrimination based on an individual's self-declared gender identity, which may differ from their biological sex assigned at birth. As a result, the Arcadia School District was directed to allow a female student presenting herself as male to use the restroom, locker room, and living accommodations of her choice, and to participate in male athletic programs.

Because of its deeply held faith-based convictions regarding the distinctiveness of males and females, Tabor College would not be able to provide the kind of accommodation required in the Arcadia case. The College therefore seeks an exemption from this interpretation, pursuant to 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12(a), which provide that Title IX, "does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization."

Throughout its history Tabor College has been controlled by religious organizations. The College was founded in 1908 by members of the Mennonite Brethren and Krimmer Mennonite Brethren faiths. It has always existed for the purpose of providing education consistent with the beliefs of the Mennonite Brethren denomination, and that remains the case today. The corporate Bylaws of the College state its purpose as follows:

The purpose of the Corporation shall be to operate the institution known as Tabor College (hereinafter "the College") and, in so doing, provide liberal arts and professional/career education in a Christian context,

consistent with what Mennonite Brethren understand to be biblical and to help persons achieve their highest potential as servants of Christ and His Church, ministering to the needs of all people.

Consistent with this purpose, the Bylaws provide that the corporate owners of the college are "the church congregations which are members of the Central District Conference, the Southern District Conference, the Latin American District Conference and the North Carolina District Conference of Mennonite Brethren Churches." The bylaws require that a majority of the Board of Directors be elected by these four district conferences.

The 1952 Articles of Incorporation of Tabor College provide that:

The by-laws of the corporation shall at all times be subject to the constitution and the confession of faith of the General Conference of the Mennonite Brethren Church of North America as held at the present or as these may be amended in the future.

The "General Conference" referred to in the Articles of Incorporation was merged with the United States Conference of the Mennonite Brethren Churches in 2002. Accordingly, the Bylaws of the College now provide that:

The confession of faith of the United States Conference of the Mennonite Brethren Churches shall also be the confession of faith of the Corporation. Any doctrinal statement or other rules and/or regulations issued by the Corporation or the College shall be in complete harmony with this confession of faith.

And that:

No revisions or amendments to the Bylaws or Articles of Incorporation may in any way be in conflict with any part of the Confession of Faith of the United States Conference of the Mennonite Brethren Churches.

Tabor College's outward expressions of its identity are consistent with these governing documents. The College's Mission Statement is: "Preparing people for a life of learning, work, and service for Christ and His kingdom." Its Vision Statement is: "To be the college of choice of students who seek a life-transforming, academically excellent, globally relevant and decidedly Christian education." And its primary Core Value is to be Christ-centered:

The primary value of Tabor College is its desire to be a Christ-centered institution. All activities and programs flow out of this value and are evaluated in reference to it. The Mennonite Brethren Confession of Faith provides the biblical and theological foundation for the institution.

(See <http://tabor.edu/about/vision-mission-values>)

The Confession of Faith of the United States Conference of the Mennonite Brethren Churches may be accessed at both the U.S. Conference's website (<http://usmb.icscentral.com/menus/Confession-of-Faith-Detailed-Version.html>) and Tabor's website (<http://tabor.edu/about/vision-mission-values/mh-confession-faith>). That Confession of Faith maintains a strong belief in the distinctiveness of the genders:

Humans, the crowning act of creation, were designed to live in fellowship with God and in mutually helpful relationships with each other. God created them male and female in the image of God. (Article 3: Creation and Humanity; Humanity).

The church is one body of believers, male and female, from every nation, race and class. (Article 6: The Nature of the Church; Body of Christ).

Disciples maintain sexual purity and marital faithfulness and reject immoral premarital and extramarital relationships and all homosexual practices. (Article 10: Discipleship; Demonstrating True Faith).

"Marriage is a covenant relationship intended to unite a man and a woman for life. At creation God designed marriage for companionship, sexual union and the birth and nurture of children. Sexual intimacy rightfully takes place only within marriage. (Article 11: Marriage, Singleness and Family; Marriage).

As a supplement to the Confession of Faith, the Board of Faith and Life of the United States Conference of the Mennonite Brethren Churches has prepared pamphlets discussing the denomination's beliefs regarding various contemporary topics. The pamphlet entitled "Human Sexuality" ([http://www.usmb.org/fileLibrary/file\\_24.pdf](http://www.usmb.org/fileLibrary/file_24.pdf)) states, in pertinent part as follows:

Sexuality was God's idea. God created humanity as male and female with sexual desires. Intimate sexual expression is one of God's good gifts and an essential aspect of propagating the human race (Gen. 1:27-28). Along with the gift of sexuality, God gave guidelines and instructions designed to safeguard it as a good gift so that sexuality can be practiced according to God's will.

\* \* \*

God created men and women in his image. God declares both male and female persons to be "very good" (Gen. 1:31). By creating humans as sexual beings, God designed more than a physiological process by which the earth may be filled through procreation. Likewise, while Creator-God has designed sexual intimacy to be a pleasurable and mutually satisfying experience, the significance of sexual expression goes beyond mere physical pleasure. Sexual oneness between a husband and wife united in a marriage covenant is intended to be symbolic of the oneness union that God intends to last for a lifetime.

\* \* \*

The Bible declares that expressions of sexual intimacy outside the bounds of marriage between a man and a woman are sin. Pre-marital, extra-marital, group, adult/child, animal and same-sex sexual intimacy are all out of bounds for the follower of Jesus Christ (Rom. 1:26-32). Yet God's wonderful grace and forgiveness are extended to those who have placed their faith in him. God's plan is that repentance frees his forgiveness to flow and then life change follows.

This distinction between men and women is also assumed in the College's lifestyle statements with regard to issues of sexual morality. The Community Life Covenant, which all students are required to sign and abide by, states, in part:

(We) commit to: Being guided by biblical teaching; Bible reading and reflection; studying the Scriptures in our academic courses; pursuing biblical wisdom in the choice of entertainment; having lifestyles and relationships that are virtuous and honor biblical instruction; and abstaining from premarital, extramarital, homosexual and other immoral sexual relations.

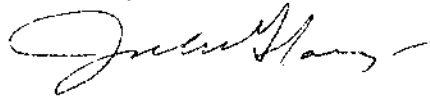
Tabor College maintains gender-specific housing and allows members of one gender to be present in residence halls of the other only during specified open house hours.

Consistent with the Confession of Faith, Tabor College believes that "(e)ach person is created in the image of God and ought to be celebrated and nurtured." (Article 14: The Sanctity of Human Life). As such, the College affirms the dignity of all human beings regardless of gender. We also separate the value of individuals from the behavioral choices they make. However, in keeping with our biblical beliefs regarding the morality of such actions, we cannot in good conscious support or encourage an individual to live in conflict with biblical principles in any area, including gender and gender identity.

Accordingly, on behalf of Tabor College, I respectfully request that the College be granted an official exemption from compliance with the interpretation of Title IX that includes gender identity within the scope of "sex" discrimination.

Should you require any additional information, please do not hesitate to contact me.

Sincerely,



Jules Glanzer  
President

JG/sj

cc: Lyndon W. Vix, Esq.  
Board Chair



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 8, 2015

Dr. Jules Glanzer  
President  
Tabor College  
400 South Jefferson  
Hillsboro, KS 67063

Dear Dr. Glanzer:

The purpose of this letter is to respond to your December 3, 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 Tabor College (College) of Hillsboro, Kansas. 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 stated that the College was founded "by members of the Mennonite Brethren and Krimmer Mennonite Brethren faiths" and that it "has always existed for the purpose of providing education consistent with the beliefs of the Mennonite Brethren denomination." Your letter explains that the College's Bylaws state that "the corporate owners of the college are 'the church congregations which are members of the Central District Conference, the Southern District Conference, the Latin American District Conference and the North Carolina District Conference of Mennonite Brethren Churches,'" and require that "a majority of the Board of Directors be elected by these four district conferences." Your letter further notes that the Bylaws of the College require that any "doctrinal statement or other rules and/or regulations issued by the Corporation or the College shall be in complete harmony with" the Confession of Faith of the United States Conference of the Mennonite Brethren Churches (Confession of Faith).

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[www.ed.gov](http://www.ed.gov)

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

Your exemption request points to a recent OCR resolution agreement in which a school district agreed to allow a transgender male student to use the restroom, locker room, and living facilities consistent with the student's gender identity, and to play on boys' athletic teams. You explain that "[b]ecause of its deeply held faith-based convictions regarding the distinctiveness of males and females, Tabor College would not be able to provide the kind of accommodation required" in that resolution agreement. You state that, for these reasons, the University seeks an exemption from Title IX to the extent that Title IX prohibits discrimination based on gender identity. Specifically, you cite to the Confession of Faith, which states that "God created them [humans] male and female in the image of God." Your letter states that the College cannot "support or encourage an individual to live in conflict with biblical principles in any area, including gender and gender identity." We interpret these statements as a request for exemption from provisions 34 C.F.R. §§ 106.32 (governing housing), 106.33 (governing comparable facilities such as restrooms and locker rooms), and 106.41 (governing athletics). The College is exempt from these provisions to the extent that they require a recipient to treat students consistent with their gender identity, but doing so 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