

BELMONT ABBEY COLLEGE

That in all things God may be glorified

January 16, 2015

Ms. 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

RE: Belmont Abbey College, Inc. ("Belmont Abbey") Request for Title IX Religious Exemption

Dear Ms. Lhamon:

I have become aware that the Departments of Education and Justice recently interpreted Title IX's ban on sex discrimination in education to include discrimination based on gender identity.¹ As President of Belmont Abbey, a private, Catholic Benedictine liberal arts college in North Carolina, I hereby request, under 34 C.F.R. § 106.12, an exemption for Belmont Abbey from this interpretation of Title IX, due to the religious beliefs of our institution.

Belmont Abbey College is a Catholic, Benedictine learning community committed to developing each member of the college community in mind, faith and character for a life of meaningful work and service. Our identity as a Catholic, Benedictine institution is central to all we do and teach at Belmont Abbey College.

Belmont Abbey is owned by and affiliated with the Southern Benedictine Society of North Carolina, Inc. whose Members are Benedictine Monks. The Monks founded the college on the basis of, and as an expression of, their Catholic faith. The Monks and the College itself, believe that the Bible is the divinely inspired Word of God and thus has authority for all Christian life. On the basis of the Catholic faith, the Monks and the College also believe that the Church was founded by Jesus Christ and given authority by him authentically to interpret the Word of God and to teach with binding authority on questions of faith and morals. This authoritative teaching includes teaching about human sexuality and provides norms for morally acceptable behavior.

OFFICE OF THE PRESIDENT

Belmont Abbey College and the sponsoring monastic community believe that human beings, fashioned by God in His own image and likeness, are thus created male and female (Genesis 1:27). The New Testament, Jesus confirms that the heterosexual creation of human beings expresses God's creative intention (Matthew 19:4). On the basis of this biblical teaching, of our faith in the Incarnation of the Son of God, and of the constant teaching of the Catholic Church, we believe that the creative intent of God is inextricably linked with our creation in the complementary reality of male and female sexual identity. *[We likewise believe, on the basis of the Bible and the teaching of the Catholic Church, that sexual intimacy is intended by God to be expressed solely within a marriage between one man and one woman, and that sexual relations of any kind outside the confines of marriage between one man and one woman are inconsistent with the teaching of the Bible and of the Catholic Church. Sexual practices which are divorced from a loving, covenantal relationship between a man and a woman frustrate God's intention and result in behaviors that rupture good human relationships and erodes the relationship between human beings and their Creator.]*

We affirm the dignity of all human beings and distinguish the inalienable dignity of each person from the behavioral choices a person makes. We believe that, as Catholics, we are called to treat all people with charity and respect, including those whose beliefs and behaviors differ from the teachings of the Catholic Church. We are not able, however, in good conscience to support or affirm choices and behaviors that conflict with our identity as a Catholic, Benedictine institution. We do not, therefore, support or affirm the resolution of tension between one's biological sex and the experience of gender by the adoption of a psychological identity discordant with one's birth sex, nor attempts to change one's birth sex by surgical intervention, nor conduct or dress consistent with an identity other than one's biological birth sex. *[We do not affirm or support sexual relations of any kind outside of marriage between one man and one woman.]* We will make institutional decisions in light of this policy regarding housing, student admission and retention, appropriate conduct, employment, hiring and retention, and other matters.

¹ 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/crt/about/edu/documents/acardiaagree.pdf>

Letter to Ms. Catherine Lhamon
January 16, 2015
Page 3 of 3

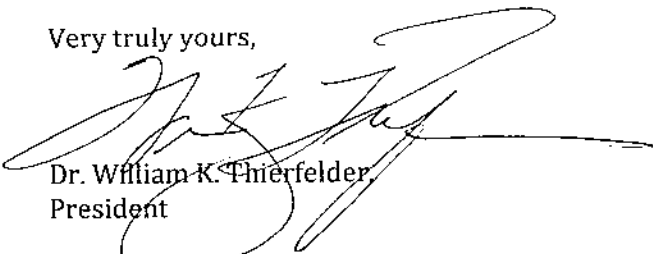
Based on the resolution recently entered into by the Department and a California school district, it appears that the Department is now interpreting Title IX's ban on discrimination in education because of sex to also mean that educational institutions may not "discriminate" on the basis of "gender identity." Specifically, the school district in that dispute was ordered 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 boys' athletic programs.

We would not be able to make similar accommodations consistent with our Catholic beliefs. Because of these beliefs regarding gender and sexual morality, our practices might be deemed a violation of this interpretation of Title IX. However, under 20 U.S.C. § 1681(a)(3) and 34 C.F.R. § 106.12 (a), this interpretation does not apply to Belmont Abbey. "This part 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."

Thus, on behalf of Belmont Abbey, I hereby request an official exemption from compliance with that interpretation of Title IX. Belmont Abbey gladly complies with Title IX with respect to granting equal opportunities in educational programs or employment to members of both sexes; our request for exemption is limited to the recent interpretation that "sex" under Title IX also includes gender identity.

If you require anything further, please do not hesitate to contact me.

Very truly yours,



Dr. William K. Thierfelder,
President

cc: Gregory S. Baylor, Esq., Alliance Defending Freedom



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

February 11, 2015

William K. Thierfelder
President
Belmont Abbey College
100 Belmont-Mt. Holly Road
Belmont, NC 28012

Dear President Thierfelder:

The purpose of this letter is to respond to your January 16, 2015, 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 Belmont Abbey College (College) of Belmont, North 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 Department's 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 explains that the College is owned by and affiliated with the Southern Benedictine Society of North Carolina, Inc., the members of which are Benedictine Monks. Your letter further explains that "[t]he Monks founded the college on the basis of, and as an expression of, their Catholic faith" and that "the Monks and the College also believe that the Church was founded by Jesus Christ and given authority by him to interpret the Word of God and to teach with binding authority on questions of faith and morals."

Your letter requests a religious exemption from provisions of Title IX to the extent that it prohibits discrimination based on gender identity. In support of this request, you cite Biblical passages that reflect the College's and Monks' belief "that human beings, fashioned by God in His own image and likeness, are thus created male and female (Genesis 1:27)" and that "heterosexual creation of human beings expresses God's creative intention (Matthew 19:4)." Your letter further explains that, because of these religious tenets, the College does not "support or affirm the resolution of tension between one's biological sex and the experience of gender by the adoption of psychological identity discordant with one's birth sex, nor attempts to change one's birth sex by surgical intervention, nor conduct or dress consistent with an identity other than one's biological birth sex."

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 the College would not be able to make similar accommodations consistent with its Catholic beliefs. Instead, your letter explains that the College will "make institutional decisions... regarding housing, student admission and retention.

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-1100
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.

appropriate conduct, employment, hiring and retention, and other matters” consistent with the tenets of the Southern Benedictine Society of North Carolina.

We interpret these statements as a request for exemption from the following provisions in the Department’s Title IX regulations to the extent that they prohibit discrimination based on gender identity:

- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 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. § 106.41 (governing athletics);
- 34 C.F.R. § 106.51 (governing employment);
- 34 C.F.R. § 106.52 (governing employment criteria);
- 34 C.F.R. § 106.53 (governing recruitment of employees); and
- 34 C.F.R. § 106.60 (governing pre-employment inquiries).

The College is exempt from these provisions to the extent that they prohibit discrimination on the basis of gender identity 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