



Brigham Young University - Hawaii Campus

Office of the President

April 14, 1998

Ms. Norma Cantu
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear Secretary Cantu:

Subject: Request for Religious Exemption from Title IX Regulation: 34 CFR 106.21 (Admissions) and 34 CFR 106.23 (Recruitment)

The purpose of this letter is to provide the United States Department of Education with official notification that Brigham Young University, located in Laie, Hawaii, (hereinafter referred to as BYUH or the "University" considers itself exempt from the application of 34 CFR § 106.21 and 34 CFR § 106.23, to the extent described in this correspondence, which regulations are also published pursuant to Title IX of the Education Amendments of 1972, 20 USC § 1981 et. Seq., a federal statute prohibiting sex discrimination in educational programs. BYUH expressly requests the Department to recognize formally that BYUH is exempt from the application of these sections because their provisions are in conflict with religious teachings, tenets, and practices of The Church of Jesus Christ of Latter-day Saints (hereinafter sometimes referred to as the "church" or the LDS Church"), a religious organization which sponsors and controls BYUH.

In 1985 your office granted other requests for exemption to our sister institution, Ricks College. These exemptions were from other sections of 34 CFR. Specifically, the University was "... exempted from the requirements of the following sections of the Title IX regulations: 34 CFR §§ 106.21, 106.31, 106.32, 106.36, 106.39, 106.40, and 106.57." (The exemption with reference to 106.21 concerned prohibitions relating to marital or parental status.) The basis for these exemptions was "... that Ricks College is controlled by The Church of Jesus Christ of Latter-day Saints in that Ricks College practices the tenets of the Church and is owned and operated by the Church. This relationship between the Church and the University adequately establishes that BYUH,

like Ricks, is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulations."

The Church originally created the University in 1955 and since that time the Church has been continuously and ultimately responsible for the University's operation. The University's Board of Trustees consists of persons appointed by the governing board of the Church. The majority of the University's operating budget is derived from appropriations from the Church.

The Church of Jesus Christ of Latter-day Saints is a major international Christian religion, having a fully developed theology, a well-known history spanning nearly two centuries, and a worldwide membership presently numbering approximately ten million. Its members believe that the Church and its doctrine contain the fullness of the gospel of Jesus Christ, restored by direct revelation from God to Joseph Smith, who was called as a prophet in the Biblical sense in 1820. The governing Board of the Church consists of a First Presidency of three, along with a Quorum of Twelve Apostles, all of whom are regarded by the Church membership as apostles and prophets. While accepting the King James Version of the Bible as holy scripture, the Church also regards the Book of Mormon as another testament of Christ and as holy scripture. In addition, the Church also accepts prophetic writings as scripture and regards the teachings of current Church leaders as religious doctrine.

Within this general framework, and with specific reference to this request for an exemption, the Church teaches that marriage between a man and a woman and the family unit are of basic theological significance. Thus, the Church teaches that certain distinctions based on gender, particularly as they relate to matters of family life, are both natural and religiously significant. At the same time, the Church has a remarkable record of encouraging all of its members, male and female, to obtain as much education as possible and to participate fully in the communities in which they live.

Attached hereto as Exhibit A is a copy of an official pronouncement of the First Presidency and Quorum of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints dated September 23, 1995. This "Proclamation of the Family" makes the position of the Church with respect to the matters addressed in it abundantly clear and reaffirms certain beliefs concerning marriage and the family to be principles of Church doctrine, which are binding on the Church, its controlled organizations, like BUYH, and the Church membership.

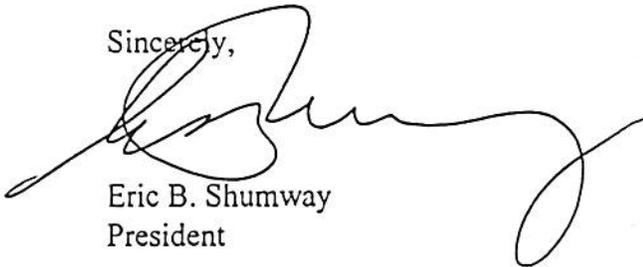
In order to promote marriage and family as religious values, BYUH seeks to maintain an appropriate balance of males and females in its student body. It is believed that a more gender balanced and proportional student body is critical to allow for healthy social interaction between males and females, which is conducive to marriage and family, and to promote a healthy balance between the genders in the composition of University ecclesiastical units and congregations. Accordingly, BYUH seeks to prefer males over females or females over males in both recruitment and admissions, as circumstances

dictate in an attempt to achieve enhanced gender equity and the optimal environment for the promotion of the religious values of marriage and family at the University.

University efforts to reach an appropriate gender balance, however, may come into conflict with the gender neutral provisions of Sections § 106.21 and 106. 23. Accordingly, BYUH requests that an exemption be granted to it from § 106.21 and 106.23 of the Title IX regulations to allow it to give preferential treatment on the basis of gender in admissions and recruitment to support its religious value of promotion marriage and family.

The University is a distinctive, religiously based institution with a serious commitment to the values, doctrines, and mission of its sponsoring Church at the heart of its educational mission. Your prompt attention in evaluation this notice will be greatly appreciated. If I, or any members of the University administration, can be of any assistance to you in completing your review, or if you require additional information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric B. Shumway", written over a large, stylized flourish that extends to the right.

Eric B. Shumway
President

EBS:ds