



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

MAY 13 1993

Dr. Bob E. Riley
President
East Texas Baptist University
1209 North Grove Street
Marshall, Texas 75670-1498

Dear Dr. Riley:

The Office for Civil Rights (OCR) of the U.S. Department of Education received your request (copy enclosed), dated January 5, 1993, for religious exemption for East Texas Baptist University (ETBU) from Title IX of the Education Amendments of 1972, and its implementing regulation, at 34 C.F.R. Part 106. This letter is in response to your request. Please excuse our delay in responding.

We have reviewed your request in which you described several policies and practices at ETBU as consistent with the tenets of the religious organization that controls ETBU. These policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. You supplied information in your request that establishes that ETBU is controlled by a religious organization and that tenets followed by this organization conflict with specific sections of the Title IX regulation. Therefore, I am granting ETBU an exemption to those sections of the Title IX regulation specified in your request letter.

The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by ETBU. ETBU is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.21(c), 106.31, 106.34, 106.36-.39, 106.40, 106.51-.53, 106.55, 106.57, and 106.59-.60. The basis for our decision to grant this exemption is discussed in detail below.

Your letter indicates that ETBU is controlled by the Baptist General Convention of Texas (Convention). ETBU and the Convention adhere to religious tenets that are based upon their understanding of the Scriptures. All members of the Board of Trustees of ETBU are elected by the Convention. The Convention fosters ETBU and provides it substantial financial support. This relationship between the Convention and ETBU adequately establishes that ETBU is controlled by a religious organization as is required for consideration for exemption under 34 C.F.R. § 106.12 of the Title IX implementing regulation.

In your letter, you indicate that there are certain biblical tenets that ETBU uses as its standard of faith and practice. Further, you indicated that faculty, employees, and students of ETBU are expected to conduct themselves in a manner consistent with the tenets of the Christian faith. Thus, the institution practices the following:

1. All employees and students are required to refrain from conduct of a sexual nature which is in conflict with strict standards of Christian morality. It would be a violation of ETBU's religious tenets to treat an unmarried woman's pregnancy, childbirth, or termination of pregnancy as a temporary disability and award certain benefits or privileges in spite of her condition, including student health and insurance benefits.

Based on the above principle, ETBU has requested and is granted by this letter, exemption to:

34 C.F.R. § 106.39	Health and insurance benefits and services
34 C.F.R. § 106.40(b)	Marital or parental status; pregnancy and related conditions
34 C.F.R. § 106.51(b)	Employment

2. Some employment positions within ETBU which require certain religious or ministerial qualifications/functions may be restricted on the basis of sex.

Based on the above principles, ETBU has requested and is granted by this letter, exemption to:

34 C.F.R. § 106.51	Employment
34 C.F.R. § 106.52	Employment criteria
34 C.F.R. § 106.53	Recruitment
34 C.F.R. § 106.55	Job classification and structure
34 C.F.R. § 106.57	Marital or parental status
34 C.F.R. § 106.59	Advertising
34 C.F.R. § 106.60	Pre-employment inquiries

3. ETBU provides an education to a significant number of students who are in training for the gospel ministry. Consequently, ETBU deems it necessary to minister in unique and different ways to men and women in encouraging and preparing them to fulfill their roles as committed Christian citizens. Therefore, ETBU may provide different counseling, scholarship assistance, and job placement services to ministerial students on the basis of sex. Separate organizations for men and women are also offered to students.

Based on the above principle, ETBU has requested and is granted by this letter, exemption to:

34 C.F.R. § 106.21(c)	Admission; prohibitions relating to marital or parental status
34 C.F.R. § 106.31	Education programs and activities
34 C.F.R. § 106.34	Access to course offerings
34 C.F.R. § 106.36	Counseling and use of appraisal and counseling materials
34 C.F.R. § 106.37	Financial assistance
34 C.F.R. § 106.38	Employment assistance to students
34 C.F.R. § 106.40	Marital or parental status

This letter should not be construed to grant exemption to any section of the Title IX regulation not specifically mentioned. If OCR receives a complaint on these issues against ETBU, we will be obligated to determine initially whether the allegations fall within the exemptions granted. Also, in the unlikely event that a complaint alleges that the practices followed by ETBU are not based on the religious tenets of the controlling organization, OCR may be 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 ETBU, or if the organization denies that it controls ETBU, 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,



Jeanette J. Lim
Acting Assistant Secretary
for Civil Rights

Enclosures