



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

SEP 23 1985

Dr. Harold Bowie
Superintendent
Harding Academy
1000 Cherry Road
Memphis, Tennessee 38117

Dear Superintendent Bowie:

The Office for Civil Rights of the Department of Education (OCR/ED) is in the process of resolving a number of pending requests for religious exemption from Title IX of the Education Amendments of 1972. Our records indicate that Harding Academy filed such a request, but there is no record that OCR adequately acknowledged this request.

We have recently reviewed your request (copy enclosed) in which you describe certain policies practiced at Harding Academy as consistent with the tenets of the religious organization that controls your institution. These policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. You have supplied information in your request letter that establishes that your institution 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 Harding Academy an exemption to those sections of the Title IX regulation appropriate to your request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by your institution. Harding Academy is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.40, 106.57 and 106.60. The basis for our decision to grant this exemption is discussed in further detail below.

Your letter indicates that Harding Academy is affiliated with the Church of Christ. The Church of Christ and Harding Academy disapprove of "extramarital sex relations as evidenced by pregnancy[,] and divorce for reasons other than those deemed "compatible with the teaching of the Bible." This relationship between the Church of Christ and Harding Academy adequately establishes that Harding Academy is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In your letter you indicate that, based on religious tenets, your institution dismisses from the school students and employees who have engaged in extramarital sex relations as evidenced by pregnancy. Based on this principle, Harding Academy has requested and is granted by this letter, exemption to: § 106.40 (marital or parental status of students) and § 106.57 (marital or parental status of employees).

Harding Academy also refuses employment to applicants who are divorced for reasons other than those accepted by the Churches of Christ as being compatible with the teaching of the Bible. Based on this principle, Harding Academy is granted by this letter exemption to: § 106.60 (pre-employment inquiries).

Harding Academy also requested exemption for § 106.31(b)(5) regarding rules of appearance. Section 106.31(b)(5) was rescinded and deleted from the Title IX regulation in 1982. Therefore, an exemption for appearance codes is not necessary.

This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically mentioned. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption herein granted. Also, in the unlikely event that a complainant alleges that the practices followed by your 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. I regret the inordinate delay in responding to your original request. If you have any questions, please do not hesitate to contact the Atlanta Regional Office for Civil Rights. The address is:

William H. Thomas
Regional Civil Rights Director
Office for Civil Rights, Region IV
Department of Education
101 Marietta Street, N.W., 27th Floor
Atlanta, Georgia 30323

Sincerely,


Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosures

cc: William H. Thomas, Regional Civil Rights Director, Region IV
Taylor D. August, Regional Civil Rights Director, Region VI