



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

SEP 23 1985

Dr. Clifton L. Ganus, Jr.
President
Harding University
Post Office Box 926
Searcy, Arkansas 72143

Dear President Ganus:

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 University filed such a request, but there is no record that OCR fully responded to this request.

We have recently reviewed your request in which you describe several policies practiced at Harding University as consistent with the tenets of the religious organization that controls the institution. These policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. In OCR's letter dated October 14, 1976, Harding University was granted an exemption to some sections of the Title IX regulation, advised that exemption was not necessary for other sections, and advised that additional information was required for certain portions of your request. You have supplied information in your request letter and subsequent correspondence that establishes that the 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 University an exemption to those sections of the Title IX regulation appropriate to your request letters and for which no determination was made. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the institution.

Harding University was previously granted exemption from § 106.31 (education programs and activities), § 106.34 (access to course offerings) and § 106.37 (financial assistance). Additionally, Harding University is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.32, 106.40, 106.41 and 106.57. The basis for our decision to grant this exemption is discussed in further detail below.

Your letters indicate that Harding University is a Christian institution, controlled, supported and operated by members of the church of Christ. Harding University follows "the church of Christ and its interpretation of the sacred Scriptures[.]" This relationship between the church of Christ and Harding University adequately establishes that Harding University is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In your letters you indicate that Biblical teaching on the roles of men and women necessitates being more protective of women students. For this reason, the University has different housing rules on the basis of sex. Based on this principle, Harding University has requested and is granted by this letter, exemption to § 106.32 regarding the application of different housing rules or regulations.

You indicated that male and female students, faculty and staff may be excluded from Harding University if they violate the scriptures concerning extramarital relationships. Based on this principle, Harding University is granted exemption to § 106.40 (marital or parental status of students, including pregnancy) and § 106.57 (marital or parental status of employees, including pregnancy).

You requested exemption from § 106.41 addressing intercollegiate athletics because of religious tenets regarding modest attire. Specifically, you requested ". . . exemption on religious grounds from all women's sports which we deem to bring to our campus improper and suggestive attire." Based on this principle, Harding University has requested and is granted by this letter, exemption to § 106.41 regarding athletic apparel.

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

You indicated in your original request and subsequent correspondence that the exemption you requested for Harding University was also intended to apply to Harding Graduate School of Religion in Memphis, Tennessee, and Harding Academy in Searcy, Arkansas, for which Harding University is the "parent" institution. Based on your request, Harding Graduate School of Religion and Harding Academy are hereby exempted from the requirements of the following sections of the Title IX regulation:

- § 106.31 (to the extent that, based on religious tenets, the Graduate School and Academy offer education programs or activities on the basis of sex)
- § 106.32 (to the extent that, based on religious tenets, the Graduate School and Academy enforce different housing rules on the basis of sex)
- § 106.34 (to the extent that, based on religious tenets, the Graduate School and Academy limit access to courses on the basis of sex)
- § 106.37 (to the extent that the Graduate School and Academy limit the award of scholarship funds to ministerial students, who, based on religious tenets, must be men)
- § 106.40 (to the extent that, based on religious tenets, the Graduate School and Academy exclude students on the basis of marital or parental status, including pregnancy)
- § 106.41 (regarding athletic apparel to the extent that the Graduate School and Academy offer athletics programs that do not permit immodest attire, based on religious tenets)
- § 106.57 (to the extent that, based on religious tenets, the Graduate School and Academy exclude employees on the basis of marital or parental status, including pregnancy)

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 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.

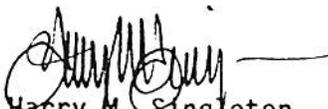
For your reference, OCR is enclosing copies of: the Title IX regulation; your letters requesting exemption; OCR's letter of October 14, 1976, granting exemption to some sections of the Title IX regulation specified in your request letters; correspondence from Harding Graduate School of Religion; and OCR's letter to the Harding Graduate School of Religion.

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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 Dallas Regional Office for Civil Rights. The address is:

Taylor D. August
Regional Civil Rights Director
Office for Civil Rights, Region VI
Department of Education
1200 Main Tower Building, Suite 400
Dallas, Texas 75202

Sincerely,


Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosures

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