



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

OCT 28 1988

Dr. E. D. Hodo
President
Houston Baptist University
7502 Fondren Road
Houston, Texas 77074

Dear Dr. Hodo:

The Office for Civil Rights (OCR) of the Department of Education has completed its review of Houston Baptist University's (University) request for religious exemption to Title IX of the Education Amendments of 1972. The University submitted the exemption request subsequent to a complaint filed with OCR (OCR Case No. 06-88-2097) alleging that the University discriminates on the basis of sex in violation of the Title IX regulation (34 C.F.R. Part 106). Specifically, the complainant alleged that the University is in violation of 34 C.F.R. §§ 106.39 and 106.40(b)(4) because pregnancy is not treated in the same manner as any other temporary disability in the University's student health insurance program.

In your letter of September 15, 1988, requesting a religious exemption, you describe several policies practiced at the University as being 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. You provided information in your request letter that establishes that the University 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 the University 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 the institution. Houston Baptist University is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.6(c), 106.21(c), 106.31, 106.34, 106.36(c), 106.37(a) and (b), 106.38(a), 106.39, 106.40, 106.51, 106.53, 106.55(a), 106.57, and 106.60(a). The basis for this decision is discussed in further detail below.

Your request letter indicates that the University is controlled by the Board of Trustees. All 21 members of the Board of Trustees are elected by the Baptist General Convention of Texas and are required to be a member of a Baptist church affiliated with the Baptist General Convention of Texas. Also, "at least seven members [of the Board of Trustees] shall be ordained ministers of the Gospel." This relationship between Houston Baptist University and the Baptist General Convention of Texas adequately establishes that the University is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In your request letter, you indicate that premarital unchastity is contrary to the religious tenets of Southern Baptists. "Additionally, treating pregnancy, childbirth, false pregnancy, or termination of pregnancy of an unmarried woman as a temporary disability is contrary to the tenets of Southern Baptists." Based on these principles, the University has requested and is granted by this letter exemption to: 34 C.F.R. § 106.21(c) (marital or parental status of applicants for admission); § 106.39 (health and insurance benefits and services for students); § 106.40 (marital or parental status of students); § 106.51(b)(6) (leaves of absence for employees for pregnancy and related conditions and child care); § 106.57 (marital or parental status of employees); and § 106.60(a) (pre-employment inquiries regarding marital status). This exemption is limited to the extent that compliance with these sections conflicts with the religious tenets followed by the institution.

Your request letter states that almost all Southern Baptist churches allow only men to be licensed and ordained for the ministry. The Baptist General Convention of Texas awards a partial scholarship to every licensed ministerial student attending the University and the University matches this partial scholarship. Some educational programs and campus organizations are designed for ministerial students. Additionally, licensed and ordained ministers are given preference in employment in certain offices. Based on the principle that only men may be licensed and ordained for the ministry, the University has requested and is granted by this letter exemption to: 34 C.F.R. § 106.6(c) (effect of rules or regulations of private organizations); § 106.31 (education programs and activities); § 106.34 (access to course offerings); § 106.37(a) and (b) (financial assistance); § 106.38(a) (employment assistance to students); § 106.51 (employment); § 106.53 (recruitment of employees); and § 106.55(a) (job classification and structure). This exemption is limited to the extent that compliance with these sections conflicts with the religious tenets followed by the institution.

In regard to the above-referenced complaint, the exemption granted herein to §§ 106.39 and 106.40(b)(4) has the following limitations. The request letter from the University does not suggest that pregnancy and related conditions for married women are contrary to the tenets of Southern Baptists. Therefore, if the University offers a student health insurance plan that includes provisions for temporary disabilities, then pregnancy and related conditions for married women, other than abortion related conditions, must be treated as any other temporary disability. The Dallas Regional Office is obligated to proceed with its investigation of the above-referenced complaint to determine whether the University's student health insurance plan complies with the regulatory requirements with regard to married students.

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.

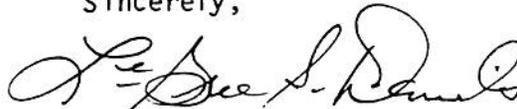
Page 3 - Dr. E. D. Hodo

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.

I hope this letter responds fully to your request. If you have any questions, please do not hesitate to contact the Dallas Regional Office for Civil Rights. The address is:

Mr. Taylor D. August
Regional Civil Rights Director
Office for Civil Rights, Region VI
Department of Education
1200 Main Tower Building, Room 2260 - 06-5010
Dallas, Texas 75202-9998

Sincerely,

A handwritten signature in cursive script, appearing to read "LeGree S. Daniels".

LeGree S. Daniels
Assistant Secretary
for Civil Rights

Enclosure

cc: Taylor D. August, Regional Civil Rights Director, Region VI