



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

F. H. Grady

THE ASSISTANT SECRETARY

JUN 7 1993

Mr. Ben M. Elrod
President
Ouachita Baptist University
Arkadelphia, Arkansas 71998-0001

Dear Mr. Elrod:

The Office for Civil Rights (OCR) in the U.S. Department of Education received your request, dated March 31, 1993, for religious exemption for Ouachita Baptist University (OBU) from Title IX of the Education Amendments of 1972 (Title IX), and its implementing regulation, at 34 C.F.R. Part 106. This letter is in response to your request.

We have reviewed your request in which you described several policies and practices at OBU as consistent with the tenets of the religious organization that controls OBU. 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 OBU 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 OBU an exemption to those sections of the Title IX regulation.

The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by OBU. OBU 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 OBU is controlled by the Arkansas Baptist State Convention (Convention). OBU and the Convention adhere to religious tenets that are based upon their understanding of the Scriptures. All members of the Board of Trustees of OBU are elected by the Convention. The Convention fosters OBU and provides it substantial financial support. This relationship between the Convention and OBU adequately establishes that OBU 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 OBU uses as its standard of faith and practice. Further, you indicated that faculty, employees, and students of OBU 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 OBU'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, OBU 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 OBU which require certain religious or ministerial qualifications/functions may be restricted on the basis of sex.

Based on the above principle, OBU 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. OBU provides an education to a significant number of students who are in training for the gospel ministry. Consequently, OBU 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, OBU 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, OBU 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
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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 OBU, we are 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 OBU 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 OBU, or if the organization denies that it controls OBU, 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,



Norma V. Cantú
Assistant Secretary
for Civil Rights

Enclosure

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