



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

JUN 22 1988

Dr. Joe J. Christensen
President
Ricks College
295 Administration Building
Rexburg, Idaho 83440

Dear Dr. Christensen:

This is in response to the request of Ricks College for a religious exemption to 34 C.F.R. § 106.39 of the regulation implementing Title IX of the Education Amendments of 1972. Ricks College submitted this request to the Seattle Regional Office for Civil Rights on November 12, 1985, and submitted additional information on April 1, 1986.

The regional office received a complaint in August 1985 alleging that Ricks College violated 34 C.F.R. § 106.39 by discriminating on the basis of sex in the provision of student health insurance. The regional office subsequently closed the complaint for lack of jurisdiction and determined that the request for religious exemption could be addressed at such time as the Office for Civil Rights (OCR) established jurisdiction to investigate the complaint.

Ricks College has provided information in previous correspondence (dated May 7, 1985) that establishes that the institution is controlled by a religious organization (Church of Jesus Christ of Latter-day Saints) and that tenets followed by this organization conflict with specific sections of the Title IX regulation. By letter of June 24, 1985, OCR granted an exemption to Ricks College for 34 C.F.R. §§ 106.21, 106.31, 106.32, 106.36, 106.40, and 106.57. The November 12, 1985, and April 1, 1986, letters requesting exemption to 34 C.F.R. § 106.39, which were submitted by Michael R. Orme, counsel for the College, further describe College policies as consistent with the tenets of the religious organization that controls the institution. These policies might violate § 106.39 of the Title IX regulation absent a religious exemption. Therefore, I am granting Ricks College an exemption to 34 C.F.R. § 106.39, which is limited to the extent that compliance with this section conflicts with the religious tenets followed by Ricks College. OCR's basis for granting the exemption and the limits of this exemption are discussed in further detail below.

The College's letter submitted April 1, 1986, states: "By requiring that the College treat pregnancy as any other temporary disability for the purpose of student health insurance coverage, 34 C.F.R. [§] 106.39 would compel Ricks College's direct and/or indirect approval, and support of premarital sex and abortion. The Church teaches as fundamental doctrine that righteous individuals must abstain from sexual relations outside of marriage and, except in rare

cases, must not participate in or obtain an abortion." Based on these principles, Ricks College has requested and is granted by this letter, exemption to 34 C.F.R. § 106.39 regarding the provision of health and insurance benefits and services to students.

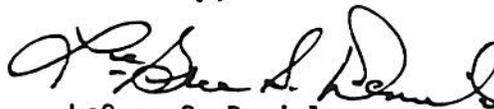
The exemption granted herein to § 106.39 has the following limitations. The request letters from Ricks College do not suggest that pregnancy related conditions for married women, other than those conditions related to an abortion, contradict Church doctrine. Therefore, if Ricks College offers student health insurance 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.

This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically mentioned herein or in the June 24, 1985, letter. In the event that OCR receives a complaint against Ricks College, we are obligated to determine initially whether the allegations fall within the exemption herein granted. Also, in the event that a complainant alleges that the practices followed by Ricks College are not based on the religious tenets of the Church of Jesus Christ of Latter-day Saints, OCR is obligated to contact the Church to verify those tenets.

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

Mr. Gary D. Jackson
Regional Civil Rights Director
Office for Civil Rights, Region X
Department of Education
2901 Third Avenue, Room 100
Seattle, Washington 98121-1042

Sincerely,



LeGree S. Daniels
Assistant Secretary
for Civil Rights

cc: Gary D. Jackson, Regional Civil Rights Director, Region X



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

AUG 24 1998

David A. Bednar
President
Ricks College
Rexburg, Idaho 83460-4107

Dear Mr. Bednar:

Please accept my apology, on behalf of the Office for Civil Rights (OCR), for the delay in responding to your letter of March 24, 1998, in which you requested, on behalf of Ricks College, a religious exemption, to the extent described in your letter, from the provisions of 34 C.F.R. §§ 106.21 and 106.23, provisions of the Department's regulations implementing Title IX of the Education Amendments of 1972. In a letter of August 11, 1998, from Michael R. Orme, on behalf of Ricks College, faxed to OCR in response to an inquiry from OCR staff, Mr. Orme indicated that Ricks College is a two-year institution of undergraduate higher education. Mr. Orme confirmed that, for that reason, the requested exemption would apply only to undergraduate recruitment and admissions. After this confirmation about the extent of the requested exemption, we reviewed your request and determined that your institution need not have applied for a religious exemption. The reasons for our determination are discussed below.

The two provisions of the Title IX regulation from which Ricks College has requested an exemption, §§ 106.21 and 106.23, are provisions within Subpart C of the Department's Title IX regulation. Although Subpart C generally prohibits discrimination on the basis of sex in the admission and recruitment of students, with respect to recipients that are educational institutions, § 106.15(d) provides that, "[e]xcept as provided in paragraph (e) of this section as to recipients which are educational institutions, subpart C applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education." Under 106.15(d), the admissions and recruitment practices of private undergraduate institutions are exempt from coverage under Subpart C. Based on the letters from you and Mr. Orme, Ricks College is a private institution of undergraduate higher education and has requested an exemption from certain requirements of Subpart C solely with reference to undergraduate admissions and recruitment practices. Under these circumstances, under § 106.15(d), an exemption already exists.

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In the event that in the future Ricks College were to expand to the extent that it offered graduate programs or other programs of the type that are covered by Subpart C, the regulatory exemption described in this letter would not apply. In that case, it would be necessary to request exemption from specific provisions of the regulation that are deemed to be inconsistent with certain tenets of the religious organization which sponsors and controls Ricks.

If you have questions about this, please do not hesitate to contact OCR's Seattle Office. The address and phone number of that office are as follows:

Mr. Gary D. Jackson
Enforcement Director
United States Department of Education
Office for Civil Rights
915 Second Avenue
Room 3110, 10-9010
Seattle, WA 98174-1099
(202) 220-7880.

Sincerely yours,



Norma V. Cantú
Assistant Secretary
for Civil Rights

cc: Mr. Gary D. Jackson, Enforcement Director, Seattle Office