



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.

Page 2 - David A. Bednar

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