



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

JUL 29 1992

Dr. Thomas E. Corts
President
Samford University
Birmingham, Alabama 35229

Dear Dr. Corts:

The Office for Civil Rights (OCR) in the Department of Education has completed its review of your letter, dated April 29, 1992, requesting a religious exemption to certain sections of the regulation implementing Title IX of the Education Amendments of 1972 (Title IX), as amended, 20 U.S.C. Sections 1681 et seq., and its implementing regulation 34 C.F.R. Part 106 (copy enclosed).

In your letter, you described several policies that are practiced by Samford University (University) as being consistent with the tenets of the Alabama Baptist State Convention (Convention), the religious organization that controls the institution. These policies would violate certain sections of the regulation implementing Title IX absent a religious exemption. You have provided information 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 specified in your request letter of April 29, 1992. The University is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. Sections 106.21(c), 106.31-32, 106.34, 106.36, 106.37(a) and (b), 106.38-40, 106.51-53, 106.55, 106.57, and 106.60. This exemption is limited to the extent that compliance with the Title IX regulation conflicts with religious tenets followed by the University. The basis for our decision to grant this exemption is discussed in further detail below.

Your letter requesting exemption indicates that the University is an entity of the Mississippi Baptist Convention, which is a religious organization incorporated under the laws of the State of Alabama. The Convention is also a member of the Southern Baptist Convention. The Convention has ultimate control of any literary, theological, eleemosynary, or other institutions which have been acquired by or originated in the Convention. The members of the Board of Trustees of the University are elected by the Convention and must hold membership in a Baptist church in Alabama which cooperates with the Convention. Faculty and employees of the University who interface with students must have a Christian perspective or otherwise recognize the mission of the University. The relationship between the Convention and the University adequately establishes that the University is controlled by a religious organization as is required for consideration for exemption under Section 106.12 of the Title IX regulation.

Your request letter of April 29, 1992, indicates that the University adheres to the Baptist tenets for matters concerning moral character, Christian sexual conduct, marriage, the nuclear family, the licensing of predominantly male clergy, academics, scholarships, employment, recruitment, housing, and other programs and activities. Based on these tenets, the University has requested and is granted by this letter an exemption to the following sections of the regulation implementing Title IX:

- 34 C.F.R. Section 106.21(c) (prohibitions relating to marital or parental status)
- 34 C.F.R. Section 106.31 (education programs and activities)
- 34 C.F.R. Section 106.32 (housing)
- 34 C.F.R. Section 106.34 (access to course offerings)
- 34 C.F.R. Section 106.36 (counseling and use of appraisal and counseling materials)
- 34 C.F.R. Section 106.37(a) and (b) (financial assistance)
- 34 C.F.R. Section 106.38 (employment assistance to students)
- 34 C.F.R. Section 106.39 (health and insurance benefits)
- 34 C.F.R. Section 106.40 (marital or parental status)
- 34 C.F.R. Section 106.51 (employment)
- 34 C.F.R. Section 106.52 (employment criteria)
- 34 C.F.R. Section 106.53 (recruitment)
- 34 C.F.R. Section 106.55 (job classification and structure)
- 34 C.F.R. Section 106.57 (marital or parental status)
- 34 C.F.R. Section 106.60 (pre-employment inquiries)

The exemption granted herein to Section 106.39 has the following limitations. The request letter from the University does not suggest that pregnancy related conditions for married women contradict University or Convention policy. Therefore, if the University offers student health insurance that includes provisions for temporary disabilities, then pregnancy and related conditions for married women must be treated as any other temporary disability. The exemption from other sections of the regulation is limited to the extent that compliance with these sections conflicts with the religious tenets followed by the University.

Other sections of the Title IX regulation mentioned in your letter are clarified here for your information. Section 106.15(d) exempts private undergraduate institutions from the requirements of Subpart C of the Title IX regulation, in effect, Sections 106.21, 106.22, and 106.23 regarding admissions and recruitment. Graduate programs are not exempt under the provisions of Section 106.15 from the admissions and recruitment requirements of Subpart C. It is the practice of OCR to grant a religious exemption to 106.21(c) when specifically requested, as in this case, so that programs and activities not undergraduate in nature are exempt where the application of that section of the regulation conflicts with the religious tenets practiced by the University. Section 106.32 permits separate housing on the basis of sex where such housing is comparable.

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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 the University 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 University 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 Atlanta Regional Office for Civil Rights. The address is:

Mr. Archie B. Meyer, Sr.
Regional Civil Rights Director
Office for Civil Rights, Region IV
U.S. Department of Education
Post Office Box 2048, 04-3010
Atlanta, Georgia 30301-2048.

Sincerely,



Michael L. Williams
Assistant Secretary
for Civil Rights

Enclosure

cc: Archie B. Meyer, Sr., Regional Civil Rights Director, Region IV