



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

# CR90511003

JUN 28 1989

Dr. John D. Talley, Jr.  
President  
Southeastern Bible College  
3001 Highway 280 East  
Birmingham, Alabama 35243-4181

Dear Dr. Talley:

The Office for Civil Rights (OCR) of the Department of Education has reviewed your letter dated May 8, 1989, requesting a religious exemption from certain sections of the regulation implementing Title IX of the Education Amendments of 1972.

Your letter describes certain policies practiced at Southeastern Bible College (College) as being consistent with the tenets of the religious organization that controls the institution and cites several passages from the Bible as tenets followed by the College. The College's policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. Accordingly, I am granting the College an exemption to those sections of the Title IX regulation appropriate to your request letter. Southeastern Bible College is hereby exempted from the requirements of the following sections: 34 C.F.R. §§ 106.21(c), 106.38, 106.40, 106.53, 106.55, 106.57, 106.59, and 106.60. This exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the College. The basis for our decision to grant this exemption is discussed in further detail below.

As you have noted, the College is already exempt from certain provisions of the regulation implementing Title IX. Your May 8, 1989, letter reaffirms the previous exemption request, which indicated that the College's religious tenets dictate that only men should be in the office of church pastor, that study programs in the pastoral theology are limited to male students, and that teaching positions in Biblical instruction and theology are limited to men. Pursuant to OCR's letter dated July 24, 1985, Southeastern Bible College was granted an exemption from the requirements of the following sections of the regulation: 34 C.F.R. §§ 106.31, 106.34, and 106.51.

Your request letter states that the College is incorporated as a Christian institution of higher education. The board of directors, faculty, students, and employees of the College are all required to espouse a personal belief in the religious tenets of the Christian faith. You indicate that the Charter of the Corporation, and the catalogs and other official publications of the College state that the College is committed to the doctrines of the Christian religion. The incorporation of the College as a Christian institution and the requirement that staff and students espouse a personal belief in the Christian faith adequately establish that the College is controlled by a religious organization as is required for exemption under 34 C.F.R. § 106.12.

According to your letter, the College makes gender distinctions in matters of moral behavior, marriage and living environments based on religious tenets. The College holds personnel and students to religious standards of behavior for such matters as expression of human sexuality, language, and attire. Based on these practices, Southeastern Bible College has requested, and is granted by this letter, exemption to the following sections of the regulation implementing Title IX: 34 C.F.R. §§ 106.21(c) (marital or parental status of applicants for admission), 106.38 (employment assistance to students), 106.40 (student marital or parental status), 106.53 (employee recruitment), 106.55 (job classification and structure), 106.57 (employee marital or parental status), 106.59 (advertising of employment opportunities), and 106.60 (pre-employment inquiries). This exemption is limited to the extent that these sections conflict with the religious tenets followed by the College.

The College also requests exemption to 34 C.F.R. § 106.34, concerning access to course offerings, stating that access to course offerings in ministerial or pre-ministerial programs is limited by religious tenets to students of one gender. As already discussed, the College was granted exemption to this section on the basis that courses in pastoral theology are limited to men. To the extent that the current request is a request for a broader exemption to this section of the regulation implementing Title IX, Southeastern Bible College is granted exemption to 34 C.F.R. § 106.34. This exemption is limited to the extent that this section conflicts with the religious tenets followed by the College.

Your letter also refers to three issues for which no specific exemption is requested. First, you are correct that the Civil Rights Restoration Act of 1987 amended Title IX to provide that recipients of Federal financial assistance are not required to provide or pay for, nor prohibited from providing or paying for, any benefit or service relating to an abortion. Second, your letter correctly notes that 34 C.F.R. § 106.15(d) exempts the College, as a private institution of undergraduate higher education, from Subpart C of the Title IX regulation (§§ 106.21, 106.22, and 106.23), which prohibits discrimination on the basis of sex in admissions and recruitment. The exemption at § 106.15(d), however, does not apply to any graduate programs offered by the College. Third, you correctly state that 34 C.F.R. §§ 106.32 and 106.33 allow for the provision of separate but comparable housing, bathrooms, locker rooms, and similar facilities based on sex.

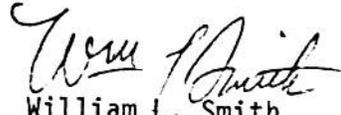
This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically granted. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption herein granted. Also, in the unlikely event that a complaint 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.

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

Mr. Jesse L. High  
Regional Civil Rights Director  
Office for Civil Rights, Region IV  
Department of Education  
P.O. Box 1705, 04-3010  
101 Marietta Tower, 27th Floor, Suite 2702  
Atlanta, Georgia 30301-1705.

Sincerely,



William L. Smith  
Acting Assistant Secretary  
for Civil Rights

Enclosure

cc: Jesse L. High, Regional Civil Rights Director, Region IV