

Students, Student-Athletes, and the Title IX Religious Exemption

Elizabeth Sorensen, Sylvia de Mars, and David McArdle

Title IX ostensibly protects students from sex-based discrimination, yet the law allows religiously affiliated schools to claim an exemption (i.e., *to* discriminate, while still receiving federal aid). The Office for Civil Rights (OCR) “ensures equal access to education” and “serves student populations facing discrimination” while also facilitating exemption claims. Exemption-claiming schools may be less than forthcoming with their students and student-athletes. Female student-athletes remain unaware of their Title IX rights. A unique and innovative descriptive analysis of 456 OCR letters illustrates that 243 colleges claimed exemptions from specific student-focused Title IX elements. More than 80% claimed exemption to Title IX’s protections for admission and/or marital/parental status while more than half claimed exemptions to athletics. A detailed content analysis of one National Collegiate Athletic Association (NCAA) Division I school’s extensive exemption claims and its Equity in Athletics Disclosure Act report, student policies, Title IX lawsuit resolutions, faith statements, and state law wholly undermined its claim that it did not discriminate. Similarly, the NCAA, National Association for Intercollegiate Athletics (NAIA), and National Christian College Athletic Association (NCCAA), while publicly committed to gender equity, have not addressed the discriminatory effects of Title IX exemptions on gender equity, competitive advantage, the student-athlete experience, or name, image, and likeness (NIL) requirements. Against that backdrop, we recommend clarifying students’ rights to exemption information and clarifying the effects of Title IX exemptions on gender equity in college athletics. Religious organizations and the schools they control are asked to consider disclaiming their Title IX exemptions.

Keywords: Title IX, exemptions, gender equity, religiously affiliated, First Amendment, OCR, NCAA, NAIA, NCCAA, EADA

Elizabeth Sorensen, PhD, RN, while retired from academic nursing, continues strongly advocating for safer college student and student-athlete crisis pregnancy outcomes. Email: sorensen.elizabeth@gmail.com

Sylvia de Mars, LL.M, PhD, is a reader at Newcastle University School of Law, England. Her areas of expertise include European Union law, comparative constitutional law, and empirical research methods. Email: sylvia.de-mars@ncl.ac.uk

David McArdle, LL.B, PhD, is a senior lecturer in the School of Law at Stirling University, Scotland and visiting fellow at the OP Jindal Global Law School in India. His research focuses on sports’ medico-legal issues, comparative sports law, and socio-legal research methods. Email: d.a.mcardle@stir.ac.uk



Introduction

Students and student-athletes considering college options may reasonably—and for the vast majority, correctly—assume they are protected by Title IX (34 C.F.R. § 106.21), the federal law that prohibits educational institutions that receive federal financial aid from discrimination based on sex. However, few may be aware that Title IX also permits educational institutions controlled by religious organizations to claim exemptions (34 C.F.R. § 106.12), that is, to discriminate on the basis of sex while continuing to receive federal funds—circumstances that would not be allowed for secular schools. They might be surprised to learn that the U.S. Department of Education’s Office for Civil Rights (OCR), whose aims include serving “student populations facing discrimination” (OCR, 2025a) historically has employed an “exceptionally deferential standard” (Augustine-Adams, 2016, p. 389) in facilitating religiously affiliated schools’ Title IX exemption claims. In other words, “student populations facing discrimination” should be prepared to *experience* discrimination.

Prior to this article, “student populations facing discrimination” and others who sought clarity on a school’s Title IX exemptions had two options: either access the official OCR exemption response letter or trust the school to publish students’ Title IX rights in writing, as the rules for implementing Title IX require (45 C.F.R. § 86.9(a)). Toward the former option, the OCR response letters are difficult to access. Toward the latter, religiously affiliated schools with Title IX exemptions may be less than forthcoming, possibly fearing enrollment effects or public relations crises (Hawthorne, 2025). Accordingly, we offer a third option: an accessible, objective, and authoritative source on nearly 250 religious educational institutions’ Title IX exemptions and, from that, a template that can be used to explore the Title IX exemptions of the others. The results may inform students’ and student-athletes’ school choices. The results clearly evidence the urgency of improvements across the board—OCR, intercollegiate athletics organizations, religious organizations and the schools they control, students, and parents—regarding exemptions from Title IX.

The Issues: A Roadmap

We address two major issues: first, continued consumer lack of knowledge about Title IX rights and exemptions, and the degree to which exemption-claiming schools are transparent about their exemptions; and, second, national intercollegiate athletics organizations’ lack of attention to how their member schools’ Title IX exemptions affect gender equity, student-athlete experiences, and competitive advantage.

Toward the first issue, we explain students’ Title IX rights and exemptions, analyze the OCR’s roles, and explore the use of the publicly available Equity in Athletics Disclosure Act reports (EADA; 34 C.F.R. § 668.47) to assess gender equity. We provide details of the schools and the Title IX exemptions they claim (Appendix



A). To illustrate the challenges of assessing institutional transparency with Title IX exemptions, we present the case of one large exemption-claiming university where analysis revealed the student policies to be thoroughly confusing.

Toward the second issue, the challenges are exacerbated because it is unclear how religiously affiliated schools' Title IX exemptions—particularly exemption to sections 106.37 Financial Assistance and 106.41 Athletics—intersect with the gender equity and fair competition requirements within their national athletic organizations. It is also unclear how Title IX exemptions factor in with the OCR's recent mandate on gender-equitable distribution of name, image, and likeness (NIL) funds opportunities (OCR, 2025b).

Literature Review

In 2022-2023, almost 25 million students were enrolled in degree-granting postsecondary educational institutions. Of these, five million students were enrolled in private nonprofit four-year schools (U.S. Department of Education, 2024). In the Fall 2021 semester, 840 out of 3,893 degree-granting institutions of higher education in the United States were religiously affiliated (Durrani, 2024); about 230 (27.4%) were Catholic (Durrani, 2024), 117 (14%) were Methodist (Wilson, 2023), 55 (6.5%) were Baptist (Baylor University, n.d.), and 52 (6.2%) were Presbyterian (Association of Presbyterian Colleges & Universities, 2025). Although students of many different faiths are often welcome to attend religiously affiliated schools (Durrani, 2024), by enrolling they are also subject to the religious policies and procedures of that school.

Relatedly, in 2022 just over 522,000 college students (293,105 males and 229,060 females) participated in organized intercollegiate athletics via National Collegiate Athletic Association (NCAA) member schools (Gough, 2023). NCAA Divisions I and II schools “provide almost \$4 billion in athletics scholarships annually to more than 196,000 student athletes” (NCAA, 2025a). NCAA Division III schools do not award athletics scholarships. In addition, the National Association of Intercollegiate Athletics (NAIA) reports that 83,000 student-athletes participate in its programs each year, earning “over \$1.3 billion in financial aid annually” (NAIA, 2025a), while the National Christian College Athletic Association (NCCAA) reports 92 member schools and 23 national championships (NCCAA, 2025a). Beyond intercollegiate sports, about 17% of responding college students reported participating in intramural and club sports (American College Health Association, 2024).

The benefits of exercise and participation in intramurals, club sports, and intercollegiate sports are well documented. Students and student-athletes develop physical, social, academic, and life skills through sports. For some, an athletics scholarship first opened the door to attending college, which can be life changing. Following the implementation of Title IX in 1972, women's and girls' participation in organized sports accelerated. Prior to Title IX:



Fewer than 32,000 women participated in college sports, representing less than 16% of all college athletes. By 2019-20, that number was 222,920; seven times the pre-Title IX rate and representing 44 percent of all NCAA athletes. Similarly, in 1972, only 295,000 girls competed in high school sports, representing 7 percent of all high school athletes, but by 2018-19, that number had risen to 3.4 million, representing 43 percent of all high school athletes. (National Women’s Law Center, 2025)

Issue One. Lack of Knowledge about Title IX Rights and Exemptions

Title IX Rights

Title IX of the Educational Amendments of 1972 (20 U.S.C. §§ 1681-1688, 2024) generally protects students by prohibiting sex-based discrimination in all school functions: recruitment, admission, financial aid, educational opportunity, housing, athletics, and so on. Title IX applies to all educational institutions that receive federal funds (“recipients”), including K-12 schools, colleges, and universities. Schools comply with Title IX voluntarily by demonstrating that they provide equal opportunity and support (i.e., gender equity to male and female students). Title IX is enforced via Title 34 of the Code of Federal Regulations Part 106 (34 C.F.R. 106). This article focused on students’ rights described in 34 C.F.R. sections 106.21 through 106.43 (see Table 1) and institutional exemptions from them as described in OCR response letters.

Table 1. Selected Title IX Elements

34 C.F.R. § 106.21 Admission
34 C.F.R. § 106.22 Preference in Admission
34 C.F.R. § 106.23 Recruitment
34 C.F.R. § 106.31 Education Programs
34 C.F.R. § 106.32 Housing
34 C.F.R. § 106.33 Comparable Facilities
34 C.F.R. § 106.34 Access to Classes
34 C.F.R. § 106.36 Counseling
34 C.F.R. § 106.37 Financial Assistance
34 C.F.R. § 106.38 Student Employment
34 C.F.R. § 106.39 Health Insurance and Benefits
34 C.F.R. § 106.40 Marital or Parental Status
34 C.F.R. § 106.41 Athletics
34 C.F.R. § 106.43 Standards for Measuring Progress in PE Classes



106.21 Admission. Section 106.21 prohibits recipients of federal education funds (schools) from treating admission applicants differently based on sex and from discriminating on the basis of pregnancy status. Schools “shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom,” “shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition,” and “shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is ‘Miss’ or ‘Mrs.’ unless such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination” (34 C.F.R. § 106.21). This broad element prevents recipient schools from denying admission to women who are pregnant or who are married versus unmarried. In contrast, a school that claims exemption to 106.21 is permitted to discriminate in admission, discriminate in their treatment of pregnant female students compared to male students who father children, and treat pregnancy in a different way than other temporary disabilities—while continuing to receive federal funds.

106.22 Preference in Admission. Recipients “shall not give preference to applicants for admission on the basis of attendance at any educational institution or other school or entity which admits as students only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex” (34 C.F.R. § 106.22). In other words, a recipient school may not preferentially admit male students if enrollment numbers are limited.

106.23 Recruitment. Recipients “shall not discriminate on the basis of sex in the recruitment and admission of students” (34 C.F.R. § 106.23). In other words, this element prohibits recipient schools, for example, with large competitive football sports programs, from recruiting and admitting higher numbers of male student-athletes; the proportion of male and female student-athletes should mirror the overall male and female student proportions (Markley, 2023).

106.31 Education Programs or Activities. “No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity” (34 C.F.R. § 106.31). In contrast, schools that claim exemption to 106.31 are permitted to refuse participation to female students in, for example, religion leadership courses or military training or athletic teams.

106.32 Housing. Recipients “must apply the same rules, regulations, fees, requirements, services, and benefits related to housing men and women” (34 C.F.R. § 106.32). Unmarried men and women, and married individuals, may be housed in separate facilities but the facilities must be substantially equivalent in quality and



quantity. In contrast, schools that claim exemption to 106.32 may house female students, for example, in poorer quality residences compared to male students.

106.33 Comparable Facilities. “A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex” (34 C.F.R. § 106.33). In contrast, schools claiming exemption to 106.33 are permitted to offer male student-athletes much higher quality facilities (e.g., locker rooms, lounges, practice and competition venues, etc.) than those of female athletes. Facility inequity is one of the most frequent and egregious violations (e.g., Macur & Blinder, 2021).

106.34 Access to Classes and Schools. A recipient “shall not provide or otherwise carry out any of its education programs or activities separately on the basis of sex or require or refuse participation therein by any of its students on the basis of sex” (34 C.F.R. § 106.34). In contrast, schools claiming exemption to 106.34 may refuse to allow capable female students to participate in traditionally male sports like football.

106.36 Counseling and Use of Appraisal and Counseling Materials. Schools “shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission” (34 C.F.R. § 106.36). If a school claims exemption to 106.36, for example, then it is permitted to counsel female students away from male-dominated career fields like math, physics, or engineering.

106.37 Financial Assistance. Schools “shall not, on the basis of sex, provide different amount or types of such assistance, limit eligibility for such assistance which is of any type or source, apply different criteria, or otherwise discriminate” (34 C.F.R. § 106.37). In contrast, schools that claim exemption to 106.37 are permitted to grant more financial aid or more financial opportunities to male students.

106.38 Employment Assistance to Students. A recipient “which assists any agency, organization or person in making employment available to any of its students shall assure itself that such employment is made available without discrimination on the basis of sex” (34 C.F.R. § 106.38). In contrast, schools that claim exemption to 106.38 may provide more or higher paying student employment opportunities to male students.

106.39 Health Insurance Benefits and Services. “In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex. Any recipient which provides full coverage health service shall provide gynecological care” (34 C.F.R. § 106.39). In contrast, schools that claim exemption to 106.39 are permitted to provide different insurance benefits to male students and to refuse to provide insurance coverage for female students’ unique healthcare services like Pap tests (vaginal swabs to detect precancerous cells), breast exams, care for menstrual cycle irregularities (which are common to women athletes), contraception, or other gynecological care.



106.40 Marital or Parental Status. A recipient:

Shall not apply any rule concerning actual or potential parental, family, or marital status which treats students differently on the basis of sex. A recipient shall not discriminate against any student or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom. A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy. A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began. (34 C.F.R. § 106.40)

This important element protects the educational progress of female students who experience pregnancy unintentionally, intentionally, or because of sexual assault; it also protects a pregnant individual's opportunity to return to the position she held after a medical leave of absence (which may vary in length depending on, for example, whether childbirth is vaginal or surgical and whether complications occur). In contrast, schools that claim exemption to 106.40 are permitted to treat male students who father children more favorably than female students who experience pregnancy and give birth; schools may refuse to recognize a woman's leave of absence for pregnancy, pregnancy loss, or childbirth. The exemption-claiming school may refuse to reinstate an athlete to her athletic scholarship or team.

106.41 Athletics. This states:

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. (34 C.F.R. § 106.41)

In contrast, a school that claims exemption to 106.41 is permitted to refuse female athletes' participation opportunities, provide only noncompetitive sports for female athletes, and provide more athletic financial aid to male student-athletes. Government agencies and national athletics organizations use a publicly available, mandatory annual report called the Equity in Athletics Disclosure Act (EADA) report to assess a school's equity in participation opportunities and financial support. The EADA is explained further later in this article.



106.43 Standards for Measuring Skill or Progress in Physical Education Classes. “If use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, the recipient shall use appropriate standards that do not have that effect” (34 C.F.R. § 106.43). In other words, a recipient school must allow different standards for measuring progress in physical education that accounts for developmental differences in males and females if use of the same standard for both sexes (e.g., a grade of A requires running 100 meters in 13 seconds) results in a consistently lower grade among female students. If a school claims exemption to 106.43, then the school could use standards for measuring progress in physical education that are known to result in female student failure.

The Right to Be Informed in Writing

In addition to the 34 CFR section 106 rights, students must be informed of their Title IX rights in writing. Title 45 C.F.R. section 86 specifies the rules and procedures for implementing Title IX. 45 C.F.R. 86.9 defines what constitutes discrimination, what types of programs and activities are covered, and how to file a complaint. Section 86.9 requires recipients to implement:

Specific and continuing steps to notify applicants for admission and ... students ... that it does not discriminate on the basis of sex in the educational programs or activities which it operates. Such notification shall contain such information ... as necessary to apprise such persons of the protections against discrimination assured to them by Title IX ... Notification shall include publication in ... written communications distributed to every student. (45 C.F.R. § 86.9)

Guenther, Sorensen, and Champagne (2023) argued that student-athletes should reasonably expect to find this information in the current Student Athlete Handbook (Guenther [et al.](#), 2023). While section 86.9 seems like a clear mandate, it does not specifically require the institution to publish institutional Title IX exemptions, further discussed below. However, since the OCR has the authority to interpret as well as enforce Title IX and 45 C.F.R. 86.9, this may be amenable to change as discussed below.

First Amendment Rights and the Exemptions to Title IX

Thus, *prima facie*, it appears that Title IX protections operate automatically, and students are meant to be informed in writing of the rights they hold. Yet, Title IX protections only operate when educational institutions do not opt out of them. Title IX’s power in ensuring gender equity and validating students’ reliance on its protections is seriously affected by the potential for “educational institutions controlled by religious organizations” to claim exemption from any part of Title IX that conflicts with their faith practices (34 C.F.R. § 106.12). However, the First Amendment as well as Title IX ensure that a religiously affiliated school is not required to seek and does



not need OCR affirmation in order to claim Title IX exemptions at any point in time (34 C.F.R. § 106.12(b)). Exemptions can be claimed at a future date, perhaps when an injured party or interested advocate files a Title IX complaint with OCR. This means that Title IX exemption claims can occur any time and without creating any public record (i.e., be completely invisible).

In the context of Title VII, the extent of the First Amendment’s protection of religions and people who adhere to religious doctrines has been explored in *Mastertpiece Cakeshop v. Colorado Civil Rights Commission* (2018; refusal to provide a service for a same-sex couple), *Bostock v. Clayton County* (2020; dismissal of gay and transgender employees although none of the employers in *Bostock* argued that compliance with Title VII would infringe their religious liberties), and *Obergefell v. Hodges* (2015; same-sex marriages). Academic critiques have covered a range of contexts including religious hires (Alexander, 2019; Corbin, 2016; Galvin, 2022; Hardee, 2020; Tracey, 2021), and, regarding Title IX, gay and lesbian (Bell, 2020; Smith, 2024; Velte, 2016), trans (Bryk, 2015; Medley, 2022), pregnant and parenting students (Brake & Grossman, 2022), vaccine mandates (Sporrer, 2023), and contraception coverage (Nathan, 2017). The strategic use of religious freedom litigation as part of religious organizations’ wider opposition to same-sex marriage (Hutler, 2019) has also been documented, as has the irreconcilable tension between religiously motivated universities that remain secularly chartered in order to get government funding but still obtain religious exemptions (Broyde, 2022), and its relevance to the nondelegation doctrine and third-party harms (Hill, 2022). But “very few students or employees have challenged an educational institution’s eligibility for a Title IX exemption” (Alexander, 2019, p. 1090).

The religious exemption has existed since Title IX’s enactment, and under section 106.12(b) it is secured by the institution’s “highest-ranking official” submitting a written statement to the Assistant Secretary of the U.S. Office for Civil Rights for assurance that the OCR acknowledges the institution’s exemptions. Religiously affiliated schools should indicate the religious organization that controls the institution and identify the “provisions of Title IX that conflict with a specific tenet [or practice] of the religious organization” (U.S. Department of Education, 2021). Schools that wish to disclaim previous Title IX exemptions also simply write to the Assistant Secretary.

Title IX does not provide for blanket exemptions. They are acknowledged on a case-by-case basis and only to the extent that Title IX would be inconsistent with the institution’s religious tenets, but “by all indications, the OCR freely grants religious exemptions without much scrutiny” (Brake & Grossman, 2022, p. 193). If, on cursory examination, the OCR agrees that a specific tenet is in conflict with Title IX, the university is granted an exemption while still receiving federal funding and is allowed to implement discriminatory policies so long as they do not conflict with other legislation (Broyde, 2022; *Yeshiva University v. YU Pride Alliance*, 2022).



There is a strong argument that the First Amendment grants those organizations an *inherent* exemption so that they can continue to receive federal financial assistance despite practices that would otherwise be prohibited by Title IX (Bell, 2020). Supporters of this expansive approach contend that student choice is promoted because religious institutions have an alternative option to either having to reject federal funds or choosing to shut down (Wilson 2014), and that the “religious exemption ... has allowed religious institutions of higher education, which have a long and valuable history in the United States, to continue to adhere to their religious beliefs and practices” (Faust, 2017, p. 1201). Given that no claim has ever been denied, the practical effect of the OCR’s practice relating to Title IX’s religious exemption clause is to confirm that the institutions do not have to choose between accepting federal aid and asserting a religious exemption. They are at liberty to keep both, meaning “the religious exemption has ... create(d) a federally funded discrimination scheme” (Bell, 2020, p. 766) and the institutions have the best of all possible worlds. Indeed, if an institution chose not to apply for the exemption and “the Department of Education notif(e)d an institution that it is under investigation for non-compliance with Title IX, the institution may choose to raise the exemption at that time” (Wilson, 2014, p. 750).

However, the letter-writing process still gives rise to Establishment Clause concerns because it gives the OCR authority to inquire into the level of institutional control a religious group has over an educational institution. The process is not designed to ‘weed out’ bad faith claims of sincerity. It “assess(es) organizational control and the application of religious tenets” (Faust, 2017, p. 1218), but the all-encompassing language and the concept of ‘controlled by’ arguably creates a fetter that the language of Title IX did not envisage and supports the argument that any procedure for claiming the exemption is unnecessary. The limited caselaw (Bryck, 2015) reflects this too. In *Hall v. Lee College* (1996), the federal district court in Tennessee tentatively noted (at 1033) that “it may very well be that to claim the exemption found in the statute, an educational institution need do nothing more than just raise the exemption,” while in *Petruska v. Gannon University* (2004) the N.D. Pennsylvania district court was more robust in holding that the university did not have to apply for the religious exemption because it was automatically entitled to it under the First Amendment. More recently, when George Fox University (a private Quaker college) discriminated against a transgender student and retrospectively applied for a religious exemption, it was granted because “the OCR operated on the notion that George Fox University had a presumptive religious exemption based on its institution type and the granted applications of similar institutions” (Bell, 2020, p. 754). In *Maxon v. Fuller Theological Seminary* (2021), the Ninth Circuit Court of Appeals held that the institution fell within the religious exemption even though it was controlled by its own Board of Trustees rather than a distinct, external entity—there was no need to have a ‘controlled’ organization that was a separate legal entity from the ‘controlling’ one.



Augustine-Adams (2016) chronicled the 1975 creation and legal evolution of the exemption section, using multiple Freedom of Information Act requests to access previously unshared governmental records. After analyzing 285 claims of exemption by religiously affiliated schools, the author reported a score of “285 to 0, religious claims recognized vs. those denied” (p. 327). She stated that:

Prior to the Human Rights Campaign’s release of a report in December 2015, relatively few knew that religious exemptions to Title IX existed. Over its forty-year history, documented religious exemptions to Title IX largely took place in the dark, in private administrative processes rarely made public, under unpublished or obscure agency standards and policies. (p. 327)

Augustine-Adams (2016) investigated how and why Title IX exemptions were achieved, created a database of schools claiming Title IX exemptions, and cited several individual examples. However, the author did not publish the aggregated exemptions claimed. We endeavor to do so, given that the tenor of the policy, the approach of the OCR, the provisions of the First Amendment, and the concomitant decisions of the courts have reinforced that an exemption claim will be granted so long as the institution can identify which aspect of Title IX conflicts with a religious tenet of its controlling organization (Duchene, 2017).

School information and knowledge of exemptions claimed by each school can be important in making fully informed decisions on school options, serving as vital counterpoints to “the influence of family pressure, cultural expectation, occupational trajectories and socioeconomic restraints” as well as “the complexity that goes into an individual’s sexual orientation and gender identity” (Bell, 760). Religiously affiliated schools that provide all students with knowledge of institutional exemptions as well as Title IX rights can help the student prepare alternative plans (e.g., for obtaining healthcare when the school refuses to provide women’s contraception coverage), and it serves the institutional interest in not recruiting students who with hindsight would have been happier, and perhaps more academically engaged, elsewhere. On a larger scale, quantitative evidence about specific school exemptions demonstrates the extent of the phenomenon to the bodies that aim to best serve students and student-athletes, principally the schools themselves, controlling religious organizations, and intercollegiate athletic organizations.

A discussion of Title IX exemptions would be incomplete without noting, first, that the Danforth Amendment to the Civil Rights Restoration Act of 1988 established abortion neutrality in Title IX, that is, Title IX “does not require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion” (20 U.S.C. § 1688). This means that religions and schools that oppose abortion do not need to claim Title IX exemption



to continue expressing faith-based beliefs about abortion. Second, exemptions are durable. Once claimed, Title IX exemptions never need to be renewed. Claiming exemptions or disclaiming exemptions, as five religiously affiliated schools have done, is a relatively simple process of communicating with the Office for Civil Rights.

The Roles of the Office for Civil Rights

Serving. The Office for Civil Rights (OCR) is responsible (*inter alia*) for interpreting and enforcing Title IX and its implementing rules (e.g., 45 C.F.R. 86.9) and to “ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation’s schools” (OCR, 2025a). The OCR aims to:

Serve student populations facing discrimination and the advocates and institutions promoting systemic solutions to civil rights problems. An important responsibility is resolving complaints of discrimination. ... OCR also provides technical assistance to help institutions achieve voluntary compliance with the civil rights laws that OCR enforces. An important part of OCR’s technical assistance are [sic] partnerships designed to develop creative approaches to preventing and addressing discrimination. (OCR, 2025a)

It is unclear which of the aims—“serving student populations facing discrimination” and/or “serving advocates and institutions promoting systemic solutions to civil rights problems” and/or “helping institutions achieve voluntary compliance with the civil rights laws”—is more highly prioritized in the case of seemingly conflicting priorities. The OCR’s 2007 and 2008 Dear Colleague letters that emphasized nondiscriminatory treatment of pregnant students and equity in intercollegiate sport opportunity, respectively (Monroe, 2007, 2008), seem to prioritize student welfare. On the other hand, the OCR’s necessary facilitation of religiously affiliated schools’ Title IX exemptions seems to prioritize religiously affiliated institutions. After comprehensive “excavation of historical records” Augustine-Adams (2016, p. 328) described the OCR as historically employing an “exceptionally deferential standard” (p. 389) to those claims. By assisting schools with Title IX exemptions, the OCR, albeit indirectly, simultaneously facilitates institutional discrimination while trying to protect students from discrimination.

The OCR uses the terms “request” to describe correspondence from a school and “response” to describe its reply to the school. OCR responses quote verbatim information in the original request. Over time the language used to request and respond to exemptions significantly changed, for example, from schools “demanding to requesting” and from the OCR “granting to assuring” (Augustine-Adams, 2016), so within this article we use the neutral term “affirm.” OCR responses are all similarly formatted (e.g., Lhamon’s response to Wisconsin Lutheran College, 2024; and Table 2).



Table 2. OCR Response Format

Para. 1	Acknowledges receipt and date of the request
Para. 2	Cites applicable Title IX 34 C.F.R. § 106.12 allowing exemption claims
Para. 3	Acknowledges the reported controlling religious organization, Board, or practices
Para. 4	Acknowledges the reported religious tenets/practices that conflict with Title IX
Para. 5	Lists Title IX 34 C.F.R. 106 sections for which the school requests exemption
Para. 5	Affirms exemptions
Para. 6	Describes unnecessary requests for exemption (e.g., vocational education, textbooks)
Para. 7	Cautions recipient that exemptions are limited to those exemptions affirmed

Notably, although the response letters list multiple legal references, no OCR response included a requirement to notify students of their Title IX rights in writing (45 C.F.R. § 86.9(a)). It is unclear why this is so, since this information is both relevant and easily included in the OCR response form letter, and reminding schools of the notification requirement would help schools fill the gap in student Title IX knowledge. However, neither Title IX nor the OCR has ever required institutions to inform students of institutional Title IX exemptions. For the reasons outlined above, this is at least in part because 34 C.F.R. § 106.12(b) makes clear that an application for an exemption is in effect voluntary; exemptions apply *without* applications and can do so retrospectively (e.g., after an investigation into a violation of Title IX rights has commenced). Nonetheless, the obligation to inform students of their Title IX rights as per 45 C.F.R. § 86.9 is less useful if that obligation does not address the exemptions that an educational institution claims itself entitled to operate: apprising students of “protections against discrimination assured them by Title IX” has greater efficacy if it makes clear not only what protections they are assured, but also what protections they are *not*.

Name, Image and Likeness. In January 2025, perhaps in response to the *House v. NCAA* settlement (Han, Wheeler, & Gondalia, 2024) and national athletic conferences’ newly created bylaws (e.g., NCAA Bylaw 22; NCAA, 2025b, p. 413), the OCR released a nine-page “Fact Sheet: Ensuring Equal Opportunity Based on Sex in School Athletic Programs in the Context of Name, Image, and Likeness (NIL) Activities” (OCR, 2025b). The Fact Sheet cautioned that “a school may violate Title IX if it fails to provide equivalent benefits, opportunities, and treatment in the components of the school’s athletic program that relate to NIL activities” (p. 5). The OCR specified a difference between school-provided financial aid that includes NIL compensation, which must comply with Title IX, and third-party NIL compensation provided directly to the student-athlete, which is not considered financial aid and therefore is not subject to Title IX. The Fact Sheet further states:



However, OCR has long recognized that a school has Title IX obligations when funding from private sources, including private donations and funds raised by booster clubs, creates disparities based on sex in a school’s athletic program or a program component. The fact that funds are provided by a private source does not relieve a school of its responsibility to treat all of its student athletes in a nondiscriminatory manner. It is possible that NIL agreements between student athletes and third parties will create similar disparities and therefore trigger a school’s Title IX obligations. (p. 8)

While it strongly reinforces Title IX information, the OCR Fact Sheet does not mention Title IX exemptions and does not address the intersections of NIL-related Title IX compliance with OCR-affirmed Title IX exemptions or future exemptions that a religiously affiliated school may produce in the future without seeking OCR affirmation (i.e., invisibly). The intersections raise many questions, especially for NIL issues in schools that are or decide to invisibly become exempt from, for example, 106.37 Financial Aid and/or 106.41 Athletics.

A 2024 U.S. Governmental Accountability Office (GAO) study on college athletics reported that the OCR “primarily reviews complaints and conducts few proactive activities ... makes limited use of available data for oversight purposes and does not always communicate with colleges in a timely way during monitoring” (GAO, 2024, p. 20). The GAO found that the OCR initiated “19 college athletic athletics compliance reviews over the 14-year period of our study, with the most recent being 2016-2017” (p. 22). The GAO reported that the OCR used EADA data and individual schools’ team rosters to select schools for further study but not for any other oversight functions. Analysis of the GAO report did not reveal any GAO consideration or discussion of Title IX exemptions.

In fairness and to further (sadly) darken its prospects for effectiveness, the OCR’s ability to carry out its roles and continue to improve its many functions will certainly be affected by recent mass layoffs. In September 2024, the OCR listed 568 employees, mostly attorneys. In March 2025, the OCR was cut in half when 240 employees, mostly “attorneys who investigate complaints from parents and families who believe a school has discriminated against their child” were laid off and “more than half of the OCR’s 12 field offices will be shuttered” (Turner, 2025).

The Equity in Athletics Disclosure Act Report

As previously mentioned, the Equity in Athletics Disclosure Act (EADA; 34 C.F.R. § 668.47) is another key piece of the puzzle. The EADA was “designed to make prospective students and prospective student athletes aware of an institution of higher education’s commitment to providing equitable athletic opportunities for its men and women students” (U.S. Department of Education, 2019). The EADA, enacted in 1994 within Title VI because of continued discrimination against female



athletes (National Women’s Law Center, 2015), demonstrates compliance with Title IX by comparing the funding and participation opportunities provided to male and female athletes across different sports. Briefly, EADA reports provide evidence of equity when athletic participation and athletic financial aid proportions for female and male student-athletes mirror undergraduate female and male student proportions (Markley, 2023). Every coeducational school that receives federal funds for student aid and offers an intercollegiate athletics program is required to submit quantitative participation and financial support data annually by October 15 and to publicly post its EADA report. A reasonable assumption, then, is that the EADA was predicated on and is implemented annually to move U.S. schools toward greater gender equity rather than away from it. Title IX exemptions pull in the opposite direction.

These mandatory EADA reports are received and aggregated in the Department of Education’s Office of Postsecondary Education and made publicly available through the EADA website (U.S. Department of Education, n.d.). The NCAA utilizes EADA data to monitor and verify the financial information reported by its member institutions regarding their athletic programs, and to monitor Title IX compliance. The OCR uses EADA data and athletics rosters to “help select colleges for the small number of athletics reviews it initiates but does not use the data to inform other oversight activities” (U.S. Government Accountability Office, 2024, p. 24). The EADA does not, however, address Title IX exemptions. It is unclear to what extent Title IX exemption-claiming schools believe they are also exempt from EADA accountability for gender equity.

Female Student-Athletes Lack Title IX Knowledge

Although Title IX knowledge among the general college student body has not been described, three research studies of female student-athletes consistently found an overall lack of Title IX knowledge (Guenther et al., 2023; Jaco, 2009; Williams, 2017). The most recent of these surveyed 146 female student-athletes aged 18-24 years (mean age 20.2 years) on nine athletic teams at a large public Midwestern NCAA Division I. The survey instrument provided Title IX information after about halfway through. Prior to receiving Title IX information, participants were significantly more likely to expect negative consequences (loss of financial aid, participation, and NCAA eligibility) if theoretically pregnant. Twenty-three percent expected negative consequences if they electively terminated the pregnancy, while 49.9% expected negative consequences if they elected to remain pregnant and potentially give birth. After receiving Title IX knowledge, participants were significantly more likely to seek help if they experienced pregnancy, and significantly less likely to anticipate negative consequences (Guenther et al., 2023).



Issue Two. Lack of Attention to Intersections with Gender Equity Requirements

Title IX and its requirements for gender equity are cornerstones for multiple NCAA, NAIA, and NCCAA bylaws, policies, and practices:

In August 2022, the Senate reintroduced the College Athletes Bill of Rights, which includes a Title IX section that mandates intercollegiate athletic associations shall not discriminate based on sex. While these bills do not have the full force of law, they clearly indicate Congress' intent to prevent sex-based discrimination in intercollegiate athletics and require the NCAA to comply with Title IX. (Friestedt, 2023)

National Collegiate Athletic Association

The NCAA Divisions I, II, and III Manuals each state that:

The Association is committed to gender equity. Activities of the Association, its divisions, conferences and member institutions shall be conducted in a manner free of gender bias. Divisions, conferences and member institutions shall commit to preventing gender bias in athletics activities and events, hiring practices, professional and coaching relationships, leadership and advancement opportunities. (e.g., NCAA, 2025b; p. 2)

In 2008, in response to a five-year national groundswell of pregnancy-related student-athlete advocacy (e.g., “NCAA to Review Guidelines for Pregnant Athletes,” 2007; Rainey, 2006; Rosenberg, 2004; Smith, 2004), ESPN attention (Rovegno, 2007), and infanticide tragedies (“Former Athlete at Mercyhurst College Charged with Killing Her Newborn Baby,” 2007; “Student Charged with Killing Newborn,” 2007), the NCAA amended Bylaw 15.3.4.2 to prohibit reduction or cancellation of financial aid “because of an injury, illness, or physical or mental health condition” that implicitly included pregnancy (see now NCAA, 2025b, p.184) and to allow members to “approve a one-year extension of the five-year period of eligibility for a female student athlete for reasons of pregnancy” (NCAA, 2025b, p. 55). In 2009, the NCAA produced a resource to assist student-athletes experiencing and member schools responding to athlete pregnancy, citing Title IX and an ethic of caring (Hogshead-Makar & Sorensen, 2009), but in hindsight that resource was incomplete because it did not mention Title IX exemptions or provide guidance for exemption-claiming schools, and did not include the 45 C.F.R. 86.9 requirement that students be notified in writing. The NCAA requires member schools to designate a Senior Woman Administrator to “promote meaningful representation of women in the leadership and



management of college sports” (NCAA, 2025b, p. 388). To assess members’ gender equity in participation opportunities and financial support the NCAA uses EADA reports. However, the NCAA perspective on any intersections among its bylaws, membership requirements, EADA data, gender equity, and Title IX exemptions are unclear, especially when member schools claim Title IX exemptions to, for example, 106.37 Financial Aid and 106.41 Athletics.

Other National Intercollegiate Athletics Organizations

Similarly, the 2024-2025 NAIA Handbook states that “the NAIA supports gender equity. Gender equity is an atmosphere and a reality where fair distribution of overall athletic opportunity and resources, proportionate to enrollment, are available to women and men, and where no student athlete, coach or athletics administrator is discriminated against in any way in the athletics program” (NAIA, 2025b, p. 11). The NAIA requires member schools to designate a Senior Woman Leader who participates “in providing leadership and guidance in the area of Title IX and Gender Equity” (p. 31).

The 2024-2025 NCCAA Division I Handbook states that “all NCCAA institutions should be in compliance with federal Title IX expectations regarding sport offerings and proportionality (NCCAA, 2025b, p. 360). NCCAA member schools must designate a Senior Woman Leader to “promote meaningful representation of women in the leadership and management of intercollegiate sports on NCCAA campuses ... serve as a key participant in senior-level management decisions regarding intercollegiate athletics, ... and participate in providing leadership and guidance in the area of Title IX and gender equity planning” (p. 100).

Summary

Title IX of the Educational Amendments (34 C.F.R. 106) and its implementing rules (e.g., 45 C.F.R. 86.9 and the EADA) contain powerful protection for female students and clearly were intended to move U.S. educational institutions toward greater gender equity. This sentiment echoes throughout the national intercollegiate athletics organizations (e.g., NCAA, NAIA, and NCCAA) and government agencies (e.g., OCR and GAO). Title IX’s permissions for religiously affiliated institutions to legally claim exemptions (i.e., operate with institutionalized gender inequity and to do so invisibly at any time without OCR assurance; 34 C.F.R. 106.12) seriously weaken those protections.

Several points are clear. Claiming Title IX exemptions is both legal and easy. The OCR has conflicting roles and a recently decimated workforce. Female student-athletes, at least, lack knowledge of their Title IX protections. Lastly, there is a massive vacuum of operational attention to the effects of Title IX exemptions on other bylaws, policies, and procedures. No NCAA documents—including its 2009 pregnancy and



parenting resource or its new 2024 Bylaw 22 addressing NIL compensation (NCAA, 2025b, p. 413)—addresses NCAA members’ Title IX exemptions. No NCAA document addresses the intersection between members’ Title IX exemptions with NCAA Bylaws or with its expectations for gender equity in student-athlete experiences. Likewise, no NAIA or NCCAA document acknowledges Title IX exemptions or addresses how member schools’ Title IX exemptions affect compliance with NAIA and NCCAA gender equity requirements. No NCAA, NAIA, or NCCAA documents mention disclosing Title IX rights and/or exemptions to students. It is unclear to what extent the NCAA, NAIA, and/or NCCAA have considered member schools’ Title IX exemptions to convey exemption to the athletic organizations’ requirements for gender equity, and whether member institutions believe themselves to be exempt from NCAA, NAIA, and NCCAA gender equity obligations. Within the government, beyond facilitating the Title IX exemptions, the OCR fails to address how they affect NIL and whether students have a right to be informed about Title IX rights and exemptions. The lack of knowledge and lack of operational attention to intersections warranted investigation.

Specific Aims

Against that background, the specific aims of this study were to extend Augustine-Adams’ (2016) “how” and “why” investigations of Title IX exemptions by further illuminating the phenomenon of Title IX exemptions that were mostly conducted in the dark prior to 2015 (Augustine-Adams, 2016). We aimed to fully inform student-athletes’ school choices and to provide evidence for school, intercollegiate athletics organizations, and OCR improvements. Consequently, the two research questions guiding this study were:

1. To what extent has the OCR affirmed religiously affiliated schools’ Title IX exemptions?
2. To what extent do religiously affiliated schools with Title IX exemptions notify students of Title IX rights and/or the institution’s exemptions?

Methods

Research Question 1. To What Extent has OCR Affirmed Religiously Affiliated Schools’ Title IX Exemptions?

Data Source

When our data collection began in 2023, the OCR organized its responses into three chronological categories: pre-2009, 2009-2016, and 2017-present. That scheme was followed on the logic that earlier letters might naturally be affected by historical



and administrative changes over time, and because the exemptions, once assured, never need be requested again. To answer the first research question, we analyzed all available OCR responses through December 31, 2024 ($N = 456$).

Inclusion and Exclusion Criteria

We included responses for analysis if the school admitted both sexes and the response affirmed exemptions to one or more of 14 Title IX student-focused elements. Efforts were made to establish valid, mutually exclusive cases. In the case of multiple responses to the same school at different time points (e.g., Brigham Young University Utah, 1997, 2022), we aggregated the Title IX exemptions across time. In the case of schools with similar names (e.g., Brigham Young University (BYU) Hawaii, BYU Idaho, and BYU Utah, as well as Appalachian Bible College, Bradley WV [1985] and Appalachian Bible College, Mt. Hope, WV [2017]), we compared the OCR responses to determine whether different demographics or exemptions for each location were cited, and we investigated the school's publicly available information to determine if it had relocated geographically. Regarding the BYU campuses, exemptions differed so we retained all three. The two Appalachian Bible College responses cited different faiths and different exemptions, so we retained both.

We excluded responses to schools that only admitted one sex ($n = 45$; e.g., some Orthodox Jewish schools admit only males or females) on the logic that sex discrimination per se would be less likely. We also excluded responses about issues other than Title IX exemption, such as OCR requests for more information, notifications that the school did not meet Title IX criteria and so did not need to claim exemptions, acknowledgement of school closings, acknowledgement of a school's withdrawal of its Title IX exemption claim, employment exemptions, and duplications.

Data Collection

From included responses, we extracted verbatim the school's name (one exception: OCR named one school as LABI; we list it as Latin American Bible Institute), response date, and the cited religious affiliation. We extracted exemptions affecting student and student-athlete life: marital/parental status for admission/progression, recruitment, access to educational programs, housing, comparable facilities, access to classes, counseling, student financial and employment assistance, health insurance benefits, athletic opportunities, and measuring progress in physical education classes. We recorded the exemptions as in Table 1.

Request for exemption from any part or subpart of an element was recorded as the part/subpart. For example, 106.21 has subparts a, b, and c; all were recorded as "106.21." If a school claimed exemption to 106.41 Athletics we identified its current



national intercollegiate athletic conference(s). Most schools belong to multiple national, regional, and local conferences. The data were entered into Microsoft Excel for analysis.

Research Question 2. To What Extent Do Religiously Affiliated Schools with Title IX Exemptions Notify Students of Title IX Rights and/or the Institution’s Exemptions?

To address the second research question, we used a case study approach. To identify a representative case, we identified seven NCAA Division I schools claiming a 106.41 Athletics exemption. Using Integrated Postsecondary Education Data Systems (U.S. Department of Education, 2023) data we averaged the total student enrollment for the seven and selected the school closest to that average. To develop the case study, we analyzed content within all publicly available electronic information including the OCR response, the EADA report, student and student-athlete handbooks, institutional policies, websites, and recruiting materials. The search through institutional content continued through saturation, defined as the point where supportive institutional response to pregnancy was found and confirmed in at least two sources.

Results

Research Question 1. To What Extent has OCR Affirmed Religiously Affiliated Schools’ Title IX Exemptions?

We examined 456 responses: 213 were excluded and 243 were retained for analysis (see Table 3, Appendix A).

Table 3. Office for Civil Rights Responses through 2024

Era	OCR Responses	Excluded	Included
Pre-2009	291	185	106
2009-2016	89	21	68
2017-present	76	7	69
Total	456	213	243

We entered verbatim the religious affiliation listed in the OCR response. To retain diversity in the sample we did not further analyze or aggregate religious affiliation. The sample included 23 religions. The most frequently occurring religious affiliation was Baptist (26.9% of sample), followed by Christian (23.1%) and Catholic (11.2%; see Table 4).



Table 4. Religious Affiliations of Schools with Title IX Exemptions ($n = 243$)

Affiliation	# Colleges	% of Sample
Assembly of God	12	5.0
Baptist	65	26.9
Catholic	27	11.2
Church of the Brethren	1	0.4
Church of Christ	18	7.4
Church of God	2	0.8
Christian	56	23.1
Elim	1	0.4
Evangelical Free Church of America	2	0.8
Lutheran	5	2.1
Latter Day Saints	5	2.1
Methodist	3	1.2
Mennonite	2	0.8
Nazarene	2	0.8
Oak Hills Fellowship	1	0.4
Orthodox Jewish	2	0.8
Presbyterian	12	5.0
Pentecostal	1	0.4
Protestant	5	2.1
Quaker	1	0.4
Rhema	1	0.4
Seventh Day Adventist	11	4.5
Wesleyan	8	3.3

Note: Religious affiliation as cited in the OCR response



More than 80% of the schools claimed exemption to 106.21 Admission (206 schools, 84.8% of sample) and 106.40 Marital or Parental Status (197 schools, 81.2%). More than half of schools claimed exemption to 106.23 Recruitment (127 schools, 52.3%), 106.31 Educational Programs or Activities (152 schools, 62.6%), 106.32 Housing (139 schools, 57.2%), and 106.41 Athletics (106 schools, 51.9%; see Table 5).

Table 5. Title IX Exemptions Claimed (n = 243 Schools)

Section	# Schools	% Sample
106.21 Admission.	206	84.8
106.22 Preference in admission.	92	39.9
106.23 Recruitment.	127	52.3
106.31 Educational programs or activities.	152	62.6
106.32 Housing.	139	57.2
106.33 Comparable Facilities.	127	52.3
106.34 Access to classes and schools.	113	46.5
106.36 Counseling and use of appraisal and counseling materials.	84	34.6
106.37 Financial assistance.	100	41.2
106.38 Employment assistance to students.	100	41.2
106.39 Health and insurance benefits and services.	93	38.3
106.40 Marital or parental status.	197	81.1
106.41 Athletics.	126	51.9
106.43 Standards for measuring skill or progress in PE classes.	65	26.8

Notes: No schools claimed exemption to 016.24 Severability or to 106.42 Textbooks and curricular material. Only one school claimed exemption to 106.35 Access to institutions of vocational education. Only one school claimed exemption 106.44 – 45 Sexual harassment.



Of 14 student-focused Title IX exemptions studied, the number of exemptions per school varied from one to 14 in a bimodal distribution. Fifty-nine schools (24.2% of the sample) claimed all 14 exemptions. About 14% each, respectively, claimed three and four exemptions (see Table 6).

Table 6. Number of Exemptions per School

# of Exemptions	# Schools (<i>n</i> = 243)	% of Sample
14	59	24.2
13	3	1.2
12	5	2.0
11	5	2.0
10	6	2.5
9	6	2.5
8	14	5.7
7	14	5.7
6	16	6.6
5	13	5.3
4	17	7.4
3	33	13.5
2	34	13.9
1	18	7.4

One hundred twenty-six schools (51.9% of the sample) claimed the 106.41 Athletics exemptions. Fall 2023 total enrollment for the sample was 807,415 (U.S. Department of Education, 2024); total enrollment at schools with Athletics exemptions (481,207) was greater than schools without Athletics exemptions (326, 208). Total exemptions claimed were higher for schools with Athletics exemptions (mean 10.55 exemptions) versus those without (mean 3.33).

We identified the current national intercollegiate athletic conference participation for 98 of the 126 schools. In the time span between response date and December 31, 2024, some schools ceased offering intercollegiate athletics (e.g., BYU Hawaii, BYU Idaho, and Ensign College). In other cases, schools only offered intramural sports (e.g., several seminaries) or only participated in local athletic organizations. Most schools who offered intercollegiate athletics participate in a mix of regional and national conferences, and sometimes different sports within one school participate



in different conferences. Although the information below is not mutually exclusive, it is safe to conclude that religiously affiliated schools with exemptions to 106.41 Athletics are represented in national athletics organizations (see Table 7).

Table 7. National Athletic Conferences of Schools with 106.41 Athletics Exemptions (n = 98)

Conference	Count	% Sample
National Association of Intercollegiate Athletics (NAIA)	30	30.6%
National Collegiate Athletic Association (NCAA)	46	46.1%
Division I: 7 schools (7.1% of sample)		
Division II: 20 schools (20.4%)		
Division III: 19 schools (19.4%)		
National Christian College Athletic Association (NCCAA)	17	17.3%
United States Collegiate Athletic Association	1	1.0%

Note: These figures are not mutually exclusive.

Research Question 2. To What Extent Do Religiously Affiliated Schools with Title IX Exemptions Notify Students of Title IX Rights and/or the Institution’s Exemptions?

The seven NCAA Division I schools with Title IX 106.41 Athletics exemptions included Baylor University (total Fall 2023 enrollment 20,824 students; U.S. Department of Education, 2024), Brigham Young University Utah (35,074 students), Charleston Southern University (3,545 students), Houston Baptist University (4,189 students), Liberty University (103,068 students), Oral Roberts University (5,365 students), and St. Francis University (2,835 students). The average enrollment for the seven was 24,986. Baylor University’s enrollment was closest to this average, so it was selected as the case study.

Case Study: Baylor University

Baylor University, established in 1845, is a private not-for-profit Baptist university in Waco, Texas (U.S. Department of Education, 2024). Baylor is a Research I (very high research activity) university that offers certificates and bachelor, master, and doctoral degrees. Annual undergraduate tuition is \$54,844; the total annual cost of attendance for full-time students living on campus is \$74,269. In 2023-2024, Baylor’s total enrollment of 20,824 students included 12,724 women (61.1% of students) and 8,060 men. The greatest proportion of students are white (59.7%) followed by Hispanic (15.8%), Asian (7.7%), and Black (6.5%). Almost 98% of undergraduate



students are under 24 years of age. Students are served by 1,173 faculty, of whom 539 are tenured (U.S. Department of Education, 2024). Baylor maintains a position of Associate Vice President for Equity and Title IX Coordinator.

Office for Civil Rights Responses. Baylor and the OCR communicated in 1985 (Singleton, 1985) and 2023 (Lhamon, 2023; Appendix B). In 2023, Baylor claimed additional Title IX exemptions (see Table 8).

Table 8. Comparison of Baylor University Exemptions 1985 & 2023

1985 OCR Response	2023 OCR Response
106.6(c)	106.6(c) (effects of rules of private organizations)
106.21(c)	106.21 (admission)
.	106.22 (preference in admission)
.	106.23 (recruitment)
.	106.30(a) (sexual harassment)
106.31	106.31 (education programs or activities)
.	106.32 (housing)
.	106.33 (comparable facilities)
106.34	106.34 (access to classes and schools)
106.36(c)	106.36 (counseling)
106.37	106.37 (financial assistance)
106.38	106.38 (employment assistance to students)
106.39	106.39 (health and insurance benefits and services)
106.40	106.40 (marital or parental status)
.	106.41 (athletics)
.	106.43 (measuring skills or progress in physical education classes)
.	106.44-45 (sexual harassment) [moved here from 106.30 above]
106.51-60 ...	106.51-61 (employment)

(Singleton, 1985) (Lhamon, 2023)

Baylor’s 2023 exemptions to 34 C.F.R. § 106.44 and 106.45 were found in the 2023 Lhamon Response placed on the same line as 106.30(a); in Table 8 we moved them for consistency of information. Baylor was unique among our database in claiming exemption to 106.44 and 106.45. 34 C.F.R. § 106.44 requires prompt, effective institutional response to suspected sex discrimination, and § 106.45 requires written procedures for resolving complaints.

Equity in Athletics Disclosure Act Report. Although Baylor was exempt from 106.41 Athletics, we investigated its 2023-2024 Equity in Athletics Disclosure Act (EADA; Baylor, 2024a) to examine gender equity in athletics. Equity is demonstrated



when student-athlete participation and financial aid proportions mirror undergraduate gender proportions (Markley, 2023). Baylor's EADA indicated 14,788 total university undergraduates of which 59.8% were women. The EADA reported 663 total athletes: 321 females (60.6%) and 232 males (39.4%), supporting our finding of gender equity in participation opportunities. Male Baylor athletes may participate in baseball, basketball, cross country, football, golf, tennis, and indoor and outdoor track. Females may participate in basketball, cross country, equestrian, golf, gymnastics, soccer, tennis, indoor and outdoor track, and volleyball. However, two women's sports—basketball and soccer—counted male practice players in their participation tallies (e.g., Baylor women's basketball's count of 33 athletes includes 20 male practice players). Particularly of interest given our research questions, the EADA indicated that financial aid was not equitable. Women athletes represented 60.6% of participants but they received 46.7% of athletically related student financial aid and consumed 24.6% of total recruiting expenses. Baylor Athletics reported almost \$21.1 million total operating expenses of which women's teams accounted for \$7,350,722 (34.8%).

Student-Athlete Handbook. After analyzing the OCR Response and EADA, we searched for content indicating how or how well Baylor informs student-athletes about their Title IX rights and its exemptions. Baylor's 2022-2023 Student Athlete Handbook (SAH; Baylor University, 2022a; more recent versions are not publicly available) revealed no mention of students' Title IX rights or Baylor's Title IX exemptions. The phrase "Title IX" appears 26 times, but each incidence referred to the Equity, Civil Rights, and Title IX office. Baylor's 106-page SAH identified the university's Baptist affiliation (p. 5) and communicated expectations that students adhere to the Student Conduct Code. SAH content included substance misuse, consequences, and treatment (20 pages); concussions (5 pages), and NCAA eligibility, financial aid, transfer, and NIL policies (25 pages).

Athletic Medicine Services (p. 79-88) described athletic trainers and orthopedic medicine healthcare providers. It stated:

Student athletes must be open, honest, and forthcoming to healthcare personnel on their condition at all times. Each student athlete is required to immediately notify the athletic trainer assigned to his/her sport of any injury or illness that could be directly related to athletic participation or injuries or illnesses that could affect athletic participation" and "it is the responsibility of the student athlete to timely inform the Baylor Athletic Medicine staff of any new injuries or illnesses as soon as possible. (p. 79, p. 81, respectively)

Baylor "will provide medical and related expenses and services to a student athlete for athletically related injury incurred during his/her involvement in intercollegiate athletics" but not "non-athletic related medical, surgical, or hospital expenses, e.g. contraceptive medications, pregnancy, pregnancy related issues, sexually transmitted infections or disease" (p. 80). This section is clear in informing



student-athletes what support to expect or not expect from Athletics, congruent with Baylor's exemptions to 106.39 Health and Insurance Benefits and Services and 106.41 Athletics. The SAH mentioned that Baylor Health Center provided Well Woman exams (p. 83), but services were not specified. No reference is made to where pregnancy help may be sought; for example, Baylor College of Medicine provides obstetrics and gynecology services including contraception (Baylor University College of Medicine, 2023). Accommodations for pregnancy and parenting were found, interestingly, within the larger Baylor Student Sexual and Interpersonal Misconduct Policy (discussed below). The SAH did not include or reference the NCAA resources for pregnant and parenting student-athletes (McArdle & de Mars, 2023).

Athletics provided mental health services for student-athletes to confidentially "discuss a variety of issues including transition to college, coping with injuries, relationship difficulties, stress, eating concerns, substance use, anxiety, and depression" (p. 87). The mental health confidentiality statement conflicted with other SAH sections requiring student-athletes to self-disclose (e.g., drug misuse, student conduct violations, or "injuries or illnesses that could affect athletic participation," p. 79); financial aid may be removed if a student "fails to disclose required information" (p. 46). Additionally, the mental health leave policy required a student-athlete to sign a release of confidentiality (p. 91). Thus, while Athletic Medicine requires self-disclosure of, for example, pregnancy that may affect athletic participation and may entail a mental health leave of absence, confidentiality and financial aid as well as participation were at risk, more so for female than male athletes. Sorensen, Sincoff, and Siebeneck (2009) argued that when, for example, an athlete experiences crisis pregnancy, the prospect of losing financial aid motivates student-athletes to conceal pregnancy, which is dangerous for both mother and fetus. In summary, Baylor student-athletes will not find Title IX rights or exemptions information in the SAH. Prospective student-athletes researching Baylor as one of their options will not find a current student-athlete handbook accessible online.

Student Policies and Procedures

Student Conduct Code. The 32-page Student Conduct Code (Baylor, 2024b) defined misconduct as personal behavior on or off campus that reflected poorly on Baylor University. Numerous examples of potential misconduct were provided (e.g., use of tobacco, disrespectful behavior, hazing, or teaching disruptions). This document differentiated between Level I and Level II misconduct but made no mention of Title IX or Title IX rights.

Civil Rights Policy. The 36-page Civil Rights Policy (Baylor, 2022b) stated that Baylor "is committed to maintaining a positive work and learning environment where all individuals are treated with respect and dignity" (p. 1). The university:



Prohibits unlawful discrimination because of race, color, national origin, ethnicity, citizenship, immigration status, disability, sex, age, disability, genetic information or the refusal to submit to a genetic test, past, current, or prospective service in the uniformed military service, or any other characteristic protected under applicable federal, Texas, or local law except as otherwise provided under the Civil Rights Policy. (p. 1)

The Civil Rights Policy described Baylor's Baptist affiliation and mentioned Baylor's "religious exemption to Title IX" (p. 1) but did not specify students' Title IX rights or its institutional exemptions. Baylor "is committed to the values of respect for all people" and "promotes equal opportunity in ... the educational experience" (p. 2). The "equal opportunity" statement was congruent with Title IX's requirements for schools that have not claimed exemption to 106.31; it contrasted with Baylor's Title IX exemptions and EADA evidence.

Sexual Conduct Policy. This one-page policy described "the biblical understanding that ... physical sexual intimacy is to be expressed in the context of marital fidelity. It is expected that Baylor students, faculty, and staff will engage in behaviors consistent with this understanding of human sexuality." The policy referred to the Baptist Faith and Message of 1963 and referred to the "exemption issued to the University on September 26, 1985 ... covering certain regulations under Title IX" (Baylor, 2015, p. 1).

Baptist Faith and Message of 1963. The 13-page Baptist Faith and Message of 1963 (Committee on Baptist Faith and Message, 1963), although cited, was not made clear in any Baylor document and could thus be a particular challenge to secular students. In addition to content described in the OCR Response (Lhamon, 2023; Appendix B), the Message described the church as "an autonomous body, operating through democratic processes under the Lordship of Jesus Christ" (p. 8). The purpose of education is to complete a spiritual program for Christ's people through a "proper balance between academic freedom and academic responsibility" (p. 10). The Christian's role in society is to "oppose every form of greed, selfishness, and vice" working to "provide for the orphaned, the needy, the aged, the helpless, and the sick" through "principles of righteousness, truth, and brotherly love" (p. 12). The Family section, added in 1998, described that "the husband and wife are of equal worth before God, since both are created in God's image" (p. 13). In summary, the 1963 Baptist Faith and Message suggested Baptist values of caring for disadvantaged others, of integrity, and of honoring men and women equivalently (i.e., gender equity).

Sexual and Interpersonal Misconduct Policy. Although exempt from Title IX 106.44 Recipient Response to Sex Discrimination and 106.45 written Grievance Procedures (Lhamon, 2023; Appendix B) Baylor maintained a 53-page Sexual and Interpersonal Misconduct Policy (SIM; Baylor, 2024c). The policy prohibited "sexual



and gender-based harassment, sexual assault, sexual exploitation, stalking, intimate partner violence, and retaliation,” all of which are considered serious offenses. The policy described Baylor’s Baptist affiliation and referred to its “constitutional and statutory protections for its religious liberty, including ... Title IX” (p. 4), further elucidated “as a religious institution of higher education, the University is exempt from Title IX to the extent that the University’s religious tenets ... conflict with Title IX” (p. 10); however, the exemptions are not specified but the law does not require the specifying of exemptions. Our point here is about lack of information transparency. A student-athlete seeking clarity would need to read Title IX and then read the OCR response to understand what Baylor exemptions applied to different situations, likely beyond the student’s scope of understanding.

Although Baylor is exempt from 106.21 Admission, 106.36 Counseling, 106.39 Health Insurance and Benefits, and 106.40 Marital or Parental Status, the SIM policy included a section titled Pregnancy and Related Conditions (pp. 17-18). When the Title IX Coordinator learned of a student’s pregnancy the Coordinator would “inform the individual of the University’s obligations under Title IX, provide the University’s notice of nondiscrimination, and provide information about the student’s rights ...” (p. 17), but it is unclear whether the Coordinator would explain Baylor’s exemptions that permitted it to discriminate based on sex versus explaining Baylor’s and Title IX’s protections for pregnant individuals. This SIM policy section suggested a supportive Baylor response to pregnancy that is conceptually congruent with Title IX. Supportive modifications for pregnant and parenting individuals included:

Online education [classes], breaks during class to breastfeed, excused absences for medical appointments, and extensions of time for tests or assignments. Pregnant and parenting students may voluntarily take medically necessary leaves of absence; upon return, the student will be reinstated to the academic and extracurricular statuses held before voluntary leave began. Pregnancy and related conditions will be treated in the same manner as, or in a manner not less favorable than, other temporary medical conditions. (p. 18)

The Pregnancy and Related Conditions section of the SIM policy exactly reiterated Title IX’s nondiscrimination mandates (i.e., Title IX rights in schools that have *not* claimed exemption to Title IX 106.40 Marital or Parental Status). The supportive information phrases above improve the likelihood that student-athletes in crisis pregnancy will feel safe seeking help (Guenther et al., 2023). However, support for pregnancy—which does not seem to be defined as misconduct—is curiously placed within a sexual misconduct policy.

Baylor’s Title IX exemptions and EADA conflicted with some SIM statements; for example, “Baylor University does not discriminate on the basis of sex and prohibits its discrimination in any education program or activity that it operates, as required



by Title IX, including in admission and employment” (p. 4); “The University will comply with Title IX and Title IX regulations ...” (p. 4); “Any University policy, practice, or procedure related to an individual’s current, potential, or past parental, family, or marital status will not treat individuals differently based on sex” (p. 10); “Individuals will not be denied admission based on their sex, and admissions policies and practices will not discriminate against individuals based on their sex” (pp. 10-11); and “Pre-employment and pre-admissions applications will not inquire as to the marital status of an applicant” (p. 11). The use of double negative language on the SIM policy website (i.e., “Baylor University does not unlawfully discriminate on the basis of sex or gender in any of its education or employment programs and activities, and it does not tolerate unlawful discrimination or harassment on the basis of sex or gender”) adds confusion as to whether this sentence is to be read “Baylor does discriminate but does so lawfully” or “Baylor doesn’t discriminate because that would be unlawful ...”

Texas Law

Baylor University is one of 30 religiously affiliated colleges and universities in Texas (BestColleges, 2025). Baylor included in its student conduct policies the requirement that students comply with Texas state laws. Specific to the issue of pregnancy, current Texas law “prohibits almost all abortions including a ban on abortion related to rape or incest. Exception is made for situations in which the life or health of the patient is at risk” (Texas Health & Safety Code, 2024). No matter whether pregnancy results from consensual or non-consensual sexual activity, a pregnant student or student-athlete in Texas who opted for abortion would have to travel from Texas to a state where abortion is legal; the closest states are Colorado and New Mexico (Guttmacher, 2025).

Analysis

The Baylor student-athlete seeking Title IX rights information could be confused and overwhelmed by the dissonance between Baylor’s exemption claims (Lhamon, 2023; Appendix B), conflicting policy and website statements, and placing content that mirrored Title IX rights for pregnant students within the sexual misconduct policy. Students and student-athletes were made responsible for synthesizing knowledge within multiple long Baylor policies; collectively almost 250 pages. The student-athlete who sought answers only in the Student Athlete Handbook will find that they were required to be “open, honest, and forthcoming on their condition at all times” and to “immediately notify” athletic trainers and orthopedic physicians—but those professionals are not equipped to help with pregnancy. Mental health professionals were available, but confidentiality was unclear. The pregnant athlete would find that Baylor Athletics did not pay for pregnancy care, contraception, or any condition



not directly associated with intercollegiate competition. They would not find any referrals to Baylor College of Medicine or NCAA resources that could help them, and they would not find any mention of Title IX rights or exemptions. Baylor is positioned within a state that prohibits nearly all abortions, even for pregnancy resulting from rape or incest.

There are no records of Baylor using its 1976 Title IX exemptions as a defense against multiple Title IX sexual assault lawsuits. Baylor confidentially settled with “a former Baylor soccer player” in 2015 (“The Timeline of Art Briles’ Downfall,” 2022), with former Baylor student Jasmin Hernandez in 2017 (Lavigne, 2017), with former volleyball player “Jane Doe” and “at least three women who did not file lawsuits” in 2018 (“Baylor Settles Lawsuit,” 2018), and with “15 survivors of sexual assault” in 2023 (“Baylor Settles 2016 Sexual Assault Lawsuit,” 2023). Baylor’s only use of its Title IX exemptions defensively occurred when Baylor President Linda Livingstone demanded that the OCR dismiss “several complaints filed with OCR in 2021 (OCR Case Nos. 06212204, 06212205, 06212206, 06212226)” because the complaints “directly implicate Baylor’s religious exemption from Title IX and the Free Exercise Clause of the U.S. Constitution” (Livingstone, 2023 May 1, p. 1). Livingstone reiterated Baylor’s 1985 exemptions and added two more: exemption from “unwelcome conduct” related to § 106.44 and 106.45 after reminding the OCR that it “was not required to provide any written notice to DOE to claim its religious exemption” (p. 1). Since “the Student Conduct Code and Honor Code apply from the time that a person is notified of his or her acceptance for admission” (p. 2), Baylor attempts to hold students accountable *before they enroll*. Baylor “is committed to equal opportunity and respect of others ... it does not unlawfully discriminate” calls again into question the meaning of “does not unlawfully discriminate.” The university “does not discriminate on the basis of sexual orientation or gender identity or expression per se, but it does regulate conduct that is inconsistent with ...” its religious tenets, yet Baylor “welcomes and supports all its students ... who agree to abide by its religious tenets, including those who identify as LGBTQ+” (p. 5). Thus, for a student or parent searching for answers, the Livingstone letter adds more confusion rather than clarity.

Summary of Results

To answer the first research question, “To what extent has OCR affirmed religiously affiliated schools’ Title IX exemptions?” we analyzed all OCR Responses affirming schools’ Title IX exemptions through 2024. Our sample of 243 schools (see Appendix A) represented about 29% of the 840 degree-granting religiously affiliated institutions of higher education in the United States (Durrani, 2024). According to Fall 2023 data, our sample included 807,415 total students, about 16.15% of the five



million students enrolled in private nonprofit four-year schools (U.S. Department of Education, 2024). The sample included 23 religious faiths; Baptist faith was most frequent (27% of sample). The most frequently exempted Title IX sections were 106.21 Admission, which contains provisions for admission and pregnancy (206 schools, 84.8% of sample) and 106.40 Marital or Parental Status (197 schools, 81.2%). About one fourth of the sample claimed exemptions to all 14 Title IX elements. Schools with 106.41 Athletics exemptions (51.9% of the sample) tended to have higher total student enrollment and much higher total number of exemptions than those without Athletics exemptions. Schools with Athletics exemptions participate in NCAA, NAIA, and NCCAA intercollegiate sports, raising questions about intersections among member schools' Title IX exemptions, national intercollegiate athletics organizations' requirements for gender equity, and new NIL issues. The results support our conclusion that religiously affiliated schools' Title IX exemptions are a quantitatively substantial phenomenon with unexplored effects on student and student-athlete welfare. Our providing an alphabetized list of U.S. schools and their Title IX exemptions, that is, "who and what" (see Appendix A) facilitates current and prospective students' informed decision-making.

To approach answering the second research question, "to what extent do religiously affiliated schools with Title IX exemptions notify students of Title IX rights and/or the institution's exemptions?" we analyzed publicly available content relating to one large NCAA Division I school. The OCR Response indicated that the institution was exempt from all 14 student-focused Title IX elements plus very recent exemptions from a Title IX element requiring effective institutional response to sexual harassment (106.44) and one requiring written procedures for responding to sexual harassment (106.45). The school's EADA indicated gender equity in athletics participation but not in financial support. After content analysis of institutional resources, we concluded that while the institution declared to students that it was factually exempt from Title IX in multiple locations, it did not explain to students what Title IX exemptions it claimed or what effect its exemptions would have on them. Conflicting content within different lengthy policies and the use of double negative language could potentially confuse students, whether the student comes from a secular or religious background. One section, curiously placed within a sexual misconduct policy, was congruent with but not labelled as Title IX pregnancy rights. Overall, the school's performance was poor in notifying students of their Title IX rights and very poor in explaining to students how its institutional Title IX exemptions would affect them. In effect, the university was not very forthcoming. Further study is needed to determine the extent to which the case studied is an accurate representation of large religiously affiliated schools with Title IX exemptions.



Discussion

The results of this study indicated that two major issues are sorely in need of attention.

Issue One. Lack of Knowledge about Title IX Rights and Exemptions

There is a problem with how well “student populations facing discrimination” are aware or are made aware—particularly in advance of mental or physical health crises like unexpected pregnancy—that when a school has claimed Title IX exemptions the student who attends that college unknowingly waives those Title IX protections; in other words, “student populations facing discrimination” should be prepared to experience discrimination. The first step toward resolving students’ (and perhaps others’) lack of awareness is offering knowledge: about Title IX and OCR strengths and shortcomings; about religiously affiliated schools where discrimination is legal and about their exemptions; and about the confusion that can be caused by conflicting student policies within one large school in a state that coincidentally prohibits abortion.

Contributing Factors

Title IX and the OCR. Title IX of the Education Amendments of 1972 greatly improved opportunities for women to participate in sport by prohibiting educational institutions that receive federal funds from sex-based discrimination. Most students considering college have the right to assume that they enjoy federally guaranteed rights in college admission, recruitment, educational programs, housing, comparable facilities, counseling, student financial and employment assistance, health insurance benefits, marital or parental status, and athletic opportunities. However, several Title IX factors neutralize its power to protect students and student-athletes. Title IX contributes to the problem by allowing religiously affiliated schools to invisibly or openly claim exemptions (106.12), and by not explicitly requiring institutional disclosure of exemptions as well as rights (86.9).

Perhaps motivated by First Amendment concerns, the OCR similarly contributes to the problem by not enforcing section 86.9; that is, when responding to Title IX exemption requests, failing to include the requirement of 86.9 that schools must communicate Title IX rights in writing. The OCR contributes by not interpreting 86.9 as including disclosure of institutional Title IX exemptions as well as students’ Title IX rights, and by not requiring schools to explain to students how their institutional exemptions affect students. The OCR also contributes by making response letters difficult for the public to access. OCR responses are found, oddly, under “Other Correspondence” (U.S. Department of Education, 2025) and listed by date rather than in a cumulative alphabetical list (as in Appendix A). In the current archival format, a student, parent, or advocate searching for an OCR response would need to



know the year when the response occurred in order find the individual pdf file for their school. The OCR folders are not searchable.

Religious Organizations and Schools They Control. Nearly all Baptist and Latter-Day Saints (LDS) schools claim Title IX exemptions: 65 Baptist schools in our sample compared to 55 Baptist schools reported by Baylor University (n.d.). All five LDS schools in our sample are the five listed as Church universities and colleges (Church of Jesus Christ of Latter-Day Saints, 2025a). Yet, in counterpoint, many more religiously affiliated schools have *not* claimed Title IX exemptions through the OCR. For example, our study included 27 Catholic schools while there are 230 Catholic institutions in the US (Durrani, 2024). Five schools have disclaimed exemptions: Berea College (Jackson, 2018; Christian faith), Kettering College of Medical Arts (Lhamon, 2017a; Seventh Day Adventist), Loyola University New Orleans (Lhamon, 2017b; Catholic), Pepperdine University (Lhamon, 2016; Church of Christ), and Vanguard University (Jackson, 2017; Christian). The reasons for variations within the same religion are unclear. Perhaps there are differences in faith practices regarding gender equity within a religion, or perhaps their controlling faith organizations allow some religious schools to remain Title IX compliant while others claim exemptions. Another possible explanation is that since Title IX allows religiously affiliated institutions to enact Title IX exemptions at any time of their choosing, and without creating public records, perhaps some schools have enacted Title IX exemptions invisibly (i.e., without seeking OCR assistance). This allows institutional exemptions to remain invisible to current and prospective students, the national intercollegiate athletics organizations, and advocates for student and student-athlete welfare. Thus, our data may not represent the full extent of the phenomenon.

Religious organizations and the schools they control contribute to the problem by perhaps not weighing heavily enough their values of grace, redemption, integrity, caring for disadvantaged others, and honoring men and women equivalently (e.g., Committee on Baptist Faith and Message, 1963; Church of Jesus Christ of Latter-day Saints, 2025b; Learn Religions, 2024) when claiming legal exemptions from a federal law designed to protect students from sex-based discrimination. Further muddying the water: claiming exemptions does not oblige schools to apply them consistently or at all; legal exemptions simply give schools the power to decide when and on whom to use them. It is possible that schools that claim Title IX exemptions do not actually enforce them to students or enforce them differently in different situations. The example of Baylor University illustrates this point. Despite exemption from all Title IX pregnancy elements, and despite multiple factual (but nonexplanatory) Title IX exemption statements, the university's planned response relative to pregnancy and parenting seemed remarkably consistent with Title IX protections. For student-athletes specifically, the SAH stated that Athletics "does not pay for pregnancy or contraception" without including references to university resources that do, an



incomplete message. Overall, Baylor University is unforthcoming about Title IX rights and exemptions. In contrast, the university required student-athletes to be “open, honest, and very forthcoming.” The student-athlete who fails to “immediately inform” risks their financial aid, participation, and academics. Among all parties—Title IX, the OCR, the institution, the student, and student-athlete—a requirement to inform needs to be reciprocal, transparent, and enforced.

Religiously affiliated schools contribute to the problem by legally removing themselves from a protective federal law, by being disingenuous about what institutional exemptions mean for prospective and current students, and by fracturing student trust. The relationship between the institution and the student must be based on trust: a “necessary precondition for social cohesion, and by extension, institutional cohesion ... a critical factor in admissions and matriculation decisions and persistence decisions, and sense of belonging” (Fosnacht & Calderone, 2020). Discovering exemptions after paying hefty tuition and housing fees or during physical or mental health crises can be a shock. Furthermore, unplanned pregnancy may result from consensual or non-consensual sexual activity (i.e., rape). “More than 50% of college sexual assaults occur between the start of Fall Semester and Thanksgiving break. While all students are at risk, freshman students are particularly vulnerable. Undergraduate women are three times more likely to be assaulted than graduate students” (Sabre, 2025).

When institutional communications (policies, handbooks, codes, services, and so on) are absent, contradictory, incomplete, inconsistent, or in any way confusing to, for example, pregnant students in crisis, then the message—whether it is positive or negative—is lost. If a pregnant student or student-athlete in crisis does not perceive a fully supportive environment for seeking help, then the likelihood of concealing pregnancy rises; also potentially lost is the institution’s opportunity to save at least two lives.

National Intercollegiate Athletics Organizations. Given their strong Title IX and gender equity requirements for membership, high levels of concern for student-athlete welfare, and extensive regulations around member participation and athlete eligibility, the lack of urgent attention to Title IX exemptions calls into question the levels of knowledge the NCAA, NAIA, and NCCAA have about member schools’ Title IX exemptions. No handbook, manual, guideline, or regulation mentions Title IX exemptions or a requirement to disclose Title IX rights and exemptions to students. To the extent that the national athletic organizations lack knowledge of or prefer to disregard member Title IX exemptions, or consider that NIL issues are more important, they contribute to the problem by failing to attend to the student-athlete experience and the very real gender equity concerns associated with Title IX exemptions (further discussed below).



We suggest that religious organizations, religiously affiliated schools, and the national intercollegiate athletic organizations bear almost total responsibility in loco parentis—by virtue of far greater knowledge, power, and financial resources—for fully informing students and parents. The field of commerce contributes the terms “information asymmetry,” defined as one party in a transaction having more or better knowledge than the other, and “adverse selection,” defined as occurring when one party in a transaction seeks to benefit from asymmetric information. In the healthcare field, pharmaceutical vendors are ethically and legally required to fully disclose potential side effects; in the field of clinical trials, researchers are ethically and legally required to fully disclose risks of participation and conflicts of interest. The ethical and legal standards should be no lower for vendors of high-priced academic and athletic experiences to which families annually commit their children as well as financial resources.

Students and Parents. Students and parents contribute to the problem, perhaps innocently and certainly to a lesser extent, by lacking Title IX knowledge or by assuming that Title IX rights are universally respected in U.S. colleges and universities. They may be too trusting and may fail to thoroughly research a school’s Title IX position. When confused by a school’s policy language or excited about the perspective of athletic scholarship or NIL awards, students and parents may fail to consider worst-case scenarios and may stop asking difficult questions before clarity is reached.

The Trap

So, the system works as a trap. Students and student-athletes choose religiously affiliated schools to be “immersed in a holistic educational community, with a clear sense of support” (Carson-Newman University, 2023) and “be surrounded by people who care about” them (Northwestern College, 2025). If students understand Title IX, they may naturally assume they are protected by it. If their religiously affiliated school claims Title IX exemptions and is less than forthcoming about it, students are unaware. Once enrolled, students unknowingly waive Title IX’s protections in any element for which an exemption has been claimed or which could be asserted in the future. Student-athletes do not receive any information about Title IX rights from the school’s national intercollegiate athletics organization. When students discover exemptions, the institution may or may not apply them depending on what element of ‘equity’ the institution wishes to support for individual student and student-athlete situations. Perhaps ironically, Baylor University, despite exemption from all 14 Title IX elements including 106.40 Marital and Parental Status, provided a pregnancy response policy that is quite consistent with Title IX rights. Thus, claiming Title IX exemptions ultimately leaves Title IX rights protection and sex-based discrimination



entirely at the discretion of religiously affiliated schools, with students finding out only when it is too late that they fall outside of the scope of whatever a school is willing to protect rather than disregard. If this shock occurs when a student or student-athlete is already overwhelmed with stress (e.g., in mental and physical health crisis for an unexpected event like pregnancy within a state that prohibits abortion even in cases of rape), the outcome can be tragic for all involved, with an institutional public relations crisis being the least of the damage.

Issue Two. Lack of Attention to Intersections with Gender Equity Requirements

The Iceberg or Just Its Tip?

The actual number of U.S. religiously affiliated schools with Title IX exemptions, the extent of their exemptions, and the extent of their involvement with national intercollegiate athletics organizations are unclear. We only determined national intercollegiate athletic organization membership for the 98 schools in our sample that claimed exemption to 106.41 Athletics: 46 NCAA member schools, 30 NAIA member schools, and 17 NCCAA member schools. We did not assess for national intercollegiate athletic organization membership for every school in our sample. Beyond our sample, the actual numbers of member schools with Title IX exemptions are likely much higher given the possibility that additional religiously affiliated schools enact Title IX exemptions invisibly. Further research is needed to identify the actual extent of Title IX exempt member schools within the NCAA, NAIA, and NCCAA.

Gender Equity Never?

It is unclear how religiously affiliated schools' Title IX exemptions, particularly to 106.37 Financial Assistance and 106.41 Athletics, intersect with gender equity requirements within their intercollegiate athletic organizations and with NIL. The usefulness of EADA data to compare and monitor gender equity progress among schools is invalidated when some member schools intend to comply with Title IX and some schools do not; exemption-claiming schools are neither legally required nor may ever intend to achieve equity. For example, Baylor's EADA demonstrated participation equity (59.8% female undergraduates, 60.6% female student-athletes) but grossly inequitable financial support (female student-athletes received 46.7% of athletically related student financial aid, consumed 24.6% of total recruiting expenses, and accounted for 34.8% of total operating expenses). This brings up several questions for the intercollegiate athletics organizations. Are gender inequities that are due to a school's Title IX exemptions considered acceptable? What might a trend comparison of EADAs over multiple years reveal? What will the NCAA, NAIA, and NCCAA do about this?



Competitive Advantage?

Could Title IX exemptions arguably convey athletic advantage by providing exempt schools with extra disposable funds compared to schools that comply with Title IX? Could funds that are not spent on women's athletics be used to create a competitive advantage for a school (e.g., enhancing recruiting for male sports through offering more or better scholarships for male athletes, higher coaching salaries, and more attractive facilities compared to Title IX compliant schools that equitably support female athletes)? Further research is needed to establish whether internal NCAA, NAIA, and NCCAA discussions regarding this intersection have occurred or are planned, to establish the extent to which schools with Title IX exemptions consider themselves also exempt from NCAA, NAIA, and NCCAA gender equity requirements, and to examine Title IX exemptions' potential for athletic advantage. There are no publicly available documents that suggest that such discussions have occurred.

By failing to acknowledge Title IX exemptions or investigate their effects on student-athletes, the national athletics organizations contribute to continued concealment of the issue, continued lack of student-athlete knowledge of Title IX, the potential of tragic outcomes, and the potential of athletic advantage. Failure to investigate the effects of Title IX exemptions on the student-athlete experience reinforces the already-incredible level of control that individual member institutions have over students' Title IX rights and athletics departments have over student-athletes. Compliance with Title IX and attention to student-athlete welfare are the solid foundations upon which the national intercollegiate athletics organizations operate.

Compliance with Title IX is the national norm. Compliance with Title IX positions educational institutions and their intercollegiate athletes on a level playing field because they share common values: commitment to gender equity as well as distaste for Title IX complaints and lawsuits. Exemption from Title IX removes those motivators and positions Title IX exemption-claiming schools apart from the norm, perhaps in more ways than one. The results of this study highlight the need for greater awareness of the effects of Title IX exemptions (which can have life-altering consequences for students). Religiously affiliated schools will continue to benefit, but hopefully the buyer is now more aware; ready to question reasons for continued inattention, invisibility, and concealment; ready to seek out fair access to exemption information.

Recommendations

Office for Civil Rights

We recommend that the OCR, while respecting religious schools' First Amendment rights, use the results of this study as a springboard to:



- Improve lay person access to schools' Title IX exemption information by removing requests and responses from the webpage titled "Other Correspondence" to a new webpage titled "Title IX Exemptions Correspondence."
- Improve lay person access by listing all requests and responses cumulatively and alphabetically by recipient school name rather than by year, and by making this list searchable (as in Appendix A).
- Interpret 45 C.F.R. 86.9 to require that recipients explain to students, in writing, any institutional Title IX exemptions.
- Enforce 86.9 by including such notification in its responses.
- Require recipients to publicly post OCR response letters, as is required for EADAs.
- Clarify how schools with Title IX exemptions will comply with NIL equity requirements.

National Intercollegiate Athletic Organizations

As advocates for student-athlete welfare, gender equity, and a level playing field, we recommend that the NCAA, NAIA, and NCCAA use the results of this study as a springboard to:

- Identify the actual extent of member schools' Title IX exemptions, that is, schools in our sample plus additional members with Title IX exemptions claimed invisibly.
- Assess the extent to which members with Title IX exemptions believe they are also exempt from the organization's gender equity regulations.
- Explain how member schools' Title IX exemptions intersect with NCAA, NAIA, and NCCAA commitments to gender equity.
- Determine whether claiming Title IX exemptions is ethically compatible with membership.
- Examine EADA evidence of the effects of Title IX exemptions on the student-athlete experience.
- Examine how Title IX exemptions affect the "level playing field" when athletics and school finances *not* spent on female student-athletes can be used freely to increase athletic advantage (e.g., higher scholarships or coach salaries for male sports teams improve athletic recruiting, better facilities).
- Revise the NCAA Pregnant and Parenting Athletes: Resources and Model Policies (Hogshead-Makar & Sorensen, 2009) to include the 86.9 requirement to notify students, to acknowledge Title IX exemptions, and to address how the Resources can be applied in schools with Title IX exemptions.



Religious Organizations That Control Schools

We recommend religious organizations that control educational institutions:

- Examine the actual incidence and variations of schools with Title IX exemptions.
- Examine the extent to which Title IX exemptions are congruent with faith values of values of integrity, grace, redemption, caring for disadvantaged others, and honoring men and women equivalently.
- Consider disclaiming Title IX exemptions.
- Discuss religious values that contribute or detract from creating an environment of safety for young women in physical and mental health crisis to seek help rather than concealing pregnancy; err on the side of compassion.
- Require schools to transparently disclose Title IX exemptions and to explain to students how exemptions affect them.
- Require schools with Title IX exemptions to publish their OCR response letter.

Schools with Title IX Exemptions

- Be forthright, honest, straightforward, transparent, and trustworthy with students.
- Examine the extent to which Title IX exemptions are congruent with faith values of values of integrity, grace, redemption, caring for disadvantaged others, and honoring men and women equivalently.
- Review internal messaging (websites, handbooks, policies) for clarity, consistency, and effectiveness.
- Discuss with your controlling religion the costs and benefits of continuing with current Title IX exemptions.
- Consider disclaiming exemptions.
- Recruit upper-level students to read policy drafts or otherwise participate in policy writing.
- Post Title IX exemption information online to facilitate pre-enrollment and immediate crisis access.
- Use the NCAA's Pregnant and Parenting Student Athletes: Resources and Model Policies.

Students and Parents

Educate yourselves on Title IX's strengths and shortcomings.

- Fully determine whether the school you choose complies with or claims exemption from Title IX. If exemptions are claimed, determine the specific effects on students.



- If planning to participate in athletics, read each potential school's EADA report.
- Educate yourself about the heightened risk of sexual assault in the Red Zone period between the beginning of Fall Semester and Thanksgiving Break.
- Plan for the unexpected. Read the NCAA's Pregnant and Parenting Student Athletes: Resources and Model Policies.

Limitations

The study was limited by several factors. Our data collection for the first research question was limited to those OCR responses through December 2024 ($N = 456$) that affirmed schools' Title IX exemptions ($n = 243$). Efforts were made to create mutually exclusive cases for descriptive analysis through inclusion and exclusion criteria, and through researching schools with similar names. We cited religious affiliations verbatim to demonstrate diversity, but it is possible that aggregating religious affiliations could affect our discussion. We recognized schools that disclaimed previous Title IX exemptions but went no further in studying them, other than recommending to all schools the possibility of disclaiming. We assessed for national intercollegiate athletic organization membership for only schools with 106.41 Athletics exemptions; it is likely that many more schools in our sample participate in intercollegiate sports. It is possible that some schools in our sample are closed, no longer fit our inclusion criteria, or no longer offer intercollegiate athletics. It is also possible that some schools in our sample claimed Title IX exemptions but did not actually apply their exemptions to the student or student-athlete experience. We acknowledge the considerable potential distances among claiming exemptions to federal law in, for example, 1985, current school policies, and current student practices.

Our data collection for the second research question was limited to electronically available information about one case study school. Case study results, by definition, are not generalizable but lay a solid foundation for future research. Analyzing every relevant document (e.g., OCR response, NCAA response, lawsuit resolutions, EADA, handbooks, policies, resources, and surrounding context of state law) while searching for confirming and disconfirming content was time-intensive and exhaustive but necessary. The effort required engaging, disengaging, rechecking, and synthesizing. During the lengthy process some institutional content may have been missed, potentially affecting results. The first author, a nurse, acknowledges bias for students and student-athletes in crisis pregnancies, especially those resulting from rape, and for the infants that can result from crisis pregnancy. Avoiding repeated tragic worst-case infanticide scenarios is paramount.



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Appendix A. Religiously Affiliated Schools' Title IX Exemptions

College, OCT Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Marital/Parental Status	106.41 Athletics	106.43 Progress in PE Class
AG Theol. S. 12.20.88	AG	X											X		
Alaska Bible C. 5.31.89	Chr	X									X		X		
American Indian C. 7.26.16	AG	X			X	X	X						X	X	
Anderson U. 2.11.15	B	X		X	X	X	X						X	X	
Andrews U. 9.13.85	SD	X											X		
Antillean C. 8.16.85	SD	X											X		
Appalachian Bible C. Bradley WV 6.18.85	Chr							X					X		
Appalachian Bible C. Mt Hope WV 12.14.17	B	X	X	X	X	X	X	X	X	X	X	X	X	X	
Asbury Theol. S. 1.18.17	W	X			X	X	X						X	X	
Asbury U. 8.29.16	Chr	X			X	X	X						X	X	
Athenaeum of Ohio 9.13.85	C	X	X	X											
Atlantic Chr. C. 1.9.85	Chr												X		
Azusa Pacific U. 11.21.22	Chr				X						X		X		
Bapt. Bible C. 11.18.88	B	X						X					X		
Bapt. Bible C. and S. 11.2.92	B	X	X	X	X			X			X		X		
Bapt. Missionary Assoc. Theol. S. 1.2.18	B	X		X	X	X							X		
Bartlesville Wesleyan C. 9.26.85	W	X											X		
Baylor U. 7.25.23	B	X	X	X	X	X	X	X	X	X	X	X	X	X	X



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Married/Parental Status	106.41 Athletics	106.43 Progress in PE Class
Belmont Abbey C. 2.11.15	C	X		X	X	X	X							X	
Belmont C. 2.28.86	B	X		X	X								X		
Bethany Bible C. 1.25.89	AG	X										X	X		
Bethany Global U. 12.15.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X		
Bethel C. 7.29.15	Chr	X			X	X	X						X	X	
Bethel U. 6.18.20	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Bethune-Cookman C. 9.3.85	M												X		
Biola U. 8.29.16	Chr				X	X	X							X	
Blue Mountain C. 10.26.15	B	X	X	X	X	X	X			X			X	X	
Bob Jones U. 12.21.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Boise Bible C. 5.31.89	CC	X									X		X		
Boston Bapt. C. 12.21.17	B	X		X	X	X	X		X	X	X	X	X	X	
Brewton-Parker C. 1.18.17	B	X		X	X	X	X		X	X	X	X	X	X	
Brigham Young U. Hawaii 5.9.22	LD	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Brigham Young U. Idaho 5.9.22	LD	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Brigham Young U. Utah 1.3.22	LD	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Bryan C. 10.25.16	Chr	X	X	X		X	X	X	X	X	X	X	X	X	X
C. of Biblical Studies 12.14.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
C. of the Ozarks 1.2.18	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cairn U. 12.14.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Medical/ Parental Status	106.41 Athletics	106.43 Progress in PE Class
Calvary Bible C. 2.2.89	Chr	X						X			X		X		
Calvin C. and S. 9.23.85	Chr				X										
Campbell U. 9.3.85	B	X			X			X					X		
Campbellsville C. 9.3.85	B												X		
Carson-Newman C. 7.10.15	B	X		X	X	X	X						X	X	
Cedarville C. 8.16.89	B	X									X		X		
Central Bible C. 8.9.88	AG	X										X	X		
Central Chr. C. 1.18.17	Chr	X		X	X	X	X	X		X	X	X	X		
Central Wesleyan C. 5.17.85	W	X											X		
Charleston Southern U. 2.11.15	B	X			X	X	X						X	X	
Charlotte Chr. C. and Theol. Sem. 12.14.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Chowan C. 5.17.85	B	X										X	X		
Christ the King S. 9.20.85	C	X	X	X											
Christian Heritage C. 10.19.84	B	X		X	X			X			X		X		
Cincinnati Bible S. 9.13.85	Chr	X			X			X					X		
Circleville Bible C. 9.3.89	CC	X									X		X		
Clarks Summit C. 4.5.22	B	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Clear Creek Bapt Bible C. 3.15.16	B	X		X	X	X	X	X	X	X	X	X	X	X	
Colorado Chr. U. 7.22.22	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Marital/Parental Status	106.41 Athletics	106.43 Progress in PE Class
Columbia Bible C. 11.14.86	Chr	X			X								X		
Columbia Int. U. 1.2.18	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Columbia Union C. 6.18.85	SD	X											X		
Compass C. of Cinematic Arts 12.14.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Concordia S. 9.20.85 MO	L	X	X	X	X	X	X	X	X	X	X				
Concordia Theol. S. 9.23.85 IN	L	X	X	X	X	X	X	X	X	X	X				
Covenant C. 7.29.15	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Covenant Theol. S. 5.19.83 MO	P	X		X	X	X			X	X					
Criswell C. 8.31.16	B	X			X	X	X		X	X	X		X		
Crowley's Ridge Acad. 9.26.85	CC				X			X						X	
Crowley's Ridge C. 9.26.85	CC							X		X			X	X	
Crown C. 1.18.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cumberland C. 5.17.85	B					X							X		
Dallas Bapt. U. 2.28.18	B	X		X	X	X	X			X			X	X	
Dallas Chr. C. 6.2.89	CC	X			X				X		X		X		
Dallas Theol. Sem. 4.25.18	Chr	X			X	X	X						X		
David Lipscomb C. 7.24.85	CC												X		
Denver Cons. Bapt. S. 8.27.85	B	X									X				
Dordt C. 9.7.16	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Married/Parental Status	106.41 Athletics	106.43 Progress in PE Class
Dr. Martin Luther C. 9.13.85	L	X				X		X					X		
East Texas Bapt U. 5.4.15	B	X		X	X	X	X						X	X	
Elim Bible I. C. 12.15.17	E	X		X	X	X	X	X					X	X	
Elms C. 10.1.86	C												X		
Emmanuel C. 12.14.17	Pen	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Emmaus Bible C. 3.21.89	Chr	X										X	X		
Ensign C. 5.9.22	LD				X	X	X	X	X	X	X	X	X	X	X
Ersikine C. 1.2.18	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Evangel U. 1.2.18	AG	X	X	X	X	X	X			X			X	X	X
Faith Baptist Bible C. 12.15.17	B	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Family of Faith Chr. U. 12.15.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Faulkner U. 3.30.23	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Florida C. 12.21.17	CC	X		X	X	X	X	X		X	X	X		X	
Franciscan U. Steubenville 10.22.14	C					X	X							X	
Freed-Hardeman U. 8.4.16	CC	X		X	X	X	X	X		X	X	X		X	
Fresno Pacific U. 10.13.15	Men	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Geneva C. 10.26.15	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X
George Fox U. 5.23.14	Q					X	X							X	
God's Bible School C. 1.16.90	Chr	X													
Grace Bible C. 12.15.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Medical/Parental Status	106.41 Athletics	106.43 Progress in PE Class
Grace C. of the Bible 9.24.85 NB	Chr	X	X	X				X							
Grace Theol S. 9.13.85 IN	CB	X	X	X											
Grand Rapids Bapt. C. and S. 9.13.85	B	X		X				X					X		
Great Lakes Bible C. 2.22.89	Chr	X						X			X		X		
Hammibal-Lagrange U. 10.30.15	B	X	X	X	X	X	X			X			X	X	
Harding Acad. 9.23.85	CC												X		
Harding Grad. Sch. of Religion 9.23.85	CC				X	X	X			X			X	X	
Harding U. 1.18.17	CC	X		X	X	X	X	X	X	X	X	X	X	X	
Hardin-Simmons U. 1.13.16	B	X		X	X	X	X			X			X	X	
Heartland Bapt Bible C. 6.29.17	B	X		X	X	X	X	X					X	X	
Houston Bapt U. 12.21.17	B	X		X	X	X	X			X			X	X	
Howard Payne U. 4.24.15	B	X		X	X	X	X						X	X	
Huntington C. 7.12.88	Chr	X											X		
Immaculata C. 6.18.85	C												X		
Indiana Wesl. U. 1.18.17	W	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Jewish Theol. S. 9.24.85	OJ	X	X	X	X			X	X	X	X				
John Paul the Great U. 1.6.16	C	X	X	X	X	X	X	X	X	X	X	X	X	X	X
John Wesley C. 6.26.89	Chr	X	X	X									X		
Johnson Bible C. 7.24.85	Chr	X			X								X		



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Marital/ Parental Status	106.41 Athletics	106.43 Progress in PE Class
Judson C. 12.15.17	B	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Kentucky Mountain Bible C. 12.14.17	W	X	X	X	X	X	X	X	X	X	X	X	X	X	X
La Sierra U. 7.20.22	SD				X										
Lancaster Bible C. 8.31.16	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Latin American Bible I. C. 7.29.16	AG	X			X	X	X						X	X	
Latter Day Saints Business C. 7.22.85	LD	X											X		
Lee C. 2.12.85	Pro	X			X			X	X	X	X	X	X		
Lees Junior C. 5.17.85	P												X		
Liberty U. 1.24.23	B	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Life Pacific C. 12.21.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
LincIn Chr. U. 4.5.22	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Loma Linda U. 11.19.85	SD	X											X		
Los Angeles Baptist C. 8.6.85	B	X						X					X		
Louisiana C. 7.31.15	B	X				X	X						X		
Loyola U. 5.7.86	C	X										X	X		
Lutheran Brethren S. 3.13.18	L	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Manhattan Chr. C. 8.31.16	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Maranatha Bapt Bible C. 6.19.13	B	X													
McMurry C. 10.13.88	M											X	X		



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Marital/Parental Status	106.41 Athletics	106.43 Progress in PE Class
Mid-America Bible C. 9.20.85	CG	X											X		
Midwestern Bapt Theol. S. 7.18.16	B	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Mississippi C. 10.13.15	B	X	X	X	X	X	X			X			X	X	
Missouri Bapt U. 8.31.16	B	X			X	X	X						X	X	
Mount Angel S. 8.5.85	C	X													
Multnomah U. 4.29.16	Pro	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nashotah House Theol. S. 11.12.21	C	X	X	X											
Native American Chr. Acad. 1.30.18	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
North Carolina School of Biblical Studies 1.30.18	CC	X	X	X	X			X	X						
North Central Bible C. 3.7.89	AG	X											X		
North Greenville U. 5.4.15	B	X			X	X	X						X	X	
Northpoint Bible C. 8.4.16	AG	X			X	X	X						X	X	
Northwest Baptist S. 9.3.85	B	X			X			X	X				X		
Northwest C. of AG 9.23.88	AG	X										X	X		
Northwest Nazarene U. 8.18.14	N				X	X	X						X		
Notre Dame S. 9.16.85	C	X	X	X				X							
Oak Hills Chr. C. 12.21.17	OH	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Oak Valley C. 3.1.23	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Oakwood C. 9.3.85	SD	X											X		



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Marital/Parental Status	106.41 Athletics	106.43 Progress in PE Class
Ohio Chr. U. 8.29.16	CC	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ohio Valley C. 6.18.85	CC	X						X		X				X	
Oklahoma Bapt U. 12.16.14	B	X		X	X	X	X						X	X	
Oklahoma Chr. U. 10.22.14	CC	X		X	X	X	X	X		X	X	X		X	
Oklahoma Wesl. U. 12.22.14	W	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Oral Roberts U. 12.1.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ouachita Bapt U. 6.7.93	B	X			X			X	X	X	X	X	X		
Ozark Chr. C. 8.31.16	CC	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pacific Union C. 8.7.90, 1985	SD	X										X	X		
Palm Beach Atlantic C. 1.6.89	B	X						X			X		X		
Pepperdine U. 8.27.85	CC				X					X	X		X		
Philadelphia C. of the Bible 11.2.92	Pro	X										X			
Piedmont Bible C. 1.10.89	B	X			X	X	X	X					X		
Pontifical Cath. U. Puerto Rico 8.4.16	C	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pope John XXIII National S. 8.16.85	C	X	X	X											
Presb. Theol. S. 11.12.21	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Presentation C. 7.22.85	C	X											X		
Randall U. 12.14.17	B	X		X	X	X	X	X	X	X	X	X		X	
Regent U. 2.24.23	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X



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Rhema Bible Training C. 3.24.16	R	X		X	X	X	X	X					X	X	
Roberts W. C. 8.16.85	M	X											X		
Saint Francis U. 1.19.21	C				X	X	X							X	
Saint John's U. Sch. of Divinity 3.9.84	C	X													
Saint Mary of the Lake S. 9.13.85	C	X	X	X											
Saint Paul Bible C. 5.8.89	Chr	X											X		
Saint Paul S. 9.23.85	C	X	X	X	X	X	X	X	X	X			X		
Samford U. 7.29.92	B	X			X	X		X	X	X	X	X	X		
Seton Hall U. 9.20.85	C	X	X	X											
Shepherds Theol. S. 12.15.17	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Shorter U. 5.24.16	B	X		X	X	X	X						X	X	
Simpson U. 5.23.14	Chr				X	X	X							X	
Southeastern Bapt. Theol. S. 1.13.16	B	X		X	X	X	X						X		
Southeastern Bible C. 6.28.89	Chr	X			X			X			X		X		
Southern Bapt. C. 9.26.85	B	X			X			X	X	X	X	X	X		
Southern C. of SD 2.28.86	SD	X											X		
Southern California C. 11.4.88	AG	X										X	X		
Southern Naz. U. 1.13.16	N				X	X	X						X	X	
Southern Wesl. U. 3.24.15	W	X	X	X	X	X	X	X	X	X	X	X	X	X	X



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Southwest Bapt. U. 7.29.15	B	X	X	X	X	X	X			X			X	X	
Southwestern Adventist C. 9.26.85	SD	X											X		
Southwestern AG U. 8.4.16	AG	X			X	X	X						X	X	
Southwestern Cons. Bapt. Bible C. 8.23.88	B	X										X	X		
Spring Arbor U 6.2.14	Chr				X	X	X							X	
St. Charles Borromeo S. 9.14.76	C	X													
St. Gregory's U. 3.24.15	C	X	X	X	X	X	X	X	X	X			X	X	X
St. Patrick's S. 9.3.85	C	X	X	X											
Sterling C. 1.30.18	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Stillman C. 8.13.01	P					X									
Stonehill C. 5.15.86	C											X	X		
Tabor C. 1.8.15	Men					X	X							X	
Taylor U. 1.15.19	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Tennessee Temple U. 9.3.85	B							X							
The Bapt. C. of Florida 12.22.14	B	X		X	X	X	X						X	X	
The Cath U. of America 8.8.85	C	X	X	X								X	X		
The Hebrew Theol. C. 9.30.85	OJ	X	X	X		X		X							
The Master's U. 1.18.17	Chr	X		X	X	X	X						X	X	
The Ref. Pres. Theol. S. 9.24.85	P							X							



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Marital/Parental Status	106.41 Athletics	106.43 Progress in PE Class
Toccoa Falls C. 7.31.15	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Trinity Bapt. C. 2.15.18	B	X			X	X	X						X	X	
Trinity Bible C. 8.4.16	AG	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Trinity Evang. Div. Sch. 9.13.85	EF	X									X				
Trinity Int. U. 4.27.05	EF	X									X				
Truett-McConnell U. 6.10.16	B	X		X	X	X	X		X	X	X	X	X	X	
U. of Dallas 1.18.17	C					X									
U. of Mary 12.7.20	C	X	X	X	X	X	X	X			X		X	X	X
U. of Mary Hardin Baylor 3.24.15	B	X		X	X	X	X						X	X	
U. of Mobile 5.4.15	B	X		X	X	X	X						X	X	
U. of Northwestern St. Paul 9.22.16	Pro	X	X	X	X	X	X	X	X	X	X	X	X	X	X
U. of the Cumberland 3.24.15	B	X		X	X	X	X						X	X	
Union C. 10.25.85	SD	X											X		
Union U. 3.24.15	B	X	X		X	X	X						X	X	
United Wesl. C. 11.21.85	W	X											X		
Valley Forge Chr. C. 1.5.89	AG	X											X		
Virginia Bapt. C. 5.24.16	B	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Wadhams Hall S.C. 9.20.85	C	X	X	X											
Walla Walla C. 8.5.85	SD	X											X		
Washington Bible C. Capital Bible S. 1.25.89	Chr											X	X		
Wayland Bapt. U. 10.5.15	B	X		X	X	X	X			X			X	X	



College, OCL Letter Date	Faith	106.21 Admission	106.22 Admission Preference	106.23 Recruitment	106.31 Education Programs	106.32 Housing	106.33 Comparable Facilities	106.34 Access to Classes	106.36 Counseling	106.37 Financial Assistance	106.38 Student Employment	106.39 Health Insurance	106.40 Marital/ Parental Status	106.41 Athletics	106.43 Progress in PE Class
West Coast Chr. C. 8.6.85	CG	X											X		
Western Bapt. C. 8.5.85	B						X						X		
Westminster Sem. 10.5.16	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Westminster Theol. S. 9.18.85	P	X	X	X			X	X							
Westmont C. 12.21.23	Chr			X	X	X	X	X	X	X	X	X	X	X	X
Wheaton C. 9.13.85	Chr	X											X		
William Carey U. 1.13.16	B	X	X	X	X	X	X	X	X	X	X	X	X	X	X
William Jessup U. 8.29.16	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
William Tyndale C. 9.30.85	Pro				X			X	X				X		
Williams Bapt. C. 12.22.14	B	X		X	X	X							X		
Wisconsin Luth. C. 12.31.24	L	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Word of Life Bible I. 11.18.20	Chr	X	X	X	X	X	X	X	X	X	X	X	X	X	X
York C. 8.1.85	CC				X			X		X	X			X	

Notes: School codes: C = College, I = Institute, S = Seminary, U = University. Faith codes: AG = Assembly of God, B = Baptist, C = Catholic, CB = Church of the Brethren, CC = Church of Christ, CG = Church of God, Chr = Christian, E = Elim, EF = Evangelical Free Church of America, L = Lutheran, LD = Latter Day Saints, M = Methodist, Men = Mennonite, N = Nazarene, OH = Oak Hills Fellowship, OJ = Orthodox Jewish, P = Presbyterian, Pen = Pentecostal, Pro = Protestant, Q = Quaker, R = Rhema, SD = Seventh Day Adventist, W = Wesleyan.



Appendix B. 2023 OCR Response to Baylor University (Lhamon, 2023)

Linda A. Livingstone, Ph.D.
July 25, 2023
President
Baylor University
One Bear Place # 97096
Waco, TX 76798

Dear President Livingstone:

I write in response to your May 1, 2023, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you asserted a religious exemption from Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688, for Baylor University (the "University") in Waco, TX.

Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. Title IX and its implementing regulations at 34 C.F.R. § 106.12 provide that Title IX does not apply to an educational institution controlled by a religious organization to the extent that the application of Title IX would be inconsistent with the controlling organization's religious tenets. Section 106.12(b) of the Department's Title IX regulations describe the process by which an educational institution may request assurance of a religious exemption or assert a religious exemption in response to a pending OCR investigation. The request must identify the religious organization that controls the educational institution and specify the tenets of that organization and the provisions of the law or regulation that conflict with those tenets. Section 106.12(c) of the Department's Title IX regulations describes the evidence that is sufficient to establish that an educational institution is controlled by a religious organization.

Your letter explains how the University is controlled by a religious organization. The letter states that "[a]s a Baptist university, Baylor is 'operated within Christian-oriented aims and ideals of Baptists, including those contained in the Baptist Faith and Message of 1963.'" Your letter further explains that the University is "closely affiliated with the Baptist General Convention of Texas, a cooperative association of autonomous Texas Baptist churches, is an associate member of the Baptist World Alliance, and is controlled by a predominately Baptist Board of Regents." Your letter states that each member of the University's governing Board "must be supportive of Baylor University's mission, vision and historic Baptist heritage" and that at least three-fourths of the University's at-large Regents and Regents elected by the Baptist General Convention of Texas must be Baptist and active members of a Baptist church. According to your letter, the University's Bylaws provide that certain



University matters are left to the sole management and control of these Baptist Regents. Additionally, your letter states that since the founding of the University, the President of the University has been Baptist. Your letter explains that the University requires all incoming University undergraduate students to “attend two semesters of University Chapel in which they “gather[] to worship and pray, to be taught and inspired, and to encounter God in a way that makes a difference in their college experience.” Your letter also states that University employees “are also called to serve as Christ’s witness to the world and as a representative of the University and its mission by complying with law and University policy, including behavior standards,” and must agree to a candidate’s statement of faith wherein “they must espouse a personal belief that is co-religionist with the University to be eligible for employment.”

Your letter also specifies the religious tenets of the controlling religious organization that conflict with Title IX. Your letter states that the University “regulate[s] conduct that is inconsistent with the religious values and beliefs that are integral to its Christian faith and mission,” “affirms the biblical understanding of sexuality as a gift from God” and “requires ‘purity in singleness and fidelity in marriage between a man and a woman as the biblical norm.’” Your letter cites a University webpage titled Human Sexuality at Baylor University,¹ 1 Baylor University, Human Sexuality at Baylor University, <https://diversity.web.baylor.edu/leadership-commitment/human-sexuality-baylor-university> (last visited June 26, 2023). which describes three Board-approved guiding principles that are “rooted in its Baptist beliefs and traditional biblical understanding of human sexuality:” The guiding principles are: “[1] The dignity and worth of all, regardless of sexual orientation or gender identity, as we strive to fulfill our Christian commitment of a caring community. [2] The biblical understanding that sexual relations of any kind outside of marriage between a man and a woman are not in keeping with the teaching of Scripture, as summarized in the University’s Statement on Human Sexuality. [3] Our commitment to providing a welcoming, supportive educational environment based on civility and respect for all.” Your letter states that “any asserted Title IX requirement that contradicts the Baptist doctrine of marriage and the created distinction between men and women, is inconsistent with Baylor’s religious tenets.”

For the above reasons, the University requests assurance of its exemption from the following regulatory provisions to the extent that they are inconsistent with the University’s religious tenets:

34 C.F.R. § 106.6(c) (effects of rules of private organizations)

34 C.F.R. § 106.21 (admission)

34 C.F.R. § 106.22 (preference in admission)

34 C.F.R. § 106.23 (recruitment)

34 C.F.R. §§ 106.30(a), 106.44-45 (sexual harassment) (footnote: Specifically,



the University requests assurance “that the belief in or practice of its religious tenets by the University or its students” would not constitute “unwelcome conduct” under the Department’s definition of “sexual harassment” under Title IX.)

34 C.F.R. § 106.31 (education programs or activities)

34 C.F.R. § 106.32 (housing)

34 C.F.R. § 106.33 (comparable facilities)

34 C.F.R. § 106.34 (access to classes and schools)

34 C.F.R. § 106.36 (counseling)

34 C.F.R. § 106.37 (financial assistance)

34 C.F.R. § 106.38 (employment assistance to students)

34 C.F.R. § 106.39 (health and insurance benefits and services)

34 C.F.R. § 106.40 (marital or parental status)

34 C.F.R. § 106.41 (athletics)

34 C.F.R. § 106.43 (measuring skills or progress in physical education classes)

34 C.F.R. §§ 106.51-61 (employment)

The University is exempt from these provisions to the extent that they are inconsistent with the University’s religious tenets.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulations other than as stated above. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here recognized.

I hope this letter fully responds to your request. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Catherine E. Lhamon

Assistant Secretary for Civil Rights

