

"as violated by the school as by my rapist"  
Sexual Violence, Title IX and Purity Culture on Religious College Campuses

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April 03, 2020

A Thesis Submitted in Partial Fulfillment for the Requirements for the Degree.  
Bachelor of Arts with Honors in Women's Studies.

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Acknowledgements for Funding: Literature, Science, and the Arts, Honors Program

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## I. Acknowledgements

Closing the chapter of my undergraduate career with an honors thesis is something that I have wanted to accomplish for four years and now it is coming to fruition. The last four years have been kind of surreal in the sense that there was a three year period that when I talked about my thesis it was in the future tense, something that I was going to do, then for the past year and a half it is something that I am doing, the present. And now I am facing yet another transition where the writing and researching of my thesis is going to be something that I have done. As I think and process this last transition, it becomes clear to me that I could not have accomplished this alone. Much like it takes a village to raise a child, it took a village for my thesis to be born.

My village first started coming together four years ago, when I was first given the thought of writing a thesis. I can't even take full credit for the original idea of wanting to do a thesis: that goes to my advisor, Professor Elizabeth A. Armstrong Ph.D. And then there are the people who supported me in my dream of writing a thesis and my transition to the University of Michigan. One of these individuals is my first Sociology Professor Rachel Wilczewski Ph.D. Thank you for seeing the light in me before anyone else did and tolerating my endless questions and obsessions about the fields of Sociology and Gender Studies.

Then there are those who supported me once I got to the University and those I have to credit for helping me stick through this process who, without their support, this thesis would not exist. I'll start with Miriam Gleckman-Krut, PhD Candidate in Sociology. I am not sure if you remember this, but you were one of the first people I met here at UM. I still remember that I met you accidentally in an elevator only to realize that you were going to be my graduate mentor that summer. I am still in awe of the care and attention you showed me that summer and four years later now our relationship has grown to be as strong as it is. You have seen the process of this thesis coming together and been my unconditional cheerleader and the captain of "team Kia" this whole time. I am and always will be grateful and I hope that everyone gets lucky enough to have their own Miriam. Catalina Ormsby, M.P.A. thank you for being one of the first people to show me that I belong here at Michigan as well as for your continued support of me these past four years. You always show up just when I need a shoulder to cry on and a reassuring "You can do this." Next, I have to thank my Professor Emily Peterson J.D/M.A. Thank you for all of the hours

you allowed me to spend wrestling through my arguments with you when I felt like no one but us understood what I was trying to do with this thesis. Thank you for the many laughs and lessons learned in your classroom and during our one-on-ones. Thank you for holding me accountable for finishing this during the multiple times I wanted to quit by making sure I knew the value of what I was writing. Next I have to thank Catherine Morse, M.L.I.S. for being the amazing library helper goddess you are and saving my thesis. Next, thank you to the mighty Meredith Khan M.A./M.S.I., who not only carried me through this process but my other cohort mates as well. Seriously, we do not give our librarians enough credit.

Although this next thank you is out of the scope of my thesis, that does not make it any less necessary. Luciana Nemtanu Ph.D, Associate Director for UROP, thank you for being one of the first and only people at Michigan to see me as more than a student and reminding me that it is ok to prioritize myself before my work. Over these past two years we have cried, laughed and all the while you showed me that you cared and continue to hold me accountable to this lesson and without your support and accountability, I would not be standing here today finishing my thesis. Next I have to thank my fellow thesis writers in my cohort for their encouragement and constant reminders that I am not the only one struggling and feeling the pain of the process. What can I say, misery loves company! The next thank you is for Professor Leela Fernandes, Ph.D for being my second reader. I cannot tell you how much it means to me to have your expertise applied to my thesis, I know that it will be better for it. Thank you to my thesis advisor Professor Karin Martin, Ph.D. Thank you for stepping up this year to support me. As I heard about other students and their advisors, it became abundantly clear that I could not have asked for a better advisor/advisee relationship. That brings me to my next thank you to LSA IT services for doing a majority of the heavy lifting when it came to coding all of the letters for the database. I am humbly grateful for the privilege that afforded me as an undergraduate student. Next, thank you to Matt and Scholar Space for teaching me Airtable and remaining patient with me while I stumbled around and my copy editor classmate and friend Elise Godfryd for making sure my thesis is readable. I know there are more thanks to go around and I could not name everyone here for the sake of room and practicality, but you are included in this section and on my mind. Thank you to my village.

## I. Introduction

### A. Institutional Harm

In the wake of #MeToo and #Timesup the prevalence and severity of sexual violence has permeated our national consciousness. Experts from the Center for Disease Control as well as the National Center for Biotechnology Institute assert that “sexual violence is as prevalent as and more costly than these other major public health issues such as cancer, diabetes, cardiovascular disease and HIV” (Waechter, R., & Ma, V. (2015)). Experts are not the only ones commenting on the prevalence of sexual violence. Activists such as Annie E. Clark and Andera Pino have asserted that we are seeing levels reaching proportions akin to a contemporary epidemic of sexual violence. Even though the origin of the phrase “Me Too” dates back to 2006 from the activist Tarana Burke, the #MeToo movement became viral in 2017 when Alyssa Milano used it to come forward against Hollywood producer Harvey Weinstein. We see this playing out because our broader society is set up to take certain claims more seriously. Whose claims get taken most seriously fall within social categories such as race, ethnicity, socio-economic status, gender etc. In the case of MeToo, the institution of the media remained to the claims of Taran Burke but when the same claims were made by Alyssa Milano they were national headlines. This is an example of how institutions as a product of society also privilege some at the expense of others resulting in the institution’s perpetuating harm.

Sexual violence on college campuses is also making headlines through the documentary *The Hunting Ground*. In *The Hunting Ground*, survivors of campus-based violence share their stories of starting a movement of students coming forward across college campuses, culminating in students demanding more action from their colleges. College staff and parents were equally

outraged at the perceived lack of institutional follow-through. We can see this movement culminating in the case of Larry Nassar, then later with Christine Blasey Ford coming forward with her story of Supreme Court nominee Justice Brett Kavanaugh, questioning the integrity of our court system. Clearly, there is a pattern among institutions of instances of sexual violence but also of institutional harm.

I use the term institutional harm in order to broaden the scope of the potential harm that students face as members of educational institutions. The term is defined by the choices of action or inaction that an educational institution makes that then has harmful consequences for the members of the institution. While institutional harm does encompass sexual misconduct, harassment, violence and discrimination, it is also not reducible to these terms or instances. When using language that refers to specific instances such as violence, misconduct etc., the focus is then on the interpersonal violence between perpetrator and victim. Through employing the term institutional harm, the thesis seeks to broaden the scope of examining the problem beyond the interpersonal to the level of institutional policies and practices.

While much was unfolding on the national stage in 2017-18, I was paying attention to a part of this issue that had not made headlines yet. As a research assistant for Elizabeth A. Armstrong for her Title IX project in the Sociology Department at the University of Michigan, I read through the sexual misconduct policies and annual security reports of randomly selected colleges and universities across the United States. The sexual misconduct policies and annual security reports were documents that the colleges compiled and published every year for the college community. These documents also have to be publicly accessible once they are published

to the community. Some common elements of these documents are safety and crime statistics as well as efforts made by the institution to prevent crimes such as sexual violence.

It was during my experience of reading through these documents that I saw a broad spectrum of institutional responses through these policies. Some institutions had very comprehensive policies: after reading, I felt that if I were a student at these universities and was assaulted, I would have access to the same information about resources and options that I have as a student at a particular college. In contrast, there were some documents that had so little information that they made me wonder how I would be treated if I were a student that was assaulted on that particular campus. Then there were policies in which the language made it abundantly clear that, if I were a student, I would not be protected and perhaps even punished if I was assaulted as a student at the institution. I found this broad range of responses, especially the latter, surprising, since there was clear legal and administrative guidance through regulations on what college's had to include in these documents. This caught my attention because it seemed to be a direct contradiction of the promise of Title IX. Title IX is a federal mandate that promises equal access to education and prohibits exclusion of any education program based on sex from any federally funded program (Buek, A.; Orleans, J. H. 1973). How were college's getting away with not providing resources for these students? Furthermore, how were they getting away with discrimination and negative practices such as expulsion?

I then began to look at these policies that I perceived as violations of Title IX more closely. One of the first patterns I noticed was that all of these college's were not only private but also claimed some sort of religious status. It appeared to me that it was this religious status that served as the impetus that allowed them to discriminate and retaliate against students. For

example, most of these colleges cited the fact that when a student agrees to attend their college, they sign an agreement to be held to the standard of what is typically called an honor code by these colleges. While these honor codes may look good on paper by holding the student to a life of abstinence while enrolled, it also functions as a means to hold students responsible for their assault. The institutions view these policies as a method for preventing instances of sexual violence. At face value there is nothing wrong with colleges prescribing honor codes: the issue is when colleges fail to protect students from this policy. An example of such a policy would be the University of Michigan's amnesty policy when it comes to underage drinking in instances of sexual violence. Because sexual violence cases are known to co-occur with underage drinking University of Michigan and other schools have developed an amnesty policy that protects an underage student who may have been drinking from being charged with illegal alcohol possession. The philosophy behind these protections is the fear that comes from students reporting an incident of sexual violence in which alcohol was illegally consumed bars students from reporting and seeking resources they very much need. A student's failure to abide by the honor code risks the student's good standing with the church, which is necessary for the student to maintain enrollment. Currently these honor codes have no amnesty language or if they do the clergy is allowed to overlook it. Colleges' failure to provide protections for students from the potential harmful consequences of their policies only exacerbates opportunities for institutional harm.

An example of institutional harm in this case is that the colleges fail to differentiate rape or assault from sex. From the college's perspective, a student who has been assaulted or raped has still engaged in sex outside of marriage, in doing so violating the honor code. A direct example



of such a policy would be the honor code that Brigham Young University requires all of their students to sign and abide by when they enroll in the university. According to an article in the Salt Lake Tribune, “the college’s honor code prohibits premarital sex, sets certain rules for how and when dating occurs, contains a dress code and bans the consumption of drugs, alcohol, coffee and tea” (Tanner 2019). The colleges view these honor codes as contracts. The language in this policy can act as a barrier for students to come forward as victims of sexual violence, causing the students to be afraid of finding themselves in violation of college policy and vulnerable to being punished for their assault. News media sources that have investigated this issue have found student fears to be well-founded. These articles often cite colleges as not holding the accused responsible for their actions such as in the Kavanaugh case, covering up institutional acts of violence such as Larry Nassar, and finally retaliating against the victims for coming forward through institutional measures. This last point in particular caught my attention because it seemed to be a direct contradiction of the promise of Title IX.

Title IX is a federal mandate that promises equal access to education and prohibits exclusion based on sex by any federally funded program (Kadzielski 1977). An example of a federally funded program that makes colleges liable under Title IX is the Pell Grant administered through the Department of Education under the Federal Financial Aid Program. As long as colleges such as Brigham Young University (BYU) and others admit students that utilize the Pell Grant and federally backed loans, they are held to Title IX standards. So, how were colleges getting away with not providing resources for these students, but how were they also getting away with not protecting these students from discrimination?

The most recent guidance that has been passed was the “Dear Colleague” Letter. In 2011 the Department of Education published a letter to all colleges and universities claiming that institutions of higher education were not doing their job when it came to preventing and addressing sexual violence. This document was titled the Dear Colleague Letter and was an effort by the Department of Education to increase colleges’ responsibility for not living up to the promises of Title IX in handling sexual violence on their campuses. This statement issued by the Department of Education had wide sweeping effects on how colleges adjudicate and process sexual violence cases (Ellman-Golan E 2010). For example, through publishing the Dear Colleague Letter, the Department of Education mandated that colleges and colleges must author a notice of non-discrimination in their sexual misconduct policy.

This statement functions as a promise by the college that it does not discriminate based on sex. A second example of a recommendation that was made is that all colleges must adopt and publish grievance procedures providing for the prompt and equitable resolution of sexual discrimination complaints (DCL 2011). Three years after the publication of the Dear Colleague Letter, the Office for Civil Rights published a Question and Answer document in which it further stipulated issues of institutional response to these cases.

So if there is a set of explicit instructions that outlines what colleges must do to ensure that student rights and responsibilities are protected, then why is there such a continuum of college responses that causes so many students to fall through the cracks? (Brown et al. 2018). Are there exceptions to the standard instructions? If colleges are going to fail to meet the standard, then should there be a standard in the first place? To begin to answer these questions, a more in-depth understanding of Title IX through an examination of its history and context is

necessary. Upon reviewing the history of Title IX is to create a point of action for institutions that want to better serve all students. Regardless of the intentions of college's policy responses to Title IX as already outlined above not all individuals experience these policies equally. For example a policy that benefits one group often comes at the expense of harm of another group. This phenomenon of college policies and practices as mechanisms that actively challenge and reproduce harm is what I term institutional harm and what this thesis seeks to explore within the context of religion.

## B. History of Title IX

Although Title IX as a part of the Educational Amendment of 1972 was signed into law by President Nixon on June 23rd, 1972, because it was a last minute amendment attached to the larger education bill in which the main political controversy was over anti-segregation busing, it was passed in Congress with little to no debate. Mirroring the response of Congress, there was little to no mention of Title IX by national news coverage, making the national conversation on Title IX relatively new compared to its passage. After the anti-busing controversy had been noted, the New York Times provided the most detailed coverage of the other non-bussing specifics of the bill, reporting it as a "landmark piece of legislation," that would "have a major impact on colleges and universities," but even in its detailed coverage of the legislation the NYT made no mention of Title IX (Robinson, J. C., Walters 2008). The legislation was backed by two main bureaucratic players: Bernice Sandler and Edith Green (Robinson, J. C., Walters 2008). The success of the passing of Title IX has been attributed to the fact that "it offered a moderate incrementalist policy solution to the problem of discrimination against women in education"

(Robinson, J. C., Walters 2008). Prior to 1972, women were systematically denied access to higher education as well as vocational training programs that would increase their pay (Lyke et al. 1985). Though they were encouraged to become homemakers and teachers, they were actively discouraged from pursuing more high-earning careers such as those in math and science.

Since the passing of Title IX in 1972, women have begun to make up the majority of students in America's universities in addition to making up the majority of recipients of masters degrees (Valentin, Iram. 1997). The mission of proponents of Title IX was to grant women admissions into higher education programs as well as access to spaces that had historically been dominated by men. According to data from 1977, there was a 9.9% increase in women earning biology and math degrees and a 11.4% increase in fields such as architecture, computer and information science, and business management (Brown George H. 1979). These numbers are based on average percentages from 1971, the year before Title IX was passed. Based on these statistics it would appear that Title IX has been a sweeping success and accomplished exactly what it set out to do. Since the inception of Title IX, it has expanded to include more than gaining women and other minorities the right to an education or access to a job, expanding to include protections once they enter these spaces.

Over the past fifty years, Title IX has gone through a few key expansions that have made it the "monster legislation" it is today. The most key expansion of Title IX for this thesis was the expansion to address bullying in higher education. This was accomplished through the application of Title IX to cover student-on-student harassment and bullying, triggering a Title IX liability when it "creates a hostile environment when the conduct is sufficiently severe,

pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a college" (Margaret E. Juliano 2013). This new application of Title IX became a challenge for institutions of higher education that received federal assistance. Effectively, the institutions were handed a new expanded standard of compliance with no rule book on how to implement it.

Not long after its passing we see the first important question about Title IX being asked: who does Title IX protect? Does it protect colleges and universities or does it protect individuals? On May 17, 1982, the court case *Cannon v University of Chicago*, answered this question by ruling that individuals, not just the federal government or colleges, have the right to bring sex discrimination lawsuits against colleges and colleges covered by Title IX (Lyke et al. 1985). This was the first expansion of Title IX. The second was the court ruling of *North Haven Board of Education v Bell*, in this case the court ruled that Title IX applies to University employees as well as students (Lyke et al. 1985). Because these rulings were seen to widen the scope of Title IX, they triggered a response by those opposed to gender equity. During the Reagan Administration we see this in an effort to narrow the scope of Title IX.

In *Grove City College v Bell* (1984), the court ruled that Title IX only applies to certain programs or activities within the institution, rather than the institution as a whole (Lyke, et al. 1985). This narrow interpretation of "program or activity" would effectively allow colleges to discriminate in programs that they did not receive federal funds for while still remaining eligible for federal funds. When Title IX was passed as a part of the Education Amendment Acts of 1972, religious and private exemptions were written into the amendment. The exception gave

power to privately funded and religious institutions to discriminate based on sex in their admissions processes ("1972 Education Act: \$21-Billion in Aid, Busing Curbs"). Therefore, privately funded and religious colleges are not held accountable to the same levels of compliance. I am arguing that stories about BYU and other similar institutions that have claimed religion as a means to be exempt from fully complying with Title IX have demonstrated that, as long as religious colleges continue to receive any kind of federal funds, they should be held to the same levels of compliance that public and other secular institutions are under Title IX. Allowing religious colleges to be exempt is not only a violation of Title IX, leading to gross mishandlings of sexual violence cases, but it also forces us to question the reality of separation of church and state (Jay, Samuel T. 2017). This demonstrates that each time Title IX has been expanded to cover a new facet of discrimination, the amount of institutional exemptions increases. The goal of this thesis is to understand how evolutions of Title IX and corresponding exemptions to Title IX perpetuate institutional harm.

### C. Setting the Context

To begin to understand the complexities of what an educational institution claiming a religious status must consider when determining their response to addressing sexual misconduct on their campus, it is necessary to look at the institutions themselves. When the Obama administration made Title IX expand its protections to the Lesbian Gay Bisexual Transgender (LGBT) community to make colleges more inclusive, many religious leaders vocalized their concerns. Some saw the effort as a way to ensure LGBT students were protected, others saw it as

a violation of their religious freedom. For example, one leader spoke out about the measure, saying, “in many ways it’s an existential threat to religious colleges that want to live according to the principles of their faith in their community,” Quincy Masteller, general counsel of Thomas Aquinas College in Santa Paula told the Catholic News Agency (Thorayya S. G. & Latrelle J).

At first glance, it is hard to disagree with religious leaders in these positions since religious freedom is a right that we as a country hold fundamental, it is in the First Amendment of our Constitution, the reason why we are told that our country exists, so certainly a little religious freedom does not hurt anyone. Growing up in this country we are told that the freedom to practice religion privately was the message of the gospel in the eyes of our founding fathers. But what happens when that private decision is extended into the public sphere? One argument that commonly gets voiced is, “I am opposed to exemptions to Title IX regulations or to the rules of any other federal aid programs. I do not want my tax dollars going to institutions who are allowed to discriminate. Religious colleges can very easily ‘live according to the principles of their faith in their community’ by simply not accepting federal money” (Shellnutt, K. 2020). Does this argument have merit? Is it appropriate for our public tax dollars to go to these private institutions that want to engage in practices and beliefs that many view as discriminatory?

Unfortunately, those that view themselves outside of these institutions are not the only ones demanding more when it comes to a religious college's response to sexual misconduct on their campus. Consider an article that was published in Worcester Magazine. In January of 2019, this article detailed a case at Holy Cross, a private Catholic university, where three students came forward with their stories of being assaulted by a dean. The article released by the magazine goes

so far to assert that by the time President Burroughs received the letter, Christie the accused had already been dismissed from the college on the basis of allegations from another college (Connell 2019). Consequently, the lack of transparency and promptness of the investigation were not only felt by the complainants but the larger student and campus body as well. An article released a month later by Worcester Magazine details that on Monday, February 4th of the same year, a student demonstration in the form of a sit-in outside of President Burroughs office was being planned (Jr. Bird, 2019.). The article estimates that about 250 students and faculty were expected to take part, and by 10 a.m. there were more than 100 students in attendance. The demonstration was a demand from the larger student and campus body for increased transparency and urgency at what they were perceiving as a lack of institutional follow-through on Title IX accusations on their campus (Jr. Walter Bird, 2019).

With attending college being the unique social experiment that it is, a possible consequence of attending a religious college is that some people become more vulnerable to having certain experiences that they may otherwise not have. For example, a student quoted in the Worcester article expresses this idea:

I think it happens on a lot of college campuses. Nothing's ever happened to me. I feel safe here, but it affects me that other students don't feel safe here. My biggest issue," she said, "is the lack of transparency, that we were blindsided by this issue. I think more warning, more information disseminated to the faculty and student body would be appropriate by all" (Jr. Walter Bird 2019).

Taking this idea of institutional failure a little further, there is an example that may be slightly more well known due to the coverage that it has gotten. Brigham Young University has found itself in the headlines recently not only for mishandling investigations of misconduct but



for going so far as to punish and dismiss students from the University that were coming forward with their stories. For example, a recent CNN article gives voice to several students who were expelled from Brigham Young University and other similar institutions after their sexual assaults. The students say that their assaults put them in violation of what their college's honor code deemed acceptable behavior (Carbera 2016). One of these colleges, Brigham Young University, identifies their honor code as "a code of conduct and moral compass that prohibits students from engaging in on- and off-campus activities such as drug and alcohol use, premarital sex and even going into the bedroom of someone of the opposite gender." Upon enrollment, students agree to "live a chaste and virtuous life" demonstrating the values "encompassed in the gospel of Jesus Christ (Carbera 2016).'" A lack of resources and interventions functions to further barr students from accessing the services and education that they are entitled to through Title IX. Since the release of the story, more and more students and staff have come forward claiming that they too were dismissed from the university or punished in some other way for reporting their assaults.

As more and more stories are coming out locally and nationally, more and more colleges are looking to outside counsel when it comes to their specific institutional policies. One such example is a comment made by a member of the consulting group that BYU turned to regarding the specific question of whether the amnesty exemption that is built into the Title IX investigation process will apply to the honor codes of these institutions. One member of the outside firm that was consulted in BYU's case shares their thoughts on the honor code and the colleges's lack of applying the promise of amnesty: "It sounds to me like the system has a built-in loophole that would facilitate retaliation," said Steven Healy, co-founder of the campus

safety consulting firm Margolis Healy, which often advises colleges on sex assault response” (Alberty 2018). When asked to comment by the Chronicle of Higher Education, vice president for student life at BYU in Provo and chair of the council expressed, "There's a pretty clear division between the ecclesiastical side of things and the university side of things," she said. “Therefore as long as bishops continue to have the authority to unilaterally suspend BYU students' ", said Colleen Payne Dietz, “the immunity policy is “completely irrelevant” (Brown 2018). Further, because there can be variation of outcomes based on Bishop stances and biases, it has become enormously clear that as long as Bishops and church clergy have any oversight in determining student status at the University in light of a report of sexual misconduct, they must go through appropriate training. Why has this not occurred yet?

When pointing out the institutional gaps in these institutions, it is important to remember that there are measures that these institutions are taking. For example,

most evangelical schools already have policies that address the biggest risk factors: dry campuses, single-sex dormitories, codes of conduct barring sex before marriage. But recent studies suggest that the most significant disparities between Christian and public or private institutions correspond to the biblical convictions at the core of the community, from shared morality to their approach to gender roles. Faith indeed influences the rates of sexual violence on campus--mostly for better, but sometimes for worse, researchers say (Elliot 2018).

Although administrations across all institution types claim that addressing a complex systemic issue such as sexual violence is challenging, administrations of religious colleges claim a different challenge. Administration, faculty and staff of religious colleges are challenged to implement programs and incite conversations that are antithetical to the culture or moral communities of their institutions. One example of this collision of cultures is the culture of what some religious leaders have termed Consent Culture vs. Purity Culture (Elliot 2018). This is

challenging for religious colleges because the former is what has been backed by previous presidential administrations and seen as the standard for institutional approaches to best practice. Effectively this creates a dichotomy for religious colleges. Do they value the message of consent with autonomy and individual voice or the teachings of Purity Culture, which frames women as gatekeepers of their virginity?

Leaders of these institutions claim the challenges of adopting a culture of consent are not teaching female students that they are allowed to say no to sexual activity, something that Purity Culture does not teach, but what they term the “minimalist sexual ethic which assumes that anything one can consent to is morally acceptable” (Elliot 2018). Despite the increased vocalization of religious leaders that their campus cultures are different and superior to those of secular institutions, there is a point where Purity Culture and Consent Culture overlap. This overlap can best be defined by using the term Rape Culture. While there is no universally agreed upon definition of the term Rape Culture, there are certain definable characteristics that are broad enough to occur across all institutional types.

Teaching women how to avoid being assaulted, rather than focusing on perpetrators; policing the way women dress; women who report assaults not being believed; a student receiving over 40 unwanted emails a day from a guy who sits behind her in one of her classes; a student hiding out in her dorm room and skipping classes for nearly two weeks to avoid an ex-boyfriend who won't take no for an answer when she breaks up with him (Postma 2017).

Because these experiences are definitional of all college campuses, secular and religious, they should all be held to the same standard in addressing the issue of sexual misconduct on their campuses. Unfortunately, similar to the lack of consensus around the definition of rape culture there is also a lack on consensus on what exactly it means to hold institutions accountable.

However, sociologists have been studying institutions for some time and what they know about

how institutions work can help us understand this case. Next I review the literature to explain why and how institutions determine how they will respond. I then examine the colleges' responses to Title IX within the larger changing legal environment surrounding Title IX, and finally I apply that changing legal environment to religious colleges specifically. Throughout this analysis I utilize critical feminist framing in order to critique the responses of the institutions as perpetrators of harm that are separate from the interpersonal harm caused by sexual violence.

## II. Literature Review

The question of how institutions such as colleges and universities know that they are complying with Title IX is vague and forces higher education institutions to question intervention methods and answer with implementation of the intervention method. Part of this vagueness dates back to when Title IX was passed in 1972. Enforcement of Title IX was left to the Executive Agency, resulting in very little action on Title IX between its passage in 1972 and the proposed regulations in 1974 (Lyke, B., & Holland R 1985). Once the proposed regulations were released to the public it became clear that there was going to be virtually no element of higher education that would be untouched by the regulations. The numerous areas covered by the regulations include:

academic research, extracurricular and other offerings, housing, facilities, access to programs, financial aid assistance, health and insurance benefits, physical education and instruction, athletics, and discrimination based on the marital or parental status of students. With other sections addressing the issue of single-sex schools and prohibiting discriminatory employment practices in federally funded education programs (Lyke, B., & Holland R 1985).

In stark comparison to the regulations of Title IX, there are currently only a few categories of exemptions that institutions can claim to get out of complying with regulations of Title IX. The exemptions include admissions to private colleges and universities, federal military academics and religiously-controlled schools (Lyke, B., & Holland R 1985). Over the last forty years, since the regulations and exemptions to those regulations were passed in Congress, numerous colleges have requested exemptions to Title IX regulations. In order to be granted an exemption from Title IX a college must write a letter of request to the Office for Civil Rights (OCR). In this letter the institutions must express that, “1) it is ‘controlled by a religious organization,’ and 2) application of Title IX ‘would not be consistent with the religious tenets’ of that organization” (Augustine-Adams 2016). OCR is the office that oversees the enforcement of Title IX and since 1975 when the regulations were passed 285 institutions have requested exemptions and the OCR has granted 285 exemptions. In other words, there has yet to be a single institution that has requested an religious exemption to Title IX to be denied. Put perhaps more starkly, the score is religiously controlled colleges and universities 285 and OCR 0 (Augustine-Adams 2016).

#### A. Colleges as institutions

Scholarship that examines how institutions determine intervention and implementation of policy explains that when the law is unclear, such as Title IX, institutions look to other institutions to define what compliance means. Organization theory is a socio-legal approach to studying bureaucratic institutions. The scholarship that currently exists in this field has been in

institutions of the workplace because, like many legal and corporate firms, institutions of higher education also tend to be bureaucratic. The theory can be applied to institutions of higher education.

According to organizational theory, the universities themselves will define what compliance means to Title IX and the enforced regulations. Through this literature, Edelman (2016) “develops the theory of legal endogeneity, or the idea that the meaning of ambiguous laws, such as those governing sexual harassment in higher education, is structured by professionals’ interpretations of those laws in a particular organizational context” (Gillian Gualtieri). Current research argues that the continued legislation of campus sexual violence forces colleges to deal with sexual misconduct distinct from civil society. The consequence of this separation is the organization’s tendency to distort the experiences of sexual violence victims on campus while providing documentation of their compliance to federally-mandated responsibilities (Weis 2015). This particular concept is referred to as “institutional isomorphism.” (DiMaggio & Powell 1983) “Those organizations that are most visible to the law, including larger, public, more prestigious organizations, are most likely to “symbolize compliance” with the law by embedding indicators of what they *interpret* to represent legal compliance in formal policies” (Gillian Gualtieri 2020).

In accordance with isomorphism theory, there has been critique of the institutionalization of responses to sexual violence, arguing that the bureaucratic nature of these institutions privileges few and marginalizes many. For example, in her book *An Abusive State*, Bumiller problematizes the reliance of the second wave feminist movement to institutionalize sexual violence prevention

programs by arguing that such an approach comes at the expense of those who are the most marginalized (2008). Prior to the Battered Womens movement of the 1970's Rape Crisis shelters Through interviews and ethnography Bumiller observes that white, cisgender, relatively well off women were the ones best served by these shelters while lower income predominately women were turned down by these shelters completely or their needs were not as adequately addressed. Conversely, Bumiller used focus groups to find that when rape shelters were run by and located by local communities these women were served better. Bumiller attributed this discrepancy to the bureaucracy that these institutions relied on to function. Using this framework, one can reasonably assume that the religious colleges probably not only show trends in religious exemptions from social policies, but also that their exemptions will benefit those who more closely align themselves with the religious bureaucracy of the colleges at the expense of those who do not.

Colleges accomplish this through formal structures that support and intensify what scholars Mindy Stompler and Patricia Yancy Martin call "an already high-pressure heterosexual peer group" (Elizabeth A. Armstrong et. al 2006). While gender socialization occurs within these institutions on multiple levels, the institutional level is especially powerful but often overlooked. Policies from who the survivor is expected to report to and resource allocation to who is entitled to what accommodations are what are often most thought of as socialization tools of a community. While the goal of any policy is to be as neutral as possible, this is virtually impossible because humans make policies and humans bring their ideologies to the table, which inevitably inform our policies, consciously or not. That is why ideology within a particular

community is as overlooked as it often is, especially within those that claim religious communities must be taken seriously and critically examined as methods of socialization. An example of this is through the acceptance of rape myths. Acceptance of rape myths is attributed back to the ideology of vulnerability, which shows up in institutional policies through risk reduction measures. Ideology and policy work together to reproduce gender inequality and perpetuate institutional harm.

Another example of how certain groups are privileged within institutions is that some groups are more vulnerable to being victimized than others. Research has shown that prior victims, first-year college students and more sexually active women are more vulnerable to sexual assault (Elizabeth A. Armstrong et al. 2006). By examining the history of religious exemptions within Title IX, this theory is supported. In 1975 BYU was the first institution to claim a religious exemption and be granted the exemption (Augustine-Adams 2016). The BYU president Oakes wrote to the secretary of the Health Education and Wellness Agency (HEW),

Rather than requesting an exemption and thereby implicitly recognizing the administrative agency's authority to decide religious exemption claims under Title IX, President Oakes boldly asserted BYU's exempt status as inherent and already existent. He notified HEW of BYU's exemption, rather than either claiming or requesting an Exemption. (Augustine-Adams 2016)

In other words, President Oake's assertion of BYU being granted a religious exemption was a demand by Oakes that BYU's qualification was inherent in it simply existing as an institution controlled by the religious organization of the Church of Latter Day Saints. He claimed,

Even though BYU resisted the administrative state, it would submit itself to the judicial process, were it to arise, and "comply with any regulation ultimately sustained as lawful by the courts of the United States" as part of the law-abiding religious community its scripture and doctrine encouraged. In the absence of a judicial ruling on the validity of the regulations, however, the University would follow its own interpretation, an interpretation that represented the University's "best judgment on the meaning of the



constitution [sic] and laws that govern us” and allowed the University to declare its exemption. (Augustine-Adams 2016)

These quotes offer an illustration of institutional isomorphism of institutional trends to define compliance for themselves while at the same time asserting that they have broad discretionary power to do so until they are challenged by the court.

The increased trend of institutions to internally resolve disputes not only extends the reach of the law but may also undermine legal rights by deemphasizing and depoliticizing workplace discrimination. The consequence of the phenomena of workplace institutions internally resolving disputes is further demonstrated by previous research that has found wide variability in the content of the policies and services across institutional types (Richards 2017).

Therefore, there is reason to believe that the ideology of religion has a significant impact on defining our educational system (Lippy & Williams 2010), including acting as a barrier to Clery Act compliance (McNeal 2006). A college's religious affiliation has been shown to have a correlation with institutional response and student activity as well. For examples, many of these institutions have voiced that, due to the moral expectations that are put on students that attend these institutions, sexual violence may not be prevalent on their campus. In 1977, the HEW released the “Assurance of Compliance ” document, form 639-A (Augustine-Adams 2016). The instructions to HEW 639-A explained that:

OCR would consider an educational institution to be: “controlled by a religious organization” for purposes of a religious exemption to Title IX where: (1) It is a school or department of divinity; or (2) It requires its faculty, students or employees to be members of, or otherwise espouse a personal belief in, the religion of the organization by which it claims to be controlled; or (3) Its charter and catalog, or other official publication, contains explicit statement that it is controlled by a religious organization or an organ thereof or is committed to the doctrines of a particular religion, and the members of its governing body are appointed by the controlling religious organization or an organ thereof, and it receives a significant amount of financial support from the controlling religious organization or an organ thereof (Augustine-Adams, 2016).

Although, through the form 639-A, the OCR would define what it meant for an institution to be religiously controlled, this would never be formalized as a regulation and institutions would not be made aware of this. This test of religious control would remain a private, internal agency policy, it was not published to the public until October 2015 when it was released on their website (Augustine-Adams 2016).

Following the demand of the control of colleges to define exemptions and compliance for themselves, another issue with religious exemptions occurred as a result of a special project by the OCR. By 1985 there existed such a backlog of institutional exemptions that the OCR launched a special project in an attempt to alleviate the backlog. When the OCR launched the project the requests were outsourced to ten regional OCR offices. After receiving these requests, the OCR offices were empowered to exercise broad discretion in evaluating institutional claims to exemption (Augustine-Adams 2016). In other words, OCR's role, and the extent of its authority, were simply to check regulatory section numbers. Any questions that OCR staffers had about a religious exemption claim "should be directed at clarifying the applicability of regulation sections," not questioning religious beliefs, not interpreting religious tenets, not asking about programs beyond the scope of the exemption request itself, because doing so "could create potential conflicts under the First Amendment" (Augustine-Adams 2016). Concerns that arise in challenging the constitutionality of the religious exemptions themselves as a possible challenge to the First Amendment are valid. But what should raise more concern is the history of highly deferential discretion and lack of transparency of OCR to evaluate Title IX exemptions of institutions. As long as religion remains a protected status this essentially gives full control to the viewer to determine if an institution qualifies for an exemption. This should demonstrate the

need for a constitutional review of the religious exemptions themselves, especially when it comes to a generally applicable non-discrimination law such as Title IX.

### B. Role of the Courts and Judicial Interpretation

The concern for the need to constitutionally challenge the religious exemptions themselves is bigger than just Title IX applying to other civil rights acts, such as Title VII. This is about the “million dollar” question of how, in a diverse society, we are supposed to balance religious liberties while simultaneously protecting civil rights. Asking this question is as far as any attempt at progress has gone, whether the attempt is made by an individual or an organization arguing for greater civil rights enforcement or greater religious freedom. It is about Title VII and the cake case where a baker refused to make a wedding cake for a gay couple because doing so would force the baker to support same sex marriage. Analogous to the claims of religious institutions in complying with certain measures of Title IX, the baker in the case claimed that complying with Title VII was a violation of the baker’s religious freedom. Historically, the courts are the institutions that have been tasked with answering this question.

Leaving the ultimate determination of whether something is constitutional to the court is what some may say, “is always how it has been”; there is some truth to this statement. The first time that the confirming power of the courts was exercised dates back to the *Marbury v Madison* case in 1803. Contrary to the longstanding tradition of the courts exercising final interpretation of laws, the deployment of the First Amendment as a defense against increased civil rights enforcement is relatively new. We see the first wave of First Amendment arguments to counter

non-discrimination statutes in the mid-twentieth century with the Grove City Bill (Sparks A John). Prior to this ruling, the court stuck with what has been dubbed the “no-aid” approach:

In the mid-twentieth century, the US Supreme Court, when it began adjudicating a large number of religious cases, enunciated a “no aid” principle. Based on a strong principle of church-state separation, funding of religiously affiliated educational institutions in particular was considered beyond the scope of what the Constitution permits (Davis D. 2016).

The strong principle of church-state separation is also not a new one, frequently used to describe the relationship between law and religion. The separation of church and state is an ideal that is ingrained deeply into the American psyche, drawing its source from the founding fathers and the Constitution. Therefore, the court has tended to extensively rely on Thomas Jefferson. Thomas Jefferson was the third president and an author of the Declaration of Independence (Davis D. 2016). When President Jefferson first used the phrase, “wall of separation between church and state” it was a shorthand explanation of the meaning he assigned to the religious clauses (Davis D. 2016). In these five words Jefferson draws a clear boundary between the religious and the secular, between moral matters and legal matters. If the court ruling for the separation of church and state is fundamental to controlling the American social order, what happens when the boundary is blurred as it is in religious education?

Although critics of the country’s separation of church and state may argue that, while the separation of church and state was an ideal set by the founding fathers, it is not a reality. Their argument is that the separation of church and state is merely symbolic. While this may be true on some level, on another level it is an oversimplification of the truth of the founding fathers’ intent with the freedom of religion and the separation of church and state in this country. The founding fathers’ goal in separating church and state was not that our society should not be one governed

by morality and religious ideals, but that they were against the institutionalization of those ideals into our state: "The Establishment Clause was the founders' attempt to end the government's coercive role in directing the religious course of citizens' lives; the Free Exercise Clause reflected their goal of putting religion in the hands of the citizens to enable them to shape their own religious commitments" (Davis D. 2016). There are few institutions in society in which this separation is more frequently and contentiously observed than when examining the lack of religious activity in public colleges. For example, "the US Supreme Court has never authorized government money for churches and other houses of worship to be used strictly for religious, "nonsecular" purposes, such as payment of clergy salaries or conducting worship services" (Davis D. 2016). Historically, if the Supreme Court has established a "no-aid" approach, how do religious institutions receive federal funding?

In the 1980s the court began to adopt a softer approach to the issue of aid to religious institutions. An increasingly conservative court held in the case of *Mueller v. Allen* (1983) that "the government sought to benefit educational institutions in a neutral, evenhanded way in which religious recipients were not favored over nonreligious recipients, then there was no advancement of religion that might violate the Establishment Clause" (Davis D. 2016). Thus the concept of "even handed neutrality" was born. The court then used the case of *Zobrest v. Catalina Hills* to develop this idea further by expanding it to include "private choice".

*Zobrest* was a deaf student that wanted to attend the Catholic High School. Public school officials then determined that a federal statute, the Individuals with Disabilities Education Act, which made various kinds of aid to disabled students available no matter what kind of school the student attended, authorized payment for an interpreter for *Zobrest* who would attend all classes with him. The aid was challenged as an unconstitutional advancement of religion, but the court eventually held that because *Zobrest* could choose any school to attend, public or private, the legislation was "even handed" and nondiscriminatory, thus the expense for the interpreter was permissible. The court also deemed it important that *Zobrest* made a "private choice" to attend a Catholic school;

therefore, the legislature was not deemed to be influencing his decision or favoring or advancing religion in any way (Davis D. 2016).

Although these cases were at the secondary school level, what they effectively did was create precedent for how religious institutions such as religious and private colleges and universities can receive federal aid and still maintain their religious practices that allow them to be exempt from generally applicable laws meant to aid against discrimination. We can see this through the court case *Grove City v Bell*. During the 1980s, there was a Supreme Court case in which the court ruled that there was no substantive difference between an institution directly receiving federal funds or indirectly receiving federal funds through financial federal aid making these institutions accountable under Title IX. Under the case, the court additionally ruled that the Title IX compliance only referred to the specific program or department receiving the federal aid (*Grove City v Bell*). This means that if a college decides to admit students that also receive financial aid then the office of financial aid and admissions would have to comply with Title IX regulations, but any extra-curricular clubs or societies do not have to comply. Rather than having the compliance be college wide, it is program-specific.

### C. Religious College and University Perspectives

In order to fully understand the motivations behind institutions seeking a religious exemption, it is necessary to take a closer look at the religious institutions themselves.

Throughout our country's history, religion has been seen as a private choice, one belonging to the individual, not society, but when institutions are given a religious identity and expect all members of the institution to exhibit or refrain from certain behaviors based on being members of the group, then religion becomes social.

The way to conceptualize the subculture that religion may create on these campuses is through the concept of moral communities. "It was against this background of individualistic, rationalist and psychological theories of religion that Durkheim's generic definition of religion was intellectually interesting and influential"(Turner Bryan S. 2010). According to his famous definition,

religion is not a belief in a high god or gods, but rather a unified system of beliefs and practices based upon a classification of social reality into sacred and profane things, and furthermore these beliefs and practices unite its adherents into a single moral community. Studying religion through this lens allows us to predict that a group's claiming of a religious identity might have a direct effect on the choices that an individual may make concerning certain behaviors (Turner Bryan S. 201).

By applying Durkheim's concept of a moral community the expectations of religious colleges come plausible. There is an expectation by people inside and outside of these institutions that religion would have an inverse effect on a member's choice to engage in sexual behavior due to being members of these groups by attending these colleges. Despite the theory research has found that this was only true for those that identified as more socially conservative Protestants (Burdette et al 2009). For example, Catholic college women are more likely to have "hooked up" while at college than college women with no religious affiliation (Burdette et al 2009). This last statistic is particularly significant because it goes against what these institutions claim sets them apart from other secular institutions. Members of their community are held to higher moral standards such as no sex outside of marriage, and a violation of this norm is usually met with a certain degree of public humiliation.

The institutions really do believe that they are acting in the best interests of the students, that religion is their way of preventing sexual violence on their campuses. These higher moral communities that these religious institutions claim to create are a big selling point for them; it is

what they use to attract prospective students and parents to their campuses. They promise that the community that they will find on campus will be superior, set apart from regular mass culture through community norms. This secular culture is,

a world full of nonreligious individuals who push for access to abortion, trans rights, gay rights, deviant sex, and marriages void of God (i.e., not appropriate marriages). As the evangelical church finds itself in flux, it is constructing its own identity in relation to a perceived outside identity: that of the nonreligious, secular outsider (Diedendorf).

Religious institutions work actively to create norms and expectations that directly counter the secular, including promotion of marriage to someone of the opposite sex, disavowing sex outside of marriage, restricting and discouraging alcohol and other drugs on campus, restricting and discouraging access to abortion, and even some go so far as to make clear their lack of support when it comes to current employees or students seeking a divorce. In other words, “religious context or religious ecology—which we measure as the denominational composition of geographic areas—shapes the daily experiences of people who share the same county or city, even people who are not members of the numerically dominant religious group” (Marshall and Olson D.V.A. 2018). In order to accomplish the overt social control that they want religious communities depend on the religious ecology of their particular community to influence and dictate, in varying degrees their worldviews into everyday mundane seemingly inconsequential tasks such as how one should dress, what music to listen to and what foods to eat.

It is by creating a whole community of norms that governs even the most basic of behaviors religious leaders are able to to reasonably expect the students who choose to attend these institutions will follow the honor codes. As this thesis has already discussed, at face value these honor codes can look like prevention measures simply meant to hold individuals accountable for enacting behaviors that make them more vulnerable to being victimized as well



as perpetrating assault. However, we have seen these honor codes have harmful consequences for the students and larger campus communities that go way beyond the initial assault.

It is critical to note that regardless of the moral high ground that religious institutions claim to create, current research has begun to make connections in which these moral communities of religion converge with the secular. An example of the evidence of the convergence that has begun to take place can be seen by examining the ideology of sexual violence and interventionist practices of sexual violence. For example, a feminist framing of the issue of sexual violence explores how issues such as ongoing trauma, suffocated grief as well as discursive binaries reinforce the tropes of masculinity/femininity and heterosexuality that are dominant narratives on both religious and secular campuses and currently not being addressed by institutions (Elizabeth A. Sharp). Ongoing trauma is what a survivor experiences when they have to relive their assault multiple times through recounting the details every time they have to report it to someone new. Suffocated grief follows ongoing trauma — it is what the survivor experiences when they cannot move past their trauma as a consequence of constantly reliving it due to multiple recountings of the experience or having to see and interact with the perpetrator after the incident. Both of these are common examples of things that survivors have to go through on their campuses. Discursive Binaries refers to the idea that language is not neutral, it is actively working to produce and break down social categories such as masculine and feminine. By setting up masculine and feminine as two separate categories a binary is made. A binary puts two categories at odds, there is no middle ground. Therefore the tropes of masculinity and

femininity and heterosexuality secular and religious college campuses. Perhaps the most prominent example to bring this all together is the ideology of vulnerability.

Vulnerability is defined as a counter to the active, powerful, strong and masculine. Therefore, vulnerability becomes passive, powerless, weak, and feminine (Gilson, Erinn Cunniff. 2016). When one examines religion, it becomes obvious where the ideology of vulnerability comes from. First, a belief in gender essentialism—that gender differences are a reflection of God's creation; and second, a belief in headship—that God's ordained characteristics for men and women include that men are the authority within the household, family life, and society. In light of these beliefs, evangelical women are understood to submit to men's authority (Diedendorf). It is this association with vulnerability that is most problematic for feminist scholars because it reinforces heteronormativity.

These gendered positions are defined by difference, and a difference that is central to heterosexual desire (Butler 1990). This dominant heterosexuality is also reinforced by college campuses everywhere, especially religious colleges. Another example has shown that individuals who identified as Roman Catholic or Protestant were more likely to accept rape myths than their atheist or agnostic counterparts. Men were also more likely to adhere to rape myths (Barnett, M. D., Sligar, K. B., & C., C. D). The early research that investigated this found that on virtually every measure, men exhibited higher levels of sexual prejudice than women. This was among the earliest ways the relationship between masculinity and heterosexuality was established (Diedendorf). Therefore, the religious institution's insistence to stick to tradition, based on upstanding moral standards and ethics, are the variables that have been correlated with a more

prejudiced environment against women. Put in other words, Britton (1990) discovered that support for the maintenance of sexsegregated institutions (support for institutionalized homosociality) is, among men, highly correlated with sexual prejudice (Diefendorf 6). Homosociality refers “specifically to the non-sexual attractions held by men or women for members of their own sex” (Lipman-Blumen 1976). The goal of this study was to explore how discourses around Title IX reflect a gendered campus environment that scholars were observing (Enke, K. A. E. 2018). Although religion has been studied as a factor of institutional compliance to policy, this study will be the first to take a critical look at Title IX and the religious exemptions themselves as both challenging and reproducing sexual inequalities perpetuating institutional harm.

### III. Methods

The main goal of this project is to understand religious exemptions to Title IX. This project has operationalized this goal through a textual analysis of the request letters written by each college. These documents will be matched, coded and plugged into a relational database that can then be utilized by scholars, activists and students.

#### A. List of Exemptions and Creation of Time Periods

The data used in this project are from an online pdf that was retrieved from Kif Augustine-Adams’s article Religious Exemptions to Title IX (Office for Civil Rights, US Department of Education). The pdf is a seven page long chart displaying all institutions that have filed for exemptions to Title IX since 1973 when it was passed up until 2016 (Appendix 1). The

table includes multiple variables for each institution such as the name of the institution and the state in which the institution operates. The table also has multiple variables of the exemption request such as the date that the institution applied for an exemption, the date that the Office of Civil Rights responded to the Exemption request as well as if the request was granted or if it is still pending. The data covers the whole history of Title IX up to 2016, which is the latest information available. The years of the requests range from 1977 to 2016 and, as of 2016, there were no pending requests, and all requests by institutions have been granted by the Department of Education. The three different options for the status of each request are denied, granted and pending.

I used Adobe Acrobat to convert this pdf document to an Excel Workbook in which visual representations such as graphs can be made in order to visually demonstrate the trend of exemptions over time since Title IX was implemented, such as the number of exemptions each year (Appendix 2). For example, one of the charts that I have made is a histogram that shows the years since Title IX has been passed and the number of exemption requests that were filed each year with the Department of Education. The chart spans from 1977-2015. To make the data analysis feasible in the scope of this study I have chosen to focus on three particular time periods. The specific time periods that the subsample was drawn from are: 1975-1977, 1988-1991, 2014-2016 (Appendix 2). I predict that for the time periods in which we can see an increase in the number of exemption requests from the institutions, we will also see a change in some aspect of change in Title IX, for example an expansion, a new law, or an adoption of new regulations.

## B. Legislative Archival Analysis

In order to understand the political and historical contexts in which Title IX was written, I analyzed the legislative records from the mid-1960s to 1975, allowing for an analysis that includes not only what led up to the creation and passage of Title IX but also what occurred directly after its implementation. In order to determine the rest of the key periods, I referred to the data to tell me which time periods were most important. For example, we can see that during the years of 1976 and 1977 that there was a significant increase in institutions requesting exemptions, for the next time period we see that during the year 1988 we see a sharp increase in institutional requests for exemptions and lastly we see another sharp increase beginning in 2014-2016. These three time periods are the time periods that I focused on to get my sample. I gained access to these legislative records through congressional databases and websites which are publicly available. I then turned to government documents that may lend themselves to understanding current issues within the context of past issues, such as past expansions to Title IX or increased enforcement. For example, I looked through congressional records and case law to examine the years in which Title IX was expanded to include student on student harassment or gender inclusive housing.

The data for this project was collected from the Department of Education Office of Civil Rights webpage. Since the most current version of the website does not have the pdfs linked on it. I collected the documents via the online web retrieval tool, the way back machine. I then used the Google mass downloader to download all of the files to my computer. For permanent storage of the pdf files I uploaded them to mbox. Mbox is a tool that is a tool that is exclusive to the U of M community; it is an online data storage space that allows users to store and share large

amounts of files and data and not have to use space on a computer. In addition to the letters of requests of each college and the response from the Department of Education, I also collected a list of all 280 institutions that have filed for exemption requests up until 2015. I converted this pdf document into an excel spreadsheet that I then used to randomly sort the institutions by date of exemption, because the goal of this project is to chart exemptions of institutions over time, I sorted the college from oldest exemptions to most recent. This excel document is the document that I then worked off of to select my random sample of thirty colleges (Appendix 3).

### C. Subsample of 30 Colleges

My data sample is broken up into two smaller sub-samples. The first sub-sample consists of exemptions from the years 1973-2009. The second sub sample consists of exemptions from the years 2009-2016. The first, larger sub-sample size is 599 pdfs, representing approximately 250 colleges and universities. The second, smaller sub-sample size is 131 files, representing approximately 81 colleges and universities. Among all of the colleges and colleges there is also a variety of denominations represented. After looking at the number of documents and coding that is represented in the full sample I decided that it would be better and more feasible to code a sub-sample of all of the colleges in depth, rather than code all 250 colleges and universities at the surface level. In order to pick my sample I broke the larger sample of 250 universities into three smaller groups based on the years that I have outlined above. I determined that it would be sufficient to code ten institutions from each of the three time periods, totaling thirty institutions that will make up my sample. The first time period that I have focused on was 1976-1977. In order to randomly select the ten institutions, I counted every fourth college as part of my sample.

I also did this same random selection method for the second time period of 1988-1992. For the time period of 2014-2015 I repeated the process a third time. The method of counting every fourth college was a random selection to ensure that the whole sample was randomly selected.

The demographics of the sample of thirty institutions (Appendix 3) are as follows; of all of the religious denominations, Christian is the most well represented with twenty six out of the thirty institutions claiming Christian denomination; this represents about 87% of the sample. Of these twenty six, just less than half self-identify as Christian. The other half of the twenty six goes a step further to identify which specific denomination under the Christian church they fall under. For example, six institutions identify as Baptist, one as Assemblies of God, one Methodist, one Lutheran, one Nazarene, one Prebysterian and two as Seventh Day Adventist. For the institutions that do not fall under the Christian church, the sample has two Jewish institutions, one Roman Catholic and one Marianist, or Church of Mary. Upon initial analysis it would appear that the Baptist colleges tend to be most represented in the South and the West. Other than that there does not appear to be any other geographical patterns among the denominations in the sample. The sample is well spread out among the different regions of the United States, with most regions represented at least once.

After uploading the pdf letters of each college to mbox and selecting my random sample of thirty colleges, I then selected another random smaller sample of five institutions in which I conducted a preliminary round of analysis on the letters. After this process I then determined that I was ready to start coding my sample of thirty colleges and universities. I began to read and document what I found in the letters from the colleges. This process entailed me reading each letter carefully and then recording my findings into the excel spreadsheet that I created for my

thirty college sample. Each college has its own row in the spreadsheet with basic demographic information as well as the language that was found in the letter when they asked for exemptions. Examples of language as well as thematic categories that arose as I closely read the documents, are the specific Title IX accommodations that the college is asking to be exempt from accommodating, the religious organization that the college is controlled by, why they are seeking the exemption, and how complying with Title IX in this case would violate the “religious tenets” of the college. After coding the first sub-sample of ten colleges, I noticed that rather than list out the specific regulation that the college was seeking an exemption from, they simply listed the numbers that correspond to the specific regulations within the Code of Federal Regulations (CFR).

#### D. Public Database

In addition to the thesis, the purpose of this project is to build a relational database that will allow people to search for the particular college, region or exemption that they are looking for (Appendix 5). The goal of this part of the project is to make the database so that it can be shared with scholars and activists as well as the general public. To build the database I used the software program Airtable. To begin this process I input all 250 colleges into the table within the program along with the names of the colleges, the date of exemption, the status of exemption, region of the United States that the college is in as well as the particular exemptions that the college was granted by the Office of Civil Rights. Because the letters often refer to the particular exemptions they are seeking through simply listing and referencing CFR numbers instead of listing out the exemptions, in order to obtain the CFR numbers from all 250 documents, a



computer script had to be programmed to run a character recognition tool. This tool was chosen because it offered a high-level of certainty. Additionally, because the documents were scans of documents and not actual pdf's, they were converted into actual pdf documents with Google Cloud's document recognition program. This was done by running all of the scanned images of the documents through the image to text optical character recognition program. The numbers that the script will then pull from these documents will be sorted and stored into an excel document that will be sorted by college name, and in each row there will be the relevant CFR numbers for that college listed. I will then have to refer back to the Code of Federal Regulations in order to cross-reference and determine which exemption the CFR number matches is referring to in the Code of Federal Regulations (Appendix 4).

For the first subset of the sample, the letters were collected before the Department of Education became its own regulatory agency. Therefore, I had to use an online database, Heinonline, provided by the University of Michigan Law library to look at pre-1980 versions of the code of federal regulations. For the other two samples in which the letters were written after the year 1980 when the Department of Education was established, I could use the code of federal regulations .gov website that is public to anyone. I determined that the best way to collect this part of the data would be categorically. I created a column for each category of exemption that the college might ask for such as admissions, housing, pregnant status of applicant, etc. After I determined that all categories of exemptions were covered in the excel document I then recorded a college having an exemption in the respective category by recording a one in the cell. I determined that at the end this allowed me to count and analyze the frequency as well as the types of exemptions. One of the goals of this thesis was to count and determine patterns not only

within time periods but across time periods as well. For example, is there a specific time period in which there were more colleges requesting exemptions for separate housing than in other time periods, or is that an exemption that colleges have always asked for no matter the time period?

#### IV. Analysis

##### Method of Analysis

The method of analysis that this project utilizes is a discursive analysis. A discursive analysis is an analysis that goes beyond the individual and their subjective experience of a social phenomenon. In other words, discourse analytic research is driven by research questions about the capacities and characteristics of language rather than by questions about the participants and their experiences (Willig, C. 2014). Much like there are numerous methods to qualitative research, there are numerous ways to focus a discursive analysis, such as discursive psychology, Freudian discourse and critical discourse (Willig, C. 2014). This analysis will apply critical analysis to the discourse of the letters that the college wrote to the OCR to request the particular exemptions. Conducting the analysis through a critical lens allows the larger theoretical framework that informed this project to be brought into the analysis. The larger theoretical lens that informed the project is the theory of institutional isomorphism, coupled with the critique of critical race theories of increased institutionalization leading to the development of the concept of institutional harm.

Critical theory or analysis comes from critical feminist thought. This theory acknowledges the varying social identities and locations that members of institutions find

themselves in while interacting as members of these institutions, while institutional isomorphism evidences the trend of institutions to operate on their own terms with a uniform bureaucracy. It is the contrast between the varying identities and circumstances that individuals bring to these institutions and the uniform bureaucracy of these institutions that critical theory points to. By critically analyzing the discourse of the letters that the colleges wrote to the OCR the project hopes to understand not only why and how the colleges requested the exemptions but also the possible implications for the members for the institutions and the effects that specific language in policy can have in its implementation for different groups and members of the college institution. Since not all members are situated equally, it is reasonable to expect variance in experience: some may be benefitted while others harmed. It is this idea of individuals being harmed by the colleges that they attend that the analysis seeks to explore further.

### B. Description of Subsample of Thirty Colleges

Due to the large volume of the sample, totaling 285 letters from roughly 240 institutions, the project is conducting a discursive analysis on thirty colleges and the letters that these colleges wrote to the OCR. Of these thirty colleges, .067 identify as Jewish and Seventh Day Adventist. One college, representing .033 of the sample identifies as Roman Catholic leaving the majority of the sample to be various denominations under the Christian Faith, representing 70% of the sample. Of the colleges that fall under the larger Christian umbrella, 10 colleges, or 47% approximately chose to define their religion according to a specific denomination within the larger Christian Faith. The variety of institutions that this sample represents range from small ministry or seminary colleges to more well known universities such as Pepperdine University.

Along with a variety of denominations, pretty much every major region of the United States is represented at least once through the colleges. Just over a third of the sample comes from the South, while the remainder of the sample is scattered among the West, Midwest and Northeast regions of the United States. This is surprising. A prediction that the project made early on was that most of the colleges would be concentrated in either the South or the Northeast because these regions of the United States tend to be correlated with more private and religious colleges. This finding could be random based on the way that the sample was collected, or it could illustrate that these types of colleges are more wide and far-reaching than one might initially expect.

## V. Findings

Through my content analysis of the thirty letters I found exemptions to appear in three overlapping forms as scripture, political, and exclusionary. While for the purposes of my analysis I make it appear as if they are separate categories, very rarely did they actually occur in the letters that way. Rather, the schools seemed to view these as tools for which to get an exemption granted. Although there seemed to be variation among the colleges that included one of these strategies compared to those that used all three, each letter had at least one category, and the more well-written letters seemed to have all three. While exemptions as scripture appeared in all three samples, the political exemptions are something that I observed the most often in the samples from the most recent letters from 2014-2016, with almost no mention in the earliest letters. I will then break down each exemption type into more detail organizing them following the order they appeared in the letters.

### A. Exemptions as Scripture

One of the most obvious motivations behind religious colleges asking for exemptions is that doing so would be a violation of their religion, that is written in the religious exemptions themselves. In the exemptions themselves there is no direct language connecting their appeals to scripture. The requirements of the exemptions do not reference scripture or require a college to include any yet direct references were the most cited motivation in the letters I coded, this is evidence for when policy is vague organizations, in this case religious colleges interpret and come up with what it means to justify non-compliance because doing so would be a violation of their religion. The argument is that if the college were to comply with Title IX they would be violating their said scripture. Out of the entire sample of thirty colleges, seven of the colleges made a direct reference to scripture, almost  $\frac{1}{3}$  of the sample. References went from vague allusions to listing a series of verses such as, "Genesis 1:27, 1:31, Matthew 19:4 etc". I find this interesting since the audience who the letter is for likely has no reference or understanding of the scripture being referenced; or if it has any application to the request causing one to question the necessity of the use of scripture. This causes me to question if the use of scripture by the colleges is more symbolic than any evidentiary value the scriptures would have. It is possible that the primary evidentiary value of the scriptures are for the writers of the letters but this should be questioned because the targeted audience of the letters are not other members of the Church or clergy in which the scripture is likely to have a high evidentiary value. This could also point to a larger cultural phenomenon in which scripture has a certain level of meaning that outside of religious communities into what one may term secular culture.

While some colleges list what may seem to the reader arbitrary bible references, some colleges go so far as to explain and offer context for the scriptures: Charleston Southern University of South Carolina is one of these colleges. In this letter, the college expresses their institutional disagreement with same sex relationships and sex outside of marriage. They then follow this with relevant bible verses that touch on this very topic. The specific references are Matthew 19:4-6, Hebrews 13:4, and Ephesians 5:22-23. For example, Matthew 19:4-6 reads:

Haven't you read," he replied, "that at the beginning the Creator 'made them male and female,'<sup>[a]</sup> 5 and said, 'For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh'<sup>[b]</sup>? 6 So they are no longer two, but one flesh. Therefore what God has joined together, let no one separate (Bible NIV).

It is interesting to explore the inclusion of scripture in these letters by the colleges. This begs the question of the real relevance and purpose of including scripture potentially out of context for the audience of these letters. Is there a political or symbolic motive behind the inclusion of scripture into these documents?

## B. Exemptions as Political

During my analysis, I found that a possible motivation for colleges requesting exemptions has less to do with religion and more to do with politics. This finding can be demonstrated in the data by examining the letters that were written to the OCR after 1988. For example, out of the ten letters that were written between the years of 1988 and 1992, two of the letters cite *Grove City v Bell* directly. For example, Geneva College of Pennsylvania is one of the colleges that cites the recent ruling of *Grove City v Bell*. In their letter, Geneva College cites the ruling of *Grove City* as expanding Title IX protections, and it is this perceived expansion of Title IX that they are now seeking exemptions from and responding to. The letter from Geneva

College cites, "Grove City v. Bell 1984 was considering the college to indirectly be receiving federal aid as a result of this case".

The last ten letters were authored to the OCR between the years of 2014-2016. Of these ten colleges, all ten of the letters cite specific groups and identities that they are targeting for exclusion in their policies. Despite all ten of the colleges using targeting language to exclude certain groups, only two of the colleges cite a specific political event that they are responding to. For example, in their letter to the OCR, George Fox University of Oregon cites the case of the Department of Education and California college district in which a female student presenting herself as male was allowed to use locker rooms that aligned with the student's gender identity rather than the student's biological sex. Although George Fox University was one of the only colleges to cite the particular event that they are responding to, the rest of the colleges used specific language to target specific groups.

### C. Exemptions as Exclusion

The last motivation or purpose of the exemptions that I want to draw out of the data is the idea of exclusion. This motivation is inextricably tied to Title IX and therefore the most prevalent both across institutional types and historical time periods. Title IX was written into law in order for women to gain admittance and access to STEM fields, spaces within higher education that had previously been exclusive to men. We see the immediate push back from the colleges in the first ten letters that were written between 1975-1976. Colleges directly claimed that admitting a female student would be a violation of the religious tenets of their organization. This language is directly copied from the exemptions themselves. In other words, the colleges

took direct language from the exemptions to serve their purposes. For example, Concordia cited in their letter that admitting women students to their institution would be a violation of Title IX because the purpose of the institution was to prepare its students for leadership within the Church, something that was in direct violation to the Lutheran Church, in which only men could be trained for leadership: “to the extent that its policies and practices involving both students and employees reflect the fact that only men may be ministers within the lutheran church” (Weber).

Unfortunately, this theme of excluding women does not leave the colleges, which we see in the second batch of colleges from 1988-1992. While some colleges are still explicitly claiming exclusion of women, we also see some colleges refusing to cite admission of women directly but rather refusing to make the necessary accommodations that come with women attending these institutions, which I argue is effectively of little difference. To illustrate this point, Northwest Bible College of Washington in their letter to the OCR cites three specific “hypo-scenarios” that from the institution's perspective are grounds for dismissal or expulsion. The problem with these hypo-scenarios is that they are real situations that come with admitting women into said institutions. The three specific scenarios are:

- 1) the admitted female student becomes pregnant, 2) a female applicant for admission informs the college that she is pregnant or has one or more biological children but has never been married; or, 3) a married female student becomes pregnant because of an adulterous relationship with another student or a third party (Northwest College, WA 1988).

In all three scenarios the college states that their response would be dismissal from the college or non-admittance in the case of scenario two. Refusing to make these accommodations and provide necessary medical care through insurance coverage for this group works to bar women from these places, a direct counter to the intent of Title IX. McMurry College of TX states explicitly



in their letter that it is, “seeking exemption for health insurance coverage for pregnant students that are unmarried” (McMurry TX 1988). Following the established trend of increased exemptions as a response to increased Title IX regulations, we see colleges targeting not just women in their exclusion.

In 2015 Title IX was expanded to include protections for members of the LGBT+ community. As expected, colleges responded with a spike in the amount of exemption requests from the colleges. When looking at the data it is clear that this recent expansion of Title IX is what colleges are responding to when they ask for these exemptions. For example, Geneva College of Pennsylvania states that, “transgender behaviors are deemed as disciplinable actions on the same merit as sexual relations outside of marriage, or homosexuality. The college asks for exemptions to apply regulations to include discrimination of gender identity and sexual orientation. (Geneva College PA 2015). Another college writing a letter that same year, Oklahoma Baptist cites, “premarital sex, sexual orientation, gender identity, pregnancy as things they cannot accommodate” (Oklahoma Baptist, OK 2015). Including these two institutions, a total of nine colleges, 90% of the sample cited language identifying LGBTQ+ behaviors and/or identities as targeted groups and behaviors for exclusion from the college.

## VI. Discussion

### A. Implications

The implications that this project hopes to make exist on two levels. There are the practical implications, such as the public relational database and then the more theoretical contribution that invites a more critical look at the phenomenon to institutionalize the responses

to some of our society's most pressing social problems through the concept of institutional harm. Due to the nature of the practical implications of the database, these implications may be easier to observe. Although this project hopes to publish this database in a place to make it accessible to the general public, there are a few key groups that this project hopes to reach. Examples of these groups include: students currently attending these colleges and universities as well as prospective students, current faculty, staff and administrations of these colleges, as well as colleges more generally.

The second, perhaps more abstract level of implications of this thesis is the introduction of the concept of institutional harm. The concept of institutional harm is what this thesis uses to critique the uncritical approach of institutionalizing the solutions to some of our most pressing social problems such as the epidemic of college sexual violence. Although the introduction of this concept was through religious colleges and universities, this concept offers a tool for activists and scholars to critique institutional responses to social problems such as sexual harassment and misconduct in the workplace, larger institutional responses to racism, the institutionalization of poverty through the institution of federal aid programs implemented with the intent to alleviate poverty, and the institutionalization of women's shelters from the battered women's movement. In other words, this calls for us on the most broad and general level to question our most basic responses to social problems by reevaluating the effectiveness of our institutions to solve these problems.

## B. Limitations

While this project was expansive and tried to address the issue of sexual violence on religious campuses from multiple perspectives, the focus of this thesis was the law itself rather than the individual institutional policies. Therefore, the analysis that this thesis can offer on individual institutional policies is limited. To further expound on this limitation, because this thesis did take a legal emphasis, the thesis did not conduct interviews with students and or administrators of these institutions; therefore, all of the analysis that the thesis offers on institutional dynamics is from secondary sources. Another limitation of this project is that the analysis focused on the perspectives of the institutions themselves by only coding the letters from the request letters from the colleges and not by doing any qualitative analysis of the letters from the OCR.

One of the main limitations of this project was the constraint of time. While this project was able to make a practical contribution through publishing a usable public database of the institutions that have been granted exemptions as well as the exemptions themselves, the project could not conduct any analysis on any patterns of exemptions and or institutions that requested the exemptions and which exemptions they were granted. Another way that the scope of this project was limited through the constraint of time is that the regulations of the new administration by Betsey Devos were never released during the writing of this thesis, so that is something that this thesis could not comment on.

A consequence of this thesis focusing on religious colleges and universities is that it limited the scope of analysis by limiting the degree to which an intersectional analysis could be utilized. Perhaps the most striking limitation of this thesis is that it focused on the legal analysis

of religious exemptions made by religious institutions, though religion is only one of the ways that institutions can exempt themselves from complying with Title IX. Consequently, the legal analysis of this particular thesis only pertains to religious institutions and not other institutions that may qualify for exemptions to Title IX. Addressing this limitation would be a recommendation for future research.

### C. Future Research

Recommendations for future research on this topic must take the time being dedicated to this topic into consideration. For instance, a future project that seeks to develop the argument of institutional harm would seek out interviews of students and/or administrators on campuses in order to get primary data on how members of these institutions have experienced institutional harm on an individual and interpersonal level. Future research would also delve deeper into the institutional policies themselves to consider how the policies and procedures of these institutions perpetuate institutional harm.

A second recommendation for future research would be to do more work with and analysis of the public database that this project built: for example, running statistical analysis such as regressions in order to further draw out any observable demographic patterns of the institutions such as size, location, religious sect. etc. and the exemptions that were asked for. Another variable that future research could consider in this analysis is the variable of time. How did what was happening at particular periods of time affect what exemptions particular institutions were asking for and how? Additionally, a project that was less limited by the constraint of time or that was conducted after the release of the new regulations could perhaps

repeat this study under the new regulations in order to measure possible greater measures of institutional harm under the new regulations.

Finally, perhaps the most important recommendation for future research is to expand the concept of institutional harm beyond just religious colleges and universities to other institutions of higher education and explore the possibility that these institutions also perpetuate harm through their policies and practices. Conducting an analysis such as this would require taking an intersectional perspective, but doing so would expand and therefore strengthen the concept of institutional harm by making it a more broad issue that all colleges and universities deal with, not just religious ones. Finally, the last recommendation for future research that this thesis has is to build upon the framework for analysis that this thesis built to other exemptions under Title IX and not just religious exemptions.

## VIII. Conclusion

Starting with the national conversation of sexual violence gave me a place to approach this topic from a place of familiarity. It was through the context of this common ground that I introduced the less familiar concept of institutional harm. Institutional harm is defined by the choices of action or inaction that an educational institution makes that then has consequences of harm for the members of the institution. While institutional harm does encompass sexual misconduct, harassment, violence and discrimination, it is also not reducible to these terms or instances. Through employing the term institutional harm I seek to broaden the scope of examining the problem of sexual violence beyond an the interpersonal but rather as one of many consequences of the institutions themselves. As long as religious identity is a protected identity

in this country, under the right circumstances a group or an individual is afforded certain freedoms and protections. These benefits or privileges can not be ignored in order to fully understand how religious exemptions work in Civil Rights Law. If we are going to make any progress toward a more equitable society it becomes necessary to address this point of contention between protecting religious freedom or protecting civil rights is where many others have stopped the fight.

The concept of institutional harm is where I hope to pick up the sword. Institutional harm was utilized to examine three key ways or motivations behind colleges and their exemptions. The three ways I argue that colleges seek exemptions are employing scripture, politics and exclusion. Even though I focused on religious exemptions and religious colleges, there are other ways that institutions can be granted exemptions under Title IX. Therefore an examination of other exemptions such as military and vocational can bring to the surface other ways that institutions harm us. It is refocusing the issue from the shelter of the private sphere in interpersonal dynamics to forcing this issue into the public sphere by critically examining our institutions themselves. This reshifting allows us to see evidence of harm being done and find a point of action. Institutional harm is a broad enough concept to apply to any institution or, in this case, institutional intervention more broadly. It is the crux of my argument and it is a tool that can be wielded much like a sword to critically evaluate institutional responses to social problems more broadly, to work towards a future in which our institutions truly work for the majority and social policies actually solve our problems.

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X.Appendices

Appendix 1: Status of Religious Exemption Requests, 1973-2016

RELIGIOUS EXEMPTIONS GRANTED AND PENDING (current as of 12/14/2015)				
State	Name of Recipient Requesting/Granted Exemption	Date of Request	Date of OCR Response	Status
AL	Alaska Bible College	11/9/1988	5/31/1989	Granted
AZ	American Indian Bible College	10/11/1988	1/5/1989	Granted
SC	Anderson University	1/7/2015	2/11/2015	Granted
MI	Andrews University	7/15/1976	9/13/1985	Granted
PR	Antillian College	5/19/1977	8/16/1985	Granted
VA	Appalachian Bible College	11/30/1976	6/18/1985	Granted
KY	Asbury College	9/30/1976	5/17/1985	Granted
KY	Asbury Theological Seminary	6/2/1977	5/17/1985	Granted
MO	Assemblies of God Theological Seminary	10/4/1988	12/20/1988	Granted
OH	Athenaeum of Ohio	7/23/1976	9/13/1985	Granted
NC	Atlantic Christian College	8/29/1984	1/9/1985	Granted
NY	Ayellet Hashachar Teacher's Seminary	5/3/1977	10/25/1985	Granted
MO	Baptist Bible College	9/5/1988	11/18/1988	Granted
PA	Baptist Bible College and Seminary	12/9/1976	6/18/1985	Granted
PA	Baptist Bible College and Seminary	10/17/1988	11/2/1992	Granted
OK	Bartlesville Wesleyan College	7/16/1976	9/26/1985	Granted
TX	Baylor University	1/12/1976	9/26/1985	Granted
NC	Belmont Abbey College	1/16/2015	2/11/2015	Granted
TN	Belmont College	2/16/1979	2/28/1986	Granted
NY	Beizer Yeshiva Machzikei Torah Seminary	9/9/1985	9/24/1985	Granted
KY	Berea College	9/28/1976	9/3/1985	Granted
NY	Beth Hamedrash Shaarei Yosher	5/3/1977	9/24/1985	Granted
NY	Beth Hatalmud Institute for Advanced Talmudic Studies	5/3/1977	9/24/1985	Granted
NY	Beth Medrash Emek Halacha	5/3/1977	9/24/1985	Granted
CA	Bethany Bible College	11/9/1988	1/25/1989	Granted
MN	Bethany Lutheran College	5/24/1977	9/13/1985	Granted
IN	Bethel College	5/1/2015	7/29/2015	Granted
IN	Bethel College	6/1/1977	9/13/1985	Granted
FL	Bethune-Cookman College	5/30/1977	9/3/1985	Granted
CA	Biola University	7/30/1985	9/3/1985	Granted
MS	Blue Mountain College	8/12/2015	10/26/2015	Granted
ID	Boise Bible College, Inc.	8/4/1988	5/31/1989	Granted
KY	Brescia College	6/29/1976	7/24/1985	Granted

RELIGIOUS EXEMPTIONS GRANTED AND PENDING (current as of 12/14/2015)				
State	Name of Recipient Requesting/Granted Exemption	Date of Request	Date of OCR Response	S
AL	Alaska Bible College	11/9/1988	5/31/1989	Granted
AZ	American Indian Bible College	10/11/1988	1/5/1989	Granted
SC	Anderson University	1/7/2015	2/11/2015	Granted
MI	Andrews University	7/15/1976	9/13/1985	Granted
PR	Antillian College	5/19/1977	8/16/1985	Granted
VA	Appalachian Bible College	11/30/1976	6/18/1985	Granted
KY	Asbury College	9/30/1976	5/17/1985	Granted
KY	Asbury Theological Seminary	6/2/1977	5/17/1985	Granted
MO	Assemblies of God Theological Seminary	10/4/1988	12/20/1988	Granted
OH	Athenaeum of Ohio	7/23/1976	9/13/1985	Granted
NC	Atlantic Christian College	8/29/1984	1/9/1985	Granted
NY	Ayellet Hashachar Teacher's Seminary	5/3/1977	10/25/1985	Granted
MO	Baptist Bible College	9/5/1988	11/18/1988	Granted
PA	Baptist Bible College and Seminary	12/9/1976	6/18/1985	Granted
		10/17/1988	11/2/1992	Granted
OK	Bartlesville Wesleyan College	7/16/1976	9/26/1985	Granted
TX	Baylor University	1/12/1976	9/26/1985	Granted
NC	Belmont Abbey College	1/16/2015	2/11/2015	Granted
TN	Belmont College	2/16/1979	2/28/1986	Granted
NY	Beizer Yeshiva Machzikei Torah Seminary	9/9/1985	9/24/1985	Granted
KY	Berea College	9/28/1976	9/3/1985	Granted
NY	Beth Hamedrash Shaarei Yosher	5/3/1977	9/24/1985	Granted
NY	Beth Hataalmud Institute for Advanced Talmudic Studies	5/3/1977	9/24/1985	Granted
NY	Beth Medrash Emek Halacha	5/3/1977	9/24/1985	Granted
CA	Bethany Bible College	11/9/1988	1/25/1989	Granted
MN	Bethany Lutheran College	5/24/1977	9/13/1985	Granted
IN	Bethel College	5/1/2015	7/29/2015	Granted
		6/1/1977	9/13/1985	Granted
FL	Bethune-Cookman College	5/30/1977	9/3/1985	Granted
CA	Biola University	7/30/1985	9/3/1985	Granted
MS	Blue Mountain College	8/12/2015	10/26/2015	Granted
ID	Boise Bible College, Inc.	8/4/1988	5/31/1989	Granted
KY	Brescia College	6/29/1976	7/24/1985	Granted

62	TX	Dallas Christian College	6/29/1988	6/2/1989	Granted
63	TN	David Lipscomb College	9/29/1976	7/24/1985	Granted
64	DC	De Sales School of Theology	5/5/1977	8/26/1985	Granted
65	CO	Denver Conservative Baptist Seminary	7/23/1976	8/27/1985	Granted
66	NY	Derech Ayyson Rabbinical Seminary/Yeshiva of Far Rockaway	5/3/1977	9/23/1985	Granted
67	CA	Dominican School of Philosophy and Theology	6/2/1977	8/27/1985	Granted
68	MN	Dr. Martin Luther College	10/1/1976	9/13/1985	Granted
69	TX	East Texas Baptist University	2/27/2015	5/4/2015	Granted
70	MA	Elms College	1/5/1993	5/13/1993	Granted
71	IA	Emmaus Bible College	9/2/1986	10/1/1986	Granted
72	MO	Evangel College	8/25/1988	3/21/1989	Granted
73	IA	Faith Baptist Bible College	7/15/1988	9/23/1988	Granted
74	OH	Franciscan University of Steubenville	9/28/1976	9/24/1985	Granted
75	TN	Freed-Hardeman University	8/27/2014	10/22/2014	Granted
76	CA	Fresno Pacific University	8/11/1976	5/17/1985	Granted
77	PA	Geneva College	6/2/2015	10/13/2015	Granted
78	OR	George Fox College/University	8/12/2015	10/26/2015	Granted
79	OH	God's Bible School - College and Missionary Training Home	10/7/1988	11/2/1992	Granted
80	MI	Grace Bible College	9/24/1976	8/5/1985	Granted
81	IN	Grace College	3/31/2014	5/23/2014	Granted
82	NE	Grace College of the Bible	10/11/1988	1/16/1990	Granted
83	IN	Grace Theological Seminary	10/18/1976	9/23/1985	Granted
84	MI	Grand Rapids Baptist College	9/30/1976	9/13/1985	Granted
85	MI	Great Lakes Bible College	5/23/1977	9/24/1985	Granted
86	MO	Hannibal-LaGrange University	9/30/1976	9/13/1985	Granted
87	TN	Harding Academy	7/1/1976	9/13/1985	Granted
88	TN	Harding Graduate School of Religion	12/21/1988	2/22/1989	Granted
89	AR	Harding University	8/27/2015	10/30/2015	Granted
90	TX	Houston Baptist University	10/21/1976	9/23/1985	Granted
91	TX	Howard Payne University	7/21/1976	9/23/1985	Granted
92	IN	Huntington College	9/29/1976	10/14/1976	Granted
93	PA	Immaculata College	1/3/1977	9/23/1985	Granted
			9/15/1988	10/28/1988	Granted
			3/25/2015	4/24/2015	Granted
			4/18/1988	7/12/1988	Granted
			11/8/1976	6/18/1985	Granted

IN	Indiana Wesleyan University	6/28/1976	9/13/1985	Granted
NY	Jewish Theological Seminary of America	12/6/1977	9/24/1985	Granted
NC	John Wesley College	5/5/1989	6/26/1989	Granted
TN	Johnson Bible College	4/12/1985	7/24/1985	Granted
AL	Judson College	2/17/2015	4/29/2015	Granted
MO	Kenrick Seminary	8/23/1977	8/1/1985	Granted
OH	Kettering College of Medical Arts	7/19/1976	9/13/1985	Granted
PA	Lancaster Bible College	9/28/1988	11/2/1992	Granted
TX	Latin American Bible Institute	9/1/1988	12/14/1988	Granted
UT	Latter Day Saints Business College	11/12/1975	7/22/1985	Granted
TN	Lee College	1/30/1996	2/12/1996	Granted
KY	Lees Junior College	9/28/1976	5/17/1985	Granted
VA	Liberty University	1/16/2014	4/22/2014	Granted
CA	Loma Linda University	11/22/1985	11/19/1985	Granted
CA	Los Angeles Baptist College	9/30/1976	8/6/1985	Granted
LA	Louisiana College	4/22/2015	7/31/2015	Granted
LA	Louisiana College	10/10/1978	9/20/1985	Granted
LA	Loyola University	4/6/1986	5/7/1986	Granted
WI	Maranatha Baptist Bible College	2/29/2012	6/19/2013	Granted
TX	McMurry College	8/24/1988	10/13/1988	Granted
NY	Mesivta of Eastern Parkway Rabbinical Seminary	8/18/1977	9/30/1985	Granted
NJ	Mesivta Sanz of Hudson County	5/3/1977	10/25/1985	Granted
NY	Mesivta Yeshiva Rabbi Chaim Berlin	11/24/1975	9/23/1985	Granted
NY	Mesivtha Tifereth Jerusalem of America	6/2/1977	9/23/1985	Granted
MI	Michigan Christian College	9/17/1976	9/30/1985	Granted
OK	Mid-America Bible College	5/31/1977	9/20/1985	Granted
NY	Mirror Yeshiva Central Institute	4/15/1977	9/23/1985	Granted
MS	Mississippi College	9/11/2015	10/13/2015	Granted
MO	Missouri Baptist College/University	2/16/1989	7/25/1989	Granted
OR	Mount Angel Seminary	4/1/1996	4/18/1996	Granted
OR	Multnomah School of the Bible	4/6/1979	8/5/1985	Granted
OR	Multnomah School of the Bible	12/8/1988	5/31/1989	Granted
MD	Ner Israel Rabbinical College	5/27/1977	9/24/1985	Granted
MN	North Central Bible College	12/6/1988	3/7/1989	Granted
SC	North Greenville University	12/10/2014	5/4/2015	Granted
WA	Northwest Baptist Seminary	8/4/1977	9/3/1985	Granted

WA	Northwest College of the Assemblies of God	7/29/1988	9/23/1988	Granted
ID	Northwest Nazarene University	7/29/2014	8/18/2014	Granted
MN	Northwestern College	6/23/1988	5/16/1989	Granted
LA	Notre Dame Seminary	4/11/1977	9/16/1985	Granted
AL	Oakwood College	4/18/1977	9/3/1985	Granted
WV	Ohio Valley College	8/18/1977	6/18/1985	Granted
NY	Ohr Hameir Theological Seminary	5/3/1977	9/23/1985	Granted
NY	Ohr Somayach	7/22/1985	10/25/1985	Granted
OK	Oklahoma Baptist University	11/24/2014	12/16/2014	Granted
OK	Oklahoma Christian College/University	9/30/1976	9/20/1985	Granted
OK	Oklahoma Wesleyan University	7/30/1985	9/20/1985	Granted
OK	Oklahoma Wesleyan University	9/5/2014	10/22/2014	Granted
OK	Oral Roberts University	11/14/2014	12/22/2014	Granted
AR	Ouachita Baptist University	1/14/1977	9/20/1985	Granted
AR	Ouachita Baptist University	3/31/1993	6/7/1993	Granted
CA	Pacific Union College	6/13/1989	8/7/1990	Granted
CA	Pacific Union College	8/31/1976	9/3/1985	Granted
FL	Palm Beach Atlantic College	11/8/1988	1/6/1989	Granted
CA	Pepperdine University	9/27/1976	8/27/1985	Granted
PA	Philadelphia College of Bible	11/18/1988	11/2/1992	Granted
NC	Piedmont Bible College, Inc	9/29/1988	1/10/1989	Granted
MA	Pope John XXIII National Seminary	8/5/1977	8/16/1985	Granted
SD	Presentation College	7/16/1976	7/22/1985	Granted
NY	Rabbinical College Beth Shraga	5/3/1977	9/24/1985	Granted
NY	Rabbinical College Ch'san Sofer of New York	5/3/1977	9/24/1985	Granted
NY	Rabbinical College Kamenitz Yeshivah of America	5/3/1977	9/26/1985	Granted
NY	Rabbinical College of Adas Yereim	5/3/1977	9/24/1985	Granted
NY	Rabbinical College of Long Island	5/3/1977	9/23/1985	Granted
NY	Rabbinical College of Queens	5/3/1977	10/25/1985	Granted
NY	Rabbinical College of the Bobover Yeshiva Bnei Zion Inc.	8/21/1985	9/23/1985	Granted
NY	Rabbinical Seminary M'kor Chaim	5/3/1977	9/23/1985	Granted
NY	Rabbinical Seminary of America	5/3/1977	9/24/1985	Granted
NY	Rabbinical Seminary of Munkacs	8/24/1976	9/23/1985	Granted
NY	Rabbinical Seminary of Munkacs	5/3/1977	9/24/1985	Granted
ID	Ricks College	11/12/1985	6/22/1988	Granted
ID	Ricks College	5/7/1985	6/24/1985	Granted

NY	Roberts Wesleyan College	9/29/1976	8/16/1985	Granted
MN	Saint John's University	9/27/1976	3/9/1984	Granted
IL	Saint Mary of the Lake Seminary	6/23/1977	9/13/1985	Granted
IN	Saint Mary's College- IN	6/2/1977	9/23/1985	Granted
MN	Saint Mary's College- MN	9/3/1976	9/23/1985	Granted
MN	Saint Paul Bible College	3/22/1989	5/8/1989	Granted
MN	Saint Paul Seminary	4/7/1977	9/23/1985	Granted
AL	Samford University	4/29/1992	7/29/1992	Granted
NJ	Seton Hall	9/20/1976	9/20/1985	Granted
NY	Sh'or Yeshuv Rabbinical College	5/3/1977	9/23/1985	Granted
CA	Simpson University	10/7/2013	5/23/2014	Granted
		4/4/1985	7/24/1985	Granted
AL	Southeastern Bible	3/25/1985	7/24/1985	Granted
		5/8/1989	6/28/1989	Granted
AR	Southern Baptist College	8/23/1976	9/26/1985	Granted
CA	Southern California College	8/3/1988	11/4/1988	Granted
TN	Southern College of Seventh-Day Adventists	10/31/1985	2/28/1986	Granted
SC	Southern Wesleyan University	1/20/2015	3/24/2015	Granted
		7/8/2015	7/29/2015	Granted
MO	Southwest Baptist University	8/19/1994	10/19/1994	Granted
		3/26/1979	9/26/1985	Granted
TX	Southwestern Adventist College (previously known as Southwestern Union College)	7/14/1976	9/26/1985	Granted
TX	Southwestern Assemblies of God College	8/4/1988	12/14/1988	Granted
AZ	Southwestern Conservative Baptist Bible College	7/15/1998	9/23/1988	Granted
MI	Spring Arbor University	6/3/2014	6/27/2014	Granted
PA	St. Charles Borromeo Seminary	8/4/1976	9/14/1976	Granted
OK	St. Gregory's University	3/3/2015	3/24/2015	Granted
CA	St. John's Seminary	9/14/1977	8/27/1985	Granted
HI	St. Louis Chaminade	9/10/1976	9/18/1985	Granted
MO	St. Louis Rabbinical College	5/3/1977	9/24/1985	Granted
CA	St. Patrick's Seminary	1/4/1978	9/3/1985	Granted
AL	Stillman College	7/4/2001	8/13/2001	Granted
MA	Stonehill College	4/17/1986	5/15/1986	Granted
KS	Tabor College	12/3/2014	1/8/2015	Granted
NJ	Talmudical Academy	5/3/1977	9/23/1985	Granted
PA	Talmudical Yeshiva of Philadelphia	7/20/1977	9/26/1985	Granted
IL	Telshé Yeshiva - Chicago	11/13/1985	2/24/1986	Granted
OH	Telshé Yeshiva Rabbinical College of Telshe	8/15/1976	9/30/1985	Granted



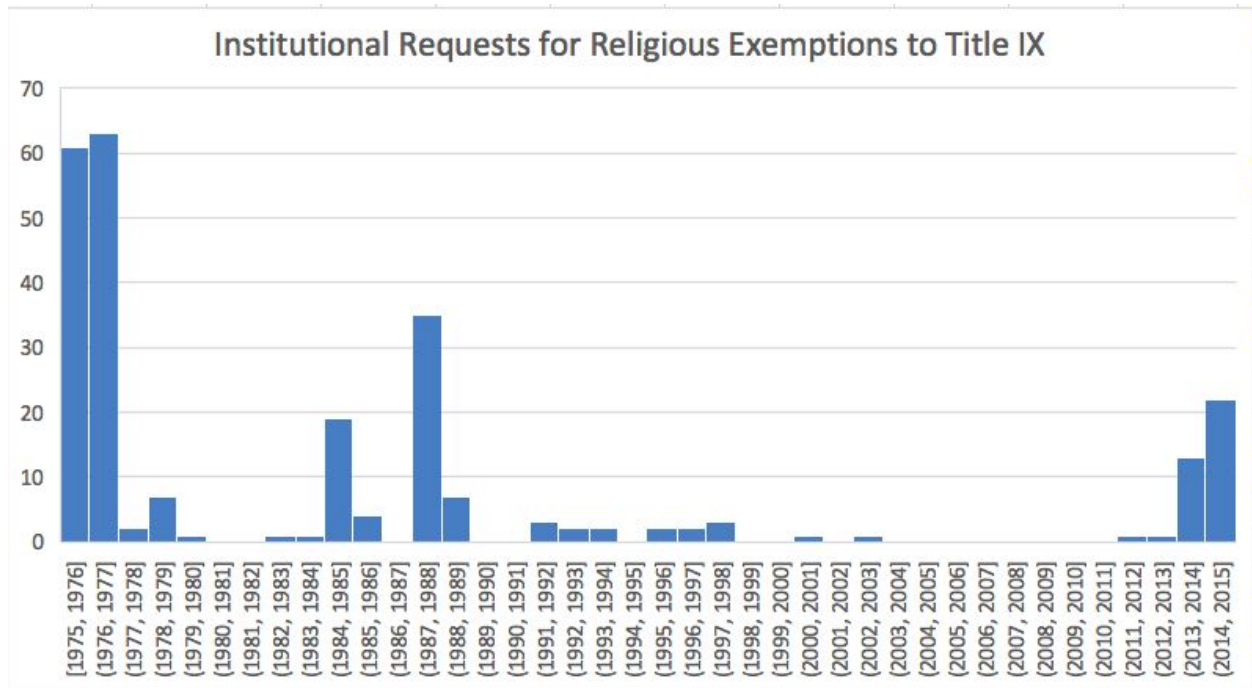
TN	Tennessee Temple University	7/25/1985	9/3/1985	Granted
FL	The Baptist College of Florida	12/4/2014	12/22/2014	Granted
DC	The Catholic University of America	11/13/1975	6/18/1985	Granted
		7/18/1985	8/8/1985	Granted
IL	The Hebrew Theological College	9/9/1985	9/30/1985	Granted
PA	The Reformed Presbyterian Theological Seminary	9/2/1977	9/24/1985	Granted
GA	Toccoa Falls College	7/8/2015	7/31/2015	Granted
ND	Trinity Bible College	7/15/1988	9/23/1988	Granted
IL	Trinity Evangelical Divinity School	9/30/1976	9/13/1985	Granted
IL	Trinity International University	7/16/2003	4/27/2005	Granted
GA	Truett-McConnell College	3/21/1994	7/8/1994	Granted
NE	Union College	7/18/1976	10/25/1985	Granted
TN	Union University	1/19/2015	3/24/2015	Granted
		7/22/1976	9/3/1985	Granted
PA	United Wesleyan College	10/28/1985	11/21/1985	Granted
		9/2/1976	6/18/1985	Granted
TX	University of Mary Hardin-Baylor	1/29/2015	3/24/2015	Granted
AL	University of Mobile	3/18/2015	5/4/2015	Granted
KY	University of the Cumberlands	1/19/2015	3/24/2015	Granted
PA	Valley Forge Christian College	10/13/1988	1/5/1989	Granted
NY	Wadhams Hall Seminary-College	4/26/1976	9/20/1985	Granted
WA	Walla Walla College	9/29/1976	8/5/1985	Granted
MD	Washington Bible College	12/21/1998	1/25/1989	Granted
TX	Wayland Baptist University	5/27/1992	7/31/1992	Granted
CA	West Coast Christian College	4/13/1979	8/6/1985	Granted
OR	Western Baptist College	4/18/1977	8/5/1985	Granted
PA	Westminster Theological Seminary	8/9/1977	9/18/1985	Granted
IL	Wheaton College	7/20/1976	9/13/1985	Granted
MI	William Tyndale College	9/29/1976	9/30/1985	Granted
AR	Williams Baptist College	11/17/2014	12/22/2014	Granted
NY	Yeshiva and Mesivta Ohr Yisroel	5/3/1977	9/23/1985	Granted
NY	Yeshiva of Nitra Rabbinical College	5/3/1977	9/23/1985	Granted
NY	Yeshiva Torah Vodaath and Mesivta	6/3/1977	9/23/1985	Granted
CO	Yeshiva Toras Chaim Talmudical Seminary	11/24/1975	10/25/1985	Granted
NY	Yeshivath Gedolah-Zichron Moshe	11/25/1977	9/23/1985	Granted
NY	Yeshivath Kehilath Yakov	5/3/1977	9/23/1985	Granted
NE	York College	9/29/1976	8/1/1985	Granted

Institutions Obtaining Exemption = 226

STATE	NAME OF INQUIRY REQUESTING/ ORIGINATING INSTITUTION	DATE OF REQUEST	DATE OF OUR RESPONSE	STATUS
AZ	American Indian College	10/7/2015		Pending
KY	Asbury University	1/12/2015		Pending
CO	Colorado Christian University	1/6/2015		Pending
TX	Criswell College	10/13/2015		Pending
IA	Dordt College	10/1/2015		Pending
TN	Freed-Hardeman University	7/15/2015		Pending
TX	Hardin-Simmons University	10/5/2015		Pending
CA	John Paul the Great Catholic University	8/25/2015		Pending
CA	LABI College	9/15/2015		Pending
PA	Lancaster Bible College	6/1/2015		Pending
MO	Missouri Baptist University	6/18/2015		Pending
OR	Multnomah University	2/11/2015		Pending
MA	Northpoint Bible College	10/6/2015		Pending
OH	Ohio Christian University	5/14/2015		Pending
MO	Ozark Christian College	11/16/2015		Pending
FL	Southeastern University	10/26/2015		Pending
OK	Southern Nazarene University	11/12/2015		Pending
ND	Trinity Bible College	10/18/2015		Pending
TX	University of Dallas	7/23/2015		Pending
MS	William Carey University	11/30/2015		Pending
CA	William Jessup University	4/28/2015		Pending

quests Pending = 21

Appendix 2: Timeline of Exemption Requests, 1977-2016



Appendix 3: Data on Sub-Sample of 30 Colleges

CO	Yeshiva Toras Chaim Talmudical Seminary	11/24/75	10/25/1985	Granted	jewish	1975	Referred to department of Health, Education and wellness. Simply stated the inapplicability of the regulations to the institution. Then cited following provisions of part 86 that conflicts with specific tenets of the orthodox jewish church. Very brief and short document. looks like the letter was written by a typewriter and titled dear sir. no one signed the letter we don't know who authored the letter other than the highest ranking official. 86.21, .31, .32, .34, .51, .52, .55, .7, .22 23a b, .63, .59
KY	Brescia College	6/29/76	7/24/1985	Granted	methodist	1976	Catholic educational institution and the following provisions are not consistent with the religious tenets of such an organization: .21 c, .39, .40, .51b, 6, .57 a. 1. b.c.d., .60 a
MI	Andrews University	7/15/76	9/13/1985	Granted	seventh day	1976	address to Dr. Matthews, first paragraph lists multiple places that the school has published their views concerning the schools relationship to Title IX. The letter included a non-discrimination statement assuring that the school does not discriminate based on....except where provisions of the law conflict with the Ten Commandments by the Seventh-Day Adventis church. inquires may be directed to the president of the University. also included the statement with the pay of the staff. believes the interpretation and implementation of title IX regulations are subject to constitutional guarantee against unreasonable entanglement with or infringement on the religious teachings of the church.school president signed the letter. cites university's responsibility to apply biblical moral, deportment? and appearance to both men and womer asks for exemptions from 86.21, .40, .57b, .31.
OH	Kettering College of Medical Arts	7/19/76	9/13/1985	Granted	adventist	1976	school was established as an instrument of of 7th day adventist teaching ministry. Includes non-discrimination stateme from school. Believes interpretation and implementation of regulations are subject to constitutional guarantee against uncreasonable entanglement with or infringement on the teachings and practice of the seventh day church. 86.21, .40, .57, .31 citing they conflict with church teachings and practices on morality, deportment and appearance. responsible l applying biblical standards to both men and women morality and deportment as interpreted by the seventh day adven church.
CO	Denver Conservative Baptist Seminary	7/23/76	8/27/1985	Granted	Baptist	1976	cites completion of form 639 as evidence of compliance. Exemption under 45. C.F. R. 86: 12. lists 3 requirement to be granted exemption, school or department of divinity, or it reures its faculty, students or employees to be members of, otherwise espouse a personal belief in the religion of the organization by which it claims to be controlled. charter, catalog or other official publicaton contains an explicit statment that is controlled by a religious organization or an org therof. though the school does recognize that even schools whose admissions are exempt from coverage must treat all students nondiscriminatorily once they have admitted members of both sexes.
PA	St. Charles Borromeo Seminary	8/4/76	9/14/1976	Granted	Roman Catholic	1976	claiming exemption from 86.12. seminary training for priesthood. The seminary cannot accept any non-catholic students. This is a vocational training school so it works. Old letter, one paragraph long can barely read. Looks like it was typewritten by a typewriter.

PA	St. Charles Borromeo Seminary	8/4/76	9/14/1976	Granted	Roman Catholic	1976	claiming exemption from 86.12. seminary training for priesthood. The seminary cannot accept any non-catholic students. This is a vocational training school so it works. Old letter, one paragraph long can barely read. Looks like it was typewritten by a typewriter.
NY	Rabbinical Seminary of America	8/24/76	9/23/1985	Granted	Jewish	1976	and claims that the regulations by title IX would conflict with specific tenets of the Jewish Orthodox religion under 86.21, .31, .32 .32 .51 .52 .55 .7.12.23.23.53.59. Looks like it was typewritten by a typewriter.
HI	St. Louis Chaminade	9/10/76	9/18/1985	Granted	Marianist	1976	being affiliated with a religious congregation, the Marianist priests and brothers, claimed exemption under 45 C. F. R. 86.12 b. under the charter, the president is required to be a Marianist. Further, all things being equal, should a qualified Marianist apply for a faculty or administrative post they prefer to hire him rather than lay faculty. concludes with non-discrimination statement.
MO	Concordia Seminary	9/24/76	9/20/1985	Granted	Lutheran	1976	owned, operated and significantly supported financially by the Lutheran church. Claims a religious exemption under 45 C.F.R. 86.12 b to the extent that its policies and practices involving both students and employees reflect the fact that only men may be ministers within the Lutheran church-missouri synod.
KY	Lees Junior College	9/28/76	5/17/1985	Granted	Presbyterian	1976	claims that there is no intention of discriminating against sex. inst sex in its students or employees but due to the principles it was founded on, to the extent that the regulations are inconsistent with the religious tenets of the Christian faith. 86.40-require the college not to exclude an unmarried student that was pregnant, had been pregnant or terminated a pregnancy or was recovering from. .57-refers to exclusion of employment or applicants that are unmarried that have any history of pregnancy or experience. .60-requires the college not to make any pre-employment inquiry as to the marital status of an applicant. adhering to the ethical moral standards of Christianity, pregnancy out of wedlock both for males and females cannot be treated as a temporary disability like Title IX asserts. members of Lees Junior College must be stable role models of moral family relationships.
<b>1987-1988</b>							
TX	Dallas Christian College	6/29/88	6/2/1989	Granted	Christian	1988	asking for exemption from 106.33. cites 1 Timothy 2:10-11 & 2 Corin. 14:34 as reason for not allowing women preachers. 106.31 c-differing funding amounts for men and women programs. 106.37 b-same as above. 106.38, 106.51, 106.55
WA	Northwest College of the Assemblies of God	7/29/88	9/23/1988	Granted	AG Christian	1988	uses exempt IRS status as grounds for title IX exemption. The college is an extension and controlled by the general council of AG. Total college community must espouse a personal belief in Christian faith. 34 cfr. 106.28c 106.40 b and 106.57 these regulations deal with pregnancy and childbirth in student recruitment and employment. the letter lists 3 specific hypo scenarios in which accommodating these regulations would violate the Christian faith and what would happen in each scenario. also mentions misuse of human sexuality, is adjudicated in accordance with scriptural teaching

TX	Dallas Christian College	6/29/88	6/2/1989	Granted	Christian	1988	asking for exemption from 106.33. cites 1 Timothy 2:10-11 & 2 Corin. 14:34 as reason for not allowing women preachers. 106.31 c-differing funding amounts for men and women programs. 106.37 b-same as above. 106.38, 106.51, 106.55
WA	Northwest College of the Assemblies of God	7/29/88	9/23/1988	Granted	AG Christian	1988	uses exempt IRS status as grounds for title IX exemption. The college is an extension and controlled by the general council of AG. Total college community must espouse a personal belief in Christian faith. 34 cfr. 106.28c 106.40 b and 106.57 these regulations deal with pregnancy and childbirth in student recruitment and employment. the letter lists 3 specific hypo scenarios in which accommodating these regulations would violate the Christian faith and what would happen in each scenario. also mentions misuse of human sexuality, is adjudicated in accordance with scriptural teaching about moral behavior, LGBT+ discrimination?
TX	McMurry College	8/24/88	10/13/1988	Granted	Methodist	1988	seeking exemption for health insurance coverage for pregnant students that are unmarried. The document cites that the New Mexico and Northwest Texas annual conferences of the United Methodist Church controls the college. Cites the book of discipline 1984, paragraph 71 p.90 family and marriage section. Methodist church honors institution of family therefore, supporting an unmarried pregnant student goes against this standard. 106.40 b, (4).
TX	Houston Baptist University	9/15/88	10/28/1988	Granted	Baptist	1988	34 CFR 106.6c, 21c, 31, 34, 36c, 37a, b, 38a, 39, 40, 51, 53, 55a, 57, 60a cites specific policy about. Board of trustees must all be affiliated with church. 7 of them must be ministers. Only men can be ministers giving them preferential treatment. premarital unchastity is contrary to religious tenets of southern Baptist.
PA	Geneva College	10/7/88	11/2/1992	Granted	Christian	1988	sections 901a 3, 908 of Title IX. 34 CFR, 106.12b cites Grove City v. Bell 1984, as the school indirectly receiving federal aid as a result of this case. Accredited as a liberal arts college, offering courses in arts, humanities and sciences. Cites religious preference in hiring practices. monitors matters of human sexuality, institution of marriage, language and modest attire. cites Exodus 20:1-17, Romans 1:18-32 Gal. 5:19-21 Colossians 3:5-9 34 cfr. 106.21c, 40, 57, 60, 14, 32, 55, 32 & 33. cites abortion specifically....claims title IX doesn't apply to it. uses tax status as non-profit and contr by Reformed Presb. church of North America.
PA	Baptist Bible College Seminary	10/17/88		Granted	Baptists	1988	106.21-no exclusion of unmarried women due to pregnancy. Basis for exemption Genesis 2:24, Hebrew 13:4, 106.40-female shall not be terminated from attending college if she becomes pregnant while in attendance. Genesis 2:24, Hebrews 13:4, Romans 13:9, 1 Cor.6:9, Lev. 20:10, Deut. 5:18, Matt. 5:27 106.31-no discrimination in academic programs. 1 Tim. 3:1-7, Titus 1:6-9 106.38
UT	Brigham Young University - UT & HI	11/17/88	1/6/1989	Granted	Mormon	1988	controlled by LDS, regulations: 106.60, 2.31.32.36.39.40 cites court decision of Amos. 1987.
MN	North Central	12/6/88	3/7/1989	Granted	Christian	1988	34 cfr section 106.12, 20c, 40b, .57 cites being controlled by district council of Assemblies of God. Cited sanctification

MN	North Central Bible College	12/6/88	3/7/1989	Granted	christian		1988	34 cfr section 106.12, .20c, .40b, .57 cites being controlled by district council of Assemblies of God. Cited sanctification. Uses same 3 hypo scenarios. Interesting. Evidence of institutional isomorphism?
MS	Mississippi College	2/16/89	7/25/1989	Granted	christian		1989	controlled by southern baptist convention. 901 a. 3. 34 cfr 106.12b. Liberal arts college. Refuses responsibility to provide facilities or pay for abortions, will adjudicate cohabitation or homosexuality. List of regulations: 86. 14, .15, .21.22 .23 .31 .32 .34 .36 .37 .38 .39 .40 .51 .52 .53 .55 .57 .59 106. 14, .15 .21 .22 .23 .31 .31 .34 .36 .37 .38 .39 .40 .51 .52 .53 .55 .57 .59 cites bible verses as means to adjudicate 1 cor. 5-7, col. 3:5, 2 cor. 6:14, Mal. 2:14-16, Matt. 5:31. 106. 32 .33 .15d, .16 .23
AL	Southeastern Bible	5/8/89	6/28/1989	Granted	baptist		1989	title ix-901 a and 908. 102.12b college may be currently receiving federal aid as well as in the past. Grove City v. Bell. Controlled by southeastern bible corp. non-profit religious coporation. Lists various verses for standards and basis of gender distinction and morality. wants freedom to adjudicate in areas of misuse of sexuality, language, attire, not respecting institution of marriage, living environments. 1 cor. 5:1-13, 6:12-20 1 Peter 2:11-15 college cannot be made to benefit or pay any fees or provide facilities for an abortion. sec. 105. 15d .23 .32, .33, .21c .40 .57 .60 .36 .51 .32 .53 .55 .59
TX	Dallas Baptist University	5/27/92	7/31/1992	Granted	baptist		1992	106.12, .21c .40 .51b .57 .31 .36 105.1, 106.52 106.53 106.55, 106.59 .14 .34 .38 .37. controlled by Baptist General Convention of Texas
y Breakdown 2014-2015								
University	KY	christian	wesleyan			Granted	2015	was founded by John Wesley Hughes and the institution is bound by the bylaws of Hughes and his successors. Claims to be a liberal arts institution. Colossians 1:7, cites appropriate sexual immorality adultery, homosexuality, premarital sex. Galations 5:19-21. will not support someone's gender identity that is contrary to traditional male/female biblical teachings. 106.21, 106.31, 106.32, 106.33, .40, .41, .51, .52, .53, .57, .59, .60.
	IN	christian				Granted	2015	106.31, .21b .21 c, .57, .40, .51a, .51b,c .32, .33 established in 1947 by the Missionary Church, urban situated evangelical. Ranked in top 13% nationally by U. S. world and news report. The top 100 nationally for its commitment to character education, GREATER, prohibits cohabitation, homosexual activity, one may also not change their gender identity either through surgery or hormones and accomodating a person this way would result in cohabitation which is a
Bethel college	IN	christian				Granted	2015	106.31, .21b .21 c, .57, .40, .51a, .51b,c .32, .33 established in 1947 by the Missionary Church, urban situated evangelical. Ranked in top 13% nationally by U. S. world and news report. The top 100 nationally for its con character education, GREATER, prohibits cohabitation, homosexual activity, one may also not change their gender identity either through surgery or hormones and accomodating a person this way would result in cohabitation sin.
Biola University	CA	christian				Granted	2014	106.12, gender identity Matthew 19:5, views growth in godliness toward alignment of one's gender to biolog Will not support persistent or exaggerated examples of cross-dressing or other expressions that are deliberate with one's biological sex. or advocacy of such viewpoint. will not accept alterations to one's sex at birth base experiential variation or medical intervention. 106.32, .33, .41, .51, .61
Judson College	AL	Baptist				Granted	2015	is a non-profit and controlled by the Alabama Baptist State Convention. Issues of sex outside of marriage, ab sexual orientation, marriage, pregnancy. 106.21b3, c, .23, .31b4 b7, .32, .33, .40, .41, .51, .52, .53, .57. libe institution specifically for women.
Pepperdine	CA	christian				Granted	2016	drafted letter to OCR to withdraw their previously granted exemptions. Stated that while the university was c the church of christ with its affiliation, the school is committed to complying with Title IX.
Oklahoma baptist	OK	baptist				Granted	2014	is a part of the southern baptist institution. It is a nonprofit corp. controlled by Baptist General Convention in quotes and citations from the Family, The Baptist Faith Message 2000. 106.23, .31 b .4 .32, .33, .40 .51, .52, .53, .57, .59, .60. cites premarital sex, sexual orientation, gender identity, pregnancy and abortion as specific things they cann accomodate. institution wants to use these categories as student and employee characteristics when makin decisions as employment, admissions, recruitment.
Northwest nazarene	ID	nazarene				Granted	2014	106.12, established as the Idaho Holiness school in 1913. wesleyan tradition and liberal arts verses that supp schools view of sex as gender. Genesis 1:27, Matthew 19:4 Genesis 1:31. reject all attempts of medically alte construing sexual identity or sexuality, cross dressing morally objectionable and sinful. Deut. 22:5. the schoo or discipline students that engage in sex outside of marriage, transgender or transvestite behaviors, or homos cites specific california case school district. .31b 4, .32, .51, .33, .41
Geneva college	PA	Reformed prebyterian				Granted	2015	homosexual behaviors, abortion and gender identity. Established in 1848 by the reformed prebyterian church mention of amnesty policy for self-reported behaviors. Not sure what this means but could include sexual as Transgender behaviors are deemed as disciplinable actions on the same merit as sexual relations outside of r
Geneva college	PA	Reformed prebyterian				Granted	2015	homosexual behaviors, abortion and gender identity. Established in 1848 by the reformed prebyterian church mention of amnesty policy for self-reported behaviors. Not sure what this means but could include sexual as Transgender behaviors are deemed as disciplinable actions on the same merit as sexual relations outside of r homosexuality. Genesis 1:27, 1:31, Matthew 19:4. asks for exemptions to apply regulations to include discr gender identity and sexual orientation. also openly states the college insurance plan does not cover any meth abortion. also cites arcadia school district case. 106.21,22, .23, .31, .32, .33 .34, .36, .37, .38, .39, .40, .41
Charleston southern University	SC	Christian				Granted	2014	Liberal Arts 106.21b 3, c, 106.31b.4., .57, .40, .51a, .51b6, .32, .33, .41. does not want to retain employees employees who are unmarried and pregnant or elect to terminate. Hiring a transgender employee is violation religion. Cites these as grounds for termination of employment or expulsion from the university. The only acc to express human sexuality is through heterosexual marriage covenant. when sex is taken out of this context, end in itself it is demeaned and cheapened for it is the means to procreation. Matthew 19:4-6, Hebrews 13:4, 5:22-33
George fox University	OR	christian				Granted	2014	gender identity 106.21, liberal arts university. Genesis 1:27, Matt. 19:4, Genesis 1:31. cited case of Departm Education and California school district in which a female student presenting herself as male was allowed to rooms, bathrooms and living accomodations of their choice. limited to recent interpretation of "sex."

### Appendix 4: List of Exemption Results

File	Section	Accomodation:	Surrounding Text(s)
gcv_results/resul	106.33	Comparable Faci	[ication of Sections 106.38 (employment', '106.33 permit the college ]
gcv_results/resul	106.38	Employment Dist	[ication of Sections 106.38 (employment', '106.33 permit the college ]
gcv_results/resul	106.33	Comparable Faci	[ication of Sections 106.38 (employment', '106.33 permit the college ]
gcv_results/resul	106.38	Employment Dist	[ication of Sections 106.38 (employment', '106.33 permit the college ]
gcv_results/resul	86.34	Course Offerings	[86:34--86:12 reveals our ', 'attached), Section 86:34 discusses access to]
gcv_results/resul	86.4	Marital or parent;	[ent should refer to 86:40 and 86:12 and', 'exemption; 86:40 refers to marital a']
gcv_results/resul	86.21	Admission	[status (86.21 (c) (4), 86.60 (a) ', '86.21 C, 86.40 (a), (b) (]
gcv_results/resul	86.23	Recruitment	[ (i) Section 86.23(a)', '(k) Section 86.23 (b)']
gcv_results/resul	106.33	Comparable Fac	[ication of Sections. 106.38 (employment assista', '106.32 and 106.33 permit the college ']
gcv_results/resul	106.38	Employment Dist	[ication of Sections. 106.38 (employment assista', '106.32 and 106.33 permit the college ']
gcv_results/resul	86.31	scholarships	[86.31 Education Programs ', 'ol of Theology find 86.31(a) incon-]
gcv_results/resul	86.34	specific course o	[86.34 Access to Course Of', 'ol of Theology find 86.34 inconsi-]
gcv_results/resul	106.34	Access to school	[5. Section 106.34 states that there i', 'e listed in Section 106.34 above.]
gcv_results/resul	106.31	Access to educa	[\$ 106.31. An exemption is re', ' understanding that 106.31(5) regarding appear]
gcv_results/resul	86.23	Recruitment	[ (j) Section 86.23(a)', '(k) Section 86.23(b)']
gcv_results/resul	86.23	Recruitment	[ (j) Section 86.23(a)', '(k) Section 86.23 (b)']
gcv_results/resul	86.23	Recruitment	[ (j) Section 86.23(a)', '(1) Section 86.23(5)']
gcv_results/resul	106.21	Shall not deny ac	[34 CFR §106.21(b)(iii) - admission', '34 CFR §106.21(c) - admissions; re', 'e IX regulations §§106.21(b)(iii), 106.21(c),]
gcv_results/resul	106.31	Access to educa	[34 CFR §106.31(b)(4) - regarding d', 'College from 34 CFR 106.31(b)(4), so that the ', 'hletics, and from §106.31(b)(4), regarding d', '106.31(b)(4), and 106.32 (']
gcv_results/resul	106.32	Generally. A reci	[34 CFR §106.32 - regarding housing', '\$§106.32 (housing), 106.33 (' '106.31(b)(4), and 106.32 to the College, wou']
gcv_results/resul	106.33	Comparable Faci	[34 CFR §106.33 - regarding restroo', '\$§106.32 (housing), 106.33 (restrooms and lock']
gcv_results/resul	106.38	Employment Dist	[34 CFR §106.33 - regarding restroo', '\$§106.32 (housing), 106.33 (restrooms and lock']
gcv_results/resul	106.4	Assurance Requ	[34 CFR §106.40 - pregnancy; regard', 'b)(iii), 106.21(c), 106.40, 106.51(a), 106.51(']
gcv_results/resul	106.41	Athletics, separ;	[34 CFR §106.41 - regarding athleti', 'in regard to 34 CFR 106.41 is therefore also b', 'd locker rooms) and 106.41 (regarding athletic']

### Appendix 5: Relational Database

Institutions exempted from Title IX - Table 2

Grid view Hide fields Filter Group Sorted by 2 fields Color

Name of Institution	Name of Institution copy	Date Exemption wa...	State	Attachments	Religious Exemption	Denomination
Alaska Bible College	Alaska Bible College	11/9/1988	AL		Comparable Facilities-Se...	Christian
American Indian Bible Co...	American Indian Bible College	10/11/1988	AZ			Mormon
Anderson Universi ty	Anderson Universi ty	1/7/2015	SC			
Andrews University	Andrews University	7/15/1976	MI			Catholic
Antillian College	Antillian College	5/19/1977	PR			Lutheran
Appalachian Bible College	Appalachian Bible College	11/30/1976	VA		Course Offerings, Marita...	Baptist
Asbury College	Asbury College	9/30/1976	KY		Admission	Baptist
Asbury Theological Semi...	Asbury Theological Seminary	6/2/1977	KY			Jewish
Assemblies of God Theol...	Assemblies of God Theological Semin	10/4/1988	MO			Assemblies of God
Athenaeum of Ohio	Athenaeum of Ohio	7/23/1976	OH			Christian Reformed
Atlantic Christian College	Atlantic Christian College	8/29/1984	NC			Baptist
Ayelet Hashachar Teach...	Ayelet Hashachar Teacher's Seminary	5/3/1977	NY		Recruitment	Orthodox-Jewish
Baptist Bible College	Baptist Bible College	9/5/1988	MO		Access to schools and Cl...	Christian
Baptist Bible College an...	Baptist Bible College and Seminary	12/9/1976	PA		Comparable Facilities-Se...	Christian
Baptist Bible College Se...	Baptist Bible College Seminary	10/17/1988	PA			Assemblies of God
Bartlesville Wesleyan Col...	Bartlesville Wesleyan College	7/16/1976	OK			Baptist
Baylor University	Baylor University	1/12/1976	TX			Roman Catholic
Belmont Abbey College	Belmont Abbey College	1/16/2015	NC			
Belmont College	Belmont College	2/16/1979	TN		Access to education pro...	Catholic
Belzer Yeshiva Machzikei...	Belzer Yeshiva Machzikei Torah Semir	9/9/1985	NY		Recruitment	Roman Catholic
Berea College	Berea College	9/28/1976	KY			Baptist
Beth Hamedrash Shaarei...	Beth Hamedrash Shaarei Vasher	5/3/1977	NY		Recruitment	Orthodox-Jewish
Beth Hatalmud Institute f...	Beth Hatalmud Institute for Advanced	5/3/1977	NY			Orthodox-Jewish
Beth Medrash Emek Hala...	Beth Medrash Emek Halacha	5/3/1977	NY		Recruitment	Orthodox-Jewish

Appendix 6: OCR website as of 2016 compared to current 2020

## Religious Exemption

[Protecting Students > Sex Discrimination >>](#)



Under the Title IX statute and its implementing regulation at [34 C.F.R. § 106.12](#), Title IX does not apply to an educational institution that is controlled by a religious organization to the extent that application of Title IX would be inconsistent with the religious tenets of the organization.

An institution will normally be considered to be controlled by a religious organization if [one or more of the following conditions](#) is true:

- (1) It is a school or department of divinity, defined as an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects; or
- (2) It requires its faculty, students or employees to be members of, or otherwise espouse a personal belief in, the religion of the organization by which it claims to be controlled; or
- (3) Its charter and catalog, or other official publication, contains explicit statement that it is controlled by a religious organization or an organ thereof or is committed to the doctrines of a particular religion, and the members of its governing body are appointed by the controlling religious organization or an organ thereof, and it receives a significant amount of financial support from the controlling religious organization or an organ thereof.

An educational institution that wishes to claim the exemption may do so by submitting in writing to the Assistant Secretary a statement by the highest ranking official of the institution, identifying the religious organization that controls the educational institution and specifying the provisions of Title IX or its regulations that conflict with the tenets of the religious organization. A claim for a religious exemption may be mailed to the Assistant Secretary for Civil Rights at 400 Maryland Ave. SW, Washington D.C. 20202 or emailed to [OCR@ed.gov](mailto:OCR@ed.gov).

Links to Title IX of the Education Amendments of 1972 and its implementing regulations:

- [20 U.S.C. § 1681: Title IX statute](#)
- [34 C.F.R. Part 106: Title IX regulations](#)

For a listing of the religious exemption requests that OCR has received and OCR's response to each request, please visit our index pages:

[Institutions Requesting Religious Exemptions and OCR's Responses Prior to 2009](#)

[Institutions Requesting Religious Exemptions and OCR's Responses from 2009-Present](#)

Additionally, this [chart](#) lists all of the institutions that currently hold a religious exemption and all those that have a religious exemption request pending with OCR.

To search for a specific letter or institution, please use the search box below.





**Keyword(s):**

You may search by any of the categories listed below. Type your search term(s) into the search window box above. If performing a multiple category search, place a semi-colon (;) after each search term. Click the 'Search' button to initiate your document search. The documents provided are current through the most recent upload date on the index page.

1. Search by: **Name of Institution**(e.g. John Doe University, XYZ High School)
2. Search by: **State** (Full name, e.g. Alabama, California, etc.)
3. Search by: **Regulation cited** (e.g. §106.21, §106.22, etc.)
4. Search by: **Request or Response**
5. Search by: **Date of letter** (format: mmddyyyy or yyyy)

For your convenience, we have also compiled the religious exemption requests and responses into four documents that may be downloaded without searching for each institution's letter individually.

Compiled religious exemption documents:

- Requests received prior to 2009  PDF 171MB
- Responses sent prior to 2009  PDF 145MB
- Requests received from 2009-Present  PDF 104MB
- Responses sent from 2009-Present  PDF 26MB

## Religious Exemption

As of January 18, 2017,  
updates for this page are no longer  
available.

Please visit our new page location at:  
[www2.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/index.html](http://www2.ed.gov/about/offices/list/ocr/docs/t9-rel-exempt/index.html)

This page will be removed as of April 21, 2017



