Brigham Young University: Challenging the Federal Patron

Brigham Young University is a coeducational institution of higher learning established to promote a closer union between the restored gospel and all branches of learning. In addition to high standards of scholarship, the University has always fostered the development of religious faith, high moral character, and responsible citizenship. Sponsored by The Church of Jesus Christ of Latter-day Saints [Mormon], it offers the student a unique blend of spiritual and secular learning.—From the BYU General Catalog, 1975–76.

The purpose of this part is to effectuate Title IX of the Education Amendments of 1972 . . . which is designed to eliminate . . . discrimination on the basis of sex in any education program or activity receiving federal assistance.—From the introduction to federal regulations implementing Title IX.

Provo, Utah. A visitor's first impression of Brigham Young University is likely to be that BYU is out of synchronization with most of American higher education. It is partly the striking setting on a plateau at the foot of the Wasatch Range and the pristine look of the campus. No litter. No grafitti. The buildings all seem to be new, with few of the signs of the wear and tear many university buildings are showing in these days of budget paring. But it's also the look of the students. Seemingly all of them are neatly dressed and shorn and shod, the result of a dress and grooming code which, for example, specifies that men shall not wear beards nor their hair below the collar. And to heighten the contrast with other campuses in the 1970's, every morning and evening ROTC details come out to raise and lower the flag and an amplified "Star-Spangled Banner" echoes across the campus. Even parking seems to be under control.

BYU, with its direct ties to the Church of Jesus Christ of Latter-Day Saints (LDS), is a place where "obeying, honoring, and sustaining the law" is literally an article of faith. Therefore, when in mid-October BYU announced that it would not comply with some of the new federal regulations prohibiting sex discrimination in educational institutions, the challenge seemed to come from an unlikely quarter.

BYU is an atypical American university which is perhaps easier to caricature than to characterize fairly. It is a private institution in somewhat anachronistic ways. It retains much of the spirit of the denominational colleges of the 19th century and is heavily financed by the church while keeping the federal patron at arm's length. BYU is an interesting place in its own right. It is also the largest private university in the United States in terms of full-time enrollment—some 25,000 students. And because of the issues raised by controversy over Title IX, it is worth looking at in some detail.

In taking issue with the new rules prohibiting sex discrimination in education, BYU argued that the Department of Health, Education, and Welfare (HEW) regulations both exceed the intent of Congress and breach constitutional guarantees of religious freedom. On the first count BYU particularly objects to the proviso that an institution may lose *all* federal funds if sex discrimination is found in *any* program or activity. BYU officials contend that programs where no discrimination exists should not be affected, citing their interpretation of congressional intentions in passing the law.

BYU's key objections to the regulations, however, appear to be with the sections which would bar it from inquiring into the private lives of students, faculty, and staff. In a statement published as an advertisement in Utah newspapers in mid-October, BYU made this comment:

> Brigham Young University will not follow the provisions of these regulations to the extent that they prohibit certain inquiries into or actions based upon the marital or parental status or the pregnancy or termination of pregnancy of present or prospective students or employees. BYU teaches and enforces strict adherence to the highest Christian standards of sexual morality. Our standards of behavior and our admissions, hiring and dismissal policies related to sexual behavior are identical for both sexes. Where an inquiry or action prohibited by the regulations may be necessary to create or enforce the moral climate we desire at BYU, we will disregard the contrary requirements of the regulations.

BYU also says it will "continue to enforce rules of appearance which differ for men and women because we believe that differences in dress and grooming of men and women are proper expressions of God-given differences in the sexes. We will resist the imposition of a unisex standard of appearance."

Title IX regulations do seem to provide an escape clause, which allows exceptions to be made in the case of provisions which conflict with the religious tenets espoused by a particular institution. At this point, BYU has received an acknowledgement of its reaction to the regulations from HEW with a promise that a detailed response to the issues raised by BYU will be coming in the near future.

In theory, a college or university might choose to renounce all federal funds and operate solely on private financing—BYU is one of the few institutions which might make a go of it because of the backing of the church. In practice, this seems an unlikely option, since payments to students under the GI Bill and as Social Security survivors benefits and other less visible forms of federal funding would be extremely difficult to decouple.

BYU has not taken the action frivolously. The LDS church is not only the major financial support of the university but exercises direct policy control—the BYU board of trustees is made up of the so-called General Authorities of the Church, with the president of the church serving as head of the BYU board. So BYU is taking on HEW as a result of a policy decision by the church.

BYU president Dallin H. Oaks, 43, is a former University of Chicago law school professor with a special interest in church-state issues. Oaks and other BYU officials emphasize that the university intends to comply with most provisions of the regulations, and if, after exhausting all administrative and legal remedies, it loses on the points at issue, BYU will abide by the decision. Oaks believes, however, that the university is in a strong legal position. Certainly feelings run strong at BYU. "If we can't preach and promote moral values, we become just another state institution," says Oaks, "and the taxpayers might as well support us."

BYU's beginnings go back to 1875, when Brigham Young himself founded an academy in Provo. Despite the sponsorship of the Mormon leader, the school for several decades had a hard time financially. It was given its present name in 1903 but continued to grow slowly and was known primarily as a normal school and agricultural college. The rapid expansion of BYU began after World War II, particularly after Ernest L. Wilkerson assumed the presidency in 1951. Wilkerson is a BYU alumnus who became a successful Washington law-

yer. He was president of BYU over a 20-year period, interrupted only when he resigned to run for the Senate as a Republican in 1964 (he was reappointed to the presidency after his defeat at the polls). During Wilkerson's tenure, BYU enrollment increased from about 4000 to the present 25,000 and most of its 350 buildings were constructed. A broadly based graduate program was established and foundations for a law school were laid. Oaks succeeded Wilkerson in 1971. A decision was made to hold enrollment at about the 25,000 mark (including approximately 2000 graduate students), and the Oaks era at BYU so far has been one of consolidation—or, as one administrator put it, "improving the strong points."

BYU does not make public its budget or balance sheet. The LDS church is systematically noncommital about its financial affairs and this extends to the university. The church does say that it pays about two-thirds of the cost of educating each student, so rough budget estimates are possible. Tuition for a normal two-semester year is $680 for LDS members and $1020 for nonmembers (since about 97 percent of undergraduates are LDS members, the arithmetic is fairly simple). An operating budget of about $50 million, with the LDS church supplying two-thirds, is thought not to be too far from the mark. An estimated $100 million in church funds has gone into campus facilities in the expansion period. LDS church funds are derived mainly from tithing; members of the church are expected to contribute 10 percent of their annual incomes to the church.

With the church making such a heavy contribution, it is not surprising that LDS influence is pervasive. This influence is embodied in the BYU Code of Honor. Anyone who enrolls as a student or accepts employment at BYU is regarded as agreeing to conform to the code.

The code begins with a general stricture requiring those at BYU to abide by the standards of Christian living taught by the church and then follows with a comprehensive list of do's and don't's. Cheating, plagiarizing, or giving false information is forbidden. Drug abuse is proscribed along with the use of alcoholic beverages, tobacco, coffee, and tea, all of which are excluded from the campus. A respect for personal rights is required which includes refraining from "verbally or physically abusing any person" or disrupting or obstructing the study of others or the performance of official duties by faculty or administrators. The "law of chastity" is to be observed. The code specifies that "This includes abstinence from all sexual relations outside the bonds of marriage." The code sets standards which seem improbably high to an outsider lacking some grasp of Mormon beliefs and Mormon society. The LDS church puts heavy demands on its members throughout their lives—for money, for service to the church, for high standards of behavior—stressing the individual's role as part of his family and of his church. A student's time at BYU is designed to be a continuation of his experience in Mormon community life. The university is divided into some 120 "wards" or congregations, and the student attends Sunday religious services as well as the campus equivalent of the Mormon Monday "family night" with his ward on campus.

The Mormons do not have a separate clergy. The priesthood is open to all males, but not to women. Blacks of African heritage are also barred from the priesthood, although they may join the church. Perhaps a quarter of BYU students are missionaries returned from the 2-year service which many young Mormon men and a smaller number of women give the church on missions in this country and abroad. And in small ways—people addressing each other as "brother" and "sister," prayers said automatically at gatherings, including parties and sports events—as well as large, the presence of the church is manifest.

Each student is required to take one religion course each term, but no undergraduate major in religion is offered. BYU does not in any ordinary sense operate as a

Statue is of BYU founder Brigham Young. Building is fine arts center housing educational TV station. Wasatch mountains are in background.

seminary. As one administrator put it, "the LDS is not strong on theologians." A College of Religious Instruction administers all religion courses, but many, perhaps most, of the religion courses are taught by faculty members in other disciplines who volunteer for the assignments.

BYU students are somewhat insulated from the influences of the dominant American culture (and counterculture), but they are not immune from them. Infractions of the Code of Honor do occur, and while violation of the code is grounds for dismissal from the university, justice appears to be tempered when possible. BYU officials do not seem comfortable talking about enforcement of the code, but there are indications that the university office which deals with "standards" problems sees its job as helping the wayward back on the right path and that community pressure and the general atmosphere are effective deterrents.

Less than a third of BYU students live in university housing, and the fact that so many students live in rented quarters in and around Provo is said to permit some behavioral latitude.

The LDS church itself, while it has a highly centralized, hierarchical structure, is not monolithic. The church has its liberals and conservatives, and even its heretics and schismatics. There is in fact a Reorganized Church of Jesus Christ of Latter-Day Saints based in Independence, Missouri, which split off from the Utah church as a result of conflict of doctrine and personalities in the 19th century. The Utah LDS church is one of the fastest growing of denominations, with more than 3 million members in the United States and many more abroad. The great majority of Mormons are faithful, dutiful members. But the church also has its ultras of, so to speak, the right and the left. Some adhere rigidly to what they believe are original Mormon beliefs, a small number in remote areas reportedly even practice polygamy, which the church long ago renounced. Then there are the Mormon "intellectuals" who work within the church to liberalize LDS doctrine. And there are others, many of them still nominally Mormons, who are simply no longer active in the church. So while the church presents a front of remarkable solidarity, there is criticism and dissent and this extends to BYU.

Since World War II, BYU has received more attention as well as greatly increased financial support from the church, and particularly after Wilkerson became president the church became directly involved in guiding the university's development. One view of this development is provided by an observer who left the BYU faculty early in Wilkerson's presidency. Brigham Madsen, who calls himself a "nonpracticing Mormon," is a historian who has worked as an administrator and professor at Utah State, for the Peace Corps, and, in recent years, at the University of Utah. "BYU did not really have the support of the church until the Wilkerson era," says Madsen. "The church kept it going but did not support it substantially. Wilkerson planned a campaign to get the church committed to the university. He was a good lawyer and friend and adviser to [church] president Rueben J. Clark. Wilkerson went there in 1950 and accomplished his mission, built buildings, and so forth.

"Well, the church began to pay a lot of attention to the university. If you're putting a lot of money into it you want control. Wilkerson had a very conservative point of view. There had been a kind of liberal tradition at BYU along with the idea of bringing young people into the church. All at once there was some conflict; some liberal members of the faculty began to have problems. Wilkerson decreed that members of the history department must teach LDS history. As a professor of history I'd read it and it didn't make much sense. So I taught church history as you would teach any other history." This was not received well by university authorities.

Bootleg Learning an Option

"Some people did what you might call bootleg learning," says Madsen, but he did not wish to do that. And he says that, under the circumstances, he felt embarrassed "being paid by people who were paying my salary out of tithing.

"It was easy to get out then, and there was an exodus. People who have gone there since have adapted," says Madsen. "In the science field, you don't have that much of a problem. Humanists have problems."

Madsen declined to generalize about the academic atmosphere at BYU on the grounds that he is not sufficiently acquainted with the situation there these days. He does get down to BYU occasionally and observes that he is generally sympathetic with Oaks's policies, but he made one comment about the handsome campus which expresses the feelings of some other visitors. "BYU is so ordered," he said, "I'm ill at ease when I'm there. I guess it's that democracy is untidy and confused."

Like other observers, Madsen feels that the church leadership in the past 30 or 40 years has grown more politically conservative, a conservatism expressed in suspicion of the federal government. Madsen is able to put these attitudes in historical context. "There's the memory of Mormon persecution," he says. "The central government persecuted them. They want to control their own affairs.

"They have a fear of change. Mormonism is the afterclap of Puritanism—New England living translated to Utah. Mormons have the Puritan virtues and vices. Most of them are honest and hardworking, but they can be smug and complacent." "Their stance for free enterprise is Calvinist," says Madsen, "it's good to have wealth. But they're strong for education. The glory of God is in intelligence."

At BYU, allegiance to the work ethic has been accompanied by an overt suspicion of the federal government. Wilkerson, when he was president, regularly inveighed against the threat of socialism from Washington. BYU has implemented its principles of self-reliance with a general policy restricting acceptance of federal funds. The restraint extends to federal R & D programs on which most universities have largely relied to finance research.

BYU does undertake federally sponsored R & D, but Oaks says it insists on a quid pro quo arrangement. Oaks says BYU takes a grant or contract when "we feel we can give value for the money. The government is paying us to do their work." No federal money for buildings, not even loans, is accepted. Oaks routinely signs all contracts and grants to make sure that the principle is observed.

Federal R & D support reached a peak of about $3 million a year in the early 1970's and since then has been progressively reduced by the university. Federal funding is expected to bottom out at about $1.2 million this year and to be held at approximately this level of effort in the future with funding variations tied to inflation.

Policy on R & D at BYU fits into a larger pattern. More than at most places there is a clear sense of what a university should be, or at least of what BYU should be. Not surprisingly, the role of women at BYU is clearly defined. For the Mormons the woman's most important role is as mother and center of the family. The official view is that a woman with young children should remain at home and not work unless there is dire economic necessity. But Mormon attitudes do not amount to unmitigated male chauvinism. With respect to women, the Mormon emphasis on education is expressed in the homily, "Teach a boy and you teach a boy. Teach a woman or a girl and you teach a whole family." Brigham Young established his academy for both sexes at a time when coeducation was unusual.

Oaks as BYU president has espoused what amounts to a policy of equal educational opportunity for women on the grounds that a quarter of LDS adult mem-

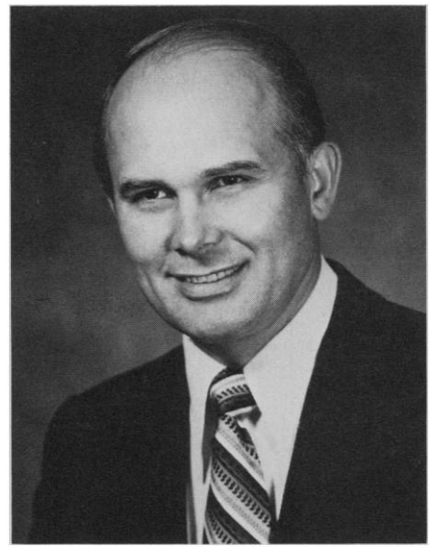
bership are women who are single, widowed, or divorced and also that many, perhaps most, married women will work after their children are grown.

Although by ordinary criteria, women have been subject to discrimination at BYU, the picture is a mixed one. And BYU officials insist that inequities are being corrected. Undergraduate enrollment has been fairly evenly split between men and women—full-time enrollment this year is 13,540 men (52 percent) and 12,410 women (48 percent), but graduate enrollment continues to be dominated decisively by men. In 1969 only 22 of 247 Ph.D. candidates were women. This year the number of women is up to 61 in a total of 284 doctoral students. Scholarship aid is said to be divided about evenly.

There is some ambiguity about the significance of trends in the number of women on BYU's faculty. Total faculty has plateaued in the 1970's at about 1150, but the number of women declined slightly between 1971 and 1975—from 158 to 153. However, retirement of a number of older women who held faculty rank in the education college offset hiring of women in other sectors of the university. In the same period, the number of women professors in the university as a whole did rise from 8 to 10 and the number of women associate professors rose from 18 to 29. The percentage of women of faculty rank at BYU falls well below the average of about 20 percent for universities in general. But if a comparison of BYU's 13 percent mark is made with other private universities, particularly elite research universities, the gap closes.

In the upper reaches of the BYU administration there is still no woman with "line" responsibility, but recently Marilyn Arnold, an assistant professor of English, was made an assistant to the president with substantial responsibilities. Oaks and other BYU officials say that the ceiling on enrollment has limited expansion of faculty and staff and made it difficult to move rapidly to alter imbalances. But a systematic effort at equalization is being made, says Oaks.

Not too much reliance should be placed on random impressions, but in 2 days on the BYU campus this visitor certainly saw no more signs of sexual stereotyping than on other campuses. Two examples. An afternoon soccer game in progress on one of the intramural athletic fields near the main entrance of the campus with mixed teams of men and women mixing it up in what appeared to be a genuine equality of the sexes in kicking and getting kicked. A morning forum in which two or three hundred students attended a discussion of Title IX with women students getting equal time and speaking with equal confidence.



Dallin H. Oaks

Any discussion of discrimination relating to the Mormons almost inevitably leads into the question of the LDS attitude toward blacks. The church bars blacks from the priesthood, although they may belong to the church. The policy effectively bars blacks from the full participation in the church which Mormons believe will be rewarded in an afterlife. The proscription of African Negroes from the priesthood is traced to one of the works of the 19th-century prophet and founder of the Mormon religion, Joseph Smith. In the Book of Mormon, the original work of revelation on which the religion is based, equality of the races is espoused. But a later work, described as a translation by Smith of Egyptian papyri fragments, is the basis for barring blacks from the priesthood. The source of the prohibition is an elaboration of the Old Testament story of Noah's son Ham, whose descendants were condemned to be servants.

Alteration of LDS policy is possible for the Mormons through interpretation by the church president. The church's stand on polygamy, for example, was effectively altered in the late 19th century. Some observers think that the church position on blacks will also undergo reinterpretation at some point in the future.

There is no bar to the admission of blacks to BYU, but, not surprisingly, few blacks attend the university. In recent years there have usually been no more than 2 or 3 American blacks enrolled as undergraduates. A staff member expressed the prevailing view when he said that blacks "don't feel at home at BYU." Social life for blacks is limited, not only on campus, but in Provo and for that matter in Utah generally, where the black population is small.

Mormons in Utah have been isolated socially as their forebears were geographically, but that isolation has been breaking down. The old policy of resettling Mormon converts in Zion—Utah and the nearby Western states—has been changed for a more conventional missionary effort to increase LDS membership in this country and abroad. And Utah is now part of one of the country's major growth areas, with "gentiles" arriving in large numbers.

Non-Mormon newcomers often complain that Mormons are clannish and censorious. It was of course the Mormon sense of community which, in the 19th century, made it possible for them to resist gentile persecution, endure the rigors of their epic migration, and colonize an inhospitable frontier. That pioneer ethos has been strongly perpetuated, perhaps partly because, until recently, Utah was lightly touched by urbanization and industrialization and also because the LDS hierarchy is a gerontocracy, with many of its leaders having been born in the 19th century.

The non-Mormon is likely to feel that he is faced with a paradox. The LDS church and Mormons generally are traditionalist in their view of authority and of the family, church, society, and government in ways that seem rigid by contemporary standards. And outsiders find the Mormon denial of racial bias at odds with their acceptance of a policy excluding blacks from religious equality.

At the same time the individual "saint" is likely to have an energy, simplicity of manners, and friendliness which is very appealing. As for the atmosphere at BYU, it is hard to disagree with the judgment of student contemporaries in *The Insiders' Guide to the Colleges*, compiled by the staff of the *Yale Daily News*, which begins its rundown on BYU with "Innocence is alive and well and living in Provo, Utah."

Since World War II, BYU has sought to become a full-fledged university while remaining an avowedly religious institution. That policy now appears to be in conflict with the law of the land in the form of Title IX. BYU officials are arguing that HEW is applying affirmative action sanctions developed in the civil rights struggles of the 1960's in a way that is inappropriate and threatens pluralism in higher education. BYU does seem to be something of a special case, and it is a difficult one for HEW if one accepts the BYU view that what is involved is a clash between morality and the law.—JOHN WALSH

A second article will deal with BYU's efforts to build programs of research and graduate education in science and engineering while minimizing reliance on federal funding.