

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

CA BIBLE INSTITUTE OF
FREE WILL BAPTISTS, dba
CALIFORNIA CHRISTIAN COLLEGE
(Petitioner)

PRECEDENT
TAX DECISION
No. P-T-336
Case No. T-75-17

DEPARTMENT OF BENEFIT PAYMENTS

Referee's Decision No. F-T-6550

The Department of Benefit Payments has appealed from the decision of an Administrative Law Judge which granted the petition for review of California Christian College.

STATEMENT OF FACTS

California Christian College is a nonprofit corporation organized, according to its articles of incorporation, for the following purposes:

"1. To further the cause of Jesus Christ in the State of California and wherever the California State Association of Free Will Baptists shall direct the assistance of religious and social work.

"2. To establish, continue, and maintain a school of learning within the bounds of the State of California, and in connection therewith, to purchase, acquire, hold, manage, encumber and convey such real and personal property as the purpose of the corporation may require."

The corporation is directed by a board of directors chosen by the California State Association of Free Will Baptists. The present academic dean of the college and assistant moderator of the Free Will Baptist church testified with respect to the establishment of California Christian College as follows:

"We felt that the ministers in our churches who were being called to God and were being ordained needed to have a more in-depth training, particularly in the skills of Bible archaeology, theology and this was the primary purpose of forming this school to start with, to equip these men, knowing how to communicate, which would include of course speech; psychology, how do you deal with the people compensations."

The Free Will Baptist Church does not require that a pastor be a graduate of the college. However, the majority of graduates of the institution either enter church work or work closely with the Free Will Baptist Church. According to statistics provided by the petitioner, graduates during the years 1970 through 1975 entered the following occupations:

- 22 pastors or associate pastors
- 8 teachers in Christian education
- 4 missionary workers
- 3 employed by the college
- 3 wives of pastors
- 2 continued education
- 1 housewife and librarian
- 1 church layman

Although the petitioner's literature refers to a three-year program which offers a Bible diploma to students who do not wish to pursue the four-year college program and a two-year Junior College Program, all of the students enrolled since 1969 have been in the four-year course leading to a B.S. degree in Theology or Bible Studies, with the exception of some wives who were enrolled while their husbands were completing the four-year course. The petitioner anticipates that those who attend the school will go back to their local churches, and the school attempts to aid them in their Christian activities when they return.

The school also offers extension courses in Southern California. It has been the petitioner's experience that students at the extension program will have their interests in the four-year program whetted. Thus, the extension program is primarily directed toward obtaining applicants for the full-time program.

In order to enroll, the applicant must demonstrate adherence to the principles espoused by the Free Will Baptist Church. For instance, the student applying for admission must certify to his or her Christian experience and convictions; must have three references, including the local pastor, verifying the student's moral character; and while attending school the student must conduct himself or herself in an "exemplary Christian manner." Nonmarried students are required to live in dormitories maintained by the college. Also, the use of an automobile is strictly regulated, and the right to its use may be restricted by the petitioner. All students are required to refrain from drinking intoxicants, smoking, card playing, gambling, dancing, attending theaters and mixed swimming.

The petitioner maintains a chapel which students are required to attend each regular class day. At the beginning of each semester, there is a Spiritual Life Conference, the aim of which is to set the spiritual tone for the school year. There are also Missionary Conferences and an Annual Bible Conference. Every student is assigned to a place of service by the Director of Practical Work.

The attitude toward the students is best exemplified by the following statement in the college catalog:

". . . When we pray about students coming to CCC, we pray that only those chosen by Him will come. Could it be that you are one of them?

"Sometimes a Christian young person will pick a college and then 'pray God.' May we suggest that you 'pray God' and then attend that college which God has picked or chosen for you."

The college attempts to maintain high academic standards. Courses are provided in Bible study, evangelism, old testament archaeology, Pauline writings and theology. Even the nonreligious courses are directed toward Christianity. For example, the Greek that is taught is Koine Greek, rather than classical Greek; the music taught is church music; and the purpose of the social science program is to acquaint students with the Christian philosophy of man, society, and history. The college receives its main support from the Free Will Baptist Church, members of the church, and from tuition.

REASONS FOR DECISION

Contributions are due to the Unemployment Fund and Disability Fund with respect to wages paid for employment (sections 976 and 984 of the Unemployment Insurance Code). Except as provided in section 634.5 and with other exceptions not pertinent in this case, service for nonprofit organizations is considered "employment" (section 608). Section 634.5(a)(2) excludes from employment service in the employ of:

". . . an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches."

The petitioner is admittedly an organization which is supervised and controlled by an association of churches. The Board of Directors which formulates the policies and supervises the operations of the petitioner is elected by the California Association of Free Will Baptists. Thus, the issue is simply whether the petitioner is "operated primarily for religious purposes."

Sections 608 and 634.5(a)(2) were added as a result of the enactment of Public Law 91-373, The Employment Security Amendments of 1970. Hence, the legislative history of the Federal legislation shall provide a guide to the interpretation of the California legislation (Appeals Board Decision No. P-T-335).

Section 3309(a)(1) of the Internal Revenue Code, as amended, extends coverage to service in the employ of, inter alia, certain nonprofit organizations; section 3309(b) of the Internal Revenue Code, as amended, excludes from the coverage granted by subsection(a)(1) service for, inter alia, organizations which are operated primarily for religious purposes and which are operated, supervised, controlled or principally supported by a church or convention or association of churches. With respect to the exemption to coverage established in section 3309, the Ways and Means Committee of the House of Representatives reported:

"This paragraph excludes services of persons where the employer is a church or convention or association of churches, but does not exclude certain services performed for an organization which may be religious in orientation unless it is operated primarily for religious purposes and is operated, supervised, controlled, or principally supported by a church (or convention or association of churches). Thus, the services of the janitor of a church would be excluded, but services of a janitor for a separately incorporated college, although it may be church related, would be covered. A college devoted primarily to preparing students for the ministry would be exempt, as would a novitiate or a house of study training candidates to become members of religious orders. On the other hand, a church related (separately incorporated) charitable organization (such as, for example, an orphanage or a home for the aged) would not be considered under this paragraph to be operated primarily for religious purposes." (House Report No. 91-612, p. 44)

Congress required that the purpose be "primarily," not "solely," devoted to religious purposes. The term "primarily" has been defined as "first in rank or importance, chief, principal, basic, or fundamental" (33A Words and Phrases 209). Thus, service for an organization which principally serves a religious purpose may be exempt even though the organization incidentally serves other purposes as well. An illustration provided by the Ways and Means Committee of such an organization is "A college devoted primarily to preparing students for the ministry"

The petitioner herein was created to fill the perceived need of the Free Will Baptist Church to better prepare pastors and other church workers to assume their responsibilities. It attempts to insure that those who attend have a calling, and the college requires that students' conduct be consistent with the church's teachings. The college curriculum is designed to prepare students for church work. Finally, the college does make efforts to assist its graduates upon their graduation to find places in the church.

It is inescapable that the California Christian College is a college devoted primarily to preparing students for the ministry. Accordingly, we find that it is an organization primarily devoted to religious purposes and service for it is excluded from mandatory coverage by section 634.5(a)(2).

DECISION

The decision of the administrative law judge is affirmed. The petition for review is granted.

Sacramento, California, March 22, 1977.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT