

## Guidelines for institutions seeking a religious exemption – Is a degree program religious instruction?

In *H.E.B. Ministries v. Texas Higher Education Coordinating Board*, 235 S.W.3d 627 (2007), the Texas Supreme Court held that sections [61.304 and 61.313\(a\) of the Texas Education Code](#), which regulate the activities of degree-granting institutions, may not constitutionally be “applied to a religious institution’s program of religious instruction.” (In that case, HEB Ministries’ Tyndale Seminary.)

The Texas Supreme Court's holding specifically addressed sections 61.304 and 61.313(a) of the Education Code and religious institutions' *religious*, rather than *secular*, programs of study. *Id.* at 657. As the Texas Supreme Court explained, the Board's (THECB) authority to regulate "religious institutions offering a *secular* education" was not even an issue in the *HEB Ministries* case. *Id.* at 641 (emphasis added). Indeed, the Board's authority to regulate *secular* higher education programs was unquestioned. *Id.* at 641, 656. Accordingly, *HEB Ministries* allows the Board to exercise jurisdiction over a religious Institution's *secular* programs of study.

Institutions may request a religious exemption letter if the institution’s activities are **entirely religious in nature**. If the religious institution is using “college” or “university” in its name, the letter may also state use of a protected term by a religious institution is outside the purview of THECB. Institutions should also contact the Texas Workforce Commission regarding a license, exemption, or exclusion from Chapter 132 of the Texas Education Code.

### **What are examples of religious instruction?**

The following examples are illustrative and should not be considered to define all possible degree programs which might be considered religious instruction or instruction which also prepares student to work in non-religious occupations or jobs.

- Degrees that are considered **religious instruction** as they traditionally train students for work as a minister/religious leader, in a church/temple/mosque/etc. or church/temple/mosque/etc.-related ministry:
  - Doctor of Ministry;
  - Master of Divinity;
  - Bachelor of Islamic Studies;
  - Bachelor of Judaic Studies;
  - Associate of Biblical Studies.
- Degrees that may be considered **either**:
  - **religious instruction** if training students to only counsel, educate or perform duties based on religious principles and, e.g., cannot lead to state licensing or certification, or
  - **secular** if also preparing students to be state-licensed, certified, or regulated or able to work outside a church/temple/mosque/etc. or church/temple/mosque/etc.-related ministry:
    - Bachelor of Christian Counseling – if it allows state licensure;
    - Bachelor of Religious Education – if it allows state licensure or certification;
    - Associate of Sacred Music;
    - Master of Greek/Hebrew/other language – unless only used to enhance religious profession or to study religious documents.

- Degrees that likely will be considered **secular** because, although many program courses incorporate religious principles, core skills are being taught that will be able to be used beyond working in a church/temple/mosque/etc. or church/temple/mosque/etc.-related ministry:
  - Bachelor of Islamic Finance;
  - Bachelor of Christian Business Management;
  - Bachelor of Human Services;
  - Associate in Administrative Services;
  - Master of Christian Business Administration;
  - Associate in General Studies.

THECB staff might well request a list of degree program courses and descriptions to assist the institution in determining if a program is secular or religious instruction only.

**Can a religious instruction degree include some general education courses?**

Some general education courses may be included in a religious degree, even though the individual courses may be primarily secular. The presence of such a general education course would not necessarily render the religious degree as secular if the courses are used to supplement religious training. This over-all guidance on general education courses follows the *HEB Ministries* opinion.

**If an institution has both religious instruction and non-religious instruction degrees, what must it do to comply with the Texas Higher Education Coordinating Board (THECB) rules in order to operate in Texas?**

An institution should apply for a Certificate of Authorization if it has institutional accreditation recognized by THECB. An institution should apply for a Certificate of Authority if it does not have such recognized institutional accreditation. THECB staff can assist institutions to determine which certificate to pursue.