

federal funding can claim a “religious faith” exemption to Title IX, which provides women with equal access to educational services but has been expanded in recent years to protect LGBTQ students. BYU has a legal right to discriminate.

But some LGBTQ rights advocates believe other universities should be grappling with the same questions that faced their predecessors after the Black 14 story put the Latter-day Saints church’s racial prejudice into the national spotlight 40 years ago.

Instead of answering those questions — or even asking them — universities across the nation, including the UO, are lining up to do business with BYU. A review of dozens of contracts between BYU and the schools it has contracted to compete against on the gridiron shows millions of dollars changing hands between institutions with strict non-discrimination rules and a university that openly and actively discriminates against LGBTQ individuals.

And who will be doing the most to enrich BYU in coming years?

That would be the University of Oregon.

READY FOR SOME FOOTBALL

The UO prohibits discrimination “on the basis of race, color, sex, national or ethnic origin, age, religion, marital status, disability, veteran status, sexual orientation, gender identity, and gender expression in all programs, activities and employment practices.”

No school can make rules for other schools, of course. But institutions of higher education can choose the conditions under which they will do business with others. Indeed, Oregon requires both contractors and subcontractors to not only commit to non-discrimination but also “to take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.” The school apparently thinks this is important, as this section of the general “University Standard Terms and Conditions” contract is the only part of the document in boldface.

Under those terms, Oregon could not hire a janitorial company to clean Autzen Stadium if that company refused to employ people who are in gay relationships. It couldn’t hire a concessionaire to sell hotdogs at Duck games if that company fired people for getting married to someone of the same sex. If Oregon tried to staff its athletics contests with a security firm that maintained the same policies as BYU, the contract would likely be turned down.

But the contract the UO signed with BYU in 2015

discriminatory organizations of all sorts to continue doing business as usual without fear of repercussions.

“Unfortunately, being anti-queer in America isn’t a ‘bad enough’ thing yet to, say, justify turning down an organization or turning down money,” she says. “A lot of organizations actively donate to anti-queer causes and other organizations do business with them all the time.”

In the midst of all of the problems faced by queer students at universities across the nation, Cannell says, a football game against BYU probably isn’t on a lot of people’s radars.

“Non-allies don’t likely care. Allies probably don’t see it unless it’s pointed out,” she says. “The priority is football and entertainment. That’s the status quo. I’m not sure what would need to happen to change that.”

A COMPLICITY OF CHOICE

Being gay isn’t a choice. Playing football against BYU is.

BYU isn’t in the Pac-12, like the UO. In fact, BYU’s football program isn’t in any athletic conference. It has been independent since the 2011-12 season. And although it has openly sought to join a major conference since then, the university’s record on gay rights is one of the factors that seem to have prevented the major conferences from asking BYU to join.

In 2016, when the Big 12 appeared to be entertaining the idea of inviting BYU into its ranks, 25 LGBTQ advocacy organizations signed onto a joint letter urging the conference to think twice. “As organizations committed to ending homophobia, biphobia and transphobia both on and off the field of play, we are deeply troubled by this possibility,” the letter read. “We feel it would be extremely problematic to include BYU in your conference expansion.”

The invite from the Big 12 never came, and no other major conference has shown any public interest in BYU. That means that BYU can’t rely on a conference to set its schedule. So, when UO officials decided to compete against BYU in football, they did so as the result of a voluntary and independent negotiation for revenue sharing.

That negotiation would seem to be an outlier for a school that has worked hard to be inclusive.

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— **CHRISTA CANNELL,**
BOARD MEMBER AT LOGAN PRIDE



Big 12 to reject BYU, isn’t surprised by the disconnect between the stated principles of individual institutions and their practices.

“There are a lot of schools within the NCAA that are supportive of their LGBTQ athletes and fans, but that isn’t necessarily evident through their actions, such as who they play,” Taylor says. “There is still a culture of looking the other way.”

MONEY BALL

While Oregon is one of the most prominent universities to sign on to play football against BYU since the Latter-day Saints school went independent, it isn’t the only institution that has roundly ignored BYU’s anti-gay policies. It takes a lot of schools to fill out a football schedule, after all.

It takes a lot of dough to make that happen. For coming to Provo to play football at BYU, other schools usually get a check for \$250,000. BYU generally gets a similar part of the take when it goes on the road, according to the contracts.

Such contracts are typical between schools of similar sporting merit. But, like many large sports programs scheduling non-conference opponents, BYU pays larger “body bag” fees to schools that agree to come to Provo for a likely whupping. It has agreed, for instance, to pay Utah’s Dixie State University, another public university, \$425,000 for a game scheduled for 2022.

Such arrangements work the other way, too. Oregon will put \$1.1 million into a BYU account to get the Cougars to come play football in Eugene in 2022. That’s by far the largest check any school will write to BYU in coming years.

That doesn’t sit well with Liz Sauer, the communication manager at the LGBTQ advocacy organization Basic Rights Oregon.

“It’s really curious and, frankly, disappointing that the University of Oregon, which has generally done quite a good job of supporting LGBT equality, has gone out of its way to support and play BYU when it has such discriminatory policies,” Sauer says. “I would hope the university is open to criticism and open to discussion with the community on its policies.”

Sauer wants Oregon to answer some basic questions about the contract it signed.

“Like, why is this the case? Why is it important? Since BYU is not in the same conference as the University of Oregon, and they’re not required to play them, what is the point? What’s their purpose here?” she asked. “I would hope they listen to students and the community on why BYU’s policy is problematic to students.”

And she hopes Oregon students, faculty and staff will make their voices heard on this issue.

If that were to happen, maybe athletic directors would think twice before signing contracts like the

At BYU today, a so-called ‘honor code’ specifically bans from the university students who engage in acts of physical intimacy with people of the same sex, even when those acts are completely non-sexual. Gay students worry they can be kicked out of school for things that heterosexual students don’t have to think twice about, like holding hands in the quad, cuddling in the student center, or sharing a kiss at the campus duck pond.

for a Sept. 10, 2022 game at Autzen Stadium doesn’t include a non-discrimination clause. That would seem to give Oregon room to do business with a school that encourages students, faculty and staff to report on members of the college community who are suspected of homosexual behavior and other honor code violations. (There’s even a convenient web form to make things easy for snitches.)

“I’ve had friends kicked out of BYU for being queer,” says Christa Cannell, a board member at Logan Pride, which advocates for LGBTQ students in northern Utah, where one of BYU’s historic rivals, Utah State University, is located. “That’s a very real and very harmful practice.”

Cannell laments a social environment that allows

The university ranking organization College Choice has the UO as number 11 on its list of the best LGBTQ schools in the nation. The UO has been out front with coming out support, LGBTQ scholarships, gender-inclusive housing and simplified processes for name and gender changes.

Why would a school that works so hard to be inclusive sign a contract to play football with a school that consistently appears on lists of the most anti-gay campuses in the nation — ranking fourth, for instance, in *The Advocate’s* 2017 list of the “20 colleges most hostile to LGBT students”?

Hudson Taylor, the executive director of Athlete Ally, an LGBTQ advocacy organization that helped push the