



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

SEP 13 1985

Reverend Lloyd O. Huebner
President
Dr. Martin Luther College
New Ulm, Minnesota 56073

Dear Reverend Huebner:

The Office for Civil Rights of the Department of Education (OCR/ED) is in the process of resolving a number of pending requests for religious exemption from Title IX of the Education Amendments of 1972. Our records indicate that Dr. Martin Luther College filed such a request, but there is no record that OCR adequately acknowledged this request.

We have recently reviewed the request filed by former President Frey and accompanying correspondence from the Wisconsin Evangelical Lutheran Synod (copies enclosed) which describe several policies practiced at Dr. Martin Luther College as consistent with the tenets of the religious organization that controls the institution. These policies would violate certain sections of the regulation implementing Title IX (copy enclosed) absent a religious exemption. Dr. Martin Luther College has supplied information that establishes that the College is controlled by a religious organization and that tenets followed by this organization conflict with specific sections of the Title IX regulation. Therefore, I am granting Dr. Martin Luther College an exemption to those sections of the Title IX regulation appropriate to the request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by Dr. Martin Luther College. Dr. Martin Luther College is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. § 106.21(c); § 106.32(a); § 106.34; § 106.40; § 106.51; § 106.52; § 106.53; § 106.54; § 106.55; § 106.56; § 106.57; § 106.58; § 106.59; § 106.60; and § 106.61. The basis for our decision to grant this exemption is discussed in further detail below.

The former president's request letter indicates that Dr. Martin Luther College is "owned, controlled, supported, and maintained" by the Wisconsin Evangelical Lutheran Synod. This relationship between Dr. Martin Luther College and the Wisconsin Evangelical Lutheran Synod adequately establishes that Dr. Martin Luther College is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

The request letter indicates that students are recruited for the institution based on the needs within the Church. The letter also noted that, at the time, the student body had nearly three times more women than men. Student admissions and recruitment are addressed at 34 C.F.R. §§ 106.21, 106.22 and 106.23. However, under § 106.15, private, undergraduate institutions are exempt from the admissions and recruitment requirements of §§ 106.21, 106.22 and 106.23. Thus, as a private, undergraduate institution, Dr. Martin Luther College is already exempt from §§ 106.21, 106.22 and 106.23.

The request letter states, "we cannot and will not accommodate ourselves to" § 106.21(c) and § 106.40(b) regarding the marital and parental status of applicants for admission and pregnancy of students. As noted above, Dr. Martin Luther College is exempt from § 106.21. However, this letter confirms that Dr. Martin Luther College is granted exemption to § 106.21(c) (marital or parental status of applicants for admission), and § 106.40(a) and (b) (marital and parental status of students, including pregnancy).

The request letter indicates that, dependent on the interpretation, the housing provisions of the Title IX regulation "could run counter to the Church's theological position." Therefore, Dr. Martin Luther College is granted an exemption to § 106.32(a) to the extent that the institution may enforce different housing rules or benefits on the basis of sex in order to comply with its religious tenets.

Former President Frey indicated that the institution determines the course offerings a student is to pursue in an effort to meet the needs of the elementary school system within the Church. According to the institution catalog, graduates of the College "submit to the decision of the assignment committee of the Wisconsin Evangelical Lutheran Synod and assume their calling in the church" Because administrative and certain teaching positions are limited to men only, students may be directed to certain course offerings on the basis of sex. Based on these practices, Dr. Martin Luther College has requested and is granted by this letter exemption to § 106.34 (access to course offerings).

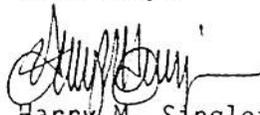
Correspondence from the Wisconsin Evangelical Lutheran Synod, which supplements the request letter from the College, indicates that the employment practices of Dr. Martin Luther College adhere to tenets of the Wisconsin Evangelical Lutheran Synod relative to the exclusion of women from administrative and teaching positions that involve the exercise of authority over men. Based on this principle, Dr. Martin Luther College has requested and is granted by this letter exemption to §§ 106.51, 106.52, 106.53, 106.54, 106.55, 106.56, 106.57, 106.58, 106.59, 106.60 and 106.61 relative to employment in administrative and teaching positions that involve the exercise of authority over men by women.

This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically mentioned. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption herein granted. Also, in the unlikely event that a complainant alleges that the practices followed by the institution are not based on the religious tenets of the controlling organization, OCR is obligated to contact the controlling organization to verify those tenets. If the organization provides an interpretation of tenets that has a different practical impact than that described by the institution, or if the organization denies that it controls the institution, this exemption will be rescinded.

I hope this letter responds fully to your request. I regret the inordinate delay in responding to your original request. If you have any questions, please do not hesitate to contact the Chicago Regional Office for Civil Rights. The address is:

Linda A. McGovern
Acting Regional Civil Rights Director
Office for Civil Rights, Region V
Department of Education
300 South Wacker Drive, 8th Floor
Chicago, Illinois 60606

Sincerely,



Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosures

cc: Linda A. McGovern, Acting Regional Civil Rights Director, Region V