



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

826001

OCT 1 1986

Sister Mary Dooley, S.S.J.
President
Elms College
291 Springfield Street
Chicopee, Massachusetts 01013

Dear President Dooley:

The Office for Civil Rights (OCR) has reviewed your letter of August 18 and the letter of August 21, 1986, from Maurice M. Cahillane, counsel for Elms College, requesting a religious exemption to the regulation implementing Title IX of the Education Amendments of 1972. Mr. Cahillane indicated that a complaint was filed with the Boston Regional Office for Civil Rights alleging that Elms College had discriminated on the basis of sex in a provision of the student health insurance program (OCR Case No. 01-86-2071). The regional office, according to Mr. Cahillane, proposed a settlement that Elms College found acceptable in "all but one respect: it required coverage for 'termination of pregnancy' under 34 C.F.R. 106.40[,]" a practice that would violate the religious tenets followed by Elms College.

In your letter of August 18, 1986, you describe certain policies practiced at Elms College as being 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. Representatives of Elms College have provided 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 Elms College an exemption to those sections appropriate to your request letter. Elms College is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.40 and 106.57. This exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the institution. The basis for OCR's decision to grant this exemption is discussed in further detail below.

Your letter indicates that Elms College is a Roman Catholic institution. Sister John Brigid informed OCR staff by telephone on September 8, 1986, that Elms College was founded as a Catholic institution and the educational program is based on Catholic values. This relationship between Elms College and the Roman Catholic faith adequately establishes that Elms College is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In your request letter, you state that the religious tenets of "the Roman Catholic Faith prohibit abortion or providing services or funds for the performance of abortions." You requested exemption to 34 C.F.R. § 106.40 and "any other regulation to the extent to which it requires coverage for the termination of pregnancies." Based on these principles, Elms College

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has requested and is granted by this letter exemption to: 34 C.F.R. § 106.40 (marital or parental status of students - to the extent that this section may require services or benefits for students for termination of pregnancy); and § 106.57 (marital or parental status of employees - to the extent that this section may require services or benefits for employees for termination of pregnancy).

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. If you have any questions, please do not hesitate to contact the Boston Regional Office for Civil Rights. The address is:

Frederick T. Cioffi
Acting Regional Civil Rights Director
Office for Civil Rights, Region I
Department of Education
Room 222, J.W. McCormack Post Office
and Courthouse Square
Boston, Massachusetts 02109

Sincerely,



Alicia Coro
Acting Assistant Secretary
for Civil Rights

Enclosure

cc: Frederick T. Cioffi, Acting Regional Civil Rights Director, Region I
Maurice M. Cahillane, Esq.