



**EMMAUS
BIBLE COLLEGE**

• 2570 Asbury Road • Dubuque, Iowa 52001-3096 • (319) 588-8000

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August 25, 1988

Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Re: Title IX Exemption Application

Dear Sir:

Emmaus Bible College hereby requests an exemption from the requirements of Title IX of the Education Amendments of 1972 ("Title IX") pursuant to Sections 901(a)(3) and 908 of Title IX and 34 C.F.R. Section 106.12(b). The college believes that it may in the past have received, and may be receiving, indirect federal aid within our understanding of the Supreme Court decision in Grove City College v. Bell, 465 U.S. 555, 79 L.Ed.2d 516, 104 S. Ct. 1211 (1984).

Further, Emmaus Bible College specifically claims its right to exercise a religious preference in its employment decisions, pursuant to Section 702 of Title VII of the Civil Rights Act of 1964 and the decision of the United States Supreme Court in Corporation of the Presiding Bishop v. Ames, 483 U.S. ___, 97 L.Ed.2d 273, 107 S. Ct. 2862 (1987).

Emmaus Bible College is a not-for-profit religious institution exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. It was incorporated as a Christian institution of higher education in 1947 in the State of Illinois and is under the control of a board of trustees. The college is completely governed by and receives its entire financial support through such corporation. The corporation maintains the religious tradition, standards and beliefs of the college.

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Emmaus Bible College offers courses of instruction in areas of Biblical studies, missions, and Christian education and music. It is accredited by the American Association of Bible Colleges and is a member of the Evangelical Teacher Training Association. The college does not offer liberal arts education, but students receive course credit toward Bachelor of Arts or Sciences degrees and may obtain such degrees by supplementing their education with appropriate courses offered at liberal arts colleges. Recently the college has supplemented its undergraduate level instruction with a graduate level course of study and degree.

Emmaus Bible College adheres to Biblical tenets for matters of faith and practice, following its religious tradition. The charter of the corporation and the catalogs and other official publications of the college contain explicit statements that the college is committed to the doctrines of the Christian religion. The Holy Bible sets forth the standards for Christian morality and practice in far too many places and forms to be identified comprehensively in this letter; however, see for example: I Corinthians 5:1-13, 6:1-11; Ephesians 4:25-32; Romans 13:1-14; I Peter 2:1, 11-17; I Timothy 3:1-13; and Titus 1:6-9.

The trustees and officers of the corporation, and the faculty, administration, staff and students of the college are all required to espouse a personal belief in the religious tenets of the Christian faith.

The college specifically utilizes a religious preference in employment practices to assure that trustees, officers, faculty and staff adhere to a common religious understanding of the mission of the college. Accordingly, the personnel of the college accept religious standards in matters of moral behavior, dispute and grievance resolution and disciplinary matters.

The college specifically holds religious standards for personnel and students in matters conducive to the fostering of proper moral behavior and the discouragement of inappropriate behavior as understood by the religious tradition and tenets accepted by the college. Such standards include matters relating to the expression of human sexuality, living environments, respect for the institution of marriage, language and attire.

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The college adjudicates matters of moral behavior, including the misuse of human sexuality, in accordance with Scriptural teaching about moral behavior. See, for example, I Thessalonians 4:1-8; I Corinthians 5:1-13; 6:1-20; and Hebrews 13:4.

The college generally opposes gender-based discrimination and affirms its intention to comply with the provisions of Title IX and the regulations thereunder except to the extent that such compliance would cause the college to violate its religious tenets and traditions. Intentional or conscious gender distinctions are not made except where important to matters of moral behavior, marriage, and residential living environments and standards prescribed by the tenets and traditions of the Christian faith as understood and practiced by the college. In seeking to provide equal employment opportunities for men and women, the college shall not under any circumstances waive or be deemed to have waived its religious freedom to make employment decisions on the basis of religious tenets and tradition.

The college therefore requests exemption from the application of all provisions of Title IX and the Title IX regulations, to the extent that they conflict with the college's religious tenets and traditions as described above. Based upon our understanding of the regulations, we believe that this specifically includes, but may not be limited to, the following provisions of 34 C.F.R. Part 106:

Section 106.40, insofar as the college maintains its religious freedom to adjudicate matters of moral behavior, the expression of human sexuality, living environments, respect for the institution of marriage, and attire with respect to its students.

Sections 106.51, 106.53, 106.57 and 106.60, insofar as the college maintains its religious freedom to adjudicate matters of moral behavior, the expression of human sexuality, living environments, respect for the institution of marriage, and attire with respect to its employees. The college also maintains that it is necessary to the nature of the employment positions of dean of men and dean of women at the college that the dean of men is male and the dean of women is female, in order to perform successfully and completely the functions and duties of these positions without potential

compromise of the moral behavior expected of the employees of the college. The gender requirements for the positions of dean of men and dean of women may also qualify as bona fide occupational qualifications under Section 106.61.

As part of the financial assistance of students, the college assists students in finding local jobs. In promotion of religious as well as social good will between the college and the local community, the college attempts to satisfy the requests and desires of local employers. Such employers may or may not exercise gender-based preferences which the college does not fight or question. The college does not understand this to be a violation of Section 106.37, but if it does apply the college hereby requests exemption from that provision as well.

There are a number of issues central to the religious beliefs and practices of the college that may not have been discussed in this letter because of our understanding that no specific exemption is required. For example, the college believes that Title IX, as amended by the Civil Rights Restoration Act of 1987, shall not be construed to require the college to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Additionally, pursuant to 34 C.F.R. Section 106.15(d), the provisions of Sections 106.16 through 106.23, inclusive, do not apply to the college because it is a private institution of undergraduate higher education. Finally, the college understands that Sections 106.32 and 106.33 permit the college to provide separate, although substantially comparable, housing, bathroom, locker room and similar facilities for men and women.

In the event of future amendments to Title IX or the regulations thereunder, or changes in the application thereof or the facts surrounding the operation of the college and the burden of such statute and regulations on the college's ability to pursue its religious mission, the college reserves its right to apply to the Department of Education for an amendment to its exemption or an additional exemption in order to protect the religious tenets, practices and traditions of the college.

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This letter was prepared with the aid of the Center for Law & Religious Freedom and with the assistance of local counsel. If you have any questions or require any further information, please address your inquiries to either Attorney Allan J. Carew or Attorney Norman J. Wangberg, both of Fuerste, Carew, Coyle, Juergens & Sudmeier, P.C., 200 Security Building, Dubuque, Iowa, Ph.(319) 556-4011.

Thank you for your assistance and for your prompt consideration of this letter.

Very truly yours,


Daniel H. Smith, President
Emmaus Bible College



EMMAUS

BIBLE COLLEGE • 2570 Asbury Road • Dubuque, Iowa 52001-3096 • (319) 588-8000

1988 DEC 19 11:27

December 16, 1988

Safiyyah Muhammad
Department of Education, Office for Civil Rights, Region 7
10220 North Executive Hills Blvd.
8th Floor
P.O. Box 901381
Kansas City, Missouri 64190-1381

Re: Title IX Exemption Application

Dear Ms. Muhammad:

In response to your telephone call asking for more detailed information to supplement our application letter dated August 25, 1988, and our supplemental letter dated October 20, 1988, we have attempted to comply with your specific requests.

Please find enclosed the following items:

1. A description of the religious organization behind Emmaus Bible College from The Handbook of Denominations, Abingdon Press (1985), pages 201 through 203, the "Plymouth Brethren". Note the reference to Emmaus Bible College on page 202.
2. The Emmaus Bible College catalog for 1987 through 1989. We draw your attention to pages 14 and 15 which contain a doctrinal statement and page 16 which describes accreditation. On page 46 is a statement of spiritual requirements for admission. I am also sure that other areas of this catalog will be of interest to you.
3. A copy of a student handbook for 1988 through 1989. We draw your attention to page 12 regarding dating, engagements and marriages and to pages 14 and 16 regarding discipline and dress code.
4. A statement concerning student discipline procedure.

There is no statement of religious tenets which interpret or prescribe practice for application of Biblical teachings. Rather, the attempt is to put Scripture directly into practice.

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Emmaus Bible College claims exemption from any requirement of Sections 106.40, 106.51, 106.53, 106.57, and 106.60 of 34 CFR insofar as it would require Emmaus to treat abortion in a similar manner to other temporary disabilities or medical situations, with respect to either employees or students. Biblical teaching against abortion is clear:

"You shall not murder" (Exodus 20:13);

"For you created my inmost being; you knit me together in my mother's womb. I praise you because I am fearfully and wonderfully made; your works are wonderful, I know that full well." (Psalm 139:13,14);

"Before I formed you in the womb I knew you, before you were born I set you apart; I appointed you as a prophet to the nations." (Jeremiah 1:15)

"If men who are fighting hit a pregnant woman and she gives birth prematurely but there is no serious injury, the offender must be fined whatever the woman's husband demands and the court allows. But if there is serious injury, you are to take life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise." (Exodus 21:22,23).

Note, however, that Emmaus Bible College does provide some medical insurance for students, which insurance complies with your regulations under Section 106.39. Nevertheless, Emmaus reserves the right to adjudicate such matters of moral behavior.

Emmaus claims exemption from Sections 106.40, 106.51, 106.53, 106.57, and 106.60 of 34 CFR insofar as those sections might require Emmaus to hire or keep employees or to admit or keep students who have violated Biblical morals concerning sex and marriage, because of what Scripture clearly teaches about the sanctity of marriage:

"God blessed them and said to them, 'Be fruitful and increase in number; fill the earth and subdue it.'" (Genesis 1:28);

"Marriage should be honored by all, and the marriage bed kept pure, for God will judge the adulterer and all the sexually immoral." (Hebrews 13:4);

"It is God's will that you should be sanctified; that you should avoid sexual immorality; that each of you should learn to control his own body in a way that is holy and honorable, not in a passionate lust like the heathen who do not know God." (I Thessalonians 4:3-5);

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"It is actually reported that there is sexual immorality among you, and of a kind that does not occur even among pagans; A man has his father's wife." (I Corinthians 5:1);

"But since there is so much immorality, each man should have his own wife, and each woman her own husband." (I Corinthians 7:2);

"But if they cannot control themselves, they should marry, for it is better to marry than to burn with passion. To the married I give this command (not I, but the Lord): A wife must not separate from her husband. But if she does, she must remain unmarried or else be reconciled to her husband. And a husband must not divorce his wife." (I Corinthians 7:9,10,11).

Emmaus also claims exemption from the requirements of Sections 106.40, 106.51, 106.53, 106.57, and 106.60 of 34 CFR to the extent they would require Emmaus to employ employees or to admit or keep students who practice homosexuality or fornication, because of our strict adherence to Biblical teaching opposing such:

"Because of this, God gave them over to shameful lusts. Even their women exchange natural relations for unnatural ones. In the same way the men also abandoned natural relations with women and were inflamed with lust for one another. Men committed indecent acts with other men, and received in themselves the due penalty for their perversion...Although they know God's righteous decree that those who do such things deserve death, they not only continue to do these very things but also approve of those who practice them." (Romans 1:26,27,32);

"For God did not call us to be impure, but to live a holy life. Therefore, he who rejects this instruction does not reject man but God, who gives you his Holy Spirit." (I Thessalonians 4:7,8);

"We also know that law is made not for the righteous but for law-breakers and rebels, the ungodly and sinful, the unholy and irreligious; for those who kill their fathers or mothers, for murders, for adulterers and perverts, for slave traders and liars and perjurers--and for whatever else is contrary to the sound doctrine." (I Timothy 1:9,10);

"I have written you in my letter not to associate with sexually immoral people...But now I am writing you that you must not associate with anyone who calls himself a brother but is sexually immoral or greedy, an idolater or a slanderer, drunkard or a swindler. With such a man do not even eat." (I Corinthians 5:9,11);

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"Do you not know that the wicked will not inherit the kingdom of God? Do not be deceived: neither the sexually immoral nor idolaters nor adulterers nor male prostitutes nor homosexual offenders...The body is not meant for sexual immorality, but for the Lord, and the Lord for the body." (I Corinthians 6:9,13);

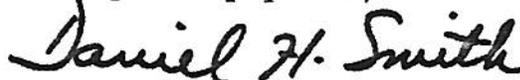
"Flee from sexual immorality. All other sins a man commits are outside his body, but he who sins sexually sins against his own body. Do you not know that your body is a temple of the Holy Spirit, who is in you, whom you have received from God? You are not your own; you were bought at a price. Therefore honor God with your body." (I Corinthians 6:18-20);

"If a man lies with a man as one lies with a woman, both of them have done what is detestable. They must be put to death; their blood will be on their own heads." (Leviticus 20:13).

We hope that this additional information gives you a better appreciation of the religious beliefs and practices of Emmaus Bible College and that you will find Emmaus' Application satisfactory and recognize the exemption claimed by Emmaus Bible College.

We look forward to hearing from you.

Very truly yours,



Daniel H. Smith, President
Emmaus Bible College