



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS
SEP 13 1985

Dr. James P. Hill, Jr.
President
Marion College
4201 South Washington Street
Marion, Indiana 46952

Dear President Hill:

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 Marion 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 Goodman (copy enclosed) in which he described several policies practiced at Marion 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. The former President supplied information in his request letter that establishes that the institution 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 Marion College an exemption to those sections of the Title IX regulation specified in the request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the institution. Marion College is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. § 106.21(c), § 106.40, and § 106.57. The basis for our decision to grant this exemption is discussed in further detail below.

The request letter indicates that Marion College is controlled by The Wesleyan Church. The Wesleyan Church and Marion College practice tenets that "require a standard of moral purity opposing sexual promiscuity and all factors and practices which promote it Further the general rules of the Church require (1) the preservation of the sanctity of the home . . . and (2) the high regard of marriage vows The Discipline of The Wesleyan Church also requires appropriate discipline for violators" This relationship between The Wesleyan Church and Marion College adequately establishes that Marion College is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

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The request letter indicates that students and employees at Marion College must adhere to tenets of The Wesleyan Church relative to a prohibition of pregnancy that occurs out of wedlock. Based on this principle, Marion College has requested and is granted by this letter exemption to § 106.21(c) (marital or parental status of applicants for admission), § 106.40 (marital or parental status of students), and § 106.57 (marital or parental status of employees and applicants for employment).

Marion College also requested exemption from § 106.31(b)(5) concerning rules of appearance. Section 105.31(b)(5) was formally revoked and deleted from the Title IX regulation. Therefore, an exemption for appearance codes is not necessary.

Marion College also requested the opportunity to apply for exemptions from certain sections if the understanding of the requirements was incorrect. The interpretation that Title IX permits separation of housing and restroom facilities by sex (§§ 106.32 (b) and 106.33, respectively) is correct. However, § 106.61, regarding sex as a bona-fide occupational qualification, does not apply to hiring only women as resident directors for women's dormitories. If you wish to limit the employment of resident directors in women's dormitories to women only, you will need to apply for a religious exemption from the employment sections of the Title IX regulation which you deem applicable. You should briefly describe the religious tenet(s) or practices on which this institution policy is based. Your request should be forwarded to the regional office.

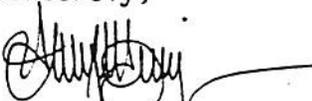
This letter should not be construed to grant exemption from any section of the Title IX regulation not specifically mentioned. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption herein granted. 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.

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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
Department of Education
Office for Civil Rights, Region V
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