



Northwestern College

3003 North Snelling Avenue, St. Paul, Minnesota 55113 (612) 631-5100

March 16, 1989

Mr. Kenneth A. Mines
Regional Director
United States Department of Education
Office for Civil Rights
401 South State Street, 7th Floor
Chicago, IL 60605

Re: Title IX Exemption Application

Dear Mr. Mines:

In past correspondence with you seeking exemption from Title IX regulations, we were asked to provide further information on the religious tenets of our institution and which sections of the Title IX regulations conflict with those tenets.

As was mentioned in our letter to you dated June 23, 1988, Northwestern College is not affiliated with a particular denomination, but rather is controlled by Northwestern College, Incorporated, a non-profit religious corporation which was incorporated in the State of Minnesota in 1902 as a Christian institution of higher education under the control of a board of directors, and is exempt from federal income taxation as a not-for-profit religious institution under Section 501(c)(3) of the Internal Revenue Code.

Enclosed please find a copy of Northwestern College's "Doctrinal Statement" which sets forth the religious tenets held by this institution.

The College seeks to maintain its religious freedom to make certain gender-based distinctions in matters of moral behavior, marriage and residential living environments and standards. It 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 modest attire.

The religious tenets relevant to marital and parental status are biblically derived. In order to live within commonly received Christian meanings of human relationships and provide a moral and biblical ethos for the college community, moral standards are maintained consistent with the precepts of the Bible and the religious custom and practice that interpret its moral standards. The College maintains that it must be able to deal,



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on religious grounds, with those members of the College community who, for whatever reasons, are unreconcilable and unrepentent in matters of moral conduct and whose actions are detrimental to themselves, their families and others. Where such willful conduct expressly violates biblical norms (e.g. cohabitation, homosexual behavior, promiscuous conduct outside of wedlock, or marriage or divorce without biblical grounds [see, e.g., I Cor. 5-7; Col. 3:5; 2 Cor. 6:14ff; Mal. 2: 14b-16a; Matt. 5:31]) and offending persons cannot be reconciled to biblical standards, the College reserves its right to exercise its discretion for the remedy appropriate to the circumstances consistent with its religious beliefs and practices, as described above.

Believing the Scriptures to be the infallible authority in all matters of faith and conduct, Northwestern College hereby requests exemption from the following provisions of the Title IX regulations to the extent that they conflict with Scriptural teaching:

Section 106.21 (c)(2) "Shall not discriminate against or exclude any person on the basis of...termination of pregnancy..."

Section 106.21 (c)(3) "Shall treat disabilities related to... termination of pregnancy...in the same manner and under the same policies as any other temporary disability or physical condition."

Section 106.40 (b)(1) "A recipient shall not discriminate against any student...on the basis of...termination of pregnancy..."

Section 106.40 (4) "A recipient shall treat...termination of pregnancy...in the same manner and under the same policies as any other temporary disability..."

Section 106.40 (5) "In the case of a recipient which does not maintain a leave policy for its students...a recipient shall treat...termination of pregnancy...as a justification for a leave of absence..."

Section 106.51 (a) "No person shall, on the basis of sex...be subjected to discrimination in employment, or recruitment, consideration or selection therefor...under any education program or activity operated by a recipient..."

Section 106.51 (b)(6) "Granting and return from leaves of absence... for...termination of pregnancy..."

Section 106.53 (a) "A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees..."

Section 106.55 (a) "A recipient shall not classify a job as being for males or for females;"

Section 106.57 (2)(b) "A recipient shall not discriminate against or exclude from employment...on the basis of...termination of pregnancy..."

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Section 106.57 (2)(c) "A recipient shall treat...termination of pregnancy...as any other temporary disability..."

Section 106.57 (d) "In the case of a recipient which does not maintain a leave policy for its employees...a recipient shall treat...termination of pregnancy...as a justification for a leave of absence..."

Section 106.59 "A recipient shall not in any advertising related to employment indicate preference...based on sex"

Section 106.60 (b) "A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if...the results of such inquiry are not used in connection with discrimination..."

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.

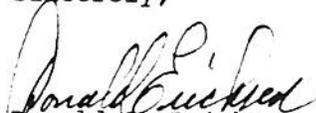
The College generally opposes gender-based discrimination and affirms its intention to comply with the provisions of Title IX and the regulations thereunder except to the extent that such compliance would cause the College to violate its religious tenets and traditions. The College specifically claims 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 Supreme Court in *Corporation of the Presiding Bishop v. Amos*, 107 S. Ct. 2862 (1987). 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 primary requirement of hiring only persons whose religious beliefs and practice are consistent with the Christian tenets, principles and traditions accepted by the College and the Corporation.

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 claim an amendment to its exemption or an additional exemption in order to fully protect the religious tenets, practices and traditions of the College.

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Thank you for your assistance and for your prompt consideration of this letter. If you have any questions or require any further information, please contact my office at (612) 631-5249.

Sincerely,



Donald G. Ericksen
President

DE:gb
Enclosure: Doctrinal Statement