

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MAR 9 1984

Mr. Kevin J. Hughes
Hughes, Thoreen and Sullivan
Attorneys and Counsellors at Law
ROR-1/2 Saint Germain Street
Post Office Box 1187
Saint Cloud, Minnesota 56302-1187

Dear Mr. Hughes:

This is in response to your recent letter supplementing information provided in the 1976 request by the Chancellor of Saint John's University of Collegeville, Minnesota, for a religious exemption from the Education Department's Title IX regulation for certain employment practices. Your letter and the supporting documentation provided information on two employment issues raised in connection with a recent Title IX complaint against the University (No. 05-83-2038): (1) the University's practice of preferring, in employment, members of Saint John's Abbey, the religious community that owns and controls the University; and (2) the University's policy of hiring for the position of faculty resident in the dormitories for male undergraduate students, male, but not female, faculty members when monks of Saint John's Abbey are not available to fill the position. As explained below, (1) the University is entitled to a religious exemption from the Title IX regulation for its practice of preferring monks of Saint John's Abbey in employment, and (2) under Title IX the University may use sex as a bona fide occupational qualification for the position of faculty resident in the dormitories for male undergraduate students.

The Office for Civil Rights (OCR) has on file a request made by the Chancellor of Saint John's University in 1976 for a religious exemption from Title IX that indicated that Saint John's University is an educational institution controlled by a religious organization and that "one tenet under which the University is operated is that as many members of Saint John's Abbey as possible be active in the University; that Saint John's considers itself exempt from compliance under Title IX as to those persons." The information included with your letter clarified that the University is requesting an exemption from the provisions of the Title IX regulation pertaining to employment in order to permit the University to prefer monks of Saint John's Abbey in employment, and that the application of the Title IX regulation to the employment of members of Saint John's Abbey would be inconsistent with the religious tenets of Saint John's Abbey. This is sufficient information to determine that the University has complied fully with the requirements of § 106.12 of the Title IX regulation on this issue, and the University is hereby granted an exemption from the Title IX regulation with respect to its employment practices that favor members of Saint John's Abbey.

In connection with OCR's review of the request filed by the University Chancellor in 1976, it was noted that there was a second request for a religious exemption from Title IX in connection with admissions and employment practices at the University's School of Divinity, which was described as a seminary for the preparation of men for ordination to the priesthood of the Roman Catholic Church. OCR's files indicate that no response was provided by OCR to this submission. Therefore, this is to state for the record that to the extent that the above stated conditions continue to exist, the University is entitled to an exemption from Title IX with respect to admissions and employment practices at the School of Divinity.

The second issue discussed in your letter concerned the University's practice of hiring for the position of faculty resident in the dormitories for male undergraduate students, male, but not female, faculty members when a member of Saint John's Abbey is not available to fill the position. On the basis of the information provided, I have determined that because the University is entitled to provide separate living facilities on the basis of sex in accordance with Section 907 of the Education Amendments of 1972, the University is entitled to use sex as a bona fide occupational qualification for the position of faculty resident in its single sex living facilities pursuant to § 106.61 of the Title IX regulation.

I have instructed the Chicago Regional Office to take action on the complaint referenced above in accordance with the determinations stated herein.

Sincerely,

Harry M. Singleton

Harry M. Singleton
Assistant Secretary
for Civil Rights

cc: Kenneth A. Mines, Regional Civil Rights Director, Region V