



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

SEP 23 1985

Dr. William A. Hickey  
Acting President  
Saint Mary's College  
Notre Dame, Indiana 46556-5001

Dear President Hickey:

The Office for Civil Rights of the Department of Education (OCR/ED) has reviewed your response to OCR's letter of July 18, 1985, requesting clarification of Saint Mary's College's request for a religious exemption from Title IX of the Education Amendments of 1972.

In your letter you describe several policies practiced at Saint Mary's 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. You have supplied information in your request letter that establishes that Saint Mary's 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 Saint Mary's College an exemption to those sections of the Title IX regulation appropriate to your request letter. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by Saint Mary's College. Saint Mary's College is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.51 through 106.61. The basis for our decision to grant this exemption is discussed in further detail below.

Your letter indicates that Saint Mary's College is owned and operated by the Sisters of the Holy Cross, an Order of the Roman Catholic Church. This relationship between Saint Mary's College and the Sisters of the Holy Cross adequately establishes that Saint Mary's College is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

In your letter you indicate that Saint Mary's College adheres to the tenets of the Sisters of the Holy Cross, an Order of the Roman Catholic Church. Preference is given to hiring Sisters of the Holy Cross within the faculty and administration in that an effort is made to identify, hire and place Sisters of the Holy Cross in influential positions. Additionally, you indicate that the College was founded and continues to present itself as a Catholic liberal arts college for women, and "it is necessary to the future of Catholic higher education that a strong 'Catholic women's presence' be maintained." Accordingly, among equally qualified candidates, Saint Mary's College gives preference in employment to Catholic women. Based on these principles and practices, Saint Mary's College is granted by this letter

exemption to: 34 C.F.R. §§ 106.51 through 106.61 (Subpart E - discrimination on the basis of sex in employment in education programs and activities prohibited). This exemption is limited to the extent that application of these sections conflicts with the religious tenets followed by the institution. Additionally, you correctly noted that § 106.15 of the Title IX regulation specifically exempts private undergraduate institutions from compliance with Subpart C (admission and recruitment of students). Thus, Saint Mary's College is already exempt from the admission and recruitment provisions of the regulation and does not need a religious exemption to continue its policy of enrolling only female students.

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. 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  
Office for Civil Rights, Region V  
Department of Education  
300 South Wacker Drive, 8th Floor  
Chicago, Illinois 60606

Sincerely,



Harry M. Singleton  
Assistant Secretary  
for Civil Rights

Enclosure

cc: Linda A. McGovern, Acting Regional Civil Rights Director, Region V