



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

SEP 23 1985

Brother Louis DeThomasis, F.S.C.
President
Saint Mary's College
Winona, Minnesota 55937

Dear Brother DeThomasis:

The Office for Civil Rights of the Department of Education (OCR/ED) has reviewed your response to OCR's letter requesting clarification of Saint Mary's College's request for religious exemption from Title IX of the Education Amendments of 1972. In your letter you describe certain 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 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, 106.53 and 106.55(a). The basis for our decision to grant this exemption is discussed in further detail below.

In your letter you indicated that Saint Mary's College is controlled by its Board of Trustees. The College's Articles of Incorporation state that at least one-third of the members of the Board of Trustees shall be members of the Christian Brothers, "i.e., members of the international Catholic teaching order known as The Brothers of the Christian Schools." The Christian Brothers provide "the presidential leadership and major donations of personnel and funds." This relationship between the Christian Brothers order and the College 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 indicated that Saint Mary's College respects and upholds its Catholic tradition, but does not impose its religious beliefs and observance. However, the College does require its president "to be a member of the Christian Brothers and, therefore, a male." The College also provides undergraduate education to students of the adjacent seminary of the Diocese of Winona. One or more members of the seminary staff who are priests, and who, according to the tenets of the Catholic Church, must

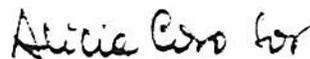
be male, are appointed as faculty members in the Theology Department. On the basis of these tenets and practices, Saint Mary's College has requested and is granted by this letter exemption to: 34 C.F.R. § 106.51 (employment, general), § 106.53 (recruitment for employment) and § 106.55(a) (job classification and structure), for the position of president and those positions in the Theology Department reserved for priests.

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