

Wisconsin EVANGELICAL LUTHERAN Synod



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Mr. Martin Gerry
Acting Director, OCR
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Dear Mr. Gerry:

With this letter we desire to claim a religious exemption from Title IX - Prohibition of Sex Discrimination. This claim is made on behalf of the Wisconsin Evangelical Lutheran Synod and its constituent schools on all levels of education. Supported by the congregations of the Synod are 293 elementary schools, eleven secondary schools, four preparatory schools (secondary), one junior college, two pastor-teacher training colleges, and one seminary. We submit this claim on the basis of our religious philosophy with respect to the principles, purpose, and objectives of Christian education and secondly on the basis of our understanding of scriptural principles set forth in the Bible, by which we are guided with respect to the role of women in the church.

Title IX states: "Sec. 901. (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

Exception three reads: "(3) this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization." The religious tenets of our church follow.

These tenets are summarized in "A Statement on the Philosophy and Purpose of the Christian Day Schools of the Wisconsin Evangelical Lutheran Synod" (Exhibit 1). The purpose and aim of education in our church according to this statement is to carry out a "program of unified Christian training." In carrying out this program it is our conviction that "in the Holy Scriptures, as God's inspired and inerrant Word, we have an infallible norm and guide for everything that pertains to Christian faith and life." According to our means and methods, "these truths are not merely expounded in the direct study of God's Word, but are constantly treated as truths and are permitted to stand and function as truths throughout every phase of instruction and training in the school."

"While this Gospel is to be clearly unfolded for the child in daily devotions and in special courses which involve a direct study of God's Word, it is also to be commended to the individual child through the Christian personality, example, and testimony of Christian instructors; and directly or indirectly this Gospel message is permitted to cast its illuminating light upon all subject matter, facts, happenings, activities, judgments, principles, interests and habits with which the child is confronted in the school's curricular and extra-curricular activities."

With respect to the scope of Christian education in our schools the congregations "strive to equip their schools with adequate facilities and to provide for a properly trained teaching personnel."

To the end that the schools of our church may have properly trained personnel to carry out our philosophy and to attain our objectives, we have maintained for 91 years a terminal teacher training school, Dr. Martin Luther College of New Ulm, Minnesota. A copy of its current catalog for the 1976-77 school year is submitted as Exhibit 2.

On page 12 of this catalog the pedagogical principles of the Wisconsin Evangelical Lutheran Synod, based on the Word of God, the Bible, are stated as follows: "These (principles) declare that education is inseparable from religion. They demonstrate that all knowledge in all areas of human thought and endeavor is worthy of inquiry when viewed in the light of human sin and divine grace. They assert that such evaluation of all things is granted alone through the God-revealed Wisdom of the Bible, the God-man Jesus Christ. They affirm that education, a basic function of the Christian home, is also a concern of the church, namely, to equip the entire person in mind, body, and spirit for time and for eternity."

The purpose of Dr. Martin Luther College is to serve the church, specifically the Wisconsin Evangelical Lutheran Synod, "by educating men and women exclusively for the teaching ministry in keeping with its expressed philosophy, principles, and purposes. Its students are specially prepared for the ministry of the Word in the Christian day schools of the Wisconsin Evangelical Lutheran Synod."

Within this purpose, the first objective of this teacher training school of our church is to "inculcate as a primary qualification a consecrated spirit of love to Christ and the fellowman which is gained alone through searching the Scriptures, the faithful record of God's will to save all men."

It is our conviction, then, that the teachers - both men and women - in our schools are trained to be and need to be ministers of religion.

That there is no sex discrimination in the recruitment of men and women to prepare for roles as ministers of religion in the educational program of the church is clearly stated in the Dr. Martin Luther College catalog under "Admissions," page 20. "The college gives primary consideration to qualified applicants who intend to prepare for the teaching ministry in the Wisconsin Evangelical Lutheran Synod. The college is also dedicated to receiving

qualified applicants who intend to prepare for the teaching ministry in church bodies or congregations which publicly share the doctrinal position of the Wisconsin Evangelical Lutheran Synod."

"In view of the fact that the Bible teaches that 'God is no respecter of persons' (Acts 10:34) and that 'there is neither Greek nor Jew, circumcision nor uncircumcision, Barbarian, Scythian, bond nor free: but Christ is all, and in all' (Colossians 3:11) and in view of the fact that the sole purpose of this college is to educate students for the teaching ministry of the Wisconsin Ev. Lutheran Synod, this institution cannot and does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs."

Upon completion of their preparation as ministers of religion the graduates of Dr. Martin Luther College do not apply for specific positions in the church; rather they agree upon admission to the school (DMLC catalog, page 20) that "they will as graduates submit to the decision of the assignment committee of the Wisconsin Evangelical Lutheran Synod and assume their calling in the church wherever assigned unless as members of a church body in fellowship with the Wisconsin Evangelical Lutheran Synod they are to be assigned by their own church body."

Even after the issuance of their first call by the Assignment Committee of the Synod our teachers do not transfer to another school or position except by a specific call through the calling body, either a congregation or a group of congregations. The procedure for such calling is outlined in Article XI - Vacancies, in the Constitution for the Districts, page 41 (Exhibit 3). "In case of a vacancy in the pastorate...the president of the district...shall also counsel the congregation in the filling of its vacancy. Similar notice shall be given and counsel requested in case a congregation is calling a teacher for its school."

The procedure in the placement of teachers is as follows. A congregation (local church) informs the president of that geographical district of its particular needs. With advice from the Synod's Board for Parish Education, where resumes of all qualified candidates are filed, the president submits to the congregation a list of candidates from which the voters of the congregation elect one. The congregation's "call" may either be accepted or declined by the called person.

All of the above clarifies, we hope, the peculiar role of the teachers as ministers of religion in the schools of our church. Only if teachers continue to fill these roles will these schools be distinctive and have a reason for their existence. Only then will our philosophy be maintained, our purposes be fulfilled, and our objectives be attained.

Even though our men teachers and women teachers without distinction are called ministers of religion, they are not used without discrimination with respect to sex in the administrative and teaching positions of our schools. Policies and procedures in this respect also are in accord with our religious philosophy.

The following is taken from "A Statement on the God-Ordained Relationship Between Men and Women," a document which reflects the historical position of the Lutheran church and specifically of the Wisconsin Evangelical Lutheran Synod with respect to the relationship between men and women.

This document states: "In the life of the church also, according to express statements in the Scriptures, God's holy, immutable will concerning the leadership role of men and the auxiliary role of women is to be respected. Any conduct which tends to undermine or overthrow the God-ordained relationship between men and women is displeasing to God (I Corinthians 11:3-16). Women are therefore to refrain from any activity that involves exercising authority over men 'But I suffer not a woman to teach, nor to usurp authority over the man, but to be in silence' (I Timothy 2:12). Addressing, questioning, and teaching men in public gatherings of the church are specifically mentioned as examples 'Let your women keep silence in the churches: for it is not permitted unto them to speak; but they are commanded to be under obedience, as also saith the law. And if they will learn any thing, let them ask their husbands at home: for it is a shame for women to speak in the church. What? came the word of God out from you? or came it unto you only? If any man think himself to be a prophet, or spiritual, let him acknowledge that the things that I write unto you are the commandments of the Lord' (I Corinthians 14:34-37; I Timothy 2:11,12 - cf. above). But all speaking, teaching, and service which does not overthrow the divinely established relationship between the sexes has God's approval when it is carried on in a spirit of thankful love to the glory of God (Acts 18:24-26; Romans 16:1-4; Romans 16:16; Romans 16:2, II Timothy 1:5; II Timothy 3:15; Titus 2:3-5)."

The scriptural position stated above will indicate why women are not eligible according to our scriptural convictions for any positions in the church or its schools in which they will have to exercise authority over men. Thus the administrative roles are retained exclusively for the men. Certain duties in the school and in the congregation which would involve exercising authority over men are reserved for men rather than for women.

It is on the basis of these convictions that we wish to claim exemption from Title IX with respect to equal opportunity, Subpart E, Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited.

All of the foregoing will also indicate why teachers, as well as pastors, in relation to their congregations are not in employee-employer relationships. They all are called ministers of religion serving in educational programs maintained by the calling bodies of Christian congregations.

There are situations - for example, a "call" to teach in a self-contained fourth grade classroom, with no other congregational or parish duties outlined in the "call" - in which the work done either by a male or a female teacher may be the same. There the work may be equal. We have subscribed to the philosophy of equal pay for equal work and have adjusted our salary scale accordingly. The following resolution was adopted by the Wisconsin Evangelical Lutheran Synod in convention in August of 1975:

"WHEREAS an equitable salary schedule is being proposed for synodically supported schools and for schools in synodically supported congregations; and

WHEREAS the Equal Pay Committee has assured the Synod that it did not concede that the U.S. Department of Labor has jurisdiction in determining or regulating the salaries paid by religious bodies to their called ministry (cf. BoRaM, p. 140; and letter of Equal Pay Committee, dated May 13, 1975, to all pastors and principals, page 2); and

WHEREAS there is nothing in Holy Scripture that militates against the principle of equal pay for equal work; therefore be it

Resolved, That we concur in the application of the principle of equal pay for equal work in the proposed salary schedule for synodically supported schools and for schools in synodically supported congregations."

We trust that all of the above will indicate clearly enough that our claim for an exemption from Title IX with respect to "hiring" teachers is based on religious tenets. We trust also that the above will offer sufficient reasons why you may not consider it necessary to investigate our "employment" practices.

Yours in the interest of a strong America, which will continue to uphold freedom of religion and the freedom to educate with all vigor and strength as it enters upon its third century under God,

Sincerely,



Oscar J. Naumann, President
WISCONSIN EVANGELICAL LUTHERAN SYNOD

OJN/rbs

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