



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

AUG 1 1985

Dr. Gary R. Bartholomew
President
York College
York, Nebraska 68467

Dear Dr. Bartholomew:

The Office for Civil Rights of the Department of Education (OCR/ED) is in the process of clearing a backlog of requests for religious exemption from the regulation implementing Title IX of the Education Amendments of 1972, 34 C.F.R. Part 106 (formerly 45 C.F.R. Part 86). Our records indicate that York College (College) filed such a request, but there is no record that OCR adequately acknowledged this request.

We have recently reviewed the request filed by former President Larsen (copy enclosed) in which he described several policies practiced at the 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. Former President Larsen supplied information in his request letter that establishes that the institution 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 York College an exemption to those sections of the Title IX regulation appropriate to the College's request. The exemption is limited to the extent that compliance with the Title IX regulation conflicts with the religious tenets followed by the institution. The College is hereby exempted from the requirements of the following sections of the Title IX regulation: 34 C.F.R. §§ 106.31(a), 106.34, 106.37(a), 106.38, 106.41, 106.51, 106.53, 106.55(a) and 106.60(a). The basis for our decision to grant this exemption is discussed in further detail below.

The letter from the College indicates that it is controlled by members of churches of Christ. The churches of Christ and the College practice certain tenets relating to: (1) the role of men and women in the church; (2) differences in the nature and appearance of men and women; (3) modesty; (4) sexual morality; and (5) marriage, divorce and remarriage. This relationship between the churches of Christ and the College adequately establishes that the College is controlled by a religious organization as is required for consideration for exemption under § 106.12 of the Title IX regulation.

The College's statement lists several practices applied to students and faculty related to moral behavior, modesty, and spiritual leadership. These practices sometimes result in a differentiation of roles of each sex. Thus:

1. The College limits certain courses and activities on the basis of sex. Specifically, the institution excludes women from Christian Education 102 (Song Directing) and Christian Education 123 (Homiletics); separates men and women in swimming courses; limits leadership roles during periods of worship to men; and requests the right to offer clubs such as preacher's club or women's training class for males and females respectively. The above practices are based on Biblical tenets that women should not serve as preachers or in leadership roles in public worship where men are present, and because the churches of Christ believe in high standards of modesty in apparel. Based on these principles and practices, the College has requested and is granted by this letter, exemption to § 106.31(a), education programs and activities, and § 106.34, access to course offerings.
2. The College administers scholarship funds for ministerial students which are intended for males only based on the tenet that women should not serve as preachers. Based on this principle, the College has requested and is granted by this letter, exemption to § 106.37(a), financial assistance.
3. The College does not recommend females for preaching positions because it is one of its tenets that women should not serve as preachers. Based on this principle, the College has requested and is granted by this letter, exemption to § 106.38, employment assistance to students.
4. The College maintains specific requirements regarding apparel for intercollegiate athletics teams based upon its philosophy and Biblical beliefs regarding modesty. Based on this principle, the College has requested and is granted by this letter, exemption to § 106.41, athletics, as it relates to the above-stated principle regarding athletic attire.
5. The College does not hire women to teach in the Department of the Bible. This is based on the religious tenet that women should not publicly teach Bible classes which include adult males. Based on this principle, the College has requested and is granted by this letter, exemption to §§ 106.51, 106.53 and 106.55(a), employment, recruitment for employment and job classification and structure.
6. The College follows the religious tenet that Christian persons should not divorce their mates except for the cause of adultery, and wishes to request the marital status of applicants for employment. Based on this principle, the College has requested and is granted by this letter, exemption to § 106.60(a), pre-employment inquiries of marital status.


The College also requested exemption for dress codes in keeping with the philosophy of modesty. Section 106.31(b)(5) regarding appearance codes was rescinded from the Title IX regulation in 1982. Thus, an exemption for appearance codes is unnecessary.

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 the 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 the College's request. I regret the inordinate delay in responding to the original request. If you have any questions, please do not hesitate to contact the Kansas City Regional Office for Civil Rights. The address is:

Jesse L. High
Regional Civil Rights Director
Office for Civil Rights, Region VII
Department of Education
324 East 11th Street, 24th Floor
Kansas City, Missouri 64106

Sincerely,


Harry M. Singleton
Assistant Secretary
for Civil Rights

Enclosures

cc: Jesse L. High, Regional Civil Rights Director, Region VII