Internal Revenue Service

U.I.L. 414.08-00

Department of the Treasury

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Washington, DC 20224

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Person to Contact:
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Telephone Number:
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Refer Reply to:
T:EP:RA:T2/5002313

Date:
APR 19 2001

Attn: **********

Legend:

Church C = **********
Order A = **********
Diocese B = **********
School L = **********
Corporation F = **********
Individual A = **********
Individual B = **********
Individual C = **********
Directory C = **********
Committee D = **********
Plan X = **********
City 1 = **********
Chapel 1 = **********

Dear **********

This letter is in response to a ruling request dated July 10, 2000, as supplemented by correspondence dated October 12, 2000, as supplemented by letters dated December 8, 2000, December 20, 2000, and February 7, 2001, submitted on your behalf by your authorized representative, concerning the church plan status of Plan X under section 414(e) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted on your behalf:

School L is an independent Church C school that is owned and operated by Corporation F. School L is a Church C college preparatory school established by Order A for providing education in the Ignatian tradition and which offers religious instruction in the Church C tradition.

School L was founded in 1852 by Order A in City 1. Order A is a religious order within Church C. School L's association with Church C can be traced to 1789 when Individual A appointed Individual B, a member of Order A, as the first Church C bishop in the United States and selected City 1 as the seat of the first Church C diocese in America. Since Individual B found the first two Order A schools in the United States in 1789, Order A has established 46 secondary schools, including School L, and 28 colleges throughout the United States. School L is named as an affiliated institution in Directory C. School L's listing in

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Directory C is on a permissive basis granted by Diocese B and entitles School L to inclusion in the group rulings under Code section 501(c)(3) awarded to Church C in the United States.

Diocese B has authority to control the content of School L's curriculum and its religious program. Each year, the chair of School L's Religion Department provides the curriculum to Diocese B for approval. Mass is offered daily at Chapel 1 which is located on School L's campus. Further, many of the Church C sacraments, which may only be administered at a Church C entity, are administered at Chapel 1. Instructors at School L are prohibited from advocating positions contrary to the teachings of Church C in mandatory theology courses and in School L's curriculum. Instructors are expected to support the mission of Order A and School L by following the core principles of the educational world view of Individual C, which are:

To do all the greater glory of God;
To seek truth;
To go beyond academic excellence;
To question always;
To find and praise God in all things.

These principles are included in the student handbook to which all students and faculty adhere.

Corporation F is a corporation that operates School L. Corporation F is separate from Church C insofar as the property which houses School L is owned by Corporation F and not Church C. The Second Article of Corporation F's Charter provides the purposes for which Corporation F was formed and the objects to be carried on and promoted by it as follows: "to carry on, conduct and maintain a school and educational institutions for the purpose of teaching men, women, and children in the Church C tradition without discrimination with respect to race, color, creed, or national origin in any and all branches of learning; to give instruction by lectures, correspondence, telecommunications and by any and all other means that may properly be prevailing, and to give and confer diplomas and certificates upon such persons as may be qualified therefor by reason of their successful pursuit of a course of studies in School L or by reason of their distinguishing career or eminence in life."

The Fourth Article of Corporation F's Charter provides that the board of directors shall constitute the governing body of Corporation F and shall be called the Board of Trustees. There are no voting members other than the directors and all directors shall be considered and constitute all of the members of Corporation F. The Fourth Article further provides that the number of trustees of Corporation F shall not exceed twenty. The Board of Trustees may alter the number of trustees of Corporation F, provided that the number of trustees of Corporation F is not less than three.

Article 1.01 of Corporation F's by-laws dated February 9, 1998, provides that the purposes and affairs of Corporation F shall be managed under the direction of the Board of Trustees.

Section 1.02 of the by-laws provides that Corporation F shall have at least three trustees at all times. Section 1.03 of the by-laws provides that the trustees shall serve for a

term of three years, subject to their resignation or removal. Section 1.03 further provides that the number of members of the Board of Trustees who are members of Order A shall not be less than three. You represent that currently five of the seventeen voting members of the Board of Trustees are members of Order A.

Effective December 1, 1966, School L established Plan X, a defined benefit pension plan to provide retirement benefits for its employees. Plan X has been amended and restated from time to time with the most recent restatement being effective September 1, 1989. Plan X has received a favorable determination letter indicating compliance with the qualification requirements of section 401(a) of the Code.

Section 9.1 of Plan X provides that it shall be administered by Committee D. The Board of Trustees of School L, which is the same as the Board of Trustees of Corporation F, shall appoint a pension committee composed of three or more persons. Currently, Committee D consists of seven members, three of which also serve on the Board of Trustees of Corporation F. The Board of Trustees shall designate an individual to serve on Committee D only if that individual shares common religious bonds and convictions with Church C. Subject to his or her right to resign at any time, each member of Committee D shall serve at the pleasure of the Board of Trustees and the Board may appoint, and may revoke the appointment of members of Committee D. The principal function of Committee D is the administration of Plan X.

School L is listed in Directory C, the official directory of Church C in the United States. The Internal Revenue Service has determined that any organization listed or appearing in Directory C is an organization described in section 501(c)(3) of the Code that is exempt from tax under section 501(a).

Based on the foregoing facts and representations, you request a ruling that Plan X is a church plan within the meaning of section 414(e) of the Code.

Section 414(e)(1) of the Code defines the term "church plan" as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under section 501 of the Code.

Section 414(e)(3)(A) of the Code provides that a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(B) of the Code defines "employee" to include a duly ordained, commissioned, or licensed minister of a church in the exercise of a ministry, regardless of the source of his or her compensation, and an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501, and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) of the Code provides that a church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

Section 414(e)(3)(D) of the Code provides that an organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

In order for an organization to have a qualified church plan, it must establish that its employees are employees or deemed employees of the church or convention or association of churches under section 414(e)(3)(B) of the Code by virtue of the organization's affiliation with the church or convention or association of churches and that the plan will be administered by an organization of the type described in section 414(e)(3)(A) of the Code.

In this case, since education is an integral part of the mission of Church C, School L shares common religious bonds and convictions with Church C. Individual A appointed Individual B, a member of Order A, as the first Church C bishop in the United States and selected City 1 as the seat of the first Church C diocese in America. Order A established School L to provide religious instruction according to the precepts of Church C and the educational philosophy of Order A. Corporation F's by-laws requires that at least three members of Order A must be members of its Board of Trustees; currently, five members of Corporation F's Board of Trustees are members of Order A. Diocese B has authority to control the content of the curriculum and School L's religious program. Mass is offered daily at Chapel 1 which administers many of Church C's sacraments.

In addition, School L is associated with Church C by reason of sharing common religious bonds and convictions as evidenced by its listing in Directory C. The Internal Revenue Service has determined that any organization listed in Directory C is an organization described in section 501(c)(3) of the Code that is exempt from tax under section 501(a). Also, an organization that is listed in the official directory of Church C shares common religious bonds and convictions with Church C and is therefore considered to be associated with a church or a convention or association of churches within the meaning of section 414(e)(3)(D) of the Code. Accordingly, since School L is associated with Church C, it is concluded that the employees of School L are church employees within the meaning of section 414(e) (3)(B) of the Code.

However, an organization must also establish that its plan is established and maintained by a church or a convention or association of churches or by an organization described in section 414(e)(3)(A) of the Code. To be described in section 414(e)(3)(A) of the Code, an organization must have as its principal purpose the administration of the plan and must be also controlled by or associated with a church or a convention or association of churches.

Committee D administers Plan X for School L. Committee D is controlled by School L through its Board of Trustees power to appoint and remove the members of Committee D. Since Committee D is controlled by School L through its Board of Trustees, it is indirectly associated with Church C by virtue of such control. In addition, Plan X provides that Committee D shares common religious bonds and convictions with Church C and that each

member of Committee D must share common religious bonds and convictions with Church C and the educational philosophy of Order A. Further, because the principal purpose of Committee D is the administration of Plan X, Committee D is an organization that is considered controlled by or associated with a church or a convention or association of churches, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits for employees of a church or a convention or association of churches. Therefore, Committee D qualifies as an organization described in section 414(e)(3)(A) of the Code.

Based on the foregoing facts and representations, we conclude with respect to your ruling request that Plan X qualifies as a church plan within the meaning of section 414(e) of the Code.

This letter expresses no opinion as to the qualified status of Plan X under section 401(a) of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

In accordance with a power of attorney on file in this office, a copy of this ruling is being sent to your authorized representative.

Sincerely yours,

(signed) JOYCE E. FLOYD

Joyce E. Floyd, Manager
Employee Plans Technical Group 2
Tax Exempt and Government Entities Division

Enclosures:
Deleted Copy of this Letter
Notice of Intention to Disclose