

**U.S. Department of Labor**

Pension and Welfare Benefits Administration  
Washington, D.C. 20210



July 8, 1996

96-09A  
ERISA SEC. 3(33)

Mr. Laurence A. Hansen  
Lord, Bissell & Brook  
115 South LaSalle Street  
Chicago, Illinois 60603

Dear Mr. Hansen:

This replies to your correspondence concerning coverage of your client, the Christian Brothers Employee Retirement Plan (hereinafter, the Plan), pursuant to Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you requested the views of the Department of Labor (the Department) as to whether the Plan is a "church plan" within the meaning of section 3(33) of Title I of ERISA.

You submitted to the Department on behalf of the Plan extensive documentation concerning the Plan, including a private letter ruling issued by the Internal Revenue Service (IRS) to the Plan on January 31, 1992. That private letter ruling responded favorably to the Plan's request that IRS conclude, based on representations provided by the Plan, that it constituted a church plan within the meaning of section 414(e) of the Internal Revenue Code (the Code). As you know, section 414(e) of the Code defines the term "church plan" using language that is virtually identical to ERISA section 3(33).

To the extent that the Plan is currently operated in substantially the same manner as it was described to the IRS for purposes of obtaining a private letter ruling, we see no reason to disagree with the favorable conclusion reached by IRS concerning the Plan's status as a church plan. Accordingly, we conclude that, to the extent that the Plan's private letter ruling of January 31, 1992, accurately describes its structure and operations, the Plan meets the church plan definition in section 3(33) of Title I of ERISA.

We appreciate your cooperation and assistance in our deliberations regarding the Plan insofar as you documented, among other matters, the process by which the Plan obtained its private letter ruling from IRS.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, it is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Susan G. Lahne  
Chief, Division of Coverage  
Office of Regulations and Interpretations