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March 23, 2017

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
400 Maryland Ave. S.W.
Washington, D.C. 0202-1100

Re: Claim for Title IX Religious Tenet Exemption

Dear Assistant Secretary:

As President of Houston Baptist University I am submitting the following statement to claim on behalf of the University the religious tenet exemption from Title IX of the Education Amendments of 1972, which is provided for in 20 U.S.C. 1681 and which is the subject of 34 C.F.R. 106.12.

Houston Baptist University (University) a Baptist institution of higher education, is a Texas nonprofit corporation whose principal office address is 7502 Fondren Road, Houston, Texas 77074.

The University's mission statement is as follows:

The mission of Houston Baptist University is to provide a learning experience that instills in students a passion for academic, spiritual, and professional excellence as a result of our central confession, "Jesus Christ is Lord."

The University was founded by the Union Baptist Association of Houston and is affiliated with the Baptist General Convention of Texas (Convention). This Convention is a Baptist general body whose constituency is the cooperating Baptist churches of Texas. It is an "association of churches" in the terminology of the Internal Revenue Code. According to the University's bylaws, a supermajority of the members of the University's trustees must be active members of a

Baptist church. Furthermore, all of the trustees must be professing Christians who adhere to the University's preamble.

This request is for exemption from provisions of Title IX to the extent that application of those provisions would not be consistent with the religious tenets of the Convention regarding marriage, sex outside of marriage, sexual orientation, gender identity (including but not limited to transgender status), pregnancy, and abortion. I identify those provisions to be as follows:

Admissions:

34 C.F.R. § 106.21 including but not limited to (b)(iii)(governing differential treatment on the basis of sex in admissions); and (C) (governing admissions prohibition on the basis of marital or parental status).

Recruitment:

34 C.F.R. § 106.23 (governing nondiscriminatory recruitment).

Education Programs or Activities:

34 C.F.R. § 106.31 (b) (4) (governing different rules of behavior or sanctions), and (b) (7) (otherwise limiting any person in the enjoyment of any right, etc.);

34 C.F.R. § 106.32 (governing housing);

34 C.F.R. § 106.33 (governing comparable facilities such as restrooms and locker rooms);

34 C.F.R. § 106.37 (governing financial assistance);

34 C.F.R. § 106.40 (governing different rules based on marital or parental status of students); and

34 C.F.R. § 106.41 (governing athletics).

Employment:

34 C.F.R. § 106.51 (governing employment);

34 C.F.R. § 106.52 (employment criteria);

34 C.F.R. § 106.53 (recruitment);

34 C.F.R. § 106.57 (governing the consideration of marital or parental status in employment decisions); and

34 C.F.R. § 106.60 (governing pre-employment inquiries).

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the Convention has repeatedly spoken. For example, in 2009, the Convention adopted the attached resolution titled *On Sexual Ethics*. The Convention has declared "... the Bible teaches that the ideal for sexual behavior is the marital union between husband and wife and that all other sexual relations – whether premarital, extramarital, or homosexual – are contrary to God's purposes and thus sinful." Since 1980, the Convention has on six occasions stated its religious beliefs opposing abortion. The Convention has declared its religious belief that "gender is based on biological attributes and is seen as a gift from God and immutable." That declaration is also attached.

In 1988 the Convention adopted an addition to its previously adopted statement of Baptist Faith and Message which includes the following expression of religious tenets of the Convention:

XVII. THE FAMILY

God has ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption. Marriage is the uniting of one man and one woman in covenant commitment for a lifetime. It is God's unique gift to reveal the union between Christ and His Church, and to provide for the man and the woman in marriage the framework for intimate companionship, the channel for sexual expression according to biblical standards, and the means for procreation of the human race.

On February 23, 2015, the Executive Board of the Convention adopted a Resolution on Transgender Issues as follows:

WHEREAS, the Bible is the authority for faith and practice by Texas Baptists, the Baptist General Convention of Texas, and BGCT institutions; and

WHEREAS, the Bible states that God created humanity as two genders, male and female, and this includes Jesus' own affirmation (Genesis 1:27; Matthew 19:4; Mark 10:6); and

WHEREAS, in the Bible gender is based on biological attributes and is seen as a gift from God and immutable; and

WHEREAS, some people today are expressing a desire to identify themselves with the gender which differs from their biological gender; and

WHEREAS, some of these persons are seeking to function in the broader society as if they are members of the gender that differs from their biological gender; therefore

BE IT RESOLVED that the Executive Board of the Baptist General Convention of Texas express great concern with the emergence of the transgender agenda and the notion that one's gender is determined psychologically, not biologically; and

BE IT FURTHER RESOLVED that we affirm that in creation God made male and female as biological gender assignment; and

BE IT FURTHER RESOLVED that we desire for all people, including those who consider themselves transgender, to be treated with love and respect but that such love and respect not be construed as approval for every behavior, and

BE IT FINALLY RESOLVED that we seek to minister to all persons, including those who consider themselves transgender.

The University's policies are rooted in the Convention's religious tenets. Application of a regulation would not be consistent with these tenets if the regulation prohibited the institution from following its policies, that is, if the regulation prohibited the University:

From engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practice regarding marriage, sex outside of marriage, pregnancy, and abortion (these considerations collectively referred to hereafter as student and employee "behavior"), and prohibited the institution from treating that person differently as a result of that consideration;

From subjecting students to rules of behavior, sanctions, or other treatment because of these student behaviors. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms, and restrictions to athletic activities by birth sex; rules prohibiting homosexual conduct including but not limited to a prohibition of a student's engaging in sex with a person of his or her birth sex; prohibition of sex outside of marriage between a man and a woman; sanctions as the result of pregnancy and abortion; and

From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration these employee behaviors.

Thus, this claim for exemption includes exemption from these specified regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion in a manner that is inconsistent with the religious tenets of the Convention.

If you have any questions, or if additional information is required, please do not hesitate to contact me.

Sincerely,



Robert B. Sloan, D. d. Theol.
President