



Southwest Baptist University

July 8, 2015

Ms. Catherine E. Lhamon
Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-1100

Dear Ms. Lhamon:

I am President of Southwest Baptist University. As such, I am the highest ranking official of this institution. I submit the following statement in order 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.

Southwest Baptist University is a Southern Baptist institution of higher education. It is a Missouri nonprofit corporation. The address is 1600 University Avenue, Bolivar, Missouri 65613. The Charter of the University is enclosed.

The University is controlled by the Missouri Baptist Convention which is a religious organization. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Missouri. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Charter, the Missouri Baptist Convention controls the University in part by exercising its right to elect the entire membership of the board of directors of the University, the governing body of the University.

The Convention's authority over the University constitutes control by the Convention which is more than sufficient to cause the institution to be exempt from Title VII of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-2(e)(2), (§703(e)(2)) as an educational institution "which is in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association or society." (See, for example, the decision of the United States Circuit Court of Appeals, Eleventh Circuit, regarding our sister Alabama Southern Baptist university in *Killinger v. Samford University*, 113 F. 3d 196 (1997)).

This request for exemption is from provisions of Title IX to the extent application of those provisions would not be consistent with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, and gender identity.

I identify those provisions to be:

Admissions: 34 C.F.R. § 106.21 and §106.22 including but not limited to 106.21(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);

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);

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

Our University holds itself out to be a Christian University. I have enclosed the University's Pathways for Success adopted by the board of directors in April, 2015. It reflects the ongoing grounding of the Mission, Vision and Strategic Plan on Biblical principles, and the University's commitment to the integration of faith in all aspects of university life.

Southern Baptist religious tenets have been described most extensively and most recently in the Baptist Faith and Message 2000. The messengers constituting the Missouri Baptist Convention have adopted that statement of faith. The Baptist Faith and Message 2000 is attached.

In regard to marriage, sex outside of marriage, sexual orientation, and gender identity, the following statements are illustrative:

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 of sexual expression according to biblical standards, and the means for procreation of the human race. XVII The Family, The Baptist Faith and Message 2000.

Man is the special creation of God, made in His image. He created them male and female as the crowning work of His creation. The gift of gender is thus part of the goodness of God's creation. III Man, The Baptist Faith and Message 2000.

Christians should oppose racism, every form of greed, selfishness, and vice, and all forms of sexual immorality, including adultery, homosexuality, and pornography. XV The Christian and the Social Order, The Baptist Faith and Message 2000.

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, admissions, and financial assistance 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 practices regarding marriage, and sex outside marriage (these considerations collectively referred to hereafter as "student and employee characteristics"), and prohibited the institution from treating that person differently as a result of that consideration;

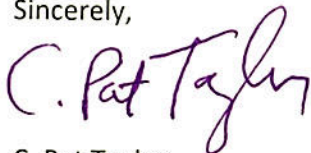
From subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples would be the institution's rules regarding eligibility for employment of the student by the institution; the assignment of housing, restrooms and locker rooms; restrictions 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; and prohibition of sex outside of marriage between a man and a woman;

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 characteristics.

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, homosexuality, and gender identity that is inconsistent with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please let me know. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in purple ink that reads "C. Pat Taylor". The signature is written in a cursive, flowing style.

C. Pat Taylor
President

Enclosures: Southwest Baptist University Charter
Pathways for Success (strategic plan)
Baptist Faith and Message 2000