



Truett McConnell University

Office of the President

May 24, 2016

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

Re: Claim of Title IX Religious Tenet Exemption

Dear Ms. Lhamon:

I am President of Truett McConnell University, Inc. (formally Truett-McConnell College, Inc.) 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.

Truett McConnell University is a Southern Baptist institution of higher education. It is a Georgia nonprofit corporation whose address is 100 Alumni Drive, Cleveland, Georgia 30028. I enclose the Articles of Incorporation and Bylaws of the University.

Truett McConnell University is controlled by a religious organization. That organization is the Georgia Baptist State Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Georgia. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Articles of Incorporation and Bylaws, the Georgia Baptist State Convention controls the University, in part by exercising its right to select 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)).

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Truett McConnell University requires all full-time teaching faculty to sign and affirm the Baptist Faith and Message 2000.

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

I identify those provisions to include:

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. §106.36 (governing counseling and use of appraisal and counseling methods);

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

34 C.F.R. §106.38 (governing employment);

34 C.F.R. §106.39 (governing health and insurance benefits and services);

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. §106.56 (governing fringe benefits);

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).

The religious tenets of the Georgia Baptist Convention have been described most extensively

and most recently in the *Baptist Faith and Message 2000*, adopted by the messengers constituting the Georgia Baptist Convention in 2000. The *Baptist Faith and Message 2000* is attached.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, 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. . . . Children, from the moment of conception, are a blessing and heritage from the Lord.” 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. . . . We should speak on behalf of the unborn and contend for the sanctity of all human life from conception to natural death.” 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 College:

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 practices regarding marriage, sex outside marriage, pregnancy, and abortion (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; prohibition of sex outside of marriage between a man and a woman; and sanctions as the result of pregnancy and abortion;

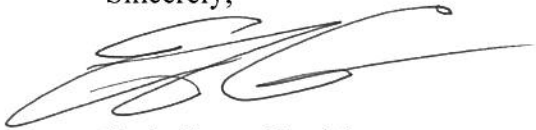
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From making all employment decisions, including but not limited to selection criteria and pre-employment inquiries, recruitment, the decision to employ, retention decisions, and decisions regarding sanctions, in a manner which takes into consideration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

Thus, this claim for exemption includes exemption from the regulations to the extent the regulation would require the institution to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner 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 black ink, appearing to read 'Emir Caner', with a long horizontal flourish extending to the right.

Emir Caner, President
Truett McConnell University