



OFFICE OF THE PRESIDENT

November 30, 2015

Catherine Lhamon, Assistant Secretary  
U.S. Department of Education, Office for Civil Rights  
Lyndon Baines Johnson Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

Re: Claim of Title IX Religious Tenet Exemption

I direct this letter to you in my capacity as president and the highest ranking official of William Carey University, located in Hattiesburg, Mississippi. The University is controlled by a religious organization. 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. This statement is in lieu of any previous statements provided to you by the University on this subject.

William Carey University is a Southern Baptist institution of higher education. It is a Mississippi nonprofit corporation.

The College is controlled by The Mississippi Baptist Convention. This convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Mississippi. It is an "association of churches" in the terminology of the Internal Revenue Code. Pursuant to the University's Restated Articles of Incorporation, which I enclose, The Mississippi Baptist Convention controls the University by electing the University's board of trustees who govern the institution.

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, gender identity, pregnancy, and abortion.

I identify those provisions to include:

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. § 106.34 (governing access to classes etc.);

34 C.F.R. § 106.36 (governing counseling);

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

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

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

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);

34 C.F.R. § 106.43 (governing standards of measuring skills);

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 inquiries); and

34 C.F.R. § 106.61 (governing sex as bfoq).

I enclose the University's Statement of Faith and Practice which reflects the University's understanding of the Convention's expectations of the University arising out of the Convention's

religious tenets. The Bible is accepted as the ultimate authority in matters of faith, doctrine, and Christian living.

In regard to marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy and abortion, the Bible teaches:

The family is the basic unit of human society, established by the creational decrees of God. The family is rooted in God's gift of marriage, which the Creator defines as the lifelong union of one man and one woman. God has ordained the family as the foundational institution of human society.

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.

The Convention has declared:

The union of one man and one woman is the only form of marriage prescribed in the Bible as God's perfect design for the family.

The Bible affirms that all human life, both born and preborn, is a person bearing the image of God.

God's design was the creation of two distinct and complementary sexes, male and female which designate the fundamental distinction that God has embedded in the very biology of the human race.

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:

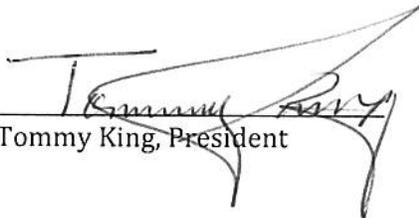
From engaging in recruiting, admissions, and financial assistance under a policy which called for the consideration of an applicant for admission's sexual orientation, gender identity (including but not limited to transgendered status), marital status, past and present practices regarding marriage, pregnancy, abortion, 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 students characteristics. Examples would include 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 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, pregnancy, abortion, and gender identity 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.



Tommy King, President