



Blue Mountain College

FOUNDED 1873

Office of the President

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

From: Dr. Barbara C. McMillin

Date: August 12, 2015

Re: Claim of Title IX Religious Tenet Exemption

I am President of Blue Mountain College. As such, I am the highest ranking official of this institution. I submit the following statement in order to claim on behalf of the College 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.

Blue Mountain College is a Southern Baptist institution of higher education. It is a Mississippi nonprofit corporation. I enclose the Charter and Bylaws of the College.

The College is controlled by a religious organization. That organization is 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 College's Charter, the Mississippi Baptist Convention controls the College by electing the College's board of trustees.

The Convention's authority over the College 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); 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 inquires).

The College holds itself out to be a Christian college. The College's Identity Statement and a portion of its Expanded Statement of Purpose are as follows:

Identity Statement

Founded in 1873 as a Christian liberal arts college and affiliated since 1920 with the Mississippi Baptist Convention, the College recruits undergraduate and graduate students who are committed to scholarship, servant leadership, and service in church and community. The student-centered campus exhibits a climate of personal attention, respect, inclusion, and high expectations in all modes of delivery. Students are guided to reach their God-given potential with the leadership of professionals who share the common bond of Christian faith and who are committed to excellence.

Expanded Statement of Purpose

The purpose of Blue Mountain College is to prepare students for graduate school, the job market, and a more fulfilled life. Providing a sound general education foundation, the College offers an undergraduate liberal arts curriculum, pre-professional and professional programs, and opportunities for graduate study in selected fields. The College is committed to offering programs which provide opportunities for service. Students who can benefit from the academic programs and student services at the College are recruited primarily from Mississippi and other southeastern states.

Blue Mountain College is committed to excellence and creativity in teaching and learning. With a faculty and staff who share a common bond of Christian faith and with all of the departments functioning in close proximity to each other, continuity exists among the various programs. Each student is encouraged to grow as an individual, to adjust to his/her own uniqueness, and to take advantage of opportunities for service.

The Convention's religious authority is the Word of God.

In regard to marriage, sex outside of marriage, sexual orientation, and gender identity, the Word of God 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 design for the family.

The Bible affirms that all human life, both born and preborn, is a person bearing

the imagine 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 College:

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,



Barbara C. McMillin
President

Enclosure