

300 Clear Creek Road
Pineville, Kentucky 40977
www.cbbbc.edu

CLEAR CREEK BAPTIST BIBLE COLLEGE

Phone: (606) 337.3196
Fax: (606) 337.2372
Email: info@cbbbc.edu

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

From: Dr. Donald S. Fox

Date: February 16, 2016

Re: Claim of Title IX Religious Tenet Exemption

I am the Chief Executive Officer and President-Elect of Clear Creek Baptist Bible College, Inc. ("The College"). As such, I am the highest ranking official of the College. I submit the following statement on behalf of the College in order to claim the religious tenet exemption from Title IX of the Education Amendments of 1972 which is provided for in 20 U.S.C. § 1681 et seq., and which is the subject of 34 C.F.R. §106.12.

The College is a Southern Baptist institution of higher education. It is a Kentucky nonprofit corporation whose principal office address is 300 Clear Creek Road, Pineville, Kentucky 40977. The Articles of Incorporation and Bylaws of the College are enclosed.

The College is controlled by a religious organization. That organization is the Kentucky Baptist Convention (the "Convention"). The Convention is a Southern Baptist general body whose constituency is the cooperating Southern Baptist churches of Kentucky. It is an "association of churches" within the meaning of the Internal Revenue Code. Pursuant to the College's Charter and Bylaws, the Convention controls the College in part by exercising its right to select the entire elected membership of the board of directors of the College, the governing body of the College.

The Convention's authority over the College constitutes control by the Convention, making the College exempt from Title VI of the Civil Rights Act of 1964's general prohibition against religious discrimination in employment under 42 U.S.C. 2000e-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, e.g. *Hall v. Baptist Memorial Health Care Corp.*, 215 F.3d 618, 624 (6th Cir. 2000).

34 C.F.R. § 106.12(a) also exempts the College from the prohibitions against discrimination on the basis of sex in Title IX, 20 U.S.C. § 1681 et seq. This request for exemption is from provisions of Title IX of the Education Amendments of 1972 to the extent those provisions conflict with the Convention's religious tenets regarding marriage, sex outside of marriage, sexual orientation, gender identity, pregnancy, and abortion.



Donnie Fox, President

Education for Christian Service Since 1926

Ms. Catherine E. Lhaman
February 16, 2016
Page 2

The College identifies the following provisions as being in conflict with its and the Convention's religious tenets:

34 C.F.R. § 106.21

34 C.F.R. § 106.23

34 C.F.R. § 106.31

34 C.F.R. § 106.32

34 C.F.R. § 106.33

34 C.F.R. § 106.34

34 C.F.R. § 106.36

34 C.F.R. § 106.37

34 C.F.R. § 106.38

34 C.F.R. § 106.39

34 C.F.R. § 106.40

34 C.F.R. § 106.41

34 C.F.R. § 106.51

34 C.F.R. § 106.52

34 C.F.R. § 106.53

34 C.F.R. § 106.56

34 C.F.R. § 106.57

34 C.F.R. § 106.60



Donnie Fox, President

Education for Christian Service Since 1926

Ms. Catherine E. Lhaman
February 16, 2016
Page 3

As a Christian institution of higher learning, the College exists to provide educational preparation for adults called of God into Christian service. To fulfill its mission, the College seeks to: (1) Nurture God-called students as they prepare for the Lord's work; (2) Provide a quality bible-based education with an emphasis on practical Christian service; (3) Initiate and maintain cooperative relationships with individual Christians, churches, associations and conventions; and (4) Manage human, physical and financial resources guided by biblical principles.

Southern Baptist religious tenets have been described most extensively and most recently in The Baptist Faith and Message 2000, a statement of faith adopted by the Convention; a copy of the statement is enclosed. With 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.*

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 Southern Baptist Convention elaborated on this tenet in 2014 by adopting a resolution "On Transgender Identity"; a copy is included.)

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 College's policies are rooted in these religious tenets. (Copy of Student Handbook-Standards of Conduct enclosed). Application of the regulations listed hereinabove would conflict with these tenets if the regulation prohibited the College from following its policies or prohibited the College from: (1) engaging in recruiting and admissions under a policy which called for the consideration of an applicant for admission's sexual orientation, transgender 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



Donnie Fox, President

Education for Christian Service Since 1926

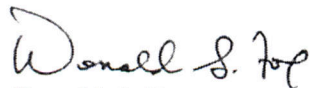
Ms. Catherine E. Lhaman
February 16, 2016
Page 4

characteristics"), and prohibited the institution from treating that person differently as a result of that consideration; (2) subjecting students to rules of behavior, sanctions, or other treatment because of these student characteristics. Examples include the College's rules regarding eligibility for employment of the student by the institution; 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 (3) 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, exemption from the regulations listed above to the extent those regulation require the College to treat marriage, sex outside of marriage, homosexuality, gender identity, pregnancy and abortion in a manner that conflicts with the religious tenets of the Convention.

I trust this letter is sufficient, but if you have any questions, please contact me. Thank you for your assistance.

Sincerely,



Donald S. Fox
President

cc: C Bishop Johnson, Esq.



Donnie Fox, President

Education for Christian Service Since 1926