

The **LUTHERAN** **CLARION**



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The Fiduciary Duty of Synodical Officers and Concordia University System Regents

The January 2023 issue of the *Lutheran Clarion* reported on the difficulties that The Lutheran Church—Missouri Synod is having with its college in Texas known as “Concordia University Texas” (hereafter CU-TX) ¹. On November 8, 2022, the university announced that its Board of Regents had “voted to adopt a structure whereby Concordia University Texas will be governed solely by its Board of Regents, rather than the historic governance directed by the bylaws of Synod.” Texas District President Michael Newman, a Concordia University Texas Board of Regents member, has endorsed this action. For details on these actions, see the January 2023 issue of *The Lutheran Clarion* (<http://lutheranclarion.org/newsletter.html>) and numerous online reports and commentary. ²

I appreciate the diligent reporting and commentary on this situation so far by Attorney Mark Stern and the authors of the reports in my endnotes. It now requires some careful analysis. I propose to analyze the problem on the basis of three questions: 1) Who owns CU-TX and our other universities? 2) To whom do our Concordia University Regents owe their primary fiduciary duty as Regents? 3) What should The Lutheran Church—Missouri Synod do about this situation at its upcoming convention at Milwaukee in July 2023?

Who owns CU-TX and our other universities in the Concordia University System (hereafter CUS)? A simple way to determine that is via the Section 501 (c) (3) statement under the Internal Revenue Code, found on page 807 in the *Lutheran Annual 2023*. There it states that the “educational institutions of the Synod” are:

Concordia Seminary (the legal name of which is Concordia College), St. Louis, MO; Concordia Theological Seminary, Fort Wayne, IN; Concordia University Texas, Austin, TX; Concordia University, Irvine, CA; Concordia University Wisconsin/Ann Arbor, Mequon, WI; Concordia University Chicago, River Forest, IL; Concordia University, St. Paul, MN; Concordia University Nebraska, Seward, NE.

A more complex way to determine ownership is via our bylaws. Here are some that apply:

Bylaw 1.2.1 (a) – **Agency**: An instrumentality other than a congregation or corporate synod, whether or not separately incorporated, which the Synod in convention or its Board of Directors has caused or auth-

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Is Concordia University Texas Aligned with the LCMS?

1. Introduction

1.1 The governance of our Concordia University System (CUS) should be one of the major agenda items for the upcoming 68th regular LCMS Convention. Dramatic changes have occurred since the July 2019 Tampa convention. Concordia University Portland (CUP) announced on February 10, 2020, that it would close at the end of the trimester on April 25, 2020. Concordia College (New York) followed by announcing in January 2021 that it would cease offering classes as of the fall 2021 semester and sell its Bronxville campus to Iona College. Concordia University Texas (CTX), announced on November 8, 2022, that its Board of Regents voted to adopt a structure whereby Concordia University Texas will be governed solely by its Board of Regents, rather than the historic governance directed by the bylaws of Synod. ¹

1.2 From an historical perspective, our universities face challenges that have confronted colleges and universities in this country that were founded by churches. James Tunstead Burtchaell comprehensively describes these developments as follows:

The elements of the slow but apparently irrevocable cleavage of colleges from churches were many. The Church was replaced as a financial patron by alumni, foundations, philanthropists, and the government. The regional accrediting associations, the alumni, and the government replaced the church as the primary authorities to whom the college would give an accounting of its stewardship. The study of their faith became academically marginalized, and the understanding of religion was degraded by translation into reductive banalities for promotional use. Presidential hubris found fulfillment in cultivating the colleges to follow the academic pacesetters, which were selective state and independent universities. The faculty transferred their primary loyalties from their college to their disciplines and their guild, and were thereby antagonistic to any competing norms of professional excellence related to the church (p. 837). ²

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Fiduciary Duties...

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orized to be formed to further the Synod's Objectives (Constitution Art. III). (1) Agencies include each board, commission, council, seminary, university, college, district, Concordia Plan Services, and each synodwide corporate entity. (2) The term "agency of the Synod" does not describe or imply the existence of principal and agency arrangements as defined under civil law.³

Bylaw 3.6.1 – The Synod in convention has authorized the creation of corporate and legal entities that are to be servants of and to the Synod and its members. . . . [They] are as follows: . . . 5. Concordia University System.⁴

Bylaw 3.10.6 – Each college and university of the Synod, with its president and faculty, shall be governed by a board of regents, subject to general policies set by the Synod, including those established by the Concordia University System.⁵

Bylaw 3.10.6.6 (i) – [The board of regents of each institution] shall operate and manage the institution as the agent of the Synod, **in which ownership is primarily vested** and which exercises its ownership through the Board of Directors as custodian of the Synod's property, the Board of Directors of Concordia University System, and the respective board of regents as the local governing body.⁶ [my emphasis]

Another way to determine ownership is via the history of the universities and their founding. Here is a brief summary of our present universities: 1) Concordia University Chicago, founded in 1846 in Fort Wayne by Rev. Wilhelm Loehe, ownership and control transferred to the synod in 1847, moved to Addison, Illinois, in 1864; 2) Concordia University Wisconsin, founded in 1881 in Milwaukee by the Northwest and Illinois Districts (different from our present districts), ownership and control transferred to the synod in 1887; 3) Concordia University Nebraska, founded by synod in 1893 in Seward; 4) Concordia University St. Paul, founded by the synod in 1893 in Saint Paul; 5) Concordia University Texas, founded by the synod in 1926 in Austin; and 6) Concordia University, Irvine, California, founded by the synod in 1972 in Irvine.⁷

Therefore, there should be no doubt that all our present universities are owned by The Lutheran Church—Missouri Synod. The synod is all rostered congregations and rostered church-workers who are members of the synod. Concordia University Texas belongs to "us," it does not belong to a sub-group, much less an independent corporation or an individual person. Unless and until the Missouri Synod divests itself of CU-TX,⁸ it belongs to "us." Per bylaw 3.10.6.6 (i) the Missouri Synod exercises that ownership and its control via the LCMS Board of Directors, the CUS Board of Directors,

and its local board of regents. How the synod apportioned that control is explained in its bylaws, which are changed on occasion when need demands. **The primary fiduciary duty of the CU-TX Board of Regents is thus to The Lutheran Church—Missouri Synod.**

What should we conclude, then, about the actions of the Board of Regents of CU-TX in the last year? At the very least, those who voted to "adopt a structure whereby Concordia University Texas will be governed solely by its Board of Regents" are in violation of their primary fiduciary duty to the Missouri Synod. If the district president who serves on that board did not object to this action or register his negative vote, then he too is in violation of his primary fiduciary duty to the Missouri Synod.

What then should the synod do? At its convention in Milwaukee in July 2023, the synod should explicitly assert its rights of ownership and its rights of control as found in our Constitution, Bylaws, and Articles of Incorporation and in the history of our universities. It should also authorize the removal of all regents and officers at CU-TX who have violated their primary fiduciary duty. I suggest that it give the task of determining who should be removed to the CUS Board of Directors, who will follow synod's bylaws for removal from office.⁹ After the CUS Board of Directors has completed its investigations, the removal from office of regents and/or staff, and filling of vacancies, it should give a full written report sent to all congregations in a timely fashion.

The Rev. Martin R. Noland, Ph.D.

Pastor of Grace Lutheran Church, San Mateo, California

- 1 Mark O. Stern, "Concordia Texas: Walkout 2.0?" *The Lutheran Clarion* 15 no. 3 (January 2023): 1-3. Available for free download at: <https://lutheranclarion.org/images/NewsletterJan2023.pdf>; accessed 29 March 2023.
- 2 For the online reports, see: <https://steadfastlutherans.org/2022/02/concordia-texas-secession-from-the-lcms>; <https://steadfastlutherans.org/2022/06/texans-and-secession-concordia-texas-that-is>; <https://steadfastlutherans.org/2022/11/concordia-texas-decides-to-opt-out-of-lcms-control>; <https://steadfastlutherans.org/2022/11/synod-board-of-directors-and-president-address-concordia-texas>; <https://steadfastlutherans.org/2023/02/concordia-texas-update-legal-records-filed-with-the-state-of-texas-reveal-desires-to-be-free-of-lcms-oversight>; <https://www.gottesdienst.org/gottesblog/2022/11/12/semiteX>; <https://www.gottesdienst.org/gottesblog/2022/11/24/uux5l98x6f6ej12wzpmqgamoty60qn>; for a report and commentary supporting the action of the CU-TX Regents, see <https://congregationsmatter.org/concordia-texas-regents-vote-for-improved-local-governance>; all pages accessed 29 March 2023.
- 3 *2019 Constitution, Bylaws, and Articles of Incorporation as amended by the 2019 LCMS Convention 20-25 2019* (St. Louis: LCMS, 2019), 21.
- 4 *2019 Constitution, Bylaws, and Articles of Incorporation*, 122.
- 5 *2019 Constitution, Bylaws, and Articles of Incorporation*, 165.
- 6 *2019 Constitution, Bylaws, and Articles of Incorporation*, 168.
- 7 For the histories of the Missouri Synod institutions of higher education, there are many sources. The data may be found most easily in these books: Walter Baepler, *A Century of Grace: A History of the Missouri Synod 1847-1947* (St. Louis: Concordia Publishing House, 1947), 116-127, 170-178, 220-230, 281-288; August C. Stelthorn, *Schools of the Lutheran Church-Missouri Synod* (St. Louis: Concordia Publishing House, 1963), 128-150, 219-234, 334-348, 423-441, 445-447; and Richard W. Solberg, *Lutheran Higher Education in North America* (Minneapolis: Augsburg Publishing House, 1985). There is also a brief synopsis of data about our universities and colleges in President John Behnke's autobiography: John W. Behnken, *This I Recall*, 2nd ed. (St. Louis: Concordia Publishing House, 2014), 52-54.

- 8 The procedure for divesting a college or university from the synod is given in Bylaw 3.6.6.4 (i) (see 2019 Constitution, Bylaws, and Articles of Incorporation, 132).
- 9 The procedure for removal of officers of the synod or district from office for "breach of fiduciary responsibilities to the Synod or district" is found in Bylaw 1.5.8 (see 2019 Constitution, Bylaws, and Articles of Incorporation, 32-33).

Is CU Texas Aligned with LCMS...
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1.3 2019 Convention. The University Education floor committee advanced thirty Overtures related to University education.³ The Atlantic and Texas Districts sponsored Overture 7-03, "To Modify the Governance of the Colleges and Universities of the Concordia University System" (page 464). Nowhere did this overture make any reference to a college or university reserving for itself the sole and absolute discretion to determine whether a college or university will continue to subscribe and adhere to Article II of the LCMS Constitution.

II. Action of CTX Regents violates Texas District and LCMS Bylaws

2.1 In the intervening time between the end of the 2019 Convention and February 2022, key developments took place. The CTX Board of Regents (BOR) provided feedback about the proposed changes in university governance between July 2020 and February 2021. The Texas District, meeting in convention in June 2021, considered Resolution 02-07-21a. Its subject was "[T]o Provide Comment To The LCMS 2019 Res. 7-03 Committee Concerning The CUS Governance Model Proposal".⁴ Several of the matters mentioned included giving to the boards of regents unfettered authority and responsibility in the business matters of the school and providing an ecclesial accreditation process by which the schools demonstrated their commitment to being and remaining Lutheran. Nowhere did this Resolution make any reference to a college or university reserving for itself the sole and absolute discretion to determine whether a college or university will continue to subscribe and adhere to Article II of the LCMS Constitution.

2.2 Dr. Don Christian (President and CEO) released a Memorandum on November 8, 2022, after CTX BOR made the decision referred to in paragraph 1.1 above. Dr. Christian added the following statements:

As the news of this change begins to circulate, it is important that you understand that we are not leaving the LCMS. We are committing to our alignment with the LCMS. This vote simply reframes the nature of that relationship so that governance will be directed solely by the Board of Regents rather than shared with Synod.

We are deeply thankful for our Lutheran theology, history, and practice, and we will continue to live out the mission of the church by remaining faithful to Scripture and the confessions; engaging with the broader culture and being a light to the world; continuing to train workers for the church; sharing the gospel with students; and partnering with LCMS entities to help them live out

The Lutheran Clarion Needs Your Help!

The 2024 LCMS Convention delegates need to be informed about the issues.

Both synod conservative groups and liberal groups have, in the past, used the delegate mailing list to send out voting lists and "white papers" to try to influence delegates to vote their way. 2019 Resolution 9-04A puts a big obstacle in that process, by deleting the publication of mailing addresses of delegates, as formerly required by Bylaw 3.1.8.

In 2023 the Convention Workbook will have the names of the delegates AND their congregations published, but no addresses whatsoever. Furthermore, Res. 9-04A prevents synod officials from selling or distributing those addresses except to "agencies of the Synod for official convention business."

You may be able to locate the pastoral and lay delegate names in the proceedings from the most recent district convention or Circuit Forums or in electronic updates on the district website at the time of the district convention. If you could, provide the names of the Pastoral and lay delegates and pastoral and lay delegate alternates and the name and address of the congregation of which they are the pastor or member.



If you are a delegate to the Convention or know any delegates, please provide delegate contact information asap to the LCA: News@LutheranClarion.org.

Delegates are certain to hear from sources which distort the truth. Conservatives are often hesitant to take action. Don't let that happen this time.

their mission.⁵

2.3 On April 4, 2023, Dr. Christian circulated a memorandum after the CTX BOR discussed, and then dismissed, a request from the LCMS to "return to the previous governance structure directed by Synod" at a meeting earlier that day. Dr. Christian's comments included the following:

While the Board has chosen to maintain its current governance structure, it recognizes the value of the LCMS and its essential role in the University's Lutheran identity. The University is hopeful that it and the Synod can continue imagining a new healthy relationship that strengthens the mission and ministry of both institutions.

...
Concordia University Texas is committed to the ongoing development and growth of the University's Lutheran identity, theology, and ministry.

...
The Board of Regents also adopted the Demonstrations of Lutheran Identity, affirming the University's alignment with the Lutheran Church Missouri Synod (LCMS) and commitment to the authority of Scripture and Lutheran Confessions. This commitment includes continued service to the LCMS through church worker education and other partnerships, as well as instituting a set of policies to ensure ongoing faithfulness to the LCMS and its teachings.⁶

Dr. Christian introduced a new phrase into the lexicon describing CTX's aberrant departure from its duties to the LCMS. That phrase is "imagining a new healthy relationship." "Imagine" what?

2.4 Dr. Christian's statements in the two sections immediately above are directly contradicted by another separate document that Dr. Christian filed under penalty of perjury with the Texas Secretary of State, also on November 8, 2022. That public document is the Certificate Of Amendment which added, among other changes, the following paragraphs to the certificate of formation of CTX:

Article II Purpose:

Concordia University Texas is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organization described under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code. With the scope of the foregoing purposes, and not by way of limitation thereof, the corporation is dedicated to the support and maintenance of an educational institution of higher learning that is aligned with, but not subject to the authority of or gov-

ernance by, the Lutheran Church—Missouri Synod: To enable the corporation to carry out such purposes, it shall have the power to do any and all lawful acts and to engage in any and all lawful activities, directly or indirectly, alone or in conjunction with others, which may be necessary, proper, or suitable for the attainment of any and all lawful purposes for which the University is organized under the Texas Business Organization Code.

Article V Board:

The management of the affairs of the corporation is vested in its Board of Regents in accordance with the Bylaws. The number of Regents may be increased or decreased in accordance with the Bylaws; however, the number of Regents shall not be decreased to fewer than three (3). ***All determinations regarding the university's alignment with the Lutheran Church—Missouri Synod, including but not limited to, the university's subscription and adherence to the Confession of the LCMS as currently outlined in Article II of the LCMS Constitution, and qualifications for board members and the presidency, will be subject to and determined by the sole and exclusive discretion of the Board of Regents.*** ⁷

Given the wording immediately above, and then comparing this wording with the CTX website, can we have any confidence that the representations on the website as to "alignment" are truthful?

2.5 Dr. Christian claims in his November 8, 2022, Memorandum that CTX is "committing to our alignment with the LCMS." The key word is ***alignment***. Nowhere does Dr. Christian define and explain how CTX will continue to be ***aligned*** with the LCMS. The new "Article V Board" paragraph filed in the CTX Certificate of Amendment described in section 2.4 above states that "[A]ll determinations regarding the university's alignment with the Lutheran Church—Missouri Synod, including but not limited to, the university's subscription and adherence to the Confession of the LCMS as currently outlined in Article II of the LCMS Constitution, . . . will be subject to and determined by the sole and exclusive discretion of the Board of Regents". This statement as to what "alignment" actually applies to goes beyond governance to the heart of whether or not CTX is committed to remaining a Christian school, much less Lutheran, based on Scripture and the Lutheran Confessions. **CTX BOR appears to be prepared to disavow Article II of the LCMS Constitution!** Quite simply, "sole and absolute discretion" means that CTX can go its own way at any time, beginning November 8, 2022, independent of the LCMS, and governed solely by the then serving regents. Legally, this means that CTX's claim of loyalty to Scripture and the Confessions is an "illusory promise," that is, a promise conditional on the promisor's satisfaction, unbound by any pre-existing obligation.

2.6 CTX includes on its website as of March 31, 2023, the following statement as to its claimed Lutheran identity:

THE SCHOOL'S BYLAWS STATE THAT

Concordia University Texas is and shall operate as an educational institution that is aligned with the Lutheran

**A Tribute to the
Rev. Richard A. Bolland**



Readers of the *Lutheran Clarion* from the time of its inception would recognize the name of the Rev. Richard A. Bolland (1946-2023), who passed to glory on March 8th, 2023. He was the first editor of the *Lutheran Clarion*, from September

2008 to July 2010 issues, and also served on the Board of Directors of the Lutheran Concerns Association (LCA) during that time. Prior to his editorship, the LCA had some occasional publications, including the periodical *Credo*. Pastor Bolland's leadership of the *Clarion* resulted in a new look for the LCA's publications, more content in each issue, broader authorship, and significant growth in subscribers and readership. This is just one part of his service to his beloved synod and his Lord—one that we at the LCA have greatly appreciated!

Pastor Bolland was a graduate (B.A.) of Concordia Teacher's College (LCMS), Seward, Nebraska in 1970. After serving as a Lutheran teacher, he enlisted in the U.S. Army in January 1973, for which he was decorated and received honorable discharge. After resuming his career in education, he entered the Concordia Theological Seminary (LCMS) in Fort Wayne, Indiana, graduating in 1986 (M.Div.). Since that time, he has served parishes in Montana, Missouri, Arizona, and Colorado. This is in addition to his service as Chairman of the LCA Editorial Group for the *Clarion*. He was also the founder of the "Association of Confessing Evangelical Lutheran Congregations" (ACELC) in 2010. For more on Pastor Bolland, please see the official obituary: <https://pagosasan.com/2023/03/16/richard-anton-bolland/>

Rev. Dr. Martin R. Noland

Church—Missouri Synod and subscribes to the Confession of the LCMS as currently outlined in Article II of the LCMS Constitution, namely that it accepts without reservation:

1. The Scriptures of the Old and the New Testament as the written Word of God and the only rule and norm of faith and of practice;
2. All the Symbolical Books of the Evangelical Lutheran Church as a true and unadulterated statement and exposition of the Word of God, to wit: the three Ecumenical Creeds (the Apostles' Creed, the Nicene Creed, the Athanasian Creed), the Unaltered Augsburg Confession, the Apology of the Augsburg Confession, the Smalcald Articles, the Large Catechism of Luther, the Small Catechism of Luther, and the Formula of Concord.⁸

2.7 Here's what "Article II Confession" of the LCMS Constitution states:

The Synod, and every member of the Synod, accepts without reservation:

1. The Scriptures of the Old and the New Testament as the written Word of God and the only rule and norm of faith and of practice;
2. All the Symbolical Books of the Evangelical Lutheran Church as a true and unadulterated statement and exposition of the Word of God, to wit: the three Ecumenical Creeds (the Apostles' Creed, the Nicene Creed, the Athanasian Creed), the Unaltered Augsburg Confession, the Apology of the Augsburg Confession, the Smalcald Articles, the Large Catechism of Luther, the Small Catechism of Luther, and the Formula of Concord.⁹

2.8 The CTX BOR decision of November 8, 2022, affirmed April 4, 2023, rejects the absolute commitment to the LCMS Constitution, Article II. This decision violates LCMS Bylaw 3.10.6.4, which reads in relevant

part as follows:

The board of regents of each institution shall become familiar with and develop an understanding of pertinent policies, standards, and guidelines of the Synod and the Board of Directors of Concordia University System.

(a) It shall develop detailed policies and procedures for governance of the institution, including but not limited to:

- (1) attention to specific ways that the institution is confessing Jesus Christ in full accord with the doctrinal position of the LCMS (Constitution Art. II) and fulfilling His mission in our world;

III. Is CTX Aligned with the Texas District?

3.1 The new "Article V Board" provision filed with the Texas Secretary of State does not refer to alignment with the Texas District of the LCMS and its foundational documents. However, the Texas District Articles of Incorporation and Preamble to The Bylaws make it clear that faithfulness to Scripture and the Book of Concord are the *sine qua non* of our reason for being as a member of the universal, catholic church.

3.2 The Articles of Incorporation of the Texas District state in Article II that "[T]he purposes for which the Corporation is organized include:

to unite in a corporate body the various congregations, organized as corporations or existing as voluntary organizations of the Evangelical Lutheran Church, who as congregations and as individual members of such congregations, accept and remain true to the canonical books of the Old and New Testaments as the sole and exclusive rule of Christian doctrine and practice, and acknowledge as a true exhibition of sound Christian doctrine the Book of Concord of the year of our Lord 1580.¹⁰

3.3 The Preamble to Bylaws of the Texas District state in Article IV., Objectives, that the "Objectives of this corporation shall be to:

1. unite in a corporate body the various congregations, organized as corporations or existing as voluntary organizations of the Evangelical Lutheran Church, who as congregations accept and remain true to the canonical books of the Old and New Testaments as the sole and exclusive rule of Christian doctrine and practice, and acknowledge as a true exhibition of sound Christian doctrine the Book of Concord of the year of our Lord 1580;"¹¹

3.4 The Texas District Bylaws make it clear that the Texas District is bound by both the Constitution and Bylaws of the LCMS:

The Constitution of the Lutheran Church—Missouri Synod is also the Constitution of the Texas District. The Bylaws of the Synod shall be the primary Bylaws of the Texas District.¹²

3.5 So the questions arises: Is CTX aligned with the Texas District?

2023 LCA Conference Videos Available!

You can watch the presentations from the 2023 LCA Conference on your computer at <https://vimeo.com/806710534>. Below are the presenters and their topics:

- **Dr. Chris Cody**, The Present and Future of our Lutheran Schools.
- **Dr. Russell P. Dawn**, The Present and Future of our Concordia Universities.
- **Rev. Dr. Tom J. Egger**, Forming Missouri Synod Pastors: Why and How.
- **Rev. Christopher S. Esget**, Local Congregations and the Post-Covid Path Forward.
- **James D. Runzheimer, Esq.**, The HotChalk v. CU-Portland Case.
- **Rev. Dr. John Wille**, What Lutheran Churches with Lutheran-Style Worship can do in the Realm of Evangelism and Outreach.



IV. CTX Not Aligned with LCMS on Creation of Male and Female Sexuality

4.1 The creation account of Adam and Eve is found in Genesis 1:26-28 and Genesis 2. God instituted matrimony as a divine institution in these same first two chapters of Genesis. It is the joint status of "one marriageable man and one marriageable woman (Matt. 19:46), superinduced and sustained by their mutual consent".¹³ Christ reaffirmed the Genesis account in Matthew 19:3-6 and Mark 10:6-9. Romans 1:18-32 condemns all manner of sexual sin, including homosexual acts.

4.2 A reading of the CTX website, "Student Life" tab, describes "Counseling Services" available to students.¹⁴ Short biographies of three counselors are featured. The biography of one, a licensed master social worker, includes her credential of being an "LGBTQIA+ trained counselor". The biography of a second counselor, a licensed marriage and family therapist and a certified medical family therapist, includes the credential that she is an "LGBTQIA+ trained provider."

4.3 This acronym is widely used in a vast array of settings in society, government, education, and business. However, the acronym does not appear in the Texas statutes as to licensed master social workers or licensed marriage and family therapists. CTX, unfortunately, does not disclose what forms of conduct described by this acronym are forbidden by Scripture. CTX's Student Handbook, Types of Sexual Misconduct, does not address homosexuality or the types of sexual sins included in the New Testament meaning of fornication. The Student Handbook simply states that "Concordia University upholds a Biblical standard of sexual behavior."

4.4 The LGBTQIA+ acronym and promotion of its various toxic applications mandates that CTX should clearly state on its website what an LGBTQIA+ trained provider actually provides to CTX students. Let us focus on transgenderism. Nationally, many states are taking legislative action as to medical treatments for transgender children. Texas is one of those states. Senate Bill No. 14¹⁵ is before the current legislative session and relates to "prohibitions on the provision to certain children of procedures and treatments for gender transitioning, gender reassignment, or gender dysphoria and on the use of public money or public assistance to provide those procedures and treatment." Prohibited gender transitioning or reassignment procedures and treatments include surgery that sterilizes the child, including castration, vasectomy, hysterectomy, phalloplasty, and vaginoplasty, and performing a mastectomy. Prohibited prescription drugs that induce transient or permanent infertility include puberty suppression or blocking prescription drugs to stop or delay normal puberty, supraphysiologic doses of testosterone to females, and supraphysiologic doses of estrogen to males. A physician or health care provider may not remove any otherwise healthy or non-diseased body part or tissue. Senate Bill No. 14 is almost certain to pass the Texas legislature and be signed by Governor Greg Abbott.

4.5 Transgenderism is one of the most pernicious and toxic ideologies challenging the Biblical doctrine of creation of male and female. Christians in the healthcare professions and occupations confront this ideology in multiple settings and specialties. Fortunately, the Christian Medical & Dental Associations have provided comprehensive guidance for an issue such as transgender identification:

A novel way of thinking about one's body has entered into popular culture. "Transgender" individuals refer to their "gender" as a sexual identity that may be male or female, something in between, or neither. This self-identification differs from, and takes priority over, their biological sex as recognized in their chromosomal DNA and innate physical sexual characteristics. The naming of gender as a category set apart from sex is an idea foreign to the holistic view of the person as understood within Christianity. Christians affirm the biblical understanding of humankind as having been created male and female, with the two sexes having equal dignity and a complementary relationship to each other.

At the heart of disagreement over transgenderism is a difference in worldviews. If the human body is nothing more than the product of mindless, random, purposeless physical forces, then one may do with it what one wishes, even to demand medical and surgical cooperation in projects to alter, amputate, or reconstruct normal tissue to conform to the patient's revised psychological sense of identity. If, on the other hand, our bodies are an inseparable aspect of our true selves and are a good gift from God, who has designed the sexes to be wonderfully paired, and who has a purpose for humanity, then respecting the gift of given sexual identity and the ensuing moral obligations to our neighbors is the surest path to human flourishing.

Both worldviews share the recognition that humanity is broken and in need of renewal, but they look to different answers for healing. Christians seek not a reconfiguring of the body, but a spiritual transformation of the mind to become more like Christ; not rejecting the gifts of God, but welcoming God's purposes and demonstrating God's love by loving our neighbors. This love of neighbors includes loving our transgender neighbors as persons who, like all people, are created in God's image. However, loving them and validating them as people does not mean agreeing with their ideologies or use of language.¹⁶

4.6 This leads to two simple questions:

- a. Do the two LGBTQIA+ trained counselors apply Biblical teaching as an essential, integral component in their performance of counseling services?
- b. Is CTX aligned as a university with Biblical teachings as to protecting life in the womb, marriage between a biological man and a biological woman, prohibition of any form of heterosexual or homosexual promiscuity (including promiscuity that involves two consenting adults), and rejection of the radical ideology of transgenderism?

4.7 Our bodies are to be a temple of the Holy Spirit, who is in us and whom we have received from God. We

are not our own. We were bought at a price. We should honor God with our body. 1 Corinthians 6:19. Dr. Scott Stiegemeier, assistant professor of theology at Concordia University Irvine, and specialist in bioethics, expands upon our understanding of our body from a Christian perspective:

Christian doctrine affirms the essential goodness of the body as part of God's created order, maintaining a certain dignity that was not obliterated by the fall. "The body is meant . . . for the Lord and the Lord for the body (1 Cor 6:13)," St. Paul writes. In what sense is the Lord meant for the body, if not the everlasting incarnation of the Divine Logos. In light of this, our attitude toward altering or rearranging the body, for no objective medical reason, should remain unacceptable to the church. To treat the human body as merely raw material out of which we may construct for ourselves any product of will and desire diminishes a sense of its intrinsic value.¹⁷

4.8 CTX has healthcare programs where the issues referred to above will have multiple points of tangency with Biblical teaching. These programs include psychology, nursing, marriage and family therapy, as well as preparatory majors for occupations such as physician assistant. CTX should make a clear, unqualified, profession of its Biblical commitment to meeting the physical, emotional, and health care needs of fellow human beings with compassion and competence. That commitment will be fully consonant with LCMS doctrine and practice and a Christian world view.¹⁸

V. Aftermath of CTX BOR Decision of November 8, 2022

5.1 The arrogation by the CTX BOR of sole and exclusive discretion of whether or not to subscribe to Article II of the LCMS Constitution is profoundly troubling. That decision has wide ramifications.

5.2 Let me cite an example. CTX offers a DCE Specialist Certification program that is "designed to meet the requirements for the Director of Christian Education (DCE) ministry of The Lutheran Church—Missouri Synod." However, in view of the action taken on November 8, 2022, can LCMS churches that would seek to call CTX DCE graduates be assured that these graduates will still consider themselves bound to Article II of the LCMS Constitution?

5.3. DCE's are commissioned ministers under LCMS Bylaw 2.6.1.1. As such, the forms and practices to be used for the rite of commissioning is prescribed in LCMS Bylaw 2.10.4. This Bylaw states that "in all events the minister shall be solemnly pledged to the Scriptures as the inspired and inerrant Word of God and the Symbolical Books of the Lutheran Church as a true exposition of the Scriptures."

VI. Conclusion

6.1 The CTX BOR should reverse the actions that it took on November 8, 2022 and affirmed on April 4, 2023. The wording in the November 8, 2022, filing with

the Texas Secretary of State, cited in paragraph 2.4 above, violates both the LCMS and Texas District Constitutions and Bylaws, respectively. The wording, under oath, of "sole and exclusive discretion of the Board of Regents" contradicts every assertion in the CTX website and in Dr. Christian's memoranda that CTX is still aligned with the LCMS.

6.2 The phrase "sole and exclusive discretion of the Board of Regents" is the epitome of relativistic and situational double talk. The phrase 'opens the door' to CTX becoming whatever any majority of its future regents "imagine" they want to do in the future unbound and unfettered by the doctrinal commitments of those faithful believers who established the university almost a century ago and faithfully and generously supported it since then. What is there to "imagine"? The current duty of the CTX BOR is to comply with its obligations under the existing Synodical Bylaws.

6.3 The Apostle James provides a clear admonition. "Anyone who knows the good he ought to do and doesn't do it, sins." James 4:17.

6.4 Quite simply, the CTX BOR needs to repent!

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- 1 Memorandum; November 8, 2022; to Constituents of Concordia University Texas; from Dr. Donald Christian; "An Important Announcement Regarding the Board of Regents".
- 2 James Tunstead Burtchaeil, The Dying of the Light: The Disengagement of Colleges & Universities from their Christian Churches (Grand Rapids: William B. Eerdmans Publishing Company, 1998), 837.
- 3 Convention Workbook/Reports And Overtures 2019, pages 460 to 477.
- 4 2021 Convention Proceedings, Texas District LCMS, 62nd Convention of the Texas District The Lutheran Church - Missouri Synod, June 10-12, 2021 (64-67).
- 5 <https://www.concordia.edu/about/PRES-Memo-11.8.22.pdf>
- 6 <https://www.concordia.edu/about/uploads/memos%20to%20constituents-April%204%202023.pdf>
- 7 This document can be accessed at <https://www.sos.texas.gov/corp>, as a business entity search. There is a \$1.00 statutorily authorized fee assessed with each search.
- 8 <https://www.concordia.edu/about/demonstration-of-lutheran-identity.html>
- 9 Handbook/ Constitution Bylaws Articles of Incorporation, The Lutheran Church Missouri Synod (As Amended by the 2019 LCMS Convention 20-25 July 2019), page 11.
- 10 2021 Texas District Handbook, First Edition, Texas District of The Lutheran Church - Missouri Synod, page 6.
- 11 2021 Texas District Handbook, First Edition, Texas District of The Lutheran Church - Missouri Synod, page 9.
- 12 2021 Texas District Handbook, First Edition, Texas District of The Lutheran Church - Missouri Synod, page 9.
- 13 Edward W.A. Koehler, A Summary of Christian Doctrine, Second Revised Edition (St. Louis: Concordia Publishing House, 1952), 284-291.
- 14 <https://www.concordia.edu/resources/counseling-services/counseling-center-staff.html>
- 15 <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/SB00014E.pdf>
- 16 cmda.org
- 17 Scott E. Stiegemeier, "How Do You Know Whether You Are A Man Or A Woman?" Concordia Theological Quarterly, January/April 2015, Volume 79:1-2.
- 18 See the website of Christian Medical & Dental Associations (cmda.org) for comprehensive materials relating to LGBTQIA+ issues approached from a Biblical world view.

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