

EXECUTIVE SESSION
TELEPHONIC BOARD MEETING MINUTES
(released to public minutes as authorized June 7, 2018)

BOARD OF DIRECTORS
THE LUTHERAN CHURCH—MISSOURI SYNOD

December 19, 2017

The following resolution was unanimously adopted by the Board of Directors in executive session (with member Gloria Edwards excused due to conflict of interest) on December 19, 2017, and was communicated to the Concordia College Alabama Board of Regents. The Board of Directors also adopted the accompanying resolution directing the first resolution's subsequent public release. Release was authorized by the board's Executive Committee, in accordance with that resolution, on June 7, 2018.

**RESOLUTION REGARDING THE CONCORDIA COLLEGE ALABAMA
BOARD OF REGENTS' RESOLUTION TO CLOSE**

WHEREAS, The Lutheran Church—Missouri Synod (the LCMS) is a Missouri nonprofit corporation governed by its Board of Directors; and

WHEREAS, the Concordia University System (CUS) is a Missouri nonprofit corporation governed by its Board of Directors; and

WHEREAS, Concordia College Alabama (CCA) is an Alabama nonprofit corporation governed by its Board of Regents; and

WHEREAS, CCA, while a separate legal entity with its own governing body corporate (*i.e.*, its Board of Regents), is subject to certain provisions of the Bylaws established by The Lutheran Church—Missouri Synod in Convention (Synod) for itself and for related entities, including CCA; and

WHEREAS, In the past several years, while CCA has faced financial difficulties, the LCMS and its related entities within the Synod and others have studied the situation and offered reflections, prayers, such assistance as was requested and could be offered, and financial support when possible; and

WHEREAS, The CCA Board of Regents has informed CUS and the LCMS that CCA is no longer financially viable; and

WHEREAS, The CCA Board of Regents has now voted to close its college as of May 31, 2018, as set forth in the Resolution attached hereto as Appendix A; and

WHEREAS, The LCMS Board of Directors held a telephonic meeting on December 12, 2017, to discuss the CCA Board of Regents' Resolution; and

WHEREAS, CCA has provided no financial information or other evidence to Concordia University System (CUS) or to the LCMS supporting CCA's financial ability to continue operation of its college until May 31, 2018, the closing date indicated by the CCA Board of Regents; and

WHEREAS, The CCA cover letter received with the attached Resolution noted that Synod Bylaw 3.6.6.5 states that CUS has "authority, after receiving the consent of the Board of Directors of the Synod by its two-thirds vote and also the consent of either the Council of Presidents by its two-thirds vote or the appropriate board of regents by its two-thirds vote, to consolidate, relocate, separate, or divest a college or university;" and

WHEREAS, Synod Bylaw 3.6.6.5 poses no obstacle to the closure of this college due to financial distress or legal insolvency because in this instance CUS (the subject of Bylaw 3.6.6.5) is not initiating consolidation, relocation, separation, or divestiture, and, further, because the LCMS and CUS Boards

of Directors have already indicated support for CCA's orderly closure of this college as determined necessary under such circumstances; and

WHEREAS, Although Synod Bylaw 3.6.6.5 has not, therefore, posed any obstacle, the LCMS Board nonetheless would hereby express clearly that it has no objection to the CCA Board of Regents' closure of the college as determined necessary by the Regents due to financial reasons;

WHEREAS, Synod Bylaw 3.10.6.4 [i][5] indicates that the Board of Regents is the "governing body corporate of the institution, vested with all powers, etc.;" and

WHEREAS, While Synod Bylaw 3.10.6.4 [i][6] indicates that the Board of Regents has "no power *by itself* to close the institution or to sell all or any part of the property which constitutes the main campus," the LCMS Board, from its limited awareness of serious concerns with CCA's finances, has previously encouraged and counseled the CCA Board of Regents that it should, while pursuing such alternative business models as CCA has over time suggested (including divestment from CUS), proceed to adopt "a contingency plan to provide for an orderly closure of the institution that would provide protections for the CCA students, faculty, and staff if the circumstances require such" (LCMS BOD Resolution, February 19–20, 2016); and

WHEREAS, The LCMS Board of Directors reiterated the same counsel in its resolution of July 28, 2016; and has, moreover, consistently encouraged the CCA Board of Regents to take necessary and prudent action, including, if necessary, the initiation of an orderly closure of the college, in the interest of all concerned; and

WHEREAS, The LCMS Board of Directors also understands CUS, from its nearer but also limited awareness of serious concerns with CCA's finances, to have consistently counseled CCA that prudent and necessary action should be taken by the CCA Board of Regents, including, if necessary, the initiation of an orderly closure of the college, in the interest of all concerned; and

WHEREAS, The CCA Board of Regents would, therefore, not be acting "by itself" to close the college, but would be acting in a manner entirely consistent with the LCMS Bylaws and within its proper power as "governing body corporate" to close the institution when all facts and circumstances clearly justify its closing (due to financial inability to operate), and when neither CUS nor the LCMS Board of Directors oppose said closure; and

WHEREAS, While the LCMS Board of Directors has in the past (despite having no obligation to financially support or pay the debts of CCA and while making no promise of future grants of funds) responded generously to requests from the CCA Board of Regents for emergency grants, the LCMS Board of Directors finds it has exhausted its capacity to offer financial support of CCA operating expenses; therefore be it

Resolved, That

1. The LCMS Board of Directors reiterates its counsel that the CCA Board of Regents must act timely to do what is reasonable and prudent, given the institution's apparent financial unviability, fulfilling as best it can, given prevailing circumstances, its responsibilities to the school, to its students, faculty and staff, and to the Synod.
2. The LCMS Board of Directors has no objection to, and concurs with, the CCA Board of Regents' decision and vote to close its college due to financial circumstances.
3. The LCMS Board of Directors concurs with the CCA Board of Regents' determination to close. Should the CCA Board of Regents determine that the institution has sufficient funds to operate as a legally solvent institution, in compliance with all Department of Education requirements, and without defaulting on any obligations to faculty, staff, students, or vendors until May 31, 2018, LCMS BOD concurs with closing as of that proposed date.

Otherwise, LCMS BOD has no objection to, and would concur with, the college's closing on or before December 31, 2017.

APPENDIX A

December 4, 2017, Resolution of the CCA Board of Regents

WHEREAS, we as the duly appointed and authorized Board of Regents – Concordia College Selma, Alabama ("BOR"), and authorized to oversee Concordia College Selma, Alabama ("CCA"), do hereby declare and make known its intentions regarding the impending closure of CCA.

WHEREAS, the BOR has carefully evaluated the potential for continued operations at CCA; and

WHEREAS, the BOR has carefully evaluated the financial position of CCA as it relates to continued operations at CCA; and

WHEREAS, the BOR has concluded that the current financial position of CCA does not allow for continued operations at CCA; and

WHEREAS, the BOR has sought to identify alternative and other means of financial support in order to allow continued operations at CCA, but has been unable to identify any such alternative means of financial support; and

WHEREAS, the BOR has taken extraordinary measures to allow for continued operations at CCA but such measures have proven inadequate to allow for continued operations; and

WHEREAS, the BOR, in evaluating the current financial position of CCA and considering the potential for continued operations, has determined that it is in the best interest of all stakeholders for CCA to cease operations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF REGENTS OF CONCORDIA COLLEGE SELMA, ALABAMA, as follows:

CCA will cease operations effective May 31, 2018.

The Chief Transition Officer shall develop and implement a closure plan consistent with this Resolution.

PASSED AND ADOPTED this fourth day of December 2017, at a meeting of the BOR.

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The board having adopted the above main resolution on the CCA matter, a further resolution was moved and adopted, also by consensus of the board, detailing the handling of the previous resolution:

Resolved, The foregoing resolution shall be conveyed to Chairman Lloyd Probasco of the Concordia College Alabama Board of Regents (CCA BOR), but shall not be otherwise publicly disseminated until the CCA BOR has reviewed and reacted to it, and CCA BOR has announced the closure to regulators, faculty, staff, and students. At that point, this resolution and its appendix will be included in the public minutes of the LCMS Board of Directors and may be publicly released by determination of the LCMS Board of Directors Executive Committee as necessary to effect its purpose and to explain its effect. This provision shall be summarized in the cover letter to Chairman Probasco.

John W. Sias, *Secretary*