

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

BETHEL MINISTRIES, INC.,

\*

*Plaintiff,*

\*

v.

\*

No. 1:19-cv-01853-SAG

DR. KAREN B. SALMON, ET AL.,

\*

*Defendants.*

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\* \* \* \* \*

**DEFENDANTS’ ANSWER TO PLAINTIFF’S COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF**

Defendants State Superintendent Dr. Karen B. Salmon, along with Broadening Options and Opportunities for Students Today (“BOOST”) Board Chair Matthew Gallagher and BOOST Board members Marva Jo Camp, Linda Eberhart, Dr. Nancy S. Grasmick, Elizabeth Green, Beth Sandbower Harbinson, and Dr. A. Skipp Sanders (collectively “the BOOST Board”), having been sued in their official capacities, through their undersigned counsel, file this Answer to Plaintiff’s Complaint for declaratory and injunctive relief.

**INTRODUCTION**

1. Defendants admit that Bethel Ministries, Inc. (Bethel) is a self-identified Christian ministry in Savage, Maryland. Defendants lack sufficient knowledge of Bethel’s subjective beliefs to admit or deny the remainder of this paragraph, but note that Defendants admit Bethel’s members hold sincere religious beliefs.

2. Defendants admit that Bethel runs a private Christian school, Bethel Christian Academy. Defendants lack sufficient knowledge of Bethel's purposes or values in running Bethel Christian Academy to admit or deny the remainder of this paragraph, but note that Defendants admit Bethel's members hold sincere religious beliefs.

3. Defendants do not have sufficient information to admit or deny the allegations in paragraph 3.

4. Defendants admit that Bethel Christian Academy initially qualified as a Broadening Options and Opportunities for Students Today (BOOST)-eligible school and that some student-recipients of BOOST scholarships used these scholarships at Bethel. To the extent further response to this paragraph is required, it is denied.

5. Admitted.

6. Admitted.

7. Denied.

8. Denied.

9. Defendants admit that under the BOOST program participation conditions Defendants requested that Bethel repay amounts received from BOOST scholarship funds for years in which Bethel did not qualify to receive those funds. To the extent further response is required, allegations not specifically admitted are denied.

10. Defendants admit that Bethel was determined ineligible for the BOOST program in the 2016-2017, 2017-2018, 2018-2019, and 2019-2020 program years. Defendants deny the remaining allegations in this paragraph.

11. Defendants admit that Bethel was determined ineligible for the BOOST program in the 2016-2017, 2017-2018, 2018-2019, and 2019-2020 program years. Defendants deny the remaining allegations in this paragraph.

12. This paragraph states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

13. This paragraph states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

14. This paragraph states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

#### **JURISDICTION AND VENUE**

15. This paragraph states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations of paragraph 15.

16. This paragraph states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

17. This paragraph states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

18. This paragraph states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

19. This paragraph states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

20. Admitted.

#### **PARTIES**

21. Defendants admit that Bethel Ministries, Inc. is a Maryland non-stock religious corporation established and existing under the laws of the State of Maryland. Defendants admit that Bethel Ministries, Inc. operates Bethel Christian Academy. Defendants lack sufficient information to admit or deny the remainder of this paragraph and it is therefore denied.

22. Admitted.

23. Admitted.

24. Admitted.

25. Admitted.

#### **STATEMENT OF FACTS**

26. Defendants admit that Bethel Ministries, Inc. is located in Savage, Maryland and describes itself as a Pentecostal Christian church, and that its members sincerely hold religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

27. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

28. Defendants admit that Bethel operates Bethel Christian Academy, a private school for students in preschool through eighth grade. It is further admitted that Bethel describes Bethel Christian Academy as part of its religious mission. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.<sup>29</sup> Defendants admit that Bethel states its mission as described in this

paragraph. Defendants lack sufficient information to admit or deny the remainder of the paragraph.

30. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

31. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

32. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

33. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

34. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

35. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

36. Defendants lack sufficient information to admit or deny the allegations, and they are therefore denied.

37. Defendants lack sufficient information to admit or deny the allegations, and they are therefore denied.

38. Defendants lack sufficient information to admit or deny the allegations, and they are therefore denied.

39. Defendants lack sufficient information to admit or deny the allegations, and they are therefore denied.

40. Defendants lack sufficient information to admit or deny the allegations, and they are therefore denied.

41. Defendants lack sufficient information to admit or deny the allegations, and they are therefore denied.

42. Defendants lack sufficient information to admit or deny the allegations in this paragraph.

43. Defendants lack sufficient information to admit or deny the allegations in this paragraph.

44. Defendants lack sufficient knowledge or information sufficient to admit or deny the allegations in this paragraph.

45. Defendants lack sufficient knowledge or information sufficient to admit or deny the allegations in this paragraph.

46. The allegations in this paragraph describe portions of the 2017-2018 Parent/Student Handbook. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

47. Denied.

48. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

49. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

50. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

51. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

52. The allegations contained in this paragraph describe Bethel's conduct policy for the 2017-2018 school year. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

53. The allegations contained in this paragraph describe Bethel's conduct policy for the 2017-2018 school year. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

54. The allegations contained in this paragraph describe Bethel's conduct policy for the 2017-2018 school year. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

55. The allegations contained in this paragraph describe Bethel's conduct policy for the 2017-2018 school year. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

56. The allegations contained in this paragraph describe Bethel's conduct policy for the 2017-2018 school year. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

57. The allegations contained in this paragraph describe Bethel's conduct policy for the 2017-2018 school year. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

58. The allegations contained in this paragraph describe Bethel's conduct policy for the 2017-2018 school year. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

59. The allegations contained in this paragraph describe Bethel's conduct policy for the 2017-2018 school year. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

60. The Broadening Options and Opportunities for Students Today program was first established by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

61. Authorization for the BOOST Program has appeared in 2016 Md. Laws ch. 143, 130-135; 2017 Md. Laws ch. 150, 136-142; 2018 Md. Laws ch. 570, 141-155; 2019 Md. Laws ch. 565 at 151. The law speaks for itself, and characterization of the law

requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

62. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

63. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

64. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

65. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

66. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

67. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

68. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

69. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

70. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

71. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

72. Admitted.

73. Admitted.

74. Denied.

75. Admitted.

76. Admitted.

77. Defendants admit that MSDE administers the Nonpublic Textbook and Technology Program and that MSDE administers the Nonpublic Aging Schools Program jointly with the Interagency Committee on School Construction. The remaining allegations in this paragraph are denied.

78. The Nonpublic Textbook and Technology Program is defined by the terms of its Special Fund Appropriation, which for Fiscal Year 2017 appears in 2016 Md. Laws ch. 143, 128-130. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

79. The Nonpublic Aging Schools Program is defined by the terms of its appropriation, which for Fiscal Year 2017 appears in 2016 Md. Laws ch. 27, 9-10. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

80. The Nonpublic Aging Schools Program is defined by the terms of its appropriation, which for Fiscal Year 2017 appears in 2016 Md. Laws ch. 27, 9-10. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

81. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

82. The Nonpublic Textbook and Technology Program is defined by the terms of its Special Fund Appropriation, which for Fiscal Year 2017 appears in 2016 Md. Laws ch. 143, 128-130 and for Fiscal Year 2018 appears in 2017 Md. Laws ch 150, 134-36. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

83. The Nonpublic Textbook and Technology Program is defined by the terms of its Special Fund Appropriation, which for Fiscal Year 2017 appears in 2016 Md. Laws ch. 143, 128-130 and for Fiscal Year 2018 appears in 2017 Md. Laws ch 150, 134-36. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

84. The Nonpublic Textbook and Technology Program is defined by the terms of its Special Fund Appropriation, which for Fiscal Year 2017 appears in 2016 Md. Laws ch. 143, 128-130 and for Fiscal Year 2018 appears in 2017 Md. Laws ch 150, 134-36. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

85. The Nonpublic Textbook and Technology Program is defined by the terms of its Special Fund Appropriation, which for Fiscal Year 2017 appears in 2016 Md. Laws ch. 143, 128-130 and for Fiscal Year 2018 appears in 2017 Md. Laws ch 150, 134-36.

The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

86. The Nonpublic Textbook and Technology Program is defined by the terms of its Special Fund Appropriation, which for Fiscal Year 2017 appears in 2016 Md. Laws ch. 143, 128-130 and for Fiscal Year 2018 appears in 2017 Md. Laws ch 150, 134-36. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

87. Admitted.

88. Denied.

89. Denied.

90. Bethel participated in the Textbook and Technology Program in the 2016-2017 program year and applied for participation in the 2017-2018 program year. To the extent further response is required, all allegations not expressly admitted are denied.

91. Bethel participated in the Aging Schools Program in the 2016-2017 program year and applied for participation in the 2017-2018 program year. To the extent further response is required, all allegations not expressly admitted are denied.

92. Defendants admit that, in October 2017, the BOOST Board received a public comment from the Maryland PTA complaining that certain BOOST-eligible schools were discriminating in admissions by maintaining discriminatory admissions and conduct policies. The Defendants state that the term “investigating” is undefined, vague and ambiguous and therefore no further response is possible. All allegations not expressly admitted are denied.

93. Denied.

94. Admitted.

95. MSDE requested handbooks from all schools participating in BOOST. To the extent further response is required, all allegations not expressly admitted are denied.

96. Admitted.

97. Defendants admit that a memorandum authored by Maryland's Office of the Attorney General and addressed to some or all of the Defendants to this action and dated January 9, 2018 on the subject matter of the BOOST nondiscrimination requirements exists. To the extent further response is required, all allegations not expressly admitted are denied.

98. The January 9, 2018 memorandum is a document that speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

99. The January 9, 2018 memorandum is a document that speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

100. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

101. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

102. Defendants admit that Monica Kearns sent correspondence to Clair Dant, Principal of Bethel Christian Academy dated March 5, 2018. That document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

103. Defendants admit the letter attached as Exhibit 3 to the complaint is authentic. That document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

104. Defendants admit the document attached as Exhibit 4 to the complaint is authentic. That document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

105. Defendants admit that the BOOST Board held a meeting on May 3, 2018, at 9am. A recording of the meeting is available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting050318.mp3>. To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

106. Denied.

107. A recording of the May 3rd meeting is available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting050318.mp3>. To the

extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

108. Defendants admit that the BOOST Board held a meeting on May 3, 2018, at 9am. A recording of the meeting is available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting050318.mp3>. To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

109. Defendants admit that the BOOST Board held a meeting on May 3, 2018, at 9am. A recording of the meeting is available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting050318.mp3>. To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

110. Defendants admit that the BOOST Board held a meeting on May 3, 2018, at 9am. A recording of the meeting is available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting050318.mp3>. To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

111. Defendants admit that the BOOST Board held a meeting on May 3, 2018, at 9am. A recording of the meeting is available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting050318.mp3>. To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

112. Defendants admit that the BOOST Board held a meeting on May 3, 2018, at 9am. A recording of the meeting is available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting050318.mp3>. To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

113. Defendants admit that the BOOST Board held a meeting on May 3, 2018, at 9am. A recording of the meeting is available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting050318.mp3>. To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

114. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

115. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

116. Defendants admit that correspondence with Bethel from MSDE dated May 4, 2018 exists. That letter is a document that speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

117. Defendants admit the May 25 letter attached as ECF 19-17 in this matter is authentic. That document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

118. Defendants admit the authenticity of the May 29 letter attached as exhibit 5 to the complaint. That document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

119. Defendants admit the authenticity of the May 29 letter attached as exhibit 5 to the complaint. That document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

120. Defendants admit that the BOOST Board met on June 4, 2018 at 2pm. An audio recording of the meeting is available at <http://marylandpublicschools.org/Audio/BOOST/BOOST060418Meeting.MP3>. To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent a further response is required, all allegations not expressly admitted are denied.

121. Defendants admit that the BOOST Board met on June 21, 2018 at 2pm. Audio recordings of that meeting are available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting%2006212018Audio1.mp3> and [http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018\\_2.mp3](http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018_2.mp3). To the extent that the allegations in this paragraph differ from the audio recordings, they are denied. To the extent a further response is required, all allegations not expressly admitted are denied.

122. Denied.

123. Denied.

124. The Maryland Office of the Attorney General publishes a document entitled “Open Meetings FAQs – A Quick Guide to Maryland’s Open Meetings Act” which is available at [http://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/OMA\\_FAQ.pdf](http://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/OMA_FAQ.pdf). Plaintiffs’ reference is ambiguous and therefore defendants lack information to admit or deny the allegations and no further response is required. To the extent further response is required, the Maryland Office of the Attorney General publishes a document entitled “Open Meetings FAQs – A Quick Guide to Maryland’s Open Meetings Act” which is available at [http://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/OMA\\_FAQ.pdf](http://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/OMA_FAQ.pdf). That document speaks for itself. To the extent that the allegations in this

paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

125. Defendants admit that the BOOST Board met on June 21, 2018 at 2pm. Audio recordings of that meeting are available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting%2006212018Audio1.mp3> and [http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018\\_2.mp3](http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018_2.mp3). To the extent that the allegations in this paragraph differ from the audio recordings, they are denied. To the extent a further response is required, all allegations not expressly admitted are denied.

126. The allegations in paragraph 126 are legal contentions and therefore do not require response. To the extent response is required, the allegations are denied.127.

Defendants admit that the BOOST Board met on June 21, 2018 at 2pm. Audio recordings of that meeting are available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting%2006212018Audio1.mp3> and [http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018\\_2.mp3](http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018_2.mp3). To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent a further response is required, all allegations not expressly admitted are denied.

128. Denied.

129. Denied.

130. Denied.

131. Defendants admit that the BOOST Board met on June 21, 2018 at 2pm. Audio recordings of that meeting are available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting%2006212018Audio1.mp3> and [http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018\\_2.mp3](http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018_2.mp3). To the extent that the allegations in this paragraph differ from the audio recording, they are denied. To the extent a further response is required, all allegations not expressly admitted are denied.

132. Defendants admit that the BOOST Board met on June 21, 2018 at 2pm. Audio recordings of that meeting are available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting%2006212018Audio1.mp3> and [http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018\\_2.mp3](http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018_2.mp3). To the extent that the allegations in this paragraph differ from the audio recordings, they are denied. To the extent a further response is required, all allegations not expressly admitted are denied.

133. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

134. Defendants admit the document attached to the Complaint as plaintiff's Exhibit 6 is authentic. That document speaks for itself. To the extent that the allegations

in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

135. Defendants admit the document attached to the Complaint as plaintiff's Exhibit 6 is authentic. That document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

136. Defendants admit the document attached to the Complaint as plaintiff's Exhibit 7 is authentic. That document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

137. Defendants admit the document attached to the Complaint as plaintiff's Exhibit 7 is authentic. That document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

138. Denied.

139. Denied.

140. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

141. Defendants admit the authenticity of the document attached to the Complaint as Exhibit 8 and state that the document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent response is required, all allegations not expressly admitted are denied.

142. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

143. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

144. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

145. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

146. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

147. The allegations in paragraph 147 are ambiguous because the term “disqualified” is undefined, vague and ambiguous. Defendants are therefore not capable of responding to these allegations. To the extent response is required, the allegations are denied.

148. The allegations in paragraph 148 are legal contentions and therefore do not require response. To the extent response is required, the allegations are denied.

149. Defendants lack sufficient information to admit or deny the allegations and they are therefore denied.

150. Admitted.

151. The text of House Bill 100 is enrolled as 2019 Md. Laws ch. 565 and speaks for itself. The remainder of this paragraph consists of characterizations of the law

and no further response is required. To the extent response is required, all allegations not expressly admitted are denied.

152. The text of House Bill 100 is enrolled as 2019 Md. Laws ch. 565 and speaks for itself. The remainder of this paragraph consists of characterizations of the law and no further response is required. To the extent response is required, all allegations not expressly admitted are denied.

153. The text of House Bill 100 is enrolled as 2019 Md. Laws ch. 565 and speaks for itself. The remainder of this paragraph consists of characterizations of the law and no further response is required. To the extent response is required, all allegations not expressly admitted are denied.

154. The text of House Bill 100 is enrolled as 2019 Md. Laws ch. 565 and speaks for itself. The remainder of this paragraph consists of characterizations of the law and no further response is required. To the extent response is required, all allegations not expressly admitted are denied.

155. Defendants do not have sufficient information to admit or deny the allegations.

156. Denied.

157. Defendants do not have sufficient information to admit or deny the allegations.

158. Defendants do not have sufficient information to admit or deny the allegations.

159. This paragraph is a legal contention to which no response is required. To the extent response is required, the allegation is denied.

160. This paragraph is a legal contention to which no response is required. To the extent response is required, the allegation is denied.

161. This paragraph is a legal contention to which no response is required. To the extent response is required, the allegation is denied.

### **ALLEGATIONS OF LAW**

162. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

### **First Cause of Action**

163. Defendants incorporate by reference herein their responses to the allegations in paragraphs 1 through 162 of the Complaint.

164. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

165. Admitted.

166. Defendants incorporate by reference their response to paragraph 27, which is identical.

167. Defendants incorporate by reference their response to paragraph 42, which is identical.

168. The allegations in this paragraph relate to the 2017-2018 Parent/Student Handbook attached as Exhibit 1 to the complaint. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied.

Defendants lack sufficient information to admit or deny any other allegations in this paragraph, and therefore any allegation not expressly admitted is denied.

169. The allegations in this paragraph relate to the 2017-2018 Parent/Student Handbook attached as Exhibit 1 to the complaint. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. Defendants lack sufficient information to admit or deny any other allegations in this paragraph, and therefore any allegation not expressly admitted is denied.

170. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

171. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

172. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

173. Denied.

174. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

175. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the

law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

176. Denied.

177. Denied

178. Denied.

179. Denied.

180. Denied.

181. Denied.

182. Denied.

183. Denied.

184. Denied.

185. Denied.

186. Denied.

187. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

188. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

189. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

190. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

191. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

192. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

193. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

194. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

195. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

196. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

### **Second Cause of Action**

197. Defendants incorporate by reference herein their responses to the allegations in paragraphs 1 through 196 of the Complaint.

198. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

199. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

200. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

201. Admitted.

202. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

203. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

204. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

205. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

206. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

207. The BOOST nondiscrimination requirements are set forth in the applicable budgetary language for each program year. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

208. The BOOST nondiscrimination requirements are set forth in the applicable budgetary language for each program year. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied. 209. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

210. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

211. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

212. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

213. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

214. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

215. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

216. Denied.

217. Defendants stated that Bethel could regain BOOST eligibility by altering its admissions policy, which is contained in Bethel's handbook. All allegations not expressly admitted are denied.

218. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

219. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

220. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

221. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

222. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

223. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

224. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

225. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

### **Third Cause of Action**

226. Defendants incorporate by reference herein their responses to the allegations in paragraphs 1 through 225 of the Complaint.

227. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

228. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

229. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

230. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

231. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

232. The BOOST Program terms for Fiscal Year 2017 are set forth by 2016 Md. Laws ch. 143, 130-135. The BOOST Program terms for Fiscal Year 2018 are set forth by 2016 Md. Laws ch. 143, 130-135. The law speaks for itself, and characterization of the law requires no further response. To the extent further response is required, all allegations not expressly admitted are denied.

233. Denied.

234. Defendants admit the authenticity of Exhibits 3, 4, and 5 to the Complaint. These exhibits speak for themselves. The documents speak for itself. To the extent that the allegations in this paragraph differ from the documents, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

235. Defendants admit the authenticity of the May 29 letter attached as exhibit 5 to the complaint. That document speaks for itself. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

236. Defendants admit to the authenticity of the August 8, 2018 letter from Matthew Gallagher to Claire Dant, attached as Exhibit 6 to the complaint, the subject of

which is the BOOST Advisory Board's reasoning in its determination that Bethel violated the sexual orientation nondiscrimination requirement. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

237. Defendants admit to the authenticity of the August 8, 2018 letter from Matthew Gallagher to Claire Dant, attached as Exhibit 6 to the complaint, the subject of which is the BOOST Advisory Board's reasoning in its determination that Bethel violated the sexual orientation nondiscrimination requirement. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

238. Defendants admit to the authenticity of the August 8, 2018 letter from Matthew Gallagher to Claire Dant, attached as Exhibit 6 to the complaint, the subject of which is the BOOST Advisory Board's reasoning in its determination that Bethel violated the sexual orientation nondiscrimination requirement. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

239. Defendants stated that Bethel could regain BOOST eligibility by altering its admissions policy, which is contained in Bethel's handbook. All allegations not expressly admitted are denied.

240. Defendants admit the authenticity of the documents attached to the complaint as Exhibit 8. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. To the extent further response is required, all allegations not expressly admitted are denied.

241. Denied.

242. Denied.

243. Denied.

244. The text of House Bill 100, containing the gender nondiscrimination requirement, is enrolled as 2019 Md. Laws ch. 565 and speaks for itself. The remainder of this paragraph consists of characterizations of the law and no further response is required. To the extent response is required, all allegations not expressly admitted are denied.

245. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

246. Denied.

247. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

248. Defendants admit the authenticity of the 2017-2018 Parent/Student Handbook attached as Exhibit 1 to the complaint. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. Defendants lack sufficient information to admit or deny any other allegations in this paragraph, and therefore any allegation not expressly admitted is denied.

249. Defendants admit the authenticity of the 2017-2018 Parent/Student Handbook attached as Exhibit 1 to the complaint. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. Defendants lack sufficient information to admit or deny any other allegations in this paragraph, and therefore any allegation not expressly admitted is denied.

250. Defendants admit the authenticity of the 2017-2018 Parent/Student Handbook attached as Exhibit 1 to the complaint. The document speaks for itself. To the extent that the allegations in this paragraph differ from the document, they are denied. Defendants lack sufficient information to admit or deny any other allegations in this paragraph, and therefore any allegation not expressly admitted is denied.

251. Denied.

252. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

#### **Fourth Cause of Action**

253. Defendants incorporate by reference herein their responses to the allegations in paragraphs 1 through 252 of the Complaint.

254. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

255. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

256. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

257. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

258. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

259. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

260. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

261. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

262. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

#### **Fifth Cause of Action**

263. Defendants incorporate by reference herein their responses to the allegations in paragraphs 1 through 262 of the Complaint.

264. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

265. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

266. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

267. Defendants admit that the BOOST Board met on June 21, 2018 at 2pm. Audio recordings of that meeting are available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting%2006212018Audio1.mp3> and [http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018\\_2.mp3](http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018_2.mp3). To the extent that the allegations in this paragraph differ from the audio recordings, they are denied. To the extent a further response is required, all allegations not expressly admitted are denied.

268. Defendants admit that the BOOST Board met on June 21, 2018 at 2pm. Audio recordings of that meeting are available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting%2006212018Audio1.mp3> and [http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018\\_2.mp3](http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018_2.mp3). To the extent that the allegations in this paragraph differ from the audio recordings, they are denied. To the extent a further response is required, all allegations not expressly admitted are denied.

269. Defendants admit that Bethel's members have sincerely held religious beliefs. Defendants are without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

270. The allegations in this paragraph relate to the 2017-2018 Parent/Student Handbook attached as Exhibit 1 to the complaint. That document speaks for itself. To the extent the allegations in this paragraph differ from the document, they are denied.

Defendants lack sufficient information to admit or deny any other allegations in this paragraph, and therefore any allegation not expressly admitted is denied.

271. Denied.

272. Defendants lack sufficient information to admit or deny this allegation, and therefore deny it.

273. Defendants admit that the BOOST Board met on June 21, 2018 at 2pm. Audio recordings of that meeting are available at <http://archives.marylandpublicschools.org/S/Audio/BOOSTMeeting%2006212018Audio1.mp3> and [http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018\\_2.mp3](http://marylandpublicschools.org/Audio/BOOST/BOOSTMtg07122018_2.mp3). To the extent that the allegations in this paragraph differ from the audio recordings, they are denied. To the extent a further response is required, all allegations not expressly admitted are denied.

274. Defendants lack sufficient information to admit or deny this allegation, and therefore deny it.

275. Defendants lack sufficient information to admit or deny this allegation, and therefore deny it.

276. Defendants lack sufficient information to admit or deny this allegation, and therefore deny it.

277. Defendants admit the authenticity of the documents attached to the complaint as Exhibit 8. Other than the contents of Exhibit 8, a document that speaks for itself, Defendants lack sufficient information to admit or deny the remainder of the

allegation. To the extent further response is required, all allegations not expressly admitted are denied.

278. Denied.

279. Denied.

280. Denied

281. Denied.

282. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

283. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

284. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

285. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

#### **Sixth Cause of Action**

286. Defendants incorporate by reference herein their responses to the allegations in paragraphs 1 through 262 of the Complaint.

287. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

288. Defendants admit that they reviewed student handbooks and other policies from BOOST-eligible schools. All allegations not expressly admitted are denied.

289. Denied.

290. Defendants admit that they reviewed student handbooks and other policies from BOOST-eligible schools. All allegations not expressly admitted are denied.

291. Denied.

292. Defendants lack knowledge or information sufficient to admit or deny the allegations in this paragraph because the term “complaint” is undefined, vague and ambiguous. All allegations not expressly admitted are denied.

293. Denied.

294. Denied.

295. Denied.

296. Denied.

297. The allegations in this paragraph are legal contentions to which no response is required. To the extent response is required, the allegations are denied.

ALL ALLEGATIONS IN THE SECOND AMENDED COMPLAINT NOT SPECIFICALLY ADMITTED ARE DENIED, AND DEFENDANTS DEMAND STRICT PROOF THEREOF.

**DEFENDANTS’ FIRST AFFIRMATIVE DEFENSE**

Plaintiff’s Complaint, and each and every allegation thereof, fails to state a claim upon which relief can be granted.

**DEFENDANTS’ SECOND AFFIRMATIVE DEFENSE**

Plaintiff’s claims are barred, in whole or in part, by the doctrine of laches.

**DEFENDANTS’ THIRD AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, because the Defendants took the actions described herein in accordance with the government's rights protected under the First Amendment.

**DEFENDANTS' FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, because they lack standing.

**DEFENDANTS' FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, because they are not ripe for adjudication.

**DEFENDANTS' SIXTH AFFIRMATIVE DEFENSE**

Plaintiff's claim for declaratory judgment, in whole or in part, is barred because there is no existing controversy over Bethel's eligibility for the BOOST program in future years.

**DEFENDANTS' SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's claim for injunctive relief is barred because plaintiffs cannot meet each of the four factors articulated by *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388 (2006).

**WHEREFORE**, having fully answered the plaintiff's Complaint, the defendants respectfully request that the Court deny the plaintiff's relief requested in the Complaint; enter judgment in favor of the defendants and against the plaintiff; award the defendants their costs and attorney fees incurred in defending this action; and grant such further relief as this Court may deem just and appropriate.

Respectfully submitted,

BRIAN E. FROSH  
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December 2, 2019

Attorneys for State Defendants

**CERTIFICATE OF SERVICE**

I certify that, on this 2nd day of December, 2019 the foregoing was served by CM/ECF on all registered CMF users.

/s/ Sarah W. Rice

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Sarah W. Rice