



January 15, 2020

Honorable Stephanie A. Gallagher
U.S. District Court for the District of Maryland
101 West Lombard Street, Chambers 7C
Baltimore, MD 21201

Re: *Answers to Judge's Questions at Bethel's Preliminary Injunction Hearing*
Case No. 1:19-cv-01853-SAG Bethel Ministries, Inc., v. Salmon

Dear Judge Gallagher:

This letter also provides necessary clarifications for answers to your questions from the January 9, 2020 hearing.

In response to your question about whether Bethel had applied to the BOOST program for the 2020-21 school year, I mentioned that the MSDE had not yet posted BOOST application information but that historic deadlines were approaching for student applications. In fact, the BOOST website was just updated with the notification: "2020-2021 Applications available soon."¹ But despite that scheduling update, Defendants' actions make Bethel's readmission to the BOOST program through the regular school application process impossible due to the Textbook and Technology Program requirements. *See* ECF 19-3, Dant Decl. at ¶ 30; ECF 1, Compl. at ¶¶ 13, 81.

By law, before a school can be admitted to BOOST, it must participate in the Textbooks and Technology Program in the prior year.² *See* ECF 19-3, Dant Decl. at ¶ 30; *See* ECF 19-6 at 0061-0062; ECF 1, Compl. at ¶ 81. The problem is Defendants made clear to Bethel that its eligibility for Textbooks was conditioned on its eligibility for BOOST. *See* ECF 19-3, Dant Decl. at ¶ 30; ECF 1, Compl. at ¶ 101. So, if Bethel is ineligible for one (which Defendants said it currently was, *see* ECF 19-11), it is ineligible for the other. Even if Bethel reapplies to the program and Defendants readmit the school to BOOST—which is doubtful—Bethel's ongoing, irreparable harm will not be remedied.

¹ *See* Broadening Options and Opportunities for Students Today (BOOST) Program, available at <http://marylandpublicschools.org/pages/boost/index.aspx>.

² *See also* House Bill 100 for Fiscal Year 2020, available at <https://bit.ly/2Novcsb> at 148 ("To be eligible to participate in the BOOST Program, a nonpublic school [] must have participated in Program R00A03.04 Aid to Non-Public Schools Program for textbooks and computer hardware and software administered by MSDE during the 2018-2019 school year[.]")

Waiting an additional year for Bethel to reapply to the programs will only compound the ongoing, irreparable harm that the school suffers. Bethel has lost nearly 80 students, or almost a quarter of its student body, since Defendants expelled the school from these programs. *See* ECF 19-3, Dant Decl. at ¶ 43. In addition, 20 prospective students were unable to join Bethel this year due to lack of sufficient aid (including BOOST funds) and another current Bethel student will be forced to leave unless Bethel is readmitted to BOOST. *See* ECF 19-3, Dant Decl. at ¶¶ 41-42. And when you consider that BOOST provides funding to individual students, Bethel is being immediately deprived of the prospect of transfer students this current school year. ECF No. 22-1, Gunning Decl. at ¶ 3. This ongoing irreparable harm cannot be fixed later.

Further, the harm inflicted by Defendants' demand that Bethel repay \$102,600 is both actual and imminent. In the context of debating school payments, the Bethel Board said that if payments were not made "then there's a referral to Central Collections at some point." ECF 19-16, Transcript at 0168-169. While unclear when a collection agency may act, what is clear is that it has an immediate effect on Bethel's ability to operate. It is impossible for this small, church-run school to accurately budget for the upcoming school year or for students and their families to make school choices. ECF 19-16, Transcript at 0184:15-18; ECF 1, Compl. at ¶ 142. Defendants' January 10th letter to this Court confirmed that they are indeed requiring all selected schools to repay these funds.

Injunctive relief from this Court is both necessary and proper to restore Bethel into the Programs and back to the place it was before it was wrongly removed. This would stop the ongoing irreparable harm and allow both former students to return and interested students to transfer to Bethel this year. And it would restore Bethel as a choice for students and their families in the coming school year.

We appreciate the opportunity to provide these clarifications to the Court and are happy to provide any further information the Court requires.

Sincerely,



Paul Daniel Schmitt
Counsel for Plaintiffs,
Bethel Ministries, Inc. & Bethel Christian Academy

CC: All Counsel of Record